



DECISION ON ADMISSIBILITY

Case no. CH/00/3895

M.P. and B.M.

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 3 July 2001 with the following members present:

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

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

I FACTS

1. The applicants, who are mother and daughter, currently occupy an apartment in Gradiška.
2. On 22 May 2000 a hearing, with an aim to establish the applicants' right to occupy the apartment, was held before the Department for Urbanism, Housing-Communal Affairs, Construction and Ecology (the first instance organ), at which mentioned organ took the statements of several witnesses and examined a variety of relevant written evidences.
3. On 13 June 2000 the first instance organ issued a procedural decision ordering the first applicant to vacate it in favour of a third person. The first applicant appealed.
4. On 25 September 2000 the Ministry for Urbanism, Housing-Communal Affairs, Construction and Ecology, the second instance organ, issued a procedural decision annulling the decision of 13 June 2000 on procedural grounds and referring the matter back to the first-instance organ for reconsideration.
5. Following hearing that was held on 14 November 2000 the first instance organ on 27 March 2001 issued a new procedural decision again ordering the first applicant to vacate the apartment.

II COMPLAINTS

6. The applicants claim that their right to fair proceedings before the domestic organs and their right to peaceful enjoyment of possessions were violated.

III PROCEEDINGS BEFORE THE CHAMBER

7. The application was introduced on 21 June 2000 and registered on the same day. On 22 June 2000 the Chamber transmitted the application to the respondent Party for its observations on the admissibility and merits along with an order for provisional measure with an aim to prevent the eviction of the applicants from the apartment.
8. On 8 August 2000 the Chamber received the respondent Party's observations.
9. On 9 May 2001 the above-mentioned order was withdrawn.

IV. OPINION OF THE CHAMBER

10. 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. Accordingly to Article VIII(2)(c) the Chamber shall dismiss any application which it considers manifestly ill-founded.
11. The Chamber notes that the conditions required by law for the applicants to become holders of the occupancy right over the apartment have not been fulfilled. Thus, the applicants are illegal occupants of the apartment. Further, the decision, dated 27 March 2001, does not seem to be arbitrary or unreasonable. In the present case, the Chamber cannot find that the application raises an issue under the Agreement.
12. 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

13. For these reasons, the Chamber, unanimously,
DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Olga KAPIĆ
Deputy Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel