



DECISION ON ADMISSIBILITY

Case no. CH/01/7879

Enver MOČEVIĆ

against

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

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 10 May 2002 with the following members present:

Ms. Michèle PICARD, President
Mr. Rona AYBAY, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Želimir JUKA
Mr. Andrew GROTRIAN

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 13 September 2001. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to prevent his eviction on 14 September 2001 from the apartment located at Marka Marulića no. 21 in Sarajevo, the Federation of Bosnia and Herzegovina (the "apartment"). On 14 September 2001 the President of the First Panel decided not to order the provisional measure requested.

2. The applicant states that his family's housing problem had been resolved after he was allocated the apartment in question on 22 July 1997. Although the Močevićs contributed to a housing fund for fifty years, the occupancy right over the apartment was cancelled in the proceedings before the Administration for Housing Affairs of Sarajevo Canton (the "Administration") on 13 March 2001. The applicant, as a temporary occupant, was ordered to vacate the apartment in 15 days in favour of its pre-war occupant. According to the Administration the applicant has no right to alternative accommodation, as on 30 April 1991 he was a subtenant in a house located at ul. Okrugla no. 25 in Sarajevo.

3. On 18 October 2001 the applicant informed the Chamber that his new address is his pre-war address at Ul. Okrugla no. 25 in Sarajevo.

II. OPINION OF THE CHAMBER

4. 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."

5. With regard to the two respondent Parties, the Chamber notes that the Administration for Housing Affairs of Sarajevo Canton responsible for the proceedings complained of by the applicant is an organ of the Canton, the conduct of which engages the responsibility of the Federation, not of Bosnia and Herzegovina, for the purposes of Article II(2) of the Agreement. Accordingly, as directed against Bosnia and Herzegovina, the application is incompatible *ratione personae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare the application inadmissible as against Bosnia and Herzegovina.

6. The Chamber further notes that the applicant was ordered to vacate the apartment pursuant to a lawful decision terminating a right of temporary use. The administration took this decision in order to enable the pre-war occupant to regain possession of the apartment. In these circumstances, the Chamber finds that the facts complained of do 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 this part of the application inadmissible as well.

III. CONCLUSION

7. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD,
President of the First Panel