



DECISION ON ADMISSIBILITY

Case no. CH/00/4743

s. Ć.

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 8 June 2000 with the following members present:

Ms. Michèle PICARD, President
Mr. Andrew GROTRIAN, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA

Mr. Anders MÅNSSON, 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

1. The applicant is a citizen of Bosnia and Herzegovina. He lives in an apartment in Sarajevo (Ulica Tekija Ćikma 9/7) over which his mother held a temporary occupancy right as of 29 October 1992. The decision that conferred this right was valid until one year after the cessation of the state of war. The applicant's mother died on 3 January 2000.

2. On 19 April 2000 the Administration for Housing Affairs of the Canton Sarajevo *ex officio* issued a procedural decision stating that the applicant occupied the apartment in question illegally and ordering him to leave it within three days after the receipt of the decision. The decision further stated that the applicant was not entitled to alternative accommodation because he had lived with his grandfather in Sarajevo before the war. The applicant has appealed against that decision to the Cantonal Ministry for Urban Planning, Housing and Communal Affairs.

3. On 24 April 2000 the Administration for Housing Affairs issued an instruction allowing the execution of its procedural decision of 19 April 2000 and the forcible eviction of the applicant. On the same day the applicant was notified that his eviction would take place on 5 May 2000 with the assistance of the police.

II. COMPLAINTS

4. The applicant complains that he has not enjoyed a fair hearing because he allegedly had no opportunity to present the facts of his case to the Administration for Housing Affairs. He asserts that administrative organs are not competent to deal with his case and that the pre-war user of the apartment did not wish to return to it. The applicant therefore asks the Chamber that his eviction be postponed.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 26 April 2000 and registered on the same day. The applicant requested that the Chamber order the respondent Party as a provisional measure to take all necessary steps to prevent his eviction. On 3 May 2000 his request was rejected.

IV. OPINION OF THE CHAMBER

6. Before considering the merits of the case the Chamber must decide whether to accept it, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement. According to Article VIII(2)(c), the Chamber shall dismiss any application which it considers manifestly ill-founded.

7. The Chamber notes that the applicant occupies the apartment without a legal basis, i.e. without a valid decision conferring a right of use upon him. Regarding the assertion that the Administration for Housing Affairs is not competent to deal with the applicant's case, the Chamber recalls that Article 18(b) of the Law on Cessation of Application of the Law on Abandoned Apartments stipulates that "the provisions of this Law shall also apply to apartments that have not been declared abandoned ... provided that the occupancy right holder lost possession of the apartment in question before 4 April 1998". According to Article 11 paragraph 3 of the same Law, "the competent administrative body shall, *ex officio*, ... pass a decision to vacate the apartment immediately". It follows that the applicant's arguments must be rejected.

8. Moreover, the Chamber is not in a position to re-assess the classification of the applicant as a multiple occupant for the purpose of this Law. In these circumstances, the Chamber cannot find that the decision of the Administration for Housing Affairs of the Canton Sarajevo of 19 April 2000 and its subsequent implementation would violate any of the applicant's rights guaranteed by the Agreement. As to the applicant's complaint that he has not received a fair hearing before the Administration for Housing Affairs, the Chamber notes that the applicant could have instituted further proceedings before the courts to challenge the decision of 19 April 2000.

9. Accordingly, the Chamber decides not to accept the application, it being manifestly ill-founded within the meaning of Article VIII(2)(c) of the Agreement.

V. CONCLUSION

10. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel