



DECISION ON ADMISSIBILITY

Case no. CH/02/12376

Ranko ČAVARKAPA

against

THE REPUBLIKA SRPSKA

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

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER
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 introduced on 28 October 2002.
2. The applicant complains of a decision of the Ministry for Refugees and Displaced Persons evicting him and his family from property which they occupy in Srpsko Novo Sarajevo without providing them with any alternative accommodation. The applicant claims that the Ministry must provide them with alternative accommodation until the conditions have been met for them to return to their pre-war house at Hrasno Brdo. As that pre-war house was devastated during the armed conflict, the applicant and his family have nowhere to live.

II. STATEMENT OF FACTS

3. Before the armed conflict in Bosnia and Herzegovina, the applicant lived in a private house at Ozrenska Street no. 126, Hrasno Brdo, Sarajevo. After the hostilities started, the applicant fled from Sarajevo and went to live in Srpsko Novo Sarajevo at Petrovići next to no. 41. The applicant's pre-war house at Hrasno Brdo was devastated during the armed conflict.
4. On 21 January 1999, the applicant filed a request for repossession of his pre-war property at Hrasno Brdo with the Commission for Property Claims of Displaced Persons and Refugees ("CRPC"). The applicant alleges that on 21 September 1999, the CRPC issued a decision confirming that he was the "bona fide possessor" of the property at Hrasno Brdo.
5. On 10 September 2002, the Ministry for Refugees and Displaced Persons, Department Srpska Ilidža (the "Ministry"), issued a procedural decision confirming that Vladimir Balta was the owner of the weekend house and land at Petrovići next to no. 41, Srpsko Novo Sarajevo, occupied by the applicant. The Ministry confirmed that as the temporary occupant, the applicant's right to use the property at Petrovići ceased and he was obliged to return possession of it to the owner within 15 days. The procedural decision established that the applicant is not entitled to alternative accommodation because he received a donation to rebuild his pre-war house at Hrasno Brdo from Caritas, which he refused as it did not include the repair of the entire house.

III. OPINION OF THE CHAMBER

6. 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."
7. The Chamber notes that the decision on the applicant's eviction was taken to allow Vladimir Balta, the pre-war owner, to repossess the weekend house and land at Petrovići next to no. 41, Srpsko Novo Sarajevo and that the applicant has no right under domestic law to continue occupying the weekend house. 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 this part of the application inadmissible.
8. As to the applicant's claim that he has been denied the right to alternative accommodation, 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 the application, on this part, is incompatible *ratione materiae* with the

provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare the application inadmissible.

IV. CONCLUSION

9. 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