



DECISION ON ADMISSIBILITY

Case no. CH/02/8849

Zvonimir PRGOMET

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 10 January 2003 with the following members present:

Ms. Michèle PICARD, President
Mr. Miodrag PAJIĆ, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
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 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)(a) and(c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS AND COMPLAINTS

1. The applicant was the temporary occupant of an apartment located in Zenica.
2. On 24 January 2002, upon a request of the pre-war occupancy right holder, the Service for General Administration and Housing Affairs (the "Administration") issued a procedural decision allowing the pre-war occupancy right holder to return into possession of the apartment and ordering the applicant to vacate the apartment within 15 days, without the right to alternative accommodation. On 30 January 2002, the applicant lodged an appeal against the procedural decision in question. The Chamber has no information as to whether the applicant received a decision upon his appeal, which in any event does not have suspensive effect. On 25 March 2002, the Administration issued a conclusion allowing the eviction of the applicant from the apartment concerned. The eviction was scheduled for 12 April 2002.
3. The applicant states that before the armed conflict he lived in a small apartment in Zenica. The applicant further states that he requested repossession of his pre-war apartment. On 24 January 2002, the Administration issued a procedural decision rejecting the applicant's request as out of time. On 30 January 2002, the applicant appealed against this decision. The Chamber has no information as to whether the applicant received a decision upon his appeal.
4. The applicant complains that his rights protected under Articles 6 and 8 of the European Convention on Human Rights ("the Convention") and Article 1 of Protocol No. 1 to the Convention have been violated. He claims to be unable to obtain possession of his pre-war apartment, because the Administration misapplied some new legal provisions pertaining to his case.

II. PROCEEDINGS BEFORE THE CHAMBER

5. The application was submitted to the Chamber on 11 February 2002.
6. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to prevent his eviction until he resolves his housing problems. When the application was submitted, the applicant did not have the conclusion allowing his eviction. On 12 April 2002, this conclusion was submitted to the Chamber, the same day on which the eviction was carried out.

III. OPINION OF THE CHAMBER

7. 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: ... (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted (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."
8. 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 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.
9. The Chamber further notes that the applicant submitted the request for repossession of his pre-war apartment on 9 February 2000. The deadline for submitting such a request had already expired on 4 October 1999. The applicant alleges that he concluded a contract on exchange, stating that he exchanged a "smaller apartment for a larger one". He concludes that therefore the time for requesting repossession in his case was prolonged in accordance with the amendments to the Law on Cessation of the Law on Abandoned Apartments in December 1999. However, based upon the

documents submitted to the Chamber, the applicant only concluded a new contract over the larger apartment; he did not conclude a contract on exchange within the meaning of the mentioned Law. Thus, the extended deadline does not apply in his case. Therefore the Chamber finds that the applicant has failed to submit a timely request for repossession of his pre-war apartment to the competent organ. Accordingly, the Chamber finds that the applicant has not, as required by Article VIII(2)(a) of the Agreement, exhausted the effective remedies. The Chamber therefore decides to declare this part of the application inadmissible as well.

IV. CONCLUSION

10. 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