



DECISION ON ADMISSIBILITY

Case no. CH/01/8474

Safet AVDIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

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. Manfred NOWAK
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. THE FACTS

1. The application was introduced with the Chamber on 26 November 2001. The applicant requested the Chamber to order the Federation of Bosnia and Herzegovina, as a provisional measure, to take all necessary steps to prevent his eviction from the apartment at Olimpijska no. 4 in Sarajevo. On 27 November 2001 the President of the Second Panel decided not to order the requested provisional measure.

2. The applicant complains that the Administration for Housing Affairs of the Sarajevo Canton has not provided him with alternative accommodation even though he was the pre-war occupancy right holder over an apartment which was completely destroyed during the war. He states that it is not his fault that he occupies the apartment without a legal ground, as he has filed a claim with the housing authority seeking the issuance of a procedural decision granting him a temporary right to use the apartment. Such a procedural decision has not been issued in the applicant's favour.

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 notes that the decision on the applicant's eviction was taken to allow the 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 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.

5. 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.

III. CONCLUSION

6. 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