



DECISION ON ADMISSIBILITY

Case no. CH/98/1167

Milivoje VIŠNJIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 5 December 2000 with the following members present:

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

Mr. Peter KEMPEES, 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 Articles VIII(2)(a) and VIII(2)(c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. On 20 July 1996 the Commission for Accommodation of Refugees and Administration of Abandoned Property Section Čelinac (the First Instance Organ) issued a decision allocating the applicant a house in Ulica Zdravka Čelara 23 in Čelinac, Republika Srpska.
2. On 17 December 1996 the First Instance Organ issued a decision annulling the decision of 20 July 1996 and allocating another smaller house to the applicant. The reason for this decision was that the applicant lived alone in the house.
3. On an unknown date the applicant appealed to the Ministry for Refugees and Displaced Persons in Banja Luka (the Second Instance Organ). On 4 February 1997 his appeal was rejected.
4. On 3 March 1997 the applicant initiated an administrative dispute before the Supreme Court of the Republika Srpska. On 15 May 1998 the Supreme Court issued a decision upholding the decision of the Second Instance Organ.
5. The applicant was summoned for interviews with the local police a number of times. He states that he was maltreated and beaten by a police officer, in order to force him to vacate the original house. However, the applicant refused to move into the smaller house allocated to him by the decision of 17 December 1996, finding it inconvenient to live in.
6. Eventually, the applicant was evicted in March 1997 when he was hospitalized. The applicant states that the local police during the eviction confiscated his belongings from the house. Afterwards, he was allowed to get some of his belongings back. However, the applicant has not initiated any proceedings in order to get back the rest of his belongings, nor against the relevant police authority for his allegation that he has been beaten by the police.
7. The applicant alleges that he has been denied status of displaced person, but does not give any details.

II. COMPLAINTS

8. The applicant alleges a violation of Article 8 of the European Convention and Article 1 of Protocol 1 to the European Convention. Further, the applicant complains that he has been denied status of displaced person and that he was maltreated by a police officer.

III. PROCEEDINGS BEFORE THE CHAMBER

9. The application was introduced on 15 September 1998 and registered on the same day.
10. On 8 July 1999 the Chamber decided to transmit the case to the respondent Party for its observations under Article 6(1) of the European Convention and to declare the remainder of the application inadmissible. The Chamber was of the opinion that there was a possibility of excessive length of the proceedings before the Supreme Court of the Republika Srpska, i.e. that the proceedings had not been terminated in a reasonable time. However the applicant had not provided the Chamber with all relevant information and on 22 September 1999 the respondent Party informed the Chamber in writing that the Supreme Court of the Republika Srpska already had decided in the applicant's case on 15 May 1998.

IV OPINION OF THE CHAMBER

11. 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 which, so far as relevant, provides as follows:

The Chamber will 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

(c) The Chamber shall dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or... .

12. Firstly, the applicant alleges that his belongings were confiscated during the eviction, but he has not initiated any proceedings to get his belongings back. Further, he alleges that he was maltreated and beaten by a police officer during the interviews with the local police. However, the applicant has not taken any administrative, civil or criminal proceedings in this regard. Consequently, he has not exhausted the domestic remedies, neither has he shown that such remedies would be ineffective. Furthermore, there is no indication to the Chamber that this would be the case.

13. Secondly, the applicant alleges that his eviction from the house in Ulica Zdravka Čelara 23 in Čelinac was illegal. However, the Chamber notes that the applicant was evicted from the house pursuant to a lawful decision issued by the competent organs in the Republika Srpska and that he was afforded alternative accommodation. In the light of all the material in its possession, the Chamber finds that the facts complained of do not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement.

14. Finally, the applicant alleges that he has been denied the status of displaced person without legal grounds. However, this is not a right which is included among the rights and freedoms guaranteed under the Agreement. It follows that the application in this part is incompatible *ratione materiae* with the provisions of the Agreement, within the meaning of Article VIII (2) (c), and must be rejected.

15. Accordingly, the Chamber decides not to accept the application, partly for non-exhaustion of domestic remedies, partly as manifestly ill-founded and partly as incompatible *ratione materiae* within the meaning of Article VIII(2)(c) of the Agreement.

V. CONCLUSION

16. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Peter KEMPEES
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel