



DECISION ON ADMISSIBILITY

Case no. CH/02/8181

Radoslav ĐURAN

against

THE REPUBLIKA SPRSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 8 October 2002 with the following members present:

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

Mr. Ulrich GARMS, 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. INTRODUCTION

1. On 16 January 2002 the Republika Srpska Ministry for Refugees and Displaced Persons informed the applicant that his right of use of the house located at Ul. Ravnogorska no. 10 in Banja Luka had ended and that he will be evicted from the house on 29 January 2002 in order to allow the pre-war occupancy right holder to repossess the house.
2. On 22 January 2002 the applicant requested the Chamber, as a provisional measure, to order the respondent Party to take all necessary steps to prevent his eviction.
3. On 28 January 2002 the President of the First Panel rejected his request for provisional measures.
4. On 15 February 2002 the applicant was evicted.
5. On 17 February 2002 the applicant, without being entitled to do so, moved into an apartment located at Ul. Ravnogorska no. 12 in Banja Luka.
6. On 20 May 2002 the City of Banja Luka, as the owner of the apartment in question, obtained a procedural decision allowing it to evict the applicant.
7. On 5 June 2002 the Ministry for Refugees and Displaced Persons of the Republika Srpska issued a procedural decision confirming the decision of 20 May 2002 and thereby allowing the eviction of the applicant.
8. The applicant initiated an administrative dispute against the procedural decision of 5 June 2002 before the Supreme Court of the Republika Srpska. This proceeding is still pending.
9. On 20 June 2002 the Department for Communal-Utility and Housing Affairs of Banja Luka issued a conclusion establishing that the applicant will be evicted on 4 July 2002. Against this decision, the applicant submitted an appeal, a request for review and a petition for suspension of the procedural decision for eviction. To the Chamber's knowledge, all these proceedings are still pending.
10. On 24 June 2002 and 27 June 2002 the applicant requested the Chamber, as a provisional measure, to order the respondent Party to take all necessary steps to prevent his eviction.
11. On 2 July 2002 the Human Rights Chamber rejected his renewed requests for provisional measures.
12. The applicant complains that his rights to home, property, appeal and fair trial have been violated.

II. OPINION OF THE CHAMBER

13. In accordance with Article VIII(2) of the Agreement, "the Chamber shall decide which applications to accept ... In so doing, the Chamber shall take into account the following criteria: (c)"the Chamber shall also dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or an abuse of the right of petition".
14. With regard to the house located at Ul. Ravnogorska no. 10 in Banja Luka, the Chamber notes that the decision on the applicant's eviction was taken to allow the pre-war occupancy right holder to repossess the house and that the applicant has no right under domestic law to occupy the house. In these circumstances, the Chamber finds that the application with regard to this house does not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. The Chamber therefore decides to declare this part of the application inadmissible.

15. With regard the house located at Ul. Ravnogorska no. 12 in Banja Luka, the Chamber notes that the applicant was ordered to vacate the house concerned on the ground that he had no right under domestic law to occupy it. In these circumstances, 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. It follows that the application with regard to this house is manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement. The Chamber therefore decides to declare this part of the application inadmissible.

16. With regard to the applicant's allegations that his rights to appeal and fair trial have been violated, the applicant failed to substantiate his allegations. Therefore, the Chamber finds that the application does not disclose any appearances of a violation of the rights and freedoms guaranteed under the Agreement. It follows that this part of the application is manifestly ill-founded, within the meaning of Article VIII(2)(c), too. The Chamber therefore decides to declare the remainder of the application inadmissible.

III. CONCLUSION

17. For the abovementioned reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel