



DECISION ON ADMISSIBILITY

CASE No. CH/01/7532

Ismet BALIČEVAC

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 3 July 2001 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
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 23 May 2001. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to prevent his eviction pursuant to a decision issued by the Commission for Real Property Claims of Displaced Persons and Refugees ("CRPC") from an apartment which he occupies in Sarajevo, Ulica Bistrik Čikma 3. The President of the Second Panel rejected this request on 29 May 2001.

2. The applicant claims that the decision ordering his eviction is based on an incomplete establishment of the facts. In particular, he alleges that the person recognised in the CRPC decision as entitled to repossess the apartment is not so entitled. He complains that the domestic authorities failed to establish that the person who was granted repossession had no right to repossess the disputed apartment as she was not a member of the family household of the late occupancy right holder. The applicant has lodged a request for reconsideration of the decision by CRPC. These proceedings are still pending.

3. The applicant complains of a violation of his right to respect for his home.

II. OPINION OF THE CHAMBER

4. The Chamber reiterates that it is not normally within its province to substitute its own assessment of the facts for that of the domestic authorities. Consequently, the Chamber cannot determine whether or not the person who was granted repossession of the disputed apartment was a member of the family household of the late occupancy right holder. Thus, 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 may be rejected, in accordance with Article VIII(2)(c) of the Agreement, as manifestly ill-founded.

III. CONCLUSION

5. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Peter KEMPEES
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel