



DECISION ON THE ADMISSIBILITY

CASE No. CH/98/1137

Zejna KALIK

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 8 June 1999 with the following members present:

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

Mr. Leif BERG, Registrar
Ms. Olga KAPIĆ, 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 is a citizen of Republika Srpska, of Bosniak descent. On 4 February 1998 she was allocated an apartment in Banja Luka. On 2 April 1998 she entered into a contract on the use of the apartment with the relevant Housing Company. At the time of allocation, the apartment was occupied by an illegal occupant. It remains occupied by the illegal occupant to date.
2. On 9 February 1998 the holder of the allocation right, the "Matex" Company, initiated proceedings before the Municipal Court in Banja Luka against the illegal occupant. It appears that these proceedings have not been concluded to date.
3. The holder of the allocation right has initiated proceedings for the eviction of the occupant. On 2 April 1998 the Municipal Secretariat for Urban Planning and Housing-Communal Affairs ("the Secretariat") issued a decision authorising the eviction of the illegal occupant. The eviction has not been carried out to date, although there have been numerous attempts.

II. COMPLAINTS

4. The applicant alleges that her right to a fair hearing, right to respect for her home and right to property have been violated.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 1 September 1998 and registered on the same day. The applicant is represented by Mr. Simo Tošić, a lawyer practising in Banja Luka.

IV. OPINION OF THE CHAMBER

6. Before considering the merits of the case the Chamber must decide whether to accept the case, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement. According to Article VIII(2)(c), the Chamber shall dismiss any application which it considers manifestly ill-founded.
7. The Chamber notes that the eviction proceedings against the illegal occupant of the apartment in question have been initiated by the holder of the allocation right, and not the applicant herself, and therefore she is not entitled to request the execution of the Secretariat's decision of 2 April 1998.
8. The Chamber further notes that the applicant has not become the holder of the occupancy right over the apartment in question, despite the decision on permanent allocation and the contract with the Housing Company. According to the Law on Housing Relations (Official Gazette of Socialist Republic of Bosnia and Herzegovina No. 14/84), to become the holder of the occupancy right a person is also required to enter into possession of the apartment.
9. In the present case the Chamber finds no indication that any of the applicant's rights as protected by the Agreement have been violated.
10. Accordingly, the Chamber decides not to accept the application, it being manifestly ill-founded within the meaning of Article VIII(2)(c) of the Agreement.

V. CONCLUSION

11. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel