



DECISION ON ADMISSIBILITY

Case no. CH/02/10918

Slobodan GRAHOVAC

against

REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 1 April 2003 with the following members present:

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER
Mr. Giovanni GRASSO
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. INTRODUCTION

1. The application was introduced on 18 February 2003. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to take all necessary actions to suspend his eviction from an apartment which he currently occupies, until the final decision in the administrative proceedings is issued. On 19 February 2003, the President of the Second Panel decided not to order the provisional measure requested.

2. The applicant complains of a decision of the Section of the Ministry for Refugees and Displaced Persons of the Republika Srpska in Banja Luka of 22 January 2003 ordering his eviction from the apartment he occupies. The eviction was ordered because the applicant is a domiciled person who owns a family house in Piskavica, near Banja Luka. On 27 January 2003, the applicant filed an appeal against this procedural decision to the Ministry for Refugees and Displaced Persons of the Republika Srpska. The proceedings following his appeal are still pending. The applicant states that the first instance organ wrongfully applied the property laws because there is no request for repossession of the apartment in question and, therefore, there is no need for his eviction.

II. OPINION OF THE CHAMBER

3. 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”.

4. The Chamber notes that the applicant complains that the first instance organ wrongly assessed evidence in his case and misapplied the law. Article 6 of the European Convention on Human Rights guarantees the right to a fair hearing. However, the Chamber has stated on several occasions that it has no general competence to substitute its own assessment of the facts and application of the law for that of the national courts (see, *e.g.*, case no. CH/99/2565, *Banović*, decision on admissibility of 8 December 1999, paragraph 11, Decisions August-December 1999, and case no. CH/00/4128, *DD “Trgosirovina” Sarajevo (DDT)*, decision on admissibility of 6 September 2000, paragraph 13, Decisions January-December 2000). There is no evidence that the competent organ failed to act fairly as required by Article 6 of the European Convention on Human Rights. 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.

III. CONCLUSION

5. 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