



DECISION ON ADMISSIBILITY

Case no. CH/02/10057

LOCAL COMMUNITY GAREVAC

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 2 April 2003 with the following members present:

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

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. INTRODUCTION

1. The application was registered with the Chamber on 26 April 2002. The applicant is the Local Community Garevac, the Municipality of Modriča, represented by Pero Ravnjak, the President of the Council of the Local Community. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to prevent devastation and total destruction of the houses and other facilities belonging to families displaced from Garevac. On 4 November 2002 the First Panel decided not to order the provisional measures requested.
2. The subject matter of the application is the complaints of the pre-war inhabitants of Garevac who request to regain possession of their pre-war property.

II. FACTS AND STATEMENTS

3. The applicant states that the pre-war inhabitants of Garevac went into exile during the war and persons of Serb origin moved in and now inhabit Garevac.
4. The applicant alleges that all the pre-war inhabitants of Garevac individually submitted requests for repossession of their pre-war property to the Ministry for Refugees and Displaced Persons, Department Modriča (the "Department"). However, they never received any response.
5. On 30 January 2002 the applicant applied to the Department with a request to have vacated and put at the disposal of the pre-war inhabitants the total number of 146 private houses by 1 April 2002, and the remainder of the houses by 2 June 2002.
6. The applicant alleges that lately, in Garevac during the night whole houses were pulled down and the building material was then taken away by a truck. The applicant supposes that houses were built from that material in some other location. Also, it alleges that in the Garevac area forests and orchards were cut down on a massive scale and the felled wood was used for "*black marketeering*". The applicant points out that the authorities in Modriča are acquainted with these occurrences and so was the International Police Task Force, but no one took necessary action to establish order.

III. PROCEEDINGS BEFORE THE CHAMBER

7. On 4 November 2002 the Chamber decided to send a letter to the applicant requesting either that the President of the Council of the Local Community submits verified letters of authorisation from all the pre-war inhabitants of Garevac, empowering him to represent them before the Chamber, or that each and every pre-war inhabitant of Garevac individually submits his or her application to the Chamber, indicating precisely the property he or she is seeking to repossess. The Chamber further decided to ask the applicant whether the pre-war inhabitants had used any remedies and whether they had initiated any proceedings before domestic bodies to protect their human rights.
8. On 22 November 2002 the Chamber received a letter from the applicant stating that the Local Community Garevac Council has concluded that the Chamber negates the Local Community as the legitimate representative of the pre-war inhabitants of Garevac. Therefore, it has not complied with any of the Chamber's requests.
9. On 7 February 2003 the Chamber decided to send a new letter to the Local Community Garevac requesting it to provide authorization letters of the victims and all necessary information concerning their identity and the alleged violations.
10. On 27 February 2003 the Chamber received a letter from the applicant stating that most of the pre-war inhabitants of Garevac are living all around the world, and that it is impossible to reach them and obtain authorisation letters.

IV. RELEVANT LEGAL PROVISIONS

11. The Law on Local Self-Government of the Republika Srpska (Official Gazette of the RS, no. 35/99, 20/01 and 51/01) provides as follow:

“V/ Direct Forms of Participation of Citizens in the Local Self-Government

Article 77:

Local communities may be formed (established) on the territory of a Municipality for a part of settlement, a settlement, or more settlements, or for settlements, parts of settlement or more settlements together as a part of a town.

Establishment, rights and obligations of the local community shall be determined by the statute of the Municipality.

The local community shall have a Council consisting of nine members the most.

The organs of the Municipal Administration shall perform the administrative and technical tasks for the local communities.”

V. OPINION OF THE CHAMBER

12. In accordance with Article VIII(1) of the Agreement, “the Chamber shall receive by referral from the Ombudsman on behalf of an applicant, or directly from any Party or person, non – governmental organisation, or group of individuals claiming to be the victim of a violation by any Party or acting on behalf of alleged victims who are deceased or missing, for resolution or decision applications concerning alleged or apparent violations of human rights within the scope of paragraph 2 of Article II.

13. 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.”

14. The application was introduced by the Local Community Garevac. The Chamber notes that according to the relevant provisions of the Law on Local Self-Government of the RS, Local Community does not have the power to represent residents of the Local Community in relation to the alleged violations of their human rights. Further, the Local Community can not be considered as a non – governmental organisation or a “group of individuals” who claim to be the victims of human rights violations in sense of Article VIII(1) of the Agreement. Furthermore, the Chamber finds that the Local Community as a unit of local self-government, is not directly affected by the alleged violation of the Agreement, and that the alleged victims on which behalf the Local Community lodged the application are not identified. The Local Community cannot therefore claim to be a victim of that violation, as required by Article VIII(1) of the Agreement. The Chamber finally notes that the President of the Local Community Council did not submit authorisation letters from the individual victims of the alleged human rights violations. It follows that the application is incompatible *ratione personae* with the provisions of the Agreement, within the meaning of the Article VIII(2)(c). The Chamber therefore decides to declare the application inadmissible.

VI. CONCLUSION

15. For these reasons, the Chamber, by 5 votes to 2,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel