



DECISION ON ADMISSIBILITY

Case no. CH/02/11052

Mirsad SENDO

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 5 September 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 23 May 2002. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to prevent his eviction from an apartment which he occupies at Paromlinska 12 in Sarajevo. On 27 May 2002, the Vice-President of the Second Panel decided not to order the provisional measure requested.
2. On 25 January 1999 the Commission for Real Property Claims of Displaced Persons and Refugees ("CRPC") issued a decision confirming that Budimka Marić was the occupancy right holder over the apartment occupied by the applicant.
3. The applicant submitted a request for reconsideration of this decision to the CRPC. On 1 May 2001 the CRPC issued a decision rejecting the applicant's request as ill-founded.
4. On 23 March 2001 the Administration for Housing Affairs of Canton Sarajevo (the "Administration") issued a conclusion allowing the enforcement of the CRPC decision. The applicant appealed against this conclusion to the Ministry for Housing Affairs of Canton Sarajevo, which issued a procedural decision on 26 November 2001 by which it quashed parts of the conclusion. In relation to these parts, the case was return to the first instance organ for renewed proceedings.
5. The applicant initiated an action before the Cantonal Court of Sarajevo against the procedural decision of the Ministry. The Chamber has no details of the action initiated before the Cantonal Court.
6. On 3 January 2002 the Administration issued a conclusion on postponement of the enforcement of the CRPC decision until the renewed proceedings are concluded, as instructed by the second instance organ in its procedural decision dated 26 November 2001.
7. Despite its earlier conclusion on postponement, on 7 February 2002 the Administration issued another conclusion allowing the enforcement of the CRPC decision. This conclusion obliged the applicant to vacate the apartment in question within 15 days and stated that he was not entitled to alternative accommodation.
8. The applicant states that before issuing the new conclusion dated 7 February 2002, the Administration neither conducted new proceedings nor invited him to appear as a party. He also states that the Administration did not take into account either the action that he had brought before the Cantonal Court or his request for the postponement of the enforcement.
9. The applicant claims that Articles 6 and 8 of the European Convention on Human Rights (the "Convention") have been violated in his case.

II. OPINION OF THE CHAMBER

10. 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."
11. 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 in this regard 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.
12. As to the applicant's claims regarding the violation of Article 6 of the Convention and discrimination, the Chamber notes that the applicant has failed to substantiate his allegations. Therefore, the Chamber finds that this part of the application also does 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. The Chamber therefore decides to declare this part of the application inadmissible as well.

III. CONCLUSION

13. 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