



DECISION ON ADMISSIBILITY

Case no. CH/01/7708

Ešref KADRIĆ

against

**THE FEDERATION OF BOSNIA AND HERZEGOVINA
and
THE REPUBLIKA SRPSKA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 12 October 2001 with the following members present:

Mr. Viktor MASENKO-MAVI, Acting President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
Mr. Mato TADIĆ

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar

Having considered the aforementioned application introduced pursuant to Article VIII(1) of the Human Rights Agreement (“the Agreement”) set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Adopts the following decision pursuant to Article VIII(2)(a) and (c) of the Agreement and Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

I. INTRODUCTION

1. The application was introduced on 18 July 2001. The applicant is the temporary occupant of an apartment in Sarajevo, ulica Trebevička 135. The applicant requested that the Chamber order the Federation of Bosnia and Herzegovina, as a provisional measure, to take all necessary action to prevent his eviction until he was reinstated into his house in Pale, Republika Srpska, which reinstatement he requested in April 1999. On 23 July 2001, the President of the Second Panel decided not to order the provisional measure requested.

2. The applicant complains of a violation of his right to respect for his home in that, firstly, the Department for Urbanism, Housing and Utility Affairs of the Municipality Novi Grad Sarajevo ordered his eviction from the apartment he occupies, and secondly, his request for reinstatement of April 1999 is still pending before the Ministry for Refugees and Displaced Persons, Department of Pale in the Republika Srpska.

II. OPINION OF THE CHAMBER

3. As far as the Federation of Bosnia and Herzegovina is concerned, the Chamber notes that, in accordance with Article VIII(2) of the Agreement, it "shall decide which applications to accept In so doing, the Chamber shall take into account the following criteria: ... (c) The Chamber shall also dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or an abuse of the right of petition".

4. The Chamber notes that the decision complained of was taken to allow the owner to repossess the apartment and that the applicant has no legal right to occupy it. In these circumstances, the Chamber finds that the application does not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. It follows that this part of the application is manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement. The Chamber, therefore, decides to declare the application inadmissible as against the Federation of Bosnia and Herzegovina.

5. As far as Republika Srpska is concerned, the Chamber recalls that, in accordance with Article VIII(2) of the Agreement, it "shall decide which applications to accept In so doing, the Chamber shall take into account the following criteria: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted"

6. The Chamber finds that the applicant failed to initiate proceedings before the Ministry for Refugees and Displaced Persons in the Republika Srpska as the second instance organ. The applicant has not shown that this remedy was ineffective and it does not appear so to the Chamber. The Chamber finds that the applicant has, therefore, not, as required by Article VIII(2)(a) of the Agreement, exhausted the effective remedies. Accordingly, it decides to declare the application inadmissible also as against the Republika Srpska.

III. CONCLUSION

7. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Viktor MASENKO-MAVI
Acting President of the Second Panel