



DECISION ON ADMISSIBILITY

Case no. CH/01/8314

Emin NIŠIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 December 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. 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 24 October 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 in Ilidža, Bosanskih Gazija 39. On 24 October 2001 the President of the Second Panel decided not to order the provisional measure requested.

2. By a procedural decision of 27 September 2001 of the Administration for Housing Affairs of Sarajevo Canton, which was acting *ex officio*, the applicant was ordered to vacate the apartment which he temporarily occupies within three days and to hand over the apartment to that Administration. The applicant is the owner of a house in Trnovo, near Sarajevo, which was destroyed during the war, but in the meantime has been partly reconstructed.

3. The applicant complains that, since his house has been just partly reconstructed, the competent body wrongly established that he was not entitled to an 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 applicant was ordered to vacate the apartment pursuant to a lawful decision terminating a right of temporary use. In these circumstances, the Chamber finds that the facts complained of do 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. Therefore, the application may be rejected for this reason.

6. In addition, 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. 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 claim is incompatible *ratione materiae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). Therefore, it is appropriate to reject this claim as well.

III. CONCLUSION

7. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Mr. Giovanni GRASSO
President of the Second Panel