



DECISION ON ADMISSIBILITY

Case no. CH/00/5122

Enver ČOVRK

against

**BOSNIA AND HERZEGOVINA,
THE FEDERATION OF BOSNIA AND HERZEGOVINA
and
THE REPUBLIKA SRPSKA**

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

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER
Mr. Giovanni GRASSO
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. FACTS AND COMPLAINTS

1. The applicant is an occupancy right holder over an apartment located at ulica Miroslava Krlež 24 in Sarajevo. He left the apartment due to the armed conflict. He repossessed this apartment on 13 November 2001.
2. The applicant is also the temporary user of another apartment in Sarajevo located at ulica Kolodvorska 7. The pre-war occupancy right holder of this apartment initiated proceedings for reinstatement into possession of the apartment occupied by the applicant. The Administration for Housing Affairs of Sarajevo Canton issued a conclusion on enforcement by which it scheduled the applicant's eviction from the apartment in question for 27 May 2002. The conclusion also terminated the applicant's right to use the apartment in question.
3. The applicant complains that his pre-war apartment located at ulica Miroslava Krlež 24 is completely destroyed. He has sought financial support to reconstruct his pre-war apartment from an unspecified organisation, but he has not received any answer. The applicant complains that almost all his rights guaranteed by the European Convention on the Human Rights have been violated.

II. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced before the Chamber on 16 June 2000 and registered on the same day. On 23 May 2002 the applicant asked the Chamber to order the respondent Parties, as provisional measure, to suspend his eviction from the apartment he occupies until he obtains financial assistance to reconstruct his pre-war apartment. On 27 May 2002, the Chamber rejected the provisional measure requested.
5. The applicant submitted a request for compensation in the amount of 30,000 KM for compensation for pecuniary damages and 5,000 KM for compensation for non-pecuniary damages.

III. OPINION OF THE CHAMBER

6. 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. As against Bosnia and Herzegovina and the Republika Srpska

7. With regard to the three respondent Parties, the Chamber notes that the Administration for Housing Affairs of Sarajevo Canton, responsible for the proceedings complained of by the applicant, is an organ of the Canton, the conduct of which engages the responsibility of the Federation of Bosnia and Herzegovina, not of Bosnia and Herzegovina or the Republika Srpska, for the purposes of Article II(2) of the Agreement. Accordingly, as directed against Bosnia and Herzegovina and the Republika Srpska, the application is incompatible *ratione personae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare the application inadmissible as against Bosnia and Herzegovina and the Republika Srpska.

B. As against the Federation of Bosnia and Herzegovina

8. 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 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 this part of the application inadmissible.

9. Moreover, to the extent the applicant can be seen to complain about a violation of his right to housing in general, the Chamber notes that the European Convention on Human Rights does not contain a right to that effect. As the Chamber has explained in previous cases, it only has jurisdiction to consider the right to housing, which is protected by Article 11 of the International Covenant on Economic, Social and Cultural Rights, in connection with alleged or apparent discrimination in the enjoyment of such right (see case no. CH/01/6662, *Huremović*, decision on admissibility of 6 April 2001, paragraph 4, Decisions January-June 2001). The facts of this case do not indicate that the applicant has been the victim of discrimination on any of the grounds set forth in Article II(2)(b) of the Agreement. It follows that this part of the application is incompatible *ratione materiae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare this part of the application inadmissible as well.

IV. CONCLUSION

10. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Mato TADIĆ
President of the Second Panel