



DECISION ON ADMISSIBILITY

Case no. CH/99/1973

Đuro BRKLJAČ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 7 October 1999, with the following members present:

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

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

I. FACTS

1. The applicant is a citizen of Bosnia and Herzegovina. On 23 September 1995 he was allocated an apartment in Banja Luka and Ms. D.A, the original holder of the occupancy right, was allocated a small apartment in the process of the rationalisation of housing space. On 6 October 1995 he entered into a contract on the use of the apartment.
2. Ms. D.A. appealed against the decision upon which she had been allocated the small apartment, and her occupancy right over the apartment the applicant currently occupies had been terminated. After her appeal had been refused she initiated an administrative dispute before the Supreme Court of the Republika Srpska. On 19 August 1998 the Supreme Court invalidated the decision by which her occupancy right was terminated.
3. Ms. D.A. requested to be reinstated into the apartment. The Municipal Secretariat for Urbanism and Housing-Communal Affairs rejected her request, and instructed her to initiate civil proceedings.
4. Ms. D.A. initiated proceedings before the Municipal Court in Banja Luka against the applicant, the housing company and the Municipality of Banja Luka, seeking to regain possession of the apartment.
5. On 17 June 1998 the Municipal Court issued a decision in favour of Ms. D.A.'s request, invalidating the decision of 23 September 1995 and the contract on the use of the apartment of 6 October 1995. The court ordered the applicant to vacate the apartment.
6. The Municipality, as one of the defendants, appealed against the court decision of 17 June 1998. Apparently, the applicant has not appealed against the decision. On 5 April 1999 the Regional Court in Banja Luka issued a decision refusing the appeal.
7. The court then issued a procedural decision ordering the applicant to vacate the apartment under threat of forcible eviction. The applicant objected against this decision on 7 June 1999.

II. COMPLAINTS

8. The applicant complains that, as an internally displaced person, he should not be evicted from the apartment in question. He claims that Ms. D.A. has other accommodation, and that she lives alone whereas he has four children. Therefore, the previous occupant should keep the apartment she currently occupies and he should be enabled to continue occupying his apartment.

III. PROCEEDINGS BEFORE THE CHAMBER

9. The application was received on 12 July 1999 and registered on the same day. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary steps to prevent his eviction.
10. On 8 September 1999 the Chamber refused the request for a provisional measure. On the same day it considered the admissibility of the application. On 7 October it adopted the present decision.

IV. OPINION OF THE CHAMBER

11. 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, *inter alia*, manifestly ill-founded.

12. In the present case the Chamber notes that the applicant's occupancy right over the apartment in question was terminated by the Municipal Court's decision of 17 June 1998. By the same decision the court ordered the applicant to vacate the apartment. The court's decision was taken in accordance with the appropriate national law. Furthermore, the applicant failed to appeal against it.

13. In these circumstances the Chamber finds that there is no evidence of a violation of the applicant's rights as protected by the Agreement.

14. Accordingly, the Chamber decides not to accept the application, it being 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)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel