



DECISION ON ADMISSIBILITY

Case no. CH/99/2746

Emir SPAHIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 13 May 2000 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Vitimir POPOVIĆ
Mr. Mato TADIĆ

Mr. Anders MÅNSSON, 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 as well as Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant is a citizen of Bosnia and Herzegovina. He formerly occupied an apartment located at Dž. Nehura No. 1 in Sarajevo. He was evicted from this apartment, however, in August 1999 after the Municipal Court II in Sarajevo had decided that he had no legal right to use the apartment and that it should be returned to the pre-war occupancy right holder.

2. The applicant then moved to another apartment in Sarajevo, located at Oslobodilaca Sarajeva No. 10. While the applicant alleges that he received permission of the other residents of the building to use the residence, it does not appear that he had any legal basis to do so.

II. COMPLAINTS

3. The applicant claims that the Municipal Court's decision has violated his rights. He states that he should not have been evicted until such time as he had been granted alternative accommodation. Further he claims the court did not properly take into account all the facts of the case before taking its decision.

III. PROCEEDINGS BEFORE THE CHAMBER

4. The application was received on 4 August 1999 and registered the following day. The applicant requested the Chamber to issue a provisional order suspending his eviction. On 1 November 1999 the Chamber rejected his request.

IV. OPINION OF THE CHAMBER

5. Before considering the merits of the case the Chamber must decide whether to accept it, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement. According to Article VIII(2)(c), the Chamber shall dismiss any application which it considers manifestly ill-founded.

6. The Chamber notes that the applicant's complaints concern the apartment in Sarajevo. The Municipal Court II in Sarajevo has already determined that the applicant has no legal claim to that apartment and ordered it returned to the pre-war occupancy right holder. In these circumstances the Chamber cannot find that the applicant's rights as protected by the Agreement have been violated.

7. Accordingly, the Chamber decides not to accept the application, it being manifestly ill-founded within the meaning of Article VIII(2)(c) of the Agreement.

V. CONCLUSION

8. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel