



DECISION ON ADMISSIBILITY

Case no. CH/03/14065

Sejfulah BEGANOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 4 July 2003 with the following members present:

Ms. Michèle PICARD, President
Mr. Miodrag PAJIĆ, Vice-President
Mr. Hasan BALIĆ
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 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. INTRODUCTION

1. The application was introduced on 30 April 2003. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to prevent his eviction from the apartment he occupies until he is able to resolve his housing problem. On 2 June 2003, the President of the First Panel decided not to order the provisional measure requested.

2. On 7 December 1999, the applicant applied to the Zenica Municipality requesting it to renew the contract on use of the apartment he currently occupies, which was concluded on 4 April 1995. His request was rejected as ill-founded by a procedural decision of 17 March 2000 because the contract in question was concluded in the period from 1 April 1992 until 7 February 1998, and therefore, it ceased to be valid, in accordance with the Law on Cessation of Application of the Law on Abandoned Apartments. The applicant filed an appeal against the procedural decision of 17 March 2000. On 11 April 2003, the Zenica Municipality issued a procedural decision establishing the termination of the applicant's right to temporary use of the apartment in question and providing him the time limit of 15 days to vacate it.

3. Also, on 28 April 2000, the applicant filed a request to the "Željezara Zenica" to be placed on the priority list for allocation of an apartment, stating that he is in danger of being left without a home because he is not able to purchase the apartment he currently occupies nor request repossession of his pre-war apartment since the "Željezara Zenica" allocated it to another user. On 29 June 2000, "Željezara Zenica" rejected his request because the applicant had not filed a request for repossession of his pre-war apartment.

4. The applicant complains about the procedural decision of the "Željezara Zenica" of 29 June 2000 rejecting his request for allocation of an apartment, as well as the decision of the Zenica Municipality of 11 April 2003 ordering his eviction from the apartment he currently occupies.

II. OPINION OF THE CHAMBER

5. 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" and "(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."

6. The Chamber notes that the applicant failed to submit a request for repossession of his pre-war apartment. The applicant has not shown that this remedy is ineffective and it does not appear so to the Chamber. 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 the application inadmissible insofar as it concerns the applicant's rights over his pre-war apartment.

7. Also, the Chamber notes that the decision on the applicant's eviction from the apartment in Zenica was taken to allow the pre-war owner to repossess it. The Chamber further notes that pursuant to the valid decision of the Zenica Municipality of 11 April 2003, 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 the application inadmissible insofar as it concerns the applicant's temporary apartment.

III. CONCLUSION

8. 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