



DECISION ON ADMISSIBILITY

Case no. CH/01/7476

Hamed DRAKOVAC

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 March 2002 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. 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 7 May 2001. The applicant was the occupant of an apartment located at ul. Esada Pašalića no. 8/IV, in Sarajevo, the Federation of Bosnia and Herzegovina (the “apartment”). On 20 November 2000 the Administration for Housing Affairs of the Sarajevo Canton (the “Administration”) confirmed the occupancy right of the pre-war occupant and the applicant was ordered to vacate the apartment in 15 days with no right to alternative accommodation. According to the Administration, the applicant was an illegal occupant of the apartment. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to prevent his eviction from the apartment scheduled on 18 May 2001. On 10 May 2001 the Chamber decided not to order the provisional measure requested. The applicant informed the Chamber that he was evicted on 18 May 2001.

2. The applicant complains of the Administration’s procedural decision and conclusion ordering his eviction from the apartment he occupied, as he has no funds to provide other accommodation for his family. He requests other accommodation or monetary aid to pay a rent. The applicant claims that the right to life of his family is violated.

II. OPINION OF THE CHAMBER

3. 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.”

4. The Chamber notes that the applicant has not specified any respondent Party in the application form. As the responsible authority for the decision complained of is an authority of the Federation of Bosnia and Herzegovina the Chamber will consider the application as directed against the Federation of Bosnia and Herzegovina.

5. 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 and that the applicant has no right under domestic law to occupy 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.

6. As to the applicant’s claim that he has been denied the right to alternative accommodation, 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 on this issue, 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.

III. CONCLUSION

7. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(Signed)
Ulrich GARMS
Registrar of the Chamber

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