



DECISION ON ADMISSIBILITY

Case no. CH/02/10726

Grozda MATAVULJ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 4 February 2003 with the following members present:

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

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. FACTS

1. The applicant's late husband, D.M., who died in December 2001, concluded a contract on exchange with T.D. on 10 October 1995, by which D.M. exchanged his property situated in Zenica for property which the applicant currently uses situated in Banja Luka.
2. On 18 September 2000, the Ministry for Refugees and Displaced Persons, Department Banja Luka ("the Ministry"), issued a procedural decision recognising T.D. as the pre-war owner of the property in Banja Luka and terminating D.M.'s right to use it. D.M.'s right to alternative accommodation was not recognised due to the fact that his pre-war property in Zenica was vacant.
3. On 21 June 2001, the First Instance Court in Banja Luka issued a decision declaring the contract on exchange of 10 October 1995 invalid.
4. On 2 September 2002, the Ministry issued a conclusion on enforcement scheduling the applicant's eviction from the property in Banja Luka for 3 October 2002.
5. On 4 October 2002, the Second Instance Court in Banja Luka upheld the decision of 21 June 2001; consequently, the first instance decision became valid.

II. PROCEEDINGS BEFORE THE CHAMBER

6. The application was introduced on 24 September 2002. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to interrupt the proceedings on enforcement by the Ministry for Refugees and Displaced Persons until the legal conditions related to her eviction from the property in Banja Luka have been met.
7. On 1 October 2002, the President of the Second Panel decided to order a provisional measure to stop the applicant's eviction from the property in Banja Luka due to the absence of a valid decision on the preliminary issue (*i.e.*, on the validity of the contract on exchange). The order for a provisional measure was to remain in force until the domestic court reached such a decision.
8. After the order for a provisional measure of 2 October 2002 expired upon notification of the validity of the decision of 21 June 2001, the applicant submitted another request for a provisional measure to stop her eviction from the property in Banja Luka. On 21 November 2002, the President of the Second Panel rejected the second provisional measure requested.

III. OPINION OF THE CHAMBER

9. 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."
10. The Chamber notes that the decision on the applicant's eviction from the property in Banja Luka was taken to allow the pre-war owner to repossess the property. The Chamber further notes that pursuant to the valid decision of the First Instance Court in Banja Luka of 21 June 2001, the contract on exchange of 10 October 1995 is invalid; therefore, the applicant has no right under domestic law to occupy the property. In these circumstances, the Chamber finds that the application does not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. It follows that the application is manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement. The Chamber therefore decides to declare the application inadmissible.

IV. CONCLUSION

11. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Mato TADIĆ
President of the Second Panel