



DECISION ON ADMISSIBILITY

Case no. CH/01/8068

Vaskrsije STANIĆ et al.

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 11 October 2002 with the following members present:

Mr. Viktor MASENKO-MAVI, Acting President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Vitomir POPOVIĆ
Mr. Mato TADIĆ

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. The application was introduced on behalf of Grupa Gradjana iz Doboj (an organisation composed of Vaskrsije Stanić and 88 others) on 14 November 2001 and registered the same day. The applicants requested that the Chamber order provisional measures suspending the Law on Privatisation of State Owned Apartments (OG RS no. 11/2000). The Chamber rejected this request for provisional measures on 4 September 2002.

2. The case concerns the applicants' claims that their rights guaranteed by Article 1 of Protocol No. 1 to the European Convention on Human Rights (hereinafter the "Convention") have been violated. Specifically, the applicants claim that, by precluding their participation in the division of state property, various Articles of the Law on Privatisation of State Owned Apartments directly breach their human rights because they contributed amounts from their gross salary to the fund for construction of state-owned apartments but have never obtained any occupancy rights. Under the laws of the former Socialist Federal Republic of Yugoslavia (hereinafter "SFRY") and the Socialist Republic of Bosnia and Herzegovina (hereinafter "SRBiH"), they were obligated to contribute a percentage of their gross salaries to a housing fund from which state-owned apartments were constructed. These apartments are in the process of privatisation under the law of Privatisation of State Owned Apartments, which provides that only persons with an occupancy right over an apartment can purchase that apartment in the privatisation process. The applicants allege that, because they did not obtain occupancy rights, their right to participate in the division of state capital has been violated.

II. OPINION OF THE CHAMBER

3. The applicants allege rights flowing from their contributions to a social housing fund. The Chamber recalls that benefits accrued under such a domestic system may constitute possessions under Article 1 of Protocol No. 1 to the Convention, but only if there is a recognisable relationship between contributions made by the applicant and the benefits afforded. Where, however, contributions to a social security fund do not bear a direct relation to the benefits, but instead resemble a general tax based on principles of solidarity, the right to obtain benefits is less likely to constitute a protected possession. As the Chamber has held, the Convention does not guarantee a right to a specific welfare benefit (see case no. CH/98/706 et al., Šećerbegović and others, decision on admissibility and merits of 7 April 2000, paragraph 82, Decisions January-June 2000).

4. In this regard, the Chamber considers that, under the former SFRY and SRBiH systems, contributions to the housing fund appear to have been an obligation imposed on all employees, regardless of whether their housing needs were to be met or not. The contributions were in the nature of a simple tax or solidarity contribution rather than a payment by which an employee obtained a share of ownership in the fund. Therefore, the Chamber finds that the applicants, by paying into the housing fund, did not obtain any particular claim against the fund, and they cannot claim to be victims of the legislative scheme allowing for privatisation of fund assets. Further, the applicants have provided no information to support a contrary conclusion. Accordingly, the Chamber declares the applications inadmissible as manifestly ill-founded.

III. CONCLUSION

5. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Viktor MASENKO-MAVI
Acting President of the Second Panel