



DECISION ON ADMISSIBILITY

Case no. CH/02/11070

Nijaz POPARIĆ

against

**BOSNIA AND HERZEGOVINA
and
THE FEDERATION OF BOSNIA AND HERZEGOVINA**

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. On 11 April 1992, the Command of the Mostar Garrison of the Yugoslav National Army assigned an apartment located at ul. Maršala Tita no. 231 in Mostar, the Federation of Bosnia and Herzegovina, to the applicant "for the purpose of purchase". The applicant never moved into the apartment, nor did he conclude a purchase contract.

2. The applicant submitted a request to the Army Housing Organ of the Federation of Bosnia and Herzegovina in order to gain possession of the apartment.

3. On 25 April 2002, the applicant received a letter of the Joint Command of the Army of the Federation of Bosnia and Herzegovina Military-Housing Body, including a copy of a letter of 10 April 2002 this organ received from the Department for Legal Affairs of the Ministry of Defence of the Federation of Bosnia and Herzegovina. According to this letter, the applicant is not entitled to possession of the apartment in question.

4. The applicant appealed against the letter of the Department for Legal Affairs of the Ministry of Defence of the Federation of Bosnia and Herzegovina. The Chamber is not informed about the outcome of this appeal.

5. On 27 May 2002, the applicant requested the Chamber, as a provisional measure, to order the respondent Parties to take all necessary action to annul the response of the Army Housing Organ of the Federation of Bosnia and Herzegovina until the Chamber issues its decision in this case and until the applicant is reinstated into possession of the apartment.

6. On 4 September 2002 the Chamber rejected the request for a provisional measure.

7. The applicant complains that his right to home, private and family life, and property have been violated.

II. OPINION OF THE CHAMBER

8. 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."

9. The applicant claims that he has been denied reinstatement into possession of the apartment located at ul. Maršala Tita no. 231 in Mostar, the Federation of Bosnia and Herzegovina. The Chamber, however, notes that the applicant never obtained an occupancy right over the apartment, nor did he purchase it. Therefore, 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.

III. CONCLUSION

10. 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