



DECISION ON ADMISSIBILITY

CASE No. CH/00/4895

Jadranka KALMETA and Bojan ĐURIČKOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 7 March 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 entered an apartment at Ulica Grbavička 127b/10 in Sarajevo in 1998 with the agreement of Ms. L.P, then occupancy right holder. On 28 September 1998, after Ms. L.P. died, the applicants requested the SUBNOR, the allocation right holder, to allocate to them the occupancy right over the apartment at issue. On 24 February 2000 the SUBNOR refused their request.

2. On 3 May 2000 the Administration for Housing Issues of Canton Sarajevo issued a decision ordering the applicants to vacate the apartment within 3 days. On 5 May 2000 the same organ issued an eviction order scheduling the eviction for 15 May 2000. The eviction was not carried out on that date, but the apartment was sealed and the applicants were ordered to vacate the apartment in the next two days.

II. COMPLAINTS

3. The applicants allege a violation of Articles 6 and 8 of the European Convention and Article 1 of Protocol 1 to the European Convention.

III. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced on 16 May 2000.

5. On 16 May 2000 the Chamber ordered the respondent Party, as provisional measures, to prevent any further steps leading to the forcible eviction of the applicants, as well as to remove the seal from the apartment and to allow the applicants to freely enter and use the apartment.

6. On 16 June 2000 the Chamber received the respondent Party's observations. The respondent Party provided the Chamber with a letter of the SUBNOR, the allocation right holder, of 24 February 2000 informing the applicants that their request for the allocation of the apartment at issue had been refused. The respondent Party pointed out that the applicants were using the apartment without any legal grounds.

7. On 31 July 2000 the Chamber received the applicants' response. The applicants stressed that the SUBNOAR, the allocation right holder, did not issue any decisions upon their request for the allocation of the apartment at issue. Regarding the letter of 24 February 2000, the applicants were of the opinion that it could not be considered as a procedural decision since it was not named so.

IV. OPINION OF THE CHAMBER

8. The Chamber notes that the applicants were ordered to vacate the apartment on the ground that they had no legal right to occupy the apartment. 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. It follows that the application must be rejected as manifestly ill-founded, in accordance with Article VIII(2)(c) of the Agreement.

9. The Chamber will withdraw its order for a provisional measure with immediate effect.

V. CONCLUSION

10. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE, and

WITHDRAWS ITS ORDER FOR A PROVISIONAL MEASURE WITH IMMEDIATE EFFECT.

(signed)
Peter KEMPEES
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel