



DECISION ON ADMISSIBILITY

Case no. CH/00/3513

Adil HODŽIĆ

against

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

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 6 May 2003 with the following members present:

Mr. Michèle PICARD, President
Mr. Miodrag PAJIĆ, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Želimir JUKA
Mr. Andrew GROTRIAN

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar
Ms. Antonia DE MEO, 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 14 January 2000. By his submission of 23 October 2002, the applicant requested the Chamber to order the respondent Party, as a provisional measure, to take all necessary actions to prevent his eviction from an apartment which he currently occupies. On 4 November 2002, the Chamber decided not to order a provisional measure requested.

2. The applicant complains of a decision of the Administration for Housing Affairs of Sarajevo Canton of 13 September 2002 ordering his eviction from the apartment which he occupies. The eviction was ordered because the applicant was a sub-tenant before the armed conflict, and, according to domestic law, he is not entitled to occupy the apartment. The applicant states that the domestic organs wrongfully applied provisions of the property laws because there was no request for repossession of the apartment in question; therefore, there was no need for his eviction.

II. OPINION OF THE CHAMBER

3. 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”.

A. With respect to Bosnia and Herzegovina

4. The applicant filed his application against Bosnia and Herzegovina as a respondent Party. The Chamber notes that the Administration for Housing Affairs of Sarajevo Canton and other authorities of the Federation of Bosnia and Herzegovina are the organs responsible for the conduct complained of by the applicant. Conduct by these organs engages the responsibility of the Federation of Bosnia and Herzegovina, not of Bosnia and Herzegovina. Accordingly, the application is incompatible *ratione personae* with the provisions of the Agreement with respect to Bosnia and Herzegovina, within the meaning of Article VIII(2)(c). Therefore, the Chamber decides to declare the application inadmissible with respect to Bosnia and Herzegovina.

B. With respect to Federation of Bosnia and Herzegovina

5. As to the complaints directed against the Federation of Bosnia and Herzegovina, the Chamber notes that the applicant complains that the domestic organs wrongly assessed the evidence in his case and misapplied the law. Article 6 of the Convention guarantees the right to a fair hearing. However, the Chamber has stated on several occasions that it has no general competence to substitute its own assessment of the facts and application of the law for that of the national courts (see, e.g., case no. CH/99/2565, *Banović*, decision on admissibility of 8 December 1999, paragraph 11, Decisions August-December 1999, and case no. CH/00/4128, *DD “Trgosirovina” Sarajevo (DDT)*, decision on admissibility of 6 September 2000, paragraph 13, Decisions January-December 2000). There is no evidence that the organs failed to act fairly as required by Article 6 of the Convention. 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 with respect to the Federation of Bosnia and Herzegovina.

III. CONCLUSION

6. 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