



## **DECISION ON ADMISSIBILITY**

**Case no. CH/98/1794**

**Goran RISTIĆ**

**against**

**THE REPUBLIKA SRPSKA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 4 September 2000 with the following members present:

Ms. Michèle PICARD, President  
Mr. Giovanni GRASSO, Vice-President  
Mr. Dietrich RAUSCHNING  
Mr. Hasan BALIĆ  
Mr. Želimir JUKA  
Mr. Jakob MÖLLER  
Mr. Mehmed DEKOVIĆ  
Mr. Manfred NOWAK  
Mr. Miodrag PAJIĆ  
Mr. Vitomir POPOVIĆ  
Mr. Viktor MASENKO-MAVI  
Mr. Andrew GROTRIAN  
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 Article VIII(2) 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, occupies an apartment located at Ulica Solunskih Dobrovoljaca 25/7 in Doboj, Republika Srpska, since 1993. The previous occupant of the apartment had vacated it and left the Republika Srpska. He entered the apartment in accordance with a decision of the holder of the allocation right over it. This decision was of a temporary nature and was valid until 1 February 1994. The applicant received further temporary decisions entitling him to occupy the apartment, the last of which expired on 15 March 1999. Since that date, the applicant has occupied the apartment without any legal basis.

2. On 10 December 1998 the Commission for the Accommodation of Refugees and Administration of Abandoned Property in Doboj, a department of the Ministry for Refugees and Displaced Persons of the Republika Srpska, issued a decision declaring the applicant to be an illegal occupant of the apartment and ordering him to vacate it under threat of forcible eviction. The reason for this decision was that the applicant had alternative accommodation available to him. The applicant did not vacate the apartment within the time-limit specified. The eviction of the applicant was scheduled on a number of occasions, the latest of which was 23 March 1999. This was not carried out and the applicant still occupies the apartment.

3. On 27 October 1999 certain amendments were passed to the Law on Cessation of Application of the Law on Use of Abandoned Property (Official Gazette of the Republika Srpska – hereinafter “OG RS” – no. 38/98, “the new law”). Article 30 of the law, as amended, has the effect that all proceedings under the Law on Use of Abandoned Property (OG RS no. 3/96, “the old law”) are, *ex lege*, put out of force, other than proceedings initiated by persons seeking the return of property.

4. No further attempts have been made to evict the applicant from the apartment since March 1999.

## **II. COMPLAINTS**

5. The applicant complains in general of the attempts to evict him from the apartment.

## **III. PROCEEDINGS BEFORE THE CHAMBER**

6. The application was submitted on 23 December 1998 and registered on the same day. The applicant requested that the Chamber order the Republika Srpska as a provisional measure to take all necessary steps to prevent his eviction from the apartment. On the same day the Vice-President of the Chamber issued an order in these terms. The observations of the Republika Srpska on the admissibility and merits of the case were received on 16 April 1999, outside the time-limit set by the Chamber. Despite this, the Chamber decided to accept them. The further observations of the applicant were received on 16 August 1999, a reminder having been sent to him.

7. At its session in December 1999, the Chamber considered the effect of the amendments to the new law (see paragraph 3 above) on the present case and also for a number of similar cases pending before it. The Chamber decided to write to the Republika Srpska, seeking its views on these changes and asking in particular whether further attempts would be made to evict the applicant. On 26 January 2000 the reply of the Republika Srpska was received, in which it said that its relevant organs no longer conducted proceedings under the old law, but rather follow the procedures set out in the new law.

8. On 22 March 2000 the Chamber wrote to the applicant, enclosing a copy of the letter of the Republika Srpska of 26 January 2000. It asked him to state whether, in view of the fact that the proceedings under the old law to evict him are now terminated, he considered the matter to be resolved. On 14 April 2000 the reply of the applicant was received. In this reply he stated that he

would like the Chamber, if possible, to continue with its consideration of his application for some time.

9. On 5 June 2000 the Republika Srpska submitted further observations on the case. On 5 July 2000 the Chamber considered the admissibility of the application.

## **V. SUBMISSIONS OF THE PARTIES**

10. The applicant requests that he be entitled to remain in possession of the apartment.

11. The Republika Srpska, in its observations submitted on 16 April 1999, states that the right of the applicant to occupy the apartment had expired and that therefore the applicant is an illegal occupant. It also states that the applicant is neither a refugee nor an internally displaced person and as such is not entitled to occupy abandoned property. It suggests to the Chamber to withdraw the order for provisional measures issued on 23 December 1998.

12. In its further observations on the application submitted to the Chamber on 5 June 2000, the Republika Srpska reiterates that the applicant occupies the apartment without any legal basis and therefore suggests to the Chamber to declare the application inadmissible.

## **VI. OPINION OF THE CHAMBER**

13. Before considering the merits of the case 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)(c), the Chamber shall dismiss any application which it considers to be, *inter alia*, incompatible with the Agreement or manifestly ill-founded.

14. The Chamber notes that the applicant has occupied the apartment since 1993. Since March 1999, he has done so without any legal basis under the law of the Republika Srpska, as the decision of the holder of the allocation right over the apartment has expired.

15. The Chamber notes that Article 30 of the new law (see paragraph 3 above) has the effect of suspending all proceedings under the old law, other than those initiated by persons seeking to regain possession of property. The Republika Srpska has confirmed that its relevant organs act in accordance with this provision. In addition, the Chamber notes that there have been no attempts to evict the applicant from the apartment since March 1999, one and a half years ago.

16. The Chamber therefore considers that there is no prospect of the applicant being evicted from the apartment under the old law. In the event that further proceedings are initiated to evict the applicant, provided that such proceedings are in accordance with the new law and any other relevant laws, such proceedings would not appear to raise any issue under the Agreement, as the applicant is an illegal occupant of the apartment.

17. In conclusion, the Chamber decides not to accept the application as it is manifestly ill-founded within the meaning of Article VIII(2)(c) of the Agreement. As a consequence of this decision, the provisional measure issued on 23 December 1998 is withdrawn.

**VII. CONCLUSION**

18. For these reasons, the Chamber, unanimously,

**DECLARES THE APPLICATION INADMISSIBLE**

(signed)  
Anders MÅNSSON  
Registrar of the Chamber

(signed)  
Michèle PICARD  
President of the Chamber