



DECISION ON ADMISSIBILITY

Case no. CH/01/8627

Mujo BRKA

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 11 October 2002 with the following members present:

Ms. Michèle PICARD, President
Mr. Rona AYBAY, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
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)(a) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The application was introduced on 27 December 2001. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to take all necessary action to evict a temporary occupant from his pre-war apartment in Tešanj, ulica Osmana Pobrića bb, first floor, apartment no. 1, and to return possession of the apartment to him. On 5 March 2002 the Chamber decided not to order the provisional measure requested.

2. The applicant complains that his pre-war apartment was allocated to another person as alternative accommodation. He claims he applied for repossession of the apartment in question, but he has not received any decision on that request to date.

3. Although the applicant has stated that he cannot return to his pre-war apartment in Tešanj, he has not submitted any evidence of a request for repossession to the Chamber.

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: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted....”

5. The Chamber finds that the applicant did not submit any evidence that he initiated proceedings before the Department for Urbanism, Housing and Inspection Affairs in Tešanj for repossession of his pre-war apartment. The applicant has not shown that this remedy was 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.

III. CONCLUSION

6. 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