



DECISION ON ADMISSIBILITY

Case no. CH/02/8676

Čedo JOVOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 8 November 2002 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-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)(c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS AND COMPLAINTS

1. The applicant was the illegal occupant of an apartment located at Trg Sabora Bosanskog 6/II, in Sarajevo.
2. The applicant initiated proceeding before the Commission for Real Property Claims of Displaced Person and Refugees ("CRPC") for repossession of his pre-war property, and he obtained a CRPC decision recognising his right. On 9 May 2001 the Administration for Housing Affairs issued a decision allowing the applicant to enter into possession of his pre-war apartment.
3. On 12 November 2001, upon a request of the pre-war occupancy right holder over the apartment at Trg Sabora Bosanskog 6/II, the Administration for Housing Affairs (the "Administration") issued a procedural decision allowing the pre-war occupancy right holder to return into possession of the apartment and ordering the applicant to leave the apartment within 15 days, without the right to alternative accommodation. On 16 November 2001, the applicant lodged an appeal against the procedural decision in question. The Chamber has no information as to whether the applicant received a decision upon his appeal, which in any case does not have suspensive effect. On 12 December 2001 the Administration issued conclusion ordering execution of the decision. The applicant appealed against this conclusion, but his appeal does not have suspensive effect.
4. The applicant complains that his pre-war house was destroyed during the armed conflict and it is not possible for him to live in it.

II. PROCEEDINGS BEFORE THE CHAMBER

5. The application was submitted to the Chamber on 11 January 2002.
6. On 6 May 2002 the applicant requested the Chamber to order the respondent Party, as a provisional measure, to prevent his eviction, which was scheduled for 13 May 2002. On 13 May 2002, the President of the Second Panel rejected the provisional measure requested.
7. On 22 May 2002 the applicant informed the Chamber that he had been evicted from the apartment located at Trg Sabora Bosanskog 6/II.

III. OPINION OF THE CHAMBER

8. 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."
9. The Chamber notes that the decision on the applicant's eviction was taken to allow the pre-war occupancy right holder to repossess the apartment 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 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.

IV. CONCLUSION

10. 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