



DECISION ON ADMISSIBILITY

Case no. CH/01/7265

Miroslav ČORIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 10 October 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. 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 FACTS

1. The applicant currently occupies an apartment in Banja Luka.
2. On 1 February 1999 the applicant signed a contract on life support with J.K., the previous occupancy right holder who died in 2000. This contract was to be considered as effective since 1997.
3. On 19 March 2001 the Department for Housing-Communal Affairs in Banja Luka (“the first instance organ”) decided to reject the applicant’s request for allocation of the occupancy right over the apartment concerned.
4. On 4 May 2001 the Ministry for Urbanism, Housing-Communal Affairs, Constructing and Ecology in Banja Luka (“the second instance organ”) upheld the decision mentioned in paragraph 3, above.
5. By its procedural decision dated 20 June 2001 the first instance organ ordered the applicant to vacate the apartment. The applicant’s complaint against the procedural decision dated 20 June 2001 was rejected, by the second instance organ, on 6 August 2001.
6. On 27 August 2001 the applicant initiated proceedings before the Supreme Court of Republika Srpska. These proceedings are still pending but the appeal to the Supreme Court does not have suspensive effect.
7. On 6 September 2001 the first instance organ issued a Conclusion on Enforcement of the procedural decision dated 20 June 2001.

II COMPLAINTS

8. The applicant makes general allegations in relation to violation of his rights.

III PROCEEDINGS BEFORE THE CHAMBER

9. The application was introduced on 23 August 2001. On 13 September 2001 the President decided to refuse the applicant’s request to order a provisional measure.

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. According 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 applicant to become the holder of the occupancy right over the apartment, i.e. a valid contract of life support and five years of life in the same household, have not been fulfilled. Thus, the applicant is an illegal occupant of the apartment. Consequently, 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)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel