



DECISION ON ADMISSIBILITY

Case no. CH/01/7398

A.M.

against

**BOSNIA AND HERZEGOVINA
and
THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 February 2002 with the following members present:

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

Mr. Ulrich GARMS, 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 13 April 2001. It concerns a dispute over the applicant's pre-war apartment located at ul. Omladinski put b.b. ("the first apartment") before the "competent authorities" and a dispute over the apartment located at ul. Put Famosa no 30 (former ul. Tvornička no. 28 C) ("the second apartment") before the Administration for Housing Affairs of the Sarajevo Canton. Both apartments are in Hrasnica, nearby Sarajevo, the Federation of Bosnia and Herzegovina. The applicant submitted two similar requests for provisional measures on 13 April and 23 November 2001. He requested the Chamber to order the respondent Party, as provisional measures, to take all necessary action to prevent his eviction from the second apartment he currently occupies. On 11 January 2002 the Chamber decided not to order the provisional measures requested.

2. The applicant has had the pre-war occupancy right over the first apartment since 1987. The first apartment, located on the front line, was seriously damaged during the war in Bosnia and Herzegovina, and the applicant was allocated the second apartment on a temporary basis. The pre-war occupancy right holder over the second apartment is Mr. V.M. The applicant agreed to vacate the second apartment sometime in the middle of January 2002. According to the applicant, his pre-war apartment has been further "systematically destroyed during peacetime, after the war, by the competent authorities, without his knowledge or consent."

3. The applicant complained that his right to home and his right to purchase the first apartment are violated.

II. OPINION OF THE CHAMBER

4. 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 ..."

5. The applicant has directed his application against Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina. The Chamber notes that the Administration for Housing Affairs of the Sarajevo Canton and the other authorities responsible for the proceedings complained of by the applicant are all organs of the Federation of Bosnia and Herzegovina. Accordingly, as directed against Bosnia and Herzegovina, 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.

6. As to the applicant's complaints concerning his pre-war apartment at ul. Omladinska b.b., the Chamber notes that applicant has failed to substantiate his allegations that any of his rights have been violated. He has provided no evidence that the apartment has been destroyed after the war nor on the nature of the alleged actions undertaken by the authorities and/or that the authorities were required to obtain his consent prior to such actions. Regarding the second apartment the Chamber notes that the applicant voluntarily agreed to vacate it in January 2002. In these circumstances the Chamber cannot find that the applicant's rights as protected by the Agreement have been violated. Therefore, 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 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 as against the Federation of Bosnia and Herzegovina as well.

III. CONCLUSION

7. For these reasons, the Chamber, unanimously,
DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Giovanni GRASSO,
President of the Second Panel