



DECISION ON ADMISSIBILITY

Case no. CH/99/3226

Tajib ALIHODŽIĆ

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 11 January 2000 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Vitomir 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 Articles VIII(2)(c) and VIII(2)(d) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant, a citizen of Bosnia and Herzegovina, is a displaced person from Doboj (Republika Srpska). Before the war he was an occupancy right holder over an apartment in Doboj, Džemala Bijedića Street, No. 42/6 and an owner of a weekend-house near Doboj (Stanić Rijeka). The applicant and his family were expelled from Doboj in 1992. Thereafter, as of 1994, he lived in an abandoned house in Sarajevo on the basis of a procedural decision on temporary use of the house issued by the Municipality Novo Sarajevo. As the applicant was not satisfied with the housing conditions, he requested his employer (Željeznice BiH – BiH railway) to allocate him another apartment. By a procedural decision of 18 December 1997 the applicant's employer allocated the applicant an apartment in Sarajevo, Avde Jabučice Street No. 5 which the employer owned. On 6 January 1998 the applicant concluded a contract on use of that apartment with the employer.

2. In the meantime, the previous occupancy right holder over the Sarajevo apartment requested her reinstatement into possession of it. On 23 April 1999 the Administration for Housing Affairs of Canton Sarajevo issued a procedural decision reallocating the apartment to the previous occupancy right holder and establishing that the applicant was an unlawful occupant and ordering him to vacate the apartment within three days of receipt of the decision. The applicant appealed against this decision to the Ministry for Housing Affairs (the second instance organ) on 5 May 1999. On 4 May 1999 the Administration issued a conclusion allowing the execution of the decision, scheduled for 17 May 1999. Against this conclusion the applicant appealed on 12 May 1999.

3. On 30 June 1999 the Administration issued a notification that the eviction by force would be executed on 30 November 1999. The Administration invited the police station Centar Sarajevo to assist. This notification stated that temporary and unlawful occupants have no right to alternative accommodation if they left their previous temporary apartments voluntarily.

4. In the meantime, on 4 April 1997, the applicant had submitted the request for his reinstatement into possession of his pre-war apartment in Doboj to the Annex 7 Commission.

II. COMPLAINTS

5. The applicant states that his right to return into possession of his pre-war apartment in accordance with Annex 7 of Dayton Agreement has been violated. He also complains that his right to alternative accommodation has been violated. The applicant states that he was legally residing in the Sarajevo apartment as he had obtained a procedural decision allocating it to him by its owner.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was submitted to the Chamber on 24 November 1999 and registered on the same day. The applicant requested the Chamber to issue, as a provisional measure, an order protecting his right to accommodation until his return into the possession of his previous apartment. On 29 November 1999 the President of the Second Panel decided to reject this request.

IV. OPINION OF THE CHAMBER

7. Before considering the merits of the case the Chamber must decide whether to accept the case, 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 or incompatible with the Agreement. According to Article VIII(2)(d), it 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.

8. The applicant's eviction by the Federation authorities from the Sarajevo apartment could raise an issue under Article 8 of the European Convention on Human Rights as the apartment was his temporary home. In this context the Chamber notes the applicable amended version of the Law on

the Cessation of the Law on Abandoned Apartments (Official Gazette of the Federation nos. 11/98, 38/98, 12/99, 18/99 and 27/99). According to this law, the pre-war occupancy right holder has the right to reclaim reinstatement into the possession of his or her apartment. Therefore, while the decision of the housing authorities to re-allocate the apartment and the decisions to evict the applicant and to allow forcible execution of the eviction interfered with his right to a home, they were in accordance with the law. Moreover, the eviction of temporary occupants from apartments may be necessary in a democratic society for the protection of the rights and freedoms of others as required by Article 8 of the Convention. Hence, the complaint against the Federation of Bosnia and Herzegovina is manifestly ill-founded with regard to this provision.

9. As far as the applicant complains about a violation of his right to return into possession of his pre-war apartment in accordance with Annex 7 of the General Framework Agreement, the Chamber notes that the applicant's requests to the Annex 7 Commission, which concerns his property in Doboj, is 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.

10. Accordingly, the Chamber decides not to accept the application, partly under Article VIII(2)(c) of the Agreement, as that part is manifestly ill-founded, and partly under Article VIII(2)(d) of the Agreement, as that part concerns a matter which is currently pending before another Commission established by the Annexes to the General Framework Agreement for Peace in Bosnia and Herzegovina.

VI. CONCLUSION

11. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber
Second Panel

(signed)
Giovanno GRASSO

President of the