



DECISION ON ADMISSIBILITY

Case no. CH/01/8826

Veljko MASTILO

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 11 October 2002 with the following members present:

Mr. Viktor MASENKO-MAVI, Acting President

Mr. Jakob MÖLLER

Mr. Mehmed DEKOVIĆ

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 7 February 2002.
2. On 2 February 2001 Ministry for Refugees and Displaced Persons of the Republika Srpska – Department in Srbinje/Foča (the “Ministry”) issued a decision allocating an apartment located at Srbinje/Foča, ulica Livade bb, as alternative accommodation to the applicant. On 28 November 2001 the Ministry, in review proceedings, issued a new decision revoking the decision of 2 February 2001 and ordering the applicant’s eviction from the apartment in question. The eviction was ordered because the applicant did not possess any pre-war property – formerly he was a subtenant in Sarajevo; thus, he cannot be considered a refugee or displaced person with the right to alternative accommodation as no right exists for pre-war subtenants. Accordingly, on 8 February 2002 the applicant was forcibly evicted from the apartment in question.
3. The applicant complains of violations of his right to home and right to a fair hearing in the administrative proceedings.

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 concerned on the ground that he had no right under domestic law to occupy it. 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 this part of the application is manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement.

6. In addition, the Chamber notes that the applicant complains that the Ministry for Refugees and Displaced Persons of the Republika Srpska – Department in Srbinje/Foča wrongly assessed the facts pertaining to his case and misapplied the law. As a consequence of this, he further alleges that his right to home has been violated by the enforcement of the decision of 28 November 2001, which ordered him to vacate the apartment. Article 6 of the Convention guarantees the right to a fair hearing. However, the Chamber has stated on several occasions that it has no general competence to substitute its own assessment of the facts and application of the law for that of the national courts (*see, e.g.*, case no. CH/99/2565, *Banović*, decision on admissibility of 8 December 1999, paragraph 11, Decisions August-December 1999, and case no. CH/00/4128, *DD “Trgosirovina” Sarajevo (DDT)*, decision on admissibility of 6 September 2000, paragraph 13, Decisions July-December 2000). There is no evidence that the administrative bodies failed to act fairly as required by Article 6 of the Convention. Consequently, there are no indications that the alleged interference with the applicant’s private and family life and his peaceful enjoyment of possessions was not in accordance with the law and fully justified. 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 the entire application inadmissible.

III. CONCLUSION

7. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Viktor MASENKO-MAVI,
Acting President of the Second Panel