



DECISION ON ADMISSIBILITY

Case no. CH/01/7634

Miralem ČAUŠEVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 December 2001 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
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)(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 25 June 2001. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to take all necessary action to prevent his eviction from the apartment in Bosanska Krupa, ulica Mirsada Crnkića L/3. On 8 October 2001 the Chamber decided not to order the provisional measure requested.

2. By its procedural decision of 20 March 2000, the Municipal Court in Bosanska Krupa ruled that the occupancy right holder over the apartment in question was the applicant's wife, and it ordered the applicant to vacate the apartment. On 11 September 2000 the Cantonal Court in Bihać confirmed the first instance decision. Deciding on the applicant's request for review on 24 May 2001, the Supreme Court of the Federation of Bosnia and Herzegovina issued a procedural decision refusing the request for review as ill-founded. The applicant complains that the Courts did not take into consideration important facts in this case which could have produced a different decision.

II. OPINION OF THE CHAMBER

3. In accordance with Article VIII(2) of the Agreement, "the Chamber 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 applicant complains that the Municipal Court in Bosanska Krupa and the Cantonal Court in Bihać wrongly assessed the facts pertaining to his case. The Chamber recalls that it has stated on several occasions that it is not within its competence to substitute its own assessment of the facts for that of the national courts (see, e.g., case no. CH/99/2565, *Banović*, decision on admissibility of 8 December 1999, paragraph 11, Decisions August-December 1999, and case no. CH/00/4128, *DD "Trgosirovina" Sarajevo (DDT)*, decision on admissibility of 6 September 2000, paragraph 13, Decisions July-December 2000). It follows that the application is incompatible *ratione materiae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). It follows that the application may be rejected.

III. CONCLUSION

5. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel