



DECISION ON ADMISSIBILITY

Case no. CH/03/10985

Mladen LAZAREVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 6 May 2003 with the following members present:

Ms. Michèle PICARD, President
Mr. Miodrag PAJIĆ, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
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 introduced on 18 March 2003. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to prevent his eviction from the property he occupies. On 26 March 2003, the President of the First Panel decided not to order the provisional measure requested.

2. The applicant complains of a decision of the Ministry for Refugees and Displaced Persons in Banja Luka ordering his eviction from the property he occupies in Banja Luka. On 1 February 2002, the First Instance Court in Banja Luka issued a decision annulling the contract on exchange of 4 November 1993, pursuant to which the applicant occupied the house in question, and ordering the applicant to vacate the house. The Court determined that the pre-war owners were entitled to repossess their property. The applicant lodged an appeal. On 3 January 2003, the District Court in Banja Luka confirmed the first instance decision of 1 February 2002.

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 decision on the applicant’s eviction from the property in Banja Luka was taken to allow the pre-war owners to repossess it. The Chamber further notes that pursuant to the valid decision of the First Instance Court in Banja Luka of 1 February 2002, the contract on exchange of 4 November 1993 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.

III. CONCLUSION

5. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel