



DECISION ON ADMISSIBILITY

Case no. CH/02/9262

Veljko ŠTRKIĆ

against

THE REPUBLIKA SRPSKA

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

Ms. Michèle PICARD, President
Mr. Miodrag PAJIĆ, Vice-President
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)(a) of the Agreement and Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

I. FACTS

1. On 7 September 1995, the applicant concluded an exchange contract involving an apartment in Banja Luka (Ulica Tadije Odića no. 11), over which he held an occupancy right, and an apartment in Banja Luka (Ulica Ive Mažara no. 1, meanwhile re-named Ulica Vojvode Momčila), over which Ms. M.S. held an occupancy right. On the same day, the Clinic Centre in Banja Luka, which was the allocation right holder of both apartments, gave its consent to the exchange.

2. M.S. died on 4 December 1998. Her grandson, D.S., on 6 March 2000, submitted a claim to the Republika Srpska Ministry for Refugees and Displaced Persons, Department Banja Luka (hereinafter: "the Ministry") with a view to repossessing the apartment at Ulica Vojvode Momčila no. 1. On 15 June 2001, the Ministry issued a decision according to which D.S. succeeded into the rights of his grandmother as regards the apartment currently occupied by the applicant. By virtue of that decision, D.S. was allowed to repossess the apartment in question. On 20 March 2002, the Ministry issued a decision on enforcement of its decision of 15 June 2001, scheduling the applicant's eviction to take place on 7 May 2002.

3. The applicant alleges violations of his rights as protected by Articles 6 and 8 of the European Convention on Human Rights (hereinafter: "the Convention") and by Article 1 of Protocol 1 to the Convention.

III. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced on 30 April 2000. The applicant is represented by Ms. Jelena Todić, a lawyer from Banja Luka.

5. On 1 May 2002, the Chamber ordered the respondent Party, as a provisional measure, to refrain from further steps in order to evict the applicant from the apartment at Ulica Vojvode Momčila no. 1. On the same day it adopted the present decision, the Chamber decided to withdraw its order for provisional measures of 1 May 2002.

IV. OPINION OF THE CHAMBER

6. 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: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted ...".

7. The Chamber notes that the applicant has not initiated civil proceedings to determine the validity of the exchange contract in question. However, paragraph 5 of Article 2a of the Republika Srpska Law on Cessation of Application of the Law on the Use of Abandoned Property provides for the suspension of eviction proceedings only in case court proceedings are pending as to the validity of an exchange contract. The applicant has not shown that this remedy was ineffective and it does not appear so to the Chamber. Accordingly, the Chamber finds that the applicant has not, as required by Article VIII(2)(a) of the Agreement, exhausted the effective remedies. The Chamber therefore decides to declare the application inadmissible.

V. CONCLUSION

8. For these reasons, the Chamber, unanimously,

**WITHDRAWS ITS ORDER FOR A PROVISIONAL MEASURE WITH IMMEDIATE EFFECT and
DECLARES THE APPLICATION INADMISSIBLE.**

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel