



DECISION ON ADMISSIBILITY

Case no. CH/01/8409

Vahid FEJZIĆ

against

THE FEDERATION BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 5 November 2002 with the following members present:

Ms. Michèle PICARD, President
Mr. Rona AYBAY, Vice President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Želimir JUKA
Mr. Miodrag PAJIĆ
Mr. Andrew GROTRIAN

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. FACTS AND COMPLAINTS

1. The applicant is a temporary occupant of an apartment in Zenica located at ulica Zije Dizdarevića 24. The pre-war occupancy right holder initiated proceedings before the Commission for Real Property Claims of Displaced Person and Refugees ("CRPC"), and he obtained a CRPC decision recognising his right to occupy the apartment in question.

2. On 2 November 2001 the applicant received a Conclusion of the Service for Administration and Housing Affairs in Zenica ordering the implementation of the CRPC decision. By this conclusion the pre-war occupancy right holder is allowed to return into possession of the apartment and the applicant is ordered to leave the apartment within 15 days, without the right to alternative accommodation.

3. The eviction of the applicant from the apartment in question was scheduled for 21 November 2001. The applicant filed an appeal against the conclusion ordering his eviction, which does not have suspensive effect. Based on documents submitted to the Chamber, it seems that the applicant was a subtenant of an apartment in Žepče on 30 April 1991.

4. The applicant complains that he is a disabled person, that he is a refugee from Žepče, and that he has no income to provide accommodation for himself and his family. He was not offered alternative accommodation, to which he alleges he is entitled. The applicant complains of a violation of his right to respect for home, as protected by Article 8 of the European Convention on Human Rights.

II. PROCEEDINGS BEFORE THE CHAMBER

5. The application was submitted to the Chamber on 9 November 2002 and registered on the same day. The applicant requested the Chamber to order to the respondent Party, as provisional measure, to take all necessary action to prevent his eviction from the apartment in question.

6. On 12 November 2001 the President of the First Panel decided to reject the provisional measure requested.

7. On 14 November 2001 the applicant submitted a letter informing the Chamber that he is represented by Ibrahim Delibašić, the President of the Citizens' Association for Protection of the Human Rights of Temporary Users of Abandoned Apartments.

III. OPINION OF THE CHAMBER

8. 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."

9. 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 this part of 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.

10. 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.

IV. CONCLUSION

11. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel