



DECISION ON ADMISSIBILITY

Case no. CH/99/2346

Ostoja ČUKOVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 9 October 1999 with the following members present:

Mr. Viktor MASENKO-MAVI, Acting President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Mato TADIĆ

Mr. Anders MÅNSSON, 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 displaced person of Serb origin from Sanski Most, Federation of Bosnia and Herzegovina. He lived in a house located in Carice Milice 42 in Banja Luka. He claims that upon his arrival in Banja Luka in October 1995, having been forced to leave Sanski Most, he was allocated the house by the Commission for the Accommodation of Refugees and the Administration of Abandoned Property ("the Commission"), a department of the Ministry for Refugees and Displaced Persons ("the Ministry"). He has not provided the Chamber with any decision of the Commission to this effect.

2. On 19 April 1999 the Commission issued a decision entitling the prewar occupant, who is also a part owner of the house, to regain possession of it. On 2 August 1999 the Ministry, at second instance, refused the applicant's appeal. The reason given was that the decision of the Commission was legally well-founded as it entitled the prewar occupant of the house to regain possession of it. It also stated that the applicant had been offered alternative accommodation through a programme organised by the United Nations High Commissioner for Refugees ("UNHCR").

3. Later, a conclusion was issued by the Commission, setting the applicant's eviction for 13 September 1999. The applicant appealed against this conclusion on 8 September 1999.

4. On 26 August 1999 the applicant initiated an administrative dispute before the Supreme Court of the Republika Srpska, seeking the invalidation of the decision of the Commission of 19 April 1999. These proceedings are still pending.

5. On 3 September 1998 the Commission for Real Property Claims of Displaced Persons and Refugees ("the Annex 7 Commission") issued a decision confirming the applicant's ownership of a property in Sanski Most. He states that he has been unable to regain possession of this property. He does not specify what steps he has taken, if any, to enforce the decision of the Annex 7 Commission.

6. The applicant has not informed the Chamber of whether he still occupies the house in Banja Luka.

II. COMPLAINTS

7. The applicant complains that his right to respect for his home, as guaranteed by Article 8 of the European Convention on Human Rights, has been violated.

III. PROCEEDINGS BEFORE THE CHAMBER

8. The application was introduced on 6 September 1999 and registered on the same day. The applicant requested that the Chamber order the respondent Party as a provisional measure to take all necessary steps to prevent his eviction from the Banja Luka house until he is in a position to return to his home in Sanski Most.

9. On 9 September 1999 the Chamber decided to reject the request for a provisional measure. On the same day it considered the admissibility of the application. On 9 October 1999 it adopted the present decision.

IV. OPINION OF THE CHAMBER

10. Before considering the merits of the case the Chamber must decide whether to accept it, 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, *inter alia*, manifestly ill-founded.

11. The Chamber notes that the applicant has not provided any written evidence to show that he is entitled to reside in the Banja Luka house. He claims that upon his arrival in Banja Luka in 1995 he was granted a temporary right to reside in the house by the Ministry. Assuming this to be the case, the same Ministry, acting through the Commission, has ordered the applicant to vacate the house. This has been made in order to enable the prewar occupant, who is also a part owner of the house, to regain possession of it. The decision of the Commission was taken in accordance with the appropriate national law and the applicant has availed himself of his right to appeal against this decision. His appeal was refused on 2 August 1999. His administrative dispute before the Supreme Court of the Republika Srpska is still pending, having been initiated on 26 August 1999.

12. The Chamber therefore considers that the proceedings relating to the eviction of the applicant from the house were conducted in accordance with the national law and that the application raises no issue relating to a potential violation of the applicant's rights as protected by the Agreement.

13. 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

14. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Viktor MASENKO-MAVI
Acting President of the Second Panel