



DECISION ON ADMISSIBILITY

Case no. CH/02/10640

Zoran AMIDŽIĆ

against

**BOSNIA AND HERZEGOVINA
and
THE REPUBLIKA SRPSKA**

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

Mr. Jakob MÖLLER, Acting President
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
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. INTRODUCTION

1. The application was submitted to the Chamber on 5 August 2002.
2. The application concerns the applicant's complaints with regard to his eviction from an apartment located at Ž. Mišića no. 77, in Banja Luka. The pre-war occupancy right holder over the apartment concerned is Seida Duraković – Karamović (S.D.K.).

II. FACTS

3. On 5 October 1993, the Municipal Secretariat for Economy, Banja Luka Municipality issued a procedural decision allocating the applicant the apartment at Ž. Mišića no. 77, in Banja Luka. On 19 October 1993, the applicant concluded a contract on use of the apartment with the Institute for Construction Banja Luka.
4. On 21 September 1999, S.D.K. filed a request for reinstatement into possession of the apartment concerned.
5. On 1 February 2002, the Ministry for Refugees and Displaced Persons of the Republika Srpska, Banja Luka Department (the "Ministry"), issued a procedural decision confirming S.D.K.'s occupancy right over the apartment concerned and allowing her to repossess it. The procedural decision establishes that the applicant's right to temporary use of the apartment as a legal temporary user ceased, and he was obliged to return the apartment into the occupancy right holder's possession within 15 days from issuance of the procedural decision. It further establishes that the applicant is not entitled to alternative accommodation.
6. On 12 February 2002, the applicant filed an appeal against the Ministry's procedural decision. He alleges that the second instance body never decided on that appeal.
7. On 19 June 2002, the Ministry issued a conclusion on enforcement of the procedural decision of 1 February 2002. The applicant's eviction was scheduled for 11 July 2002.
8. On 5 July 2002, the applicant filed an appeal to the Ministry against the conclusion on enforcement. He stated that the requirements for administrative enforcement had not been met, as the second instance body never decided on his appeal filed on 12 February 2002.
9. On 5 July 2002, the applicant filed a request to the owner of the apartment, Banja Luka City, Department for Housing and Public Utility Affairs, to initiate proceedings to establish S.D.K.'s loss of the occupancy right over the apartment concerned.
10. On 11 July 2002, the applicant was evicted from the apartment concerned with the assistance of the police.

III. OPINION OF THE CHAMBER

11. 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. Admissibility in relation to Bosnia and Herzegovina

12. The Chamber finds that the applicant's complaints do not concern an interference with his rights under the Agreement by the authorities of Bosnia and Herzegovina. It follows that the application is incompatible *ratione personae* with the provisions of the Agreement, within the

meaning of the Article VIII(2)(c). The Chamber therefore decides to declare the application inadmissible in relation to Bosnia and Herzegovina.

B. Admissibility in relation to the Republika Srpska

13. 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 in relation to the Republika Srpska, as well.

IV. CONCLUSION

14. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Jakob MÖLLER
Acting President of the Second Panel