



DECISION ON THE ADMISSIBILITY

CASE No. CH/99/1909

Draženko TODORVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 7 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)(a) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant is a resident in Dobož, Republika Srpska. He has been occupying an apartment in Dobož, upon the decision by the Ministry for Refugees and Displaced Persons (the "Ministry") of 18 June 1998.

2. In September 1998 the owner of the apartment, a Bosnian Croat, sold the apartment. The new owner has initiated proceedings before the Municipal Court in Dobož ("the court") for the applicant's eviction. On 30 March 1999 the court issued a decision based on the applicant's recognition that he was living in the apartment without valid grounds. The applicant gave up his right to appeal, so the decision became enforceable on the day it was issued.

3. On 3 May 1999 the court issued a decision ordering the applicant to vacate the apartment. On 6 May 1999 the court issued a conclusion ordering the applicant's eviction and scheduling it for 27 May 1999 at 11 am.

4. Apparently the Ministry has not invalidated the decision of 18 June 1998. The applicant requested the Ministry and the company he is employed with to allocate him another accommodation, but it has not been done.

II. COMPLAINT

5. The applicant complains that his right to housing has been violated.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was introduced on 26 April 1999 and registered on the same day. The applicant requested that the Chamber order a provisional measure to take all necessary action to prevent his eviction.

7. On 13 May 1999 the First Panel refused the request for a provisional measure.

IV. OPINION OF THE CHAMBER

8. 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)(a), the Chamber must consider whether effective remedies exist and whether the applicant has demonstrated that they have been exhausted.

9. In the court proceedings the applicant acknowledged that he had no valid grounds for occupying the apartment and did not contest the claim made against him. The court decision of 30 March 1999 was based on this position of the applicant. The applicant also gave up his right of appeal. By not contesting the claim and giving up his right of appeal, the applicant did not make "normal use" of available domestic remedies. Furthermore, there is no information to suggest that the available remedy was ineffective in the particular circumstances of the case.

10. Accordingly, the Chamber decides not to accept the application pursuant to Article VIII(2)(a) of the Agreement, as the applicant has not demonstrated that the effective domestic remedies have been exhausted.

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