



DECISION ON ADMISSIBILITY

Case no. CH/02/10494

Refik BEĆIREVIĆ

against

**BOSNIA AND HERZEGOVINA,
THE FEDERATION BOSNIA AND HERZEGOVINA
and
THE REPUBLIKA SRPSKA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 March 2003 with the following members present:

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Giovanni GRASSO
Mr. Vitomir POPOVIĆ
Mr. Viktor MASENKO-MAVI

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar
Ms. Antonia DE MEO, 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 temporarily lives in an apartment located in Vogošća at Braće Krešo Street no. 36, the Federation of Bosnia and Herzegovina. However, the applicant does not have any legal basis to occupy this apartment. The pre-war occupancy right holder initiated proceedings for reinstatement into possession of the apartment occupied by the applicant. The Administration for Housing Affairs of Sarajevo Canton issued a conclusion on enforcement by which it scheduled the applicant's eviction from the apartment in question for 17 May 2002.

2. The applicant complains that he is refugee from Vlasenica, the Republika Srpska. He lives in the apartment in question with his wife and three children. He states that his house in Vlasenica was burned and completely destroyed. He claims that he does not have any other place to live and he has no income to pay for other accommodation for his family. Moreover, his daughter is disabled and mentally ill. He asks the Chamber to suspend his eviction until he repairs his house in Vlasenica.

II. PROCEEDINGS BEFORE THE CHAMBER

3. The application was submitted to the Chamber on 14 May 2002. The applicant requested the Chamber to order the Federation of Bosnia and Herzegovina, as a provisional measure, to take all necessary steps to suspend his eviction from the apartment he occupies with his family. On 17 May 2002, the President of the Second Panel decided to reject the provisional measure requested.

III. 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."

A. As against Bosnia and Herzegovina and the Republika Srpska

5. With regard to the three respondent Parties, the Chamber notes that the Administration for Housing Affairs of Sarajevo Canton, responsible for the proceedings complained of by the applicant, is an organ of the Canton, the conduct of which engages the responsibility of the Federation of Bosnia and Herzegovina, not of Bosnia and Herzegovina or the Republika Srpska, for the purposes of Article II(2) of the Agreement. Accordingly, as directed against Bosnia and Herzegovina and the Republika Srpska, 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 and the Republika Srpska.

B. As against the Federation of Bosnia and Herzegovina

6. 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. 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 the application inadmissible.

IV. CONCLUSION

7. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Mato TADIĆ
President of the Second Panel