



DECISION ON THE ADMISSIBILITY

CASE No. CH/98/492

Ranka DRAKIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 9 February 1999 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Vlatko MARKOTIĆ
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ

Mr. Leif BERG, 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) and Article VIII(2)(c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The facts of the case, as they appear from the application and supporting documents, may be summarised as set out below.
2. The applicant is a citizen of BiH of Serb descent, resident in Rogatica, Republika Srpska. She previously resided in Ilijaš, Federation of Bosnia and Herzegovina, but left due to traumas induced by the war. On 8 February 1996, the Municipal Secretariat for General Administration in Rogatica allocated her a room in a three-room apartment. The decision was made on the basis that she is a refugee (sic). It does not of itself grant her the status of refugee or displaced person. The room was allocated for a twelve-month period.
3. On 13 November 1997, the Ministry for Refugees and Displaced Persons (“the Ministry”) ordered the applicant’s eviction from this room on the basis that she occupied it illegally. This decision was based on Article 10 of the Law on the Use of Abandoned Property (SL RS No.V/3, 27 February 1996), which provides that a person who occupies abandoned property without a decision of the Ministry for Refugees and Displaced Persons shall be liable to be evicted in accordance with a decision of that Ministry. There is no right to be provided with alternative accommodation.
4. The applicant went to the Ministry, and was assured that she would not be evicted. She states that despite this assurance, staff from the Ministry exerted verbal pressure on her to leave the room she occupied. The applicant also spoke to the Deputy Minister, who allegedly assured her that she would not be evicted. The applicant has no written records of these assurances. She did not initiate any formal proceedings against the decision of 13 November 1997. She could, for example, have appealed to the second instance organ within the Ministry.
5. The applicant went to Belgrade for medical treatment between 5 January and 5 March 1998. The order of the Ministry of 13 November 1997 was carried out in her absence (exact date unknown). Her belongings were taken to another property. The applicant states that a room in this second property has been allocated to her, without an official decision of the Ministry or any other organ. She also claims, without providing evidence, that the room is not suitable for living. She is currently living with friends in Rogatica.

II. COMPLAINTS

6. The applicant states that her rights under the Law on Refugees and Displaced Persons, as well as under Article 10 of the Law on Abandoned Property, have been violated. This, she claims, is due to the fact that she was unable to realise her rights under these provisions as a result of the actions of the Ministry officials.
7. The applicant further alleges that her treatment by the Ministry constitutes a violation of her rights as protected by Article 6(1) of the European Convention (“the Convention”).
8. The applicant also alleges that the Ministry has violated her right to respect for her home as protected by Article 8(1) of the Convention. She claims two separate violations of her right to peaceful enjoyment of her possessions as guaranteed by Article 1 of Protocol No. 1 to the Convention: (a) in the treatment by Ministry officials of her personal belongings and (b) in her eviction from the room she occupied.
9. Finally, the applicant claims that her rights as protected by Article 13 of the Convention have been violated, since there are no effective remedies guaranteed by law against illegal acts of official organs.

III. PROCEEDINGS BEFORE THE CHAMBER

10. The application was introduced on 31 March 1998 and registered on 11 May 1998.

IV. OPINION OF THE CHAMBER

11. Before considering the merits of an application, 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)(a), the Chamber must consider whether effective remedies exist and whether the applicant has demonstrated that they have been exhausted. In addition, according to Article VIII(2)(c), the Chamber shall dismiss any application which it considers manifestly ill-founded.

12. The Chamber notes that the applicant has not sought to avail herself of domestic remedies. In addition, she has not claimed that any such remedies would be ineffective. The applicant cannot therefore be absolved of her responsibility to exhaust the remedies available. In the present case, the fact that appeals against decisions pursuant to the Law on the Use of Abandoned Property have no suspensive effect is immaterial, as the applicant was already evicted.

13. The Chamber notes that the decision of the Municipal Secretariat for General Administration of 8 February 1996 allocated the applicant a room in an apartment for a period of one year. After the expiry of this period, the Ministry took a decision to order the eviction of the applicant, and while the applicant was in Belgrade, her belongings were removed from this room and transferred to another property, in which another room was allocated to her for use. The Chamber therefore considers that the respondent Party cannot be said to have committed any actions which could be considered to have violated any of the applicant's rights as protected by the Agreement.

14. Accordingly, the Chamber decides not to accept the application, firstly pursuant to Article VIII(2)(a) of the Agreement, considering that the applicant has not sought to avail herself of the domestic remedies that existed, nor is there any evidence before the Chamber to indicate that they would have been ineffective if they had been resorted to and secondly because the case is manifestly ill-founded within the meaning of Article VIII(2)(c) of the Agreement.

V. CONCLUSION

15. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel