



DECISION ON ADMISSIBILITY

Case no. CH/02/12307

Šuhret BABIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 5 March 2003 with the following members present:

Ms. Michèle PICARD, President
Mr. Miodrag PAJIĆ, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA
Mr. Andrew GROTRIAN

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar
Ms. Antonia DE MEO, Deputy Registrar

Having considered the aforementioned applications 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 applicant complains of being ordered to move out of the apartment he got for temporary use by the procedural decision of the competent body, as well as of being denied the right to be allocated a bigger apartment.
2. On 11 November 2002 the applicant requested the Chamber to order the respondent Party, as provisional measure, to postpone his eviction that was scheduled for 23 December 2002. On 18 December 2002 the Chamber decided not to order provisional measure requested.

II. STATEMENT OF FACTS AND PROCEEDINGS

3. The application was introduced on 3 October 2002 and registered the same day. The applicant is a retired police officer and he retired in 1997 as an employee of the Ministry of Interior of Zenica-Doboj Canton. The applicant states that until September 1993 he lived together with his wife and two children in the apartment at Crkvice street no. 35 in Zenica, over which he had the occupancy right.
4. On 1 September 1993 the Municipal Secretariat for General Administration of Zenica Municipality allocated him an apartment for temporary use at Bulevar Bratstva i Jedinstva no. 16/II (presently Obalni Bulevar no. 16/II) in Zenica.
5. On 23 March 1999 the pre-war occupancy right holder over the apartment at Obalni bulevar no. 16, A.D., filed a request for repossession of the apartment. On 19 September 2002 the Department for General Administration and Housing Affairs of Zenica Municipality issued a procedural decision confirming that A.D. is the occupancy right holder over the mentioned apartment and that the apartment was to be returned to his possession. By the same procedural decision the applicant's right to temporary use of the apartment ceased and he was ordered to move out of the apartment within 15 days from the receipt of the procedural decision. The applicant filed an appeal against the mentioned procedural decision, but the execution is not stayed pending the appeal according to the law.
6. The eviction of the applicant and his family out of the apartment at Obalni Bulevar no. 16 was scheduled for 23 December 2002.
7. The applicant also stated that the apartment in which he lived before the war was small and devastated and unfit for living for him and his family. He particularly stated that the Book of Rules of the Ministry of Interior (he does not specify which Ministry - Federal or Cantonal) obligated the Ministry, in case its employee was not allocated an appropriate apartment before his retirement, to allocate him the first available apartment which the employee is entitled to under the provisions of the Book of Rules.
8. The applicant filed a request with the Federal Ministry of Interior and the Ministry of Interior of the Zenica-Doboj Canton, but both ministries refused his request. On 19 November 2002 the applicant lodged a lawsuit against the Ministry of Interior of Zenica-Doboj Canton with the Zenica Municipal Court. He requests the Ministry to resolve his housing problem. The proceedings are still pending.

III. COMPLAINTS

9. The applicant complains of violation of his right to respect of his home, private and family life under Article 8 of the Convention. He also requests the Chamber to order the respondent Party to resolve his housing issue and allocate him a bigger apartment, or to award him a monetary compensation by which he could buy a bigger apartment

IV. 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 applicant was ordered to vacate the apartment at Obalni Bulevar no. 16/II pursuant to a lawful decision terminating a right of temporary use. 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 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 claim that he has been denied the right to be allocated a bigger apartment, the Chamber notes that the European Convention on Human Rights does not contain a right to that effect. As the Chamber has explained in previous cases on this issue, it only has jurisdiction to consider the right to housing, which is protected by Article 11 of the International Covenant on Economic, Social and Cultural Rights, in connection with alleged or apparent discrimination in the enjoyment of such right (see case no. CH/01/6662, *Huremović*, decision on admissibility of 6 April 2001, paragraph 4, Decisions January-June 2001). The facts of this case do not indicate that the applicant has been the victim of discrimination on any of the grounds set forth in Article II(2)(b) of the Agreement. It follows that this part of the application is incompatible *ratione materiae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare this part of the application inadmissible as well.

V. CONCLUSION

13. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel