



DECISION ON ADMISSIBILITY

Case no. CH/02/9778

Tomislav JOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 11 October 2002 with the following members present:

Mr. Viktor MASENKO-MAVI, Acting President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
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)(a) Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The application was introduced on 25 March 2002. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to prevent the sale of an apartment in the Municipality of Zavidovići, Prvomajska 10/2. On 4 September 2002, the Chamber decided not to order the provisional measure requested.

2. The applicant complains that he has not been reinstated into his Zavidovići apartment, over which he allegedly had a pre-war occupancy right. On 4 February 2002, the applicant submitted a request for repossession of the apartment to the competent administrative organ. He had allegedly heard invitations on the television of the Republika Srpska in January and February 2002 which stated: "Those refugees and displaced persons who did not submit any request for repossession of apartments or did do so with delay should now submit requests for repossession."

3. On 15 February 2002, the Service for Administration of Economic Activities of the Municipality of Zavidovići rejected the applicant's request for repossession as out of time. It based its decision on the reasoning that the general deadline for repossession of apartments had expired. Furthermore, the applicant's apartment was neither destroyed nor devastated. Hence it does not fall into any of the categories for which the decision of the High Representative Amending the Law on Cessation of the Application of the Law on Abandoned Apartments, published on 21 December 2001, provides for an exceptional, extended deadline until 29 June 2002.

II. RELEVANT LAW

4. According to the Law on Cessation of the Application of the Law on Abandoned Apartments the deadline for submitting a claim for repossession of apartments which were declared abandoned expired on 4 July 1999. For apartments that were not declared abandoned, it expired on 4 October 1999.

5. On 21 December 2001, the decision of the High Representative Amending the Law on Cessation of the Law on Abandoned Apartments was published in the Official Gazette of the Federation of Bosnia and Herzegovina, no. 56/01. It entered into force on 29 December 2001, eight days after publication in the Official Gazette. It provides that requests for the repossession of all apartments that have been either destroyed or devastated may be submitted within six months from the entry into force of the law, i.e. until 29 June 2002.

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: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted"

7. The Chamber notes that the applicant only submitted a request for repossession of his apartment on 4 February 2002. The deadline for submitting such a request had already expired in 1999, however, because the apartment in question does not fall into a category for which an extended deadline is applicable. He thus failed to submit a timely request for repossession to the competent organ. Accordingly, the Chamber finds that the applicant did not, as required by Article VIII(2)(a) of the Agreement, exhaust effective domestic remedies. The Chamber therefore decides to declare the application inadmissible.

IV. CONCLUSION

8. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Viktor MASENKO-MAVI
Acting President of the Second Panel