



DECISION ON ADMISSIBILITY

Case no. CH/00/3739

Drago RAKOVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 8 June 2000 with the following members present:

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

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

I. FACTS

1. The applicant is a citizen of Bosnia and Herzegovina. He currently occupies an apartment situated in Banja Luka (apartment I) which he entered into on the basis of a contract on exchange of apartments concluded on 1 September 1993 between the applicant and V.N.

2. On 17 February 2000 the applicant requested to regain possession of an apartment situated in Čelinac (apartment II) in the Republika Srpska, over which he held the occupancy right before the exchange of apartments. On 7 March 2000 the Ministry for Refugees and Displaced Persons in Čelinac issued a decision declaring the applicant as the holder of the occupancy right over apartment II and terminating V.N.'s right to use it.

3. The applicant appealed to the Ministry for Refugees and Displaced Persons in Banja Luka against the decision dated 7 March 2000 trying to prove his right to stay in apartment I on the basis of the contract on exchange. He claims that he had no real intention to regain possession over the apartment II but only wished to secure his position if V.N. would request to regain his previous apartment. The Chamber has not been informed whether there has been any developments in the proceedings related to the above appeal.

II. COMPLAINT

4. The applicant does not allege any specific violation of his rights as protected by the Agreement.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 17 March 2000 and registered on the same date. The applicant requested the Chamber to order the respondent Party as a provisional measure to stop all the proceedings regarding the applicant's obligation to enter apartment II until the final decision is reached. The Chamber refused the request for provisional measures on 8 May 2000.

IV. OPINION OF THE CHAMBER

6. 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.

7. The Chamber considers that the applicant's complaints relate to the apartment in Čelinac. The Chamber notes that upon the applicant's request the Ministry for Refugees and Displaced Persons has ordered its return to the previous holder of the occupancy right, i.e. the applicant. In these circumstances the Chamber cannot find that the applicant's rights as protected by the Agreement have been violated.

8. 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

9. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel