



DECISION ON ADMISSIBILITY

Case no. CH/00/4964

Nusret KAPIDŽIC

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 7 July 2000 with the following members present:

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

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, a displaced Bosniak from Bileća, Republika Srpska, is a citizen of Bosnia and Herzegovina. He is an occupancy right holder over an apartment in Bileća. He submitted a request for repossession of that apartment to the Commission for Real Property Claims of Refugees and Displaced Persons (Annex 7 commission) on 3 July 1998. The applicant states that nothing has been decided on his repossession claim so far.

2. In 1993 D.P. was given a temporary occupancy right over an apartment at Brčanska ulica broj 14/XIV-70 in Novi Grad, Sarajevo by a procedural decision of the City Secretariat for Housing Affairs of Sarajevo. During 1997, D.P. came to an informal agreement with the applicant for the applicant to use the apartment while D.P. was to live in a family house in Sarajevo. The applicant has been living in the apartment at Brčanska ulica broj 14/XIV-70, together with his wife and daughter, since 7 July 1997. The occupancy right holder over the apartment in question, V.G., was reinstated into his occupancy right over the apartment by a procedural decision of the Administration for Housing Affairs of Sarajevo Canton of 8 July 1998.

3. According to a decision of 22 May 2000 the Administration for Managing Housing Affairs of Sarajevo Canton established that the procedural decision of the Administration for Housing Affairs of Sarajevo of 8 July 1998 was to become effective and ordered the eviction of D.P. from the apartment in question by 26 May 2000. The same decision ordered D.P. to free the apartment from all persons and belongings. As already stated, D.P. does not live in the apartment in question. The applicant and his family live there on the basis of the informal agreement with D.P.

II. COMPLAINT

4. The applicant alleges a violation of his right to the Sarajevo apartment.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 23 May 2000 and registered on 24 May 2000. The applicant requested a provisional measure to prevent his eviction from the apartment in question until a decision was issued in his case regarding his apartment in Bileća. On 25 May 2000 the request for provisional measures 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 D.P., not the applicant, had a temporary occupancy right over the apartment in Sarajevo. The applicant is using the apartment based simply on an informal agreement with D.P. As such, at no time has the applicant ever obtained legal rights over the apartment. Further, the eviction order is directed at D.P. and not the applicant. Accordingly, the Chamber finds that the decision that ultimately had the effect of evicting the applicant from the apartment does not constitute an unlawful interference with any of his rights under the Agreement.

V. CONCLUSION

8. For these reasons, the Chamber, by votes 5 to 1,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Viktor MASENKO-MAVI
Acting President of the Second Panel