



DECISION ON ADMISSIBILITY

Case no. CH/99/2065

M. J.

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 5 December 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. Miodrag PAJIĆ
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 19 April 1999 and registered on the same day.
2. On 16 December 1996 the applicant was allocated the apartment at Ulica Omera Hajama no. 3/II in Sarajevo, as a temporary occupant. On 3 April 1998 the Administration on Housing Affairs and Abandoned Real Estate of the Municipality Novi Grad - Sarajevo (Služba za stambene poslove i napuštene nekretnine Općine Novi Grad Sarajevo) issued a procedural decision annulling its decision of 16 December 1996. On 12 August 1998 the owner of the apartment initiated proceedings before the Municipal Court II in Sarajevo (the "Court") requesting the applicant to be ordered to vacate the apartment. On 6 January 1999 the Court issued a decision allowing the owner to repossess the apartment and ordering the applicant to vacate it within 15 days. The applicant was not entitled to alternative accommodation. On 2 April 1999 the owner of the apartment initiated proceedings to enforce the valid procedural decision and evict the applicant from the apartment.
3. The applicant complains that he and his family would be evicted from the apartment without providing them with alternative accommodation.

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. The Chamber notes that the decision of 6 January 1999 on the applicant's eviction was taken to allow the pre-war owner 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 this part of the application inadmissible.
6. As to the applicant's claim that he has been denied the right to alternative accommodation, the Chamber notes that he is neither entitled to such accommodation under domestic law, nor does the European Convention on Human Rights 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

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