



DECISION ON ADMISSIBILITY

Case no. CH/03/11000

Ljubo STOJANOVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 May 2003 with the following members present:

Mr. Jakob MÖLLER, Acting President
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
Mr. Viktor MASENKO-MAVI

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar
Ms. Antonia DE MEO, 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 AND STATEMENTS

1. By a procedural decision of the Ministry for Refugees and Displaced Persons of the Republika Srpska dated 17 November 1997, the applicant was allocated a “house-two room apartment” for his use at the address Srpskih Ustanika Street No. 48 in Banja Luka, owned by Alija Solak.

2. By a procedural decision of 9 August 2001, the applicant was ordered to leave the subject property within 15 days from the date of issuance of the procedural decision. On 10 March 2003, the Ministry for Refugees and Displaced Person Department Banja Luka issued a conclusion on approval of enforcement by which it was established that the procedural decision of 9 August 2001 became effective. This conclusion of 10 March 2003 invites the applicant to turn over the property in a peaceful way to the owners Alija and Almasa Solak, who used to live in their property before the war, or by 27 March 2003 at the latest. The conclusion states that the city of Banja Luka will pay alternative accommodation to the temporary occupant provided that he submits evidence that he has the right to alternative accommodation.

3. The applicant states that the conclusion neither definitely gives him the right to alternative accommodation nor the right to compensation of rental costs if he independently finds accommodation.

4. The applicant points out that he used to live in Zavidovići in his family house that, during the war, was completely burnt down and destroyed by the Federation Army. He states that the Federation has not rebuilt the mentioned house to date, and that he has repeatedly requested its construction and that the last request for construction was submitted on 26 February 2003.

5. On 26 November 2002, the Department for Administration of Geodesic, Property Law Issues and Urbanism of the Municipality Zavidovići passed a conclusion on enforcement of the CRPC decision by which it was confirmed that on 1 April 1992 the applicant was the *bona fide* possessor of the mentioned property, cadastre lot (k.č.) No. 703/25, deed of title number 206 K.O. Mitrovići-Zavidovići. The conclusion states that the subject real property was levelled and that the applicant may repossess it without limitations.

6. The applicant claims that he is entitled to alternative accommodation because his pre-war house in Zavidovići in the Federation of Bosnia and Herzegovina has not been rebuilt and is thus not habitable.

II. REMEDIES SOUGHT

7. The applicant requests to be awarded alternative accommodation by the Banja Luka Municipality for his six-member family or monthly compensation if the Banja Luka Municipality currently does not dispose of appropriate alternative accommodation.

III. OPINION OF THE CHAMBER

8. 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.”

9. The Chamber notes that the applicant’s only complaint is that he has not been provided with alternative accommodation. However, the European Convention on Human Rights does not contain a right to that effect. As the Chamber has explained in previous cases on this issue, it only has jurisdiction to consider the right to housing, which is protected by Article 11 of the International Covenant on Economic, Social and Cultural Rights, in connection with alleged or apparent discrimination in the enjoyment of such right (see case no. CH/01/6662, *Huremović*, decision on admissibility of 6 April 2001, paragraph 4, Decisions January-June 2001). The facts of this case do not indicate that the applicant has been the victim of discrimination on any of the grounds set forth in

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Article II(2)(b) of the Agreement. It follows that this part of the application is incompatible *ratione materiae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare the application inadmissible.

IV. CONCLUSION

10. For these reasons, the Chamber, unanimously,

DECLARE THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Jakob MÖLLER
Acting President of the Second Panel