



DECISION ON ADMISSIBILITY

Case no. CH/02/8856

Mustafa DACIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 5 September 2002 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
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. The applicant was the *de facto* occupant of an apartment in Sarajevo, but he was never granted permission, even temporary permission, to occupy the apartment.
2. The applicant received an order from the Administration for Housing Affairs of the Sarajevo Canton scheduling his eviction from the apartment for 18 February 2002, upon the request of the pre-war occupancy right holder. The applicant's pre-war house was destroyed, and he has not been in a position to repair it. He requested certain donations to reconstruct his house, but he has not received any such financial assistance.
3. The applicant complains that almost all his rights guaranteed by the European Convention on the Human Rights (the "Convention") have been violated.

II. PROCEEDINGS BEFORE THE CHAMBER

4. The application was submitted to the Chamber on 12 February 2002. The applicant requested the Chamber to order respondent Party, as a provisional measure, to prevent his eviction from the apartment he occupied in Sarajevo. On 15 February 2002 the President of the Second Panel decided to reject the provisional measure requested.
5. In his application, the applicant set out his compensation claims for pecuniary damages in the amount of 182,400.00 KM and for non-pecuniary damages in an unspecified amount.
6. On 4 March 2002 the Chamber received a letter from the applicant in which he stated that he had been evicted from the apartment on 25 February 2002. The apartment had been sealed, and he was unable to remove his belongings from the apartment. He sought help, and the Head Officer of the Municipality Vogošća promised the applicant that he would obtain his belongings for him. On 26 February 2002 an Officer in the administrative organ for housing affairs of the Municipality Vogošća returned the key to the apartment to the applicant and informed him that he could temporarily move back into the apartment.
7. As a result of all of these circumstances, the applicant alleges that his health is deteriorated. On 3 June 2002 the Chamber received a letter from the applicant in which he repeated his request for compensation to repair his house.

III. OPINION OF THE CHAMBER

8. In accordance with Article VIII(2) of the Agreement, "the Chamber shall decide which applications to accept ... and 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 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. The Chamber notes that it can only consider a claim for compensation if it makes a finding of a violation of the Agreement, which it has not done in this case. 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.

IV. CONCLUSION

10. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(Signed)
Ulrich GARMS
Registrar of the Chamber

(Signed)
Giovanni GRASSO
President of the Second Panel