



## **DECISION ON ADMISSIBILITY**

**Case no. CH/01/8602**

**Mustafa HALILOVIĆ**

**against**

**BOSNIA AND HERZEGOVINA  
and  
THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 9 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 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 December 2001. The applicant has been the legal temporary occupant of the apartment located at ul. Alekse Šantića no. 2 in Sarajevo, the Federation of Bosnia and Herzegovina, since 9 October 1996. However, on 17 December 1998 the Commission for Real Property Claims of Displaced Persons and Refugees (“Annex 7 Commission”) confirmed the right of the pre-war occupant of the apartment. On 19 June 2001 the Administration for Housing Affairs of Sarajevo Canton (“the Administration”) issued a conclusion permitting enforcement of the decision of the Annex 7 Commission. The applicant’s right to temporary use was terminated, and he was ordered to vacate the apartment in 15 days, with no right to alternative accommodation. According to the Administration, the applicant had lived before the war in his sister’s apartment in Sarajevo.

2. Since 11 September 2001, the applicant has been the owner of a house located at ul. Kromolj no. 114 in Sarajevo, the Federation of Bosnia and Herzegovina. On an unspecified date that house was allocated to a displaced family by a procedural decision of the Sarajevo Centar Municipality, and the family has the right to alternative accommodation. As long as the displaced family stays there, the applicant cannot move into his newly acquired house.

3. The applicant complains about the conclusion of the Administration ordering his eviction from the apartment which he occupies, with no right to alternative accommodation, as he has no other place to live. The eviction was ordered because the pre-war occupant has obtained the Annex 7 Commission decision entitling him to regain possession of the apartment and the conclusion terminating the applicant’s right to use it, respectively. The applicant referred to the latest amendments to the property laws by the High Representative, complaining that the current occupants of his house will not have the right to alternative accommodation after the amendments come into force, as the family is constructing their own new house in Sarajevo.

## **II. THE REQUEST FOR PROVISIONAL MEASURES**

4. The applicant requested the Chamber to order the respondent Parties, as provisional measures: a) to order the Sarajevo Centar Municipality to vacate the house at ul. Kromolj no. 114 in Sarajevo, so that he could move into the house; and/or b) to prevent his eviction from the apartment at ul. Alekse Šantića no. 2 in Sarajevo, which he currently occupies, until he can move back into his own house; and c) thereafter, to order him to vacate his apartment in 15 days. On 23 December 2001 the President of the Second Panel decided not to order the provisional measures requested.

## **III. OPINION OF THE CHAMBER**

5. 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.”

6. The applicant has directed the application against Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina. The Chamber notes that the Administration for Housing Affairs of Sarajevo Canton, which is responsible for the proceeding complained of by the applicant, is an organ of the Federation of Bosnia and Herzegovina. Accordingly, as directed against Bosnia and Herzegovina, the application is incompatible *ratione personae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare the application inadmissible as against Bosnia and Herzegovina.

7. The Chamber notes that the Administration ordered the applicant 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. Accordingly, the application is manifestly ill-

founded, within the meaning of Article VIII(2)(c) of the Agreement. The Chamber therefore decides to declare the application inadmissible also as against the Federation of Bosnia and Herzegovina.

8. 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. Accordingly, in this respect 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**

9. 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