



DECISION ON ADMISSIBILITY

Case no. CH/01/8306

Hajro HODŽIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 11 October 2002 with the following members present:

Mr. Viktor MASENKO-MAVI, Acting 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 22 October 2001. The applicant was a temporary occupant of an apartment located at Džemala Bijedića St. no. 11 in Sarajevo, the Federation of Bosnia and Herzegovina.

2. On 12 September 2000 the Commission for Real Property Claims of Refugees and Displaced Persons ("CRPC") issued a decision in favour of V.E., a member of the pre-war occupancy right holder's household. On the basis of the decision issued by the CRPC, on 17 August 2001 the Administration for Housing Affairs of the Sarajevo Canton ("Administration") issued a final decision granting permission for enforcement of the CRPC decision and permitting V.E. to regain possession of the apartment in question. At the same time, the applicant was ordered by this decision to vacate the apartment within 15 days with no right to alternative accommodation.

3. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to prevent his eviction from the apartment in question, which was scheduled for 24 October 2001. On 23 October 2001 the President of the Second Panel decided not to order the provisional measure requested.

4. The applicant complains about the Administration's procedural decision and conclusion ordering his eviction from the apartment he occupied. He further states that he should be entitled to alternative accommodation as his house in the Republika Srpska was destroyed; consequently, the administrative organ wrongly established that he is not entitled to alternative accommodation.

II. OPINION OF THE CHAMBER

5. 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."

6. The Chamber notes that the decision on the applicant's eviction was taken to allow a member of the pre-war occupancy right holder's household to repossess the apartment in question and that the applicant has no right under domestic law to occupy the apartment. 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 this part of the application inadmissible.

7. As to the applicant's claim that he has been denied the right to alternative accommodation, the Chamber notes that the European Convention on Human Rights does not contain a right to that effect. As the Chamber has explained in previous cases on this issue, it only has jurisdiction to consider the right to housing, which is protected by Article 11 of the International Covenant on Economic, Social and Cultural Rights, in connection with alleged or apparent discrimination in the enjoyment of such right (see case no. CH/01/6662, *Huremović*, decision on admissibility of 6 April 2001, paragraph 4, Decisions January-June 2001). The facts of this case do not indicate that the applicant has been the victim of discrimination on any of the grounds set forth in Article II(2)(b) of the Agreement. It follows that this part of the application is incompatible *ratione materiae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare this part of the application inadmissible as well.

III. CONCLUSION

8. 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