



DECISION ON ADMISSIBILITY

Case no. CH/01/8494

Hajro SOFOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

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

Mr. Jakob MÖLLER, Acting President
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
Mr. Viktor MASENKO-MAVI

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 29 November 2001. The applicant requested that the Chamber, as a provisional measure, order the Service for Housing Affairs of the Municipality Goražde to halt his eviction from the apartment at Gamal Abdel Ganema 17 (former Ksenija Tanasković no. 11) in Goražde, i.e. to suspend the enforcement proceedings of a decision of the Commission for Real Property Claims of Refugees and Displaced Persons (CRPC). On 6 December 2001, the Chamber decided not to order the requested provisional measure.

II. THE FACTS AND COMPLAINTS

2. On 11 March 1975 the Railways Transporting Company, *OOUR STD Alipašin Most 076-Station Goražde*, issued a decision allocating the apartment at Ksenija Tanaskovića no. 11 to the applicant. The decision stated that the applicant would move into the apartment after B.Š., the occupancy right holder, moved out of it. The applicant, however, moved into the apartment after the war.

3. On 4 January 1998 the Secretariat for Physical Planning, Construction, Housing-Public Utility Affairs and Protection of Environment of the Municipality Goražde issued a procedural decision allocating to the applicant the apartment for temporary use.

4. On 14 September 1998 Railways of BiH, "Autosaobraćaj" d.o.o., p.o. Goražde, issued the procedural decision on allocation of the apartment for use to the applicant. On 6 October 1998 the applicant concluded the contract on the use of the apartment.

5. On 20 August 1998 the Municipal Service for Housing Affairs issued a procedural decision establishing that B.Š. was the occupancy right holder over the apartment and that he was to be reinstated into possession of the apartment by 15 May 1999.

6. The applicant filed an appeal against the procedural decision of 20 August 1998. On 4 August 1999 the Ministry for Urbanism, Physical Planning and Protection of Environment issued a procedural decision refusing the applicant's appeal as ill founded.

7. The applicant initiated an administrative dispute before the Cantonal Court Goražde against the decision of 4 August 1999. On 30 September 1999 the Cantonal Court issued a judgement refusing the applicant's lawsuit.

8. On 1 May 2001 the CRPC issued a decision confirming the occupancy right of B.Š. over the apartment. The applicant submitted to the CRPC a request for reconsideration of its decision of 1 May 2001. On 16 October 2001 the CRPC issued a decision refusing the applicant's request for review as ill founded.

9. In his application the applicant alleges that the pre-war occupancy right holder built a house with funds given to him by the organisation where he was employed under the condition to leave the apartment in question, and that the mentioned house was reconstructed by a humanitarian organisation after the war. He also alleges that the CRPC decision is in violation of Article 13 of the Law on Housing Relations.

10. The applicant asks that his right to the apartment as his home be established. He also asks for the establishment of the legality of the decision on allocation of the apartment from 1975 and for the termination of B.Š.'s occupancy right (considering the funds he received for the construction of his house and for its reconstruction by a humanitarian organisation as well as the fact that the issued CRPC decision is contrary to Article 13 of the Law on Housing Affairs).

11. On 10 May 2002 the applicant informed the Chamber that he was evicted from the apartment and that he left the apartment without any accommodation and that he now lives in one devastated facility without sufficient conditions for life.

III. OPINION OF THE CHAMBER

12. 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.”

13. The Chamber notes that, according to Article XII of Annex 7 of the Dayton Peace Agreement, CRPC decisions are final. The Chamber has no competence to review them, as it has explained in case no. CH/01/7728, *V.J.*, decision on admissibility and merits of 4 April 2003, paragraphs 97 and 122.

14. The Chamber also notes that the CRPC decision and the decision of the domestic administrative bodies were issued to allow the pre-war occupancy right holder, as determined by the CRPC decision, to repossess 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 finds it appropriate to declare the application inadmissible.

IV. CONCLUSION

15. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Jakob MÖLLER
Acting President of the Second Panel