



DECISION ON ADMISSIBILITY

Case no. CH/01/8619

Hasan VRAŽALICA

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 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. FACTS AND COMPLAINTS

1. The applicant was the temporary occupant of an apartment located in Sarajevo.
2. On 19 March 2001, upon a request of the pre-war occupancy right holder, 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 20 April 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 10 December 2001, the Administration issued a conclusion allowing the eviction of the applicant from the apartment concerned. The eviction was scheduled for 27 December 2001.
3. The applicant states that before the armed conflict he lived in a family house which is currently occupied by his brother, sister-in-law, and their 8 children and parents. As a result, the applicant cannot live there. The applicant states that he applied to the Municipality Stari Grad Sarajevo for a building permit to allow him to build a house in his father's yard. These proceedings before Municipality are still pending.

II. PROCEEDINGS BEFORE THE CHAMBER

4. The application was submitted to the Chamber on 25 December 2001.
5. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to prevent his eviction until he resolves his housing problems. On 25 December 2001, the President of the First Panel rejected the request for a provisional measure.

III. OPINION OF THE CHAMBER

6. 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."

7. With regard to the two respondent Parties, the Chamber notes that the Administration for Housing Affairs of Sarajevo Canton (Uprava za stambena pitanja Kantona Sarajevo), 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 of Bosnia and Herzegovina, 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.

8. The Chamber further 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 as against the Federation of Bosnia and Herzegovina as well.

IV. CONCLUSION

9. 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