



## **DECISION ON ADMISSIBILITY**

**Case no. CH/01/8611**

**Rasko ZEBA**

**against**

**THE FEDERATION OF 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 was the temporary occupant of an apartment located in Sarajevo.
2. On 18 October 2001, upon a request of the pre-war occupancy right holder, the Administration for Housing Affairs (the "Administration") issued a procedural decision allowing the pre-war occupancy right holder to return into possession of the apartment and ordering the applicant to leave the apartment within 15 days, without the right to alternative accommodation. On 20 December 2001, the applicant lodged an appeal against the procedural decision in question. The Chamber has no information as to whether the applicant received a decision upon his appeal, which in any case does not have suspensive effect.
3. The applicant complains that the factual background was wrongly established and that he was not offered alternative accommodation to which he is allegedly entitled. The applicant points out that his father has submitted the request for a repossession of his pre-war property in Višegrad, without any results. The applicant states that his rights to home and property have been violated.

## **II. PROCEEDINGS BEFORE THE CHAMBER**

4. The application was submitted to the Chamber on 24 December 2001.
5. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to prevent his eviction or to provide him alternative accommodation. As that time the applicant had not been issued a conclusion on permission of execution.
6. On 19 February the President of Panel I rejected the request for provisional measure. On 22 February 2002 the Chamber sent a letter to the applicant informing him that his request is rejected.
7. On 3 April 2002 the applicant informed the Chamber that his eviction is scheduled for 17 April. He again requested the Chamber, as provisional measure, to order the respondent Party to prevent his eviction. The applicant attached the conclusion on eviction and appeal against this conclusion to this letter.
8. On 9 April 2002 the Chamber decided to reject the request for provisional measure.

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

9. 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."
10. 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 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.
11. 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**

12. 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