



DECISION ON ADMISSIBILITY AND TO STRIKE OUT

Case no. CH/02/9849

Dževad HERDIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 3 June 2003 with the following members present:

Ms. Michèle PICARD, President
Mr. Miodrag PAJIĆ, Vice-President
Mr. Hasan BALIĆ
Mr. Rona AYBAY
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 Articles VIII(2)(c) and VIII(3)(a) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The application was introduced on 4 April 2002 and registered on the same day. In the application, the applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to prevent his eviction from the apartment he occupied in Sarajevo, at Radićeva No. 2, until he has been reinstated into possession of his pre-war apartment. On 5 April 2002, the President of the First Panel decided not to order the provisional measure requested.
2. The application concerns two requests by the applicant, the first being prevention of his eviction from the apartment located at Radićeva St. No. 2, in Sarajevo, and the second being to be reinstated into possession of his pre-war apartment located at Semira Frašte St. No. 8/X, in Sarajevo.
3. On 13 May 2003, the Chamber sent two letters to the applicant's contact address at Radićeva No. 2 and pre-war address at Semira Frašte No. 8/X, via registered mail, return receipt requested. These letters specifically cautioned the applicant that if he failed to respond, the Chamber might decide to strike out his application. The letter sent to the contact address was returned to the Chamber with a note that the applicant had moved and that his new address was not known. The letter sent to the applicant's pre-war address was received by Ms. Jadranka Herdić, who signed the return receipt.
4. Since submitting his application to the Chamber, the applicant has not contacted the Chamber.

ii. OPINION OF THE CHAMBER

A. Concerning the applicant's request to prevent his eviction

5. 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."

6. 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. In these circumstances, the Chamber finds that this part of the application does not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. It follows that this part of 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 in part.

B. Concerning the applicant's request for repossession of his pre-war apartment

7. In accordance with Article VIII(3) of the Agreement, "the Chamber may decide at any point in its proceedings to suspend consideration of, reject or strike out, an application on the ground that (a) the applicant does not intend to pursue his/her application; ... provided that such result is consistent with the objective of respect for human rights."

8. Rule 46(6) of the Chamber's Rules of Procedure states that "applicants shall keep the Chamber informed of any change of their address and of all circumstances relevant to the application".

9. The Chamber notes that it appears that the applicant has been evicted from the apartment at Radićeva No. 2 and that he has repossessed his pre-war apartment at Semira Frašte No. 8/X, but he has not informed the Chamber about this. The applicant also has not responded to the Chamber's letter. Accordingly, the Chamber concludes that the applicant does not intend to pursue his application. Furthermore, the Chamber finds no special circumstances regarding respect for human

rights which require the examination of the application to be continued. The Chamber therefore decides to strike out the remainder of the application, pursuant to Article VIII(3)(a) of the Agreement.

III. CONCLUSION

10. For these reasons, the Chamber, unanimously,

**DECLARES THE APPLICATION INADMISSIBLE IN PART and
STRIKES OUT THE REMAINDER OF THE APPLICATION.**

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel