



DECISION ON ADMISSIBILITY AND TO STRIKE OUT

Case no. CH/02/9978

Nusret CERO

against

**THE FEDERATION OF BOSNIA AND HERZEGOVINA
and
THE REPUBLIKA SRPSKA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 May 2003 with the following members present:

Mr. Jakob MÖLLER, Acting President
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 Articles VIII(2)(c) and VIII(3)(a) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The applicant is a displaced person from the village of Kabernik, Municipality Višegrad, the Republika Srpska. The applicant filed a request for repossession of his property in Višegrad. However, he alleges that his house in Višegrad has been completely destroyed. He complains about his eviction from the real property he occupies in Sarajevo and the denial of his right to alternative accommodation.

II. FACTS

2. On 8 September 2000, the Municipal Service for Housing Issues and Abandoned Real Estate (hereinafter "the Municipal Service") issued a procedural decision by which the owner, Bjelica Vukan, was permitted to repossess real estate at St. Fra Antuna Kneževića No. 14 in Sarajevo. The applicant was given 90 days to vacate the real estate in question, and he was granted the right to alternative accommodation.

3. The applicant filed an appeal against the first instance procedural decision. The Ministry for Urban Planning and Communal Affairs of the Canton Sarajevo (hereinafter "the Ministry") rejected the appeal on 30 January 2001 as ill-founded.

4. The applicant initiated an administrative dispute against the Ministry's procedural decision before the Cantonal Court in Sarajevo.

5. On 8 May 2001, the Municipal Service issued a procedural decision in *ex officio* renewed proceedings, establishing that the applicant was an illegal occupant and that he had to hand over possession of the property concerned to the owner within 15 days, under the threat of forcible enforcement. It was established that the applicant had no right to alternative accommodation.

6. The applicant filed an appeal against the procedural decision of 8 May 2001. On 20 February 2002, the Ministry rejected the appeal as ill-founded.

7. On 13 March 2002, the Municipal Service issued a conclusion on enforcement of the procedural decision of 8 May 2002, by which the applicant was ordered to hand over possession of the property concerned to the Municipal Commission on 30 April 2002.

8. The applicant filed an appeal against the conclusion on enforcement.

III. PROCEEDINGS BEFORE THE CHAMBER

9. The application was introduced on 17 April 2002 and registered on the same day.

10. In his application, the applicant requested the Chamber to order the respondent Party, as a provisional measure, to take all necessary action to prevent his eviction from the house he currently occupies in Sarajevo, at St. Fra Antuna Kneževića No. 14, until he has been reinstated into his pre-war property in Višegrad or until he is provided alternative accommodation. In the alternative, he asked the Chamber to order the Municipality Novi Grad to provide him with monetary compensation for his accommodation for a 6-month period. On 26 April 2002, the President of the Second Panel decided not to order the provisional measure requested.

11. On 2 May 2002, the Chamber informed the applicant that his request for a provisional measure was rejected.

12. The Registry of the Chamber attempted to contact the applicant at the telephone number of his contact address at Fra Antuna Kneževića No. 14, as designated in his application. The person who answered the telephone said that the applicant does not live at that address anymore.

13. Since submitting his application to the Chamber, the applicant has not contacted the Chamber.

IV. OPINION OF THE CHAMBER

A. Concerning the applicant's request to prevent his eviction

14. 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."

15. The Chamber notes that the decision on the applicant's eviction was taken to allow the owner to repossess the house. In these circumstances, the Chamber finds that this part of the application does not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. It follows that this part of 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 in part.

B. Concerning the applicant's request for repossession of his pre-war property

16. In accordance with Article VIII(3) of the Agreement, "the Chamber may decide at any point in its proceedings to suspend consideration of, reject or strike out, an application on the ground that (a) the applicant does not intend to pursue his/her application; ... provided that such result is consistent with the objective of respect for human rights."

17. Rule 46(6) of the Chamber's Rules of Procedure states that "applicants shall keep the Chamber informed of any change of their address".

18. The Chamber notes that it appears that the applicant has been evicted from the house he occupied in Sarajevo and that he has not informed the Chamber of any new contract address. In these circumstances, it is impossible for the Chamber to communicate with the applicant about his application. Accordingly, the Chamber concludes that the applicant does not intend to pursue his application. Furthermore, the Chamber finds no special circumstances regarding respect for human rights which require the examination of the application to be continued. The Chamber therefore decides to strike out the remainder of the application.

V. CONCLUSION

19. For these reasons, the Chamber, unanimously,

**DECLARES THE APPLICATION INADMISSIBLE IN PART and
STRIKES OUT THE REMAINDER OF THE APPLICATION.**

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Jakob MÖLLER
Acting President of the Second Panel