



DECISION ON ADMISSIBILITY

Case no. CH/01/7302

Hadžan KLAPUH

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 April 2001 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Vitomir POPOVIĆ
Mr. Mato TADIĆ

Mr. Peter KEMPEES, 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. INTRODUCTION

1. The application was introduced on 20 March 2001. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to take all necessary action to prevent his eviction. On 21 March 2001 the President of the Second Panel decided not to order the provisional measure requested.

2. The applicant is obliged by the conclusion of the Municipality Novi Grad Sarajevo issued on 6 February 2001 to vacate the apartment he currently occupies in Sarajevo, Nusreta Prohića 19. The applicant complains that the competent housing bodies are evicting him but are not willing to provide him with alternative accommodation to which he is entitled in accordance with law.

II. OPINION OF THE CHAMBER

3. The Chamber notes that the conclusion of the Municipality Novi Grad Sarajevo was taken to order the applicant to vacate the apartment pursuant to a lawful decision allowing the pre-war occupancy right holder to repossess the apartment and terminating the applicant's right of temporary use over that apartment. In the light of all the material in its possession, the Chamber finds that the facts complained of do not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. It follows that this part of the application must be rejected as manifestly ill-founded, in accordance with Article VIII(2)(c) of the Agreement.

4. The Chamber further notes that the applicant complains of an interference with his right to alternative accommodation. However, the European Convention for the Protection of Human Rights and Fundamental Freedoms does not contain any right to be granted an apartment. A complain concerning the right to housing could come within the scope of Article 11 of the International Covenant on Economic, Social and Cultural Rights ("the Covenant"). However, under Article II(2) of the Agreement, the Chamber only has jurisdiction to consider cases of alleged or apparent discrimination on a wide range of specified grounds in relation to the enjoyment of the rights guaranteed under the Covenant and the other international instruments referred to in the Appendix to the Agreement. The applicant has not alleged that there has been any such discrimination. Neither is it apparent from the facts of the case that the applicant has in fact been the victim of discrimination on any of the grounds set out 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), and must be rejected.

III. CONCLUSION

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

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Peter KEMPEES
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel