



DECISION ON ADMISSIBILITY

Case no. CH/01/8130

Milan MAČKOVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 11 January 2002 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. 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 Articles VIII(2)(b) and 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 17 December 2001. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to prevent his eviction from an apartment which he occupies. On 17 December 2001 the President of the Second Panel decided not to order the provisional measure requested.

2. The applicant complains of a decision of the Ministry for Refugees and Displaced Persons in Banja Luka ordering his eviction. The eviction was ordered because the pre-war occupant has obtained a decision entitling him to regain possession of the apartment and terminating the applicant's right to use it.

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 observes that on 10 November 2001 it declared inadmissible application no. CH/01/8026 which was submitted by the same applicant. The Chamber finds that the present application is essentially the same as the previous one. According to Article VIII(2)(b) of the Agreement, the Chamber shall not address any application which is substantially the same as a matter which it has already examined. In addition, 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 legal right 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 the application is also manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement. The Chamber therefore decides to declare it inadmissible.

III. CONCLUSION

5. 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