



DECISION ON ADMISSIBILITY

Cases nos. CH/99/2963, CH/99/2964 and CH/99/2965

A. Ce., A. Ci. and Đ. C.

against

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

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 5 September 2000 with the following members present:

Ms. Michèle PICARD, President
Mr. Andrew GROTRIAN, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA
Mr. Miodrag PAJIĆ

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) and (d) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicants, citizens of Bosnia and Herzegovina, had lived in Prijedor (now in the Republika Srpska) in an apartment over which they had occupancy rights until 7 October 1995, when they were expelled together with other persons of Bosniak and Croat origin. Thereafter the applicants came to Sarajevo where they received decisions allocating a house in Sarajevo, at Nahorevska Street No. 164, to them for temporary use. The decisions were issued by the Municipality Centar Sarajevo, Secretariat for Housing Affairs, on 5 April 1996 for A.Ci., on 5 June 1996 for A.Ce., and on 5 July 1996 for Đ.C.. The Municipality's allocation decisions were valid for a period of one year after issuing. Thereafter, the allocation was extended for another year.

2. On 31 August 1999 the Municipality Centar Sarajevo, Department for Administration and Property-Legal Affairs, issued a joint decision regarding all three applicants on the basis of Article 12 of the Law on the Cessation of the Application of the Law on Temporary Abandoned Real Property Owned by Citizens (Official Gazette of the Federation of Bosnia and Herzegovina nos. 11/98, 28/98 and 27/99). The decision ordered the applicants to leave the house in question within 90 days from the date of the decision and stated that they had the right to be allocated emergency accommodation. The vacation was supposed to occur in favour of the owners of the house, Messrs. Radovan and Milovan Đorda.

3. The applicants appealed jointly against this decision to the second instance administrative organ, the Cantonal Administration for Geodetic and Property-Legal Affairs, on 27 September 1999. A.Ci. and Đ.C. also appealed individually to the Cantonal Administration the following day. The applicants requested the Cantonal Administration to order the first instance administrative organ to extend the permission for their use of the house in question for another year. They have not yet received any answer.

4. Regarding their apartments in Prijedor, Republika Srpska, all applicants have submitted requests for reinstatement to the Ministry for Refugees and Displaced Persons in Prijedor. Đ.C. submitted her request on 10 May 1999 and A.Ce. and A.Ci. submitted their requests on 1 June 1999. To date, no answer has been received. Moreover, all applicants had earlier, in 1997, submitted requests for reinstatement into the possession of their apartments in Prijedor to the Commission for Real Property Claims of Refugees and Displaced Persons (the "Annex 7 Commission"). No answer has been received yet.

II. COMPLAINTS

5. The applicants allege a violation of their rights under the Agreement on Refugees and Displaced Persons as set out in Annex 7 to the General Framework Agreement for Peace in Bosnia and Herzegovina. Annex 7 guarantees the right of refugees and displaced persons freely to return to their homes of origin. The applicants could thus be understood as alleging violations of Article 8 of the European Convention on Human Rights and Article 1 of Protocol No. 1 to the Convention.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The applications were submitted only against the Federation of Bosnia and Herzegovina as respondent Party on 5 October 1999 and registered on the same day. The applicants requested the Chamber to order, as a provisional measure, that they be allowed to continue to stay in the house in question until they will be able to return to their apartments in Prijedor.

7. On 2 November 1999 the Chamber refused the requests for provisional measure. On the same day it considered the admissibility of the applications and decided that they should be understood as also being directed against the Republika Srpska. On 15 February 2000 the applicants were requested, by registered mail, to submit whether there were any circumstances justifying that both the Chamber and the Annex 7 Commission consider their case. They were also informed that

failure to reply to the inquiry would most probably result in that their cases be declared inadmissible. None of the applicants answered to that request.

IV. OPINION OF THE CHAMBER

8. 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. According to Article VIII(2)(d), the Chamber may reject or defer further consideration if a matter is currently pending before any other Commission established by the Annexes to the General Framework Agreement.

9. Regarding the applicants' complaint about their possible eviction from their temporarily allocated homes, the Chamber notes that the joint decision was taken according to the applicable law. The return of real property to the pre-war occupants and hence the eviction of temporary occupants is also necessary in a democratic society as required by Article 8 of the Convention. The part of the applications directed against the Federation of Bosnia and Herzegovina is therefore manifestly ill-founded.

10. As far as the applicants complain about a violation of their rights conferred by Annex 7 of the General Framework Agreement, the Chamber notes that the applicants' requests to the Annex 7 Commission, which concern their properties in Prijedor, are still pending. Therefore, the Chamber rejects the further consideration of the complaint against the Republika Srpska, as it is currently pending before another Commission established by the Annexes to the General Framework Agreement.

11. Accordingly, the Chamber decides not to accept the applications pursuant to Article VIII(2)(c) of the Agreement against the Federation of Bosnia and Herzegovina as manifestly ill-founded and pursuant to Article VIII(2)(d) of the Agreement against the Republika Srpska as the matter is currently pending before another Commission established by the Annexes to the General Framework Agreement.

V. CONCLUSION

12. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel