



DECISION ON ADMISSIBILITY

Case no. CH/01/8427

Mustafa KAUKČIJA

against

FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 5 December 2001 with the following members present:

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

Mr. Ulrich GARMS 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 and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I INTRODUCTION

1. The application was introduced on 14 November 2001. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to prevent his eviction from an apartment located at Ulica Danijela Ozme no. 9 in Sarajevo until the administrative dispute before the Cantonal Court in Sarajevo was finalised. On 16 November 2001 President of the First Panel decided not to order the provisional measure requested.

2. The applicant complains of a decision of the Administration for Housing Affairs of Canton Sarajevo ordering his eviction from the apartment which he occupies. The eviction was ordered because the pre-war occupant obtained a decision entitling him to regain possession of the apartment and terminating the applicant's right to use it.

3. The applicant further complains that his right to a fair trial, as guaranteed under Article 6 of the European Convention on Human Rights, has been violated in the administrative and judicial proceedings concerning the reinstatement of the pre-war occupancy right holder and the applicant's eviction.

II OPINION OF THE CHAMBER

4. 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."

5. The Chamber notes that the decision on the applicant's eviction was taken to allow the pre-war occupancy right holder to repossess the apartment and that the applicant has no legal right to occupy the apartment.

6. Furthermore, the Chamber notes that the applicant has not substantiated his claim under Article 6 of the Convention. 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.

III CONCLUSION

7. 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