



DECISION ON ADMISSIBILITY

Case no. CH/01/7720

Ibrahim AHMETSPAHIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 12 October 2001 with the following members present:

Mr. Viktor MASENKO-MAVI, Acting President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitimir 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 20 July 2001. The applicant requested that the Chamber order the Federation of Bosnia and Herzegovina, as a provisional measure, to take all necessary action to prevent his eviction from an apartment in Zenica, Kranjčevićeva br. 9/A until the Chamber decided on his request for alternative accommodation. On 12 October 2001 the Chamber decided not to order the provisional measure requested.

2. The applicant was the pre-war holder of the occupancy right over another apartment in the same town, but his request for repossession was rejected by a procedural decision as out of time. The applicant complains that the competent body has not taken into consideration the fact that the reason for his tardiness was that the building in which his apartment was located was completely destroyed in 1993 and that he had no reason to submit a request that could not be met.

3. Further, the applicant complained that, since he has no place to return, the competent body wrongly established that he was not entitled to alternative accommodation. Therefore he additionally requested that the Chamber order the housing administration to allocate him alternative accommodation.

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 Chamber notes that the decision of the Administration for General Administration and Housing Affairs of the Municipality Zenica, by which the applicant was ordered to vacate the apartment, 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.

6. As to the applicant’s claim that he has been denied the right to alternative accommodation, the Chamber notes that he is neither entitled to such accommodation under domestic law, nor does the European Convention on Human Rights contain a right to that effect. A complaint concerning the right to housing could come within the scope of Article 11 of the International Covenant on Economic, Social and Cultural Rights (“ICESCR”). However, under Article II(2)(b) of the Agreement, the Chamber only has jurisdiction to consider alleged violations of rights guaranteed under the ICESCR or the other international instruments referred to in the Appendix to the Agreement in case of alleged or apparent discrimination, on a wide range of specified grounds, in relation to the enjoyment of these rights. 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 may be rejected.

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