



DECISION ON ADMISSIBILITY

Case nos. CH/02/8745, CH/02/12068 and CH/02/12321

Safet SEFER, Emir KAHRIMAN and Jasmin AVDIĆ

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. 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. These applications concern the applicants' attempts to prevent their evictions from apartments which they occupy and to obtain alternative accommodation. Considering the similarity between the facts of the cases and the complaints of the applicants, the Chamber decided to join the present applications in accordance with Rule 34 of the Chamber's Rules of Procedure on the same day it adopted the present decision.

A. CH/02/8745 Safet SEFER

2. The application was introduced on 28 January 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. On 29 January 2002, the President of the First Panel decided not to order the provisional measure requested.

3. The applicant complains of a decision of the Administration for Housing Affairs of Canton Sarajevo ordering his eviction from an apartment which he occupies. The eviction was ordered because the pre-war occupant has obtained a decision entitling him to regain possession of the apartment and terminating the applicant's temporary right to use it. The applicant further complains that his pre-war house is still destroyed and that a request for donation for reconstruction materials is pending.

B. CH/02/12068 Emir KAHRIMAN

4. The application was introduced on 17 October 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. The President of the First Panel rejected the provisional measure requested.

5. The applicant complains of a decision of the Administration for Housing Affairs of Canton Sarajevo ordering his eviction from an apartment which he occupies. The eviction was ordered because the pre-war occupant has obtained a decision entitling him to regain possession of the apartment and terminating the applicant's temporary right to use it. The applicant further complains that he has no alternative place to live with his family.

C. CH/02/12321 Jasmin AVDIĆ

6. The application was introduced on 10 October 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. On 16 October 2002, the President of the First Panel decided not to order the provisional measure requested.

7. The applicant complains of a decision of the Administration for Housing Affairs of Canton Sarajevo ordering his eviction from an apartment which he occupies. The eviction was ordered because the pre-war occupant has obtained a decision entitling him to regain possession of the apartment and terminating the applicant's temporary right to use it. The applicant further complains that he was not allocated any alternative accommodation.

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 Chamber notes that the decisions on the applicants' evictions were taken to allow the pre-war occupancy right holders to repossess their apartments. In these circumstances, the Chamber

finds that the applications do not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. It follows that these parts of the applications are manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement. The Chamber therefore decides to declare these parts of the applications inadmissible.

10. As to the applicants' claims that they have been denied the right to alternative accommodation, the Chamber notes that they are neither entitled to such accommodation under domestic law, nor does the European Convention on Human Rights 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 these cases do not indicate that the applicants have been the victims of discrimination on any of the grounds set forth in Article II(2)(b) of the Agreement. It follows that these parts of the applications are incompatible *ratione materiae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare these parts of the applications inadmissible as well.

III. CONCLUSION

11. For these reasons, the Chamber, unanimously,

**JOINS APPLICATIONS and
DECLARES THE APPLICATIONS INADMISSIBLE.**

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel