



DECISION ON ADMISSIBILITY

Case no. CH/99/2388

Milan SOLAR

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 12 January 2000 with the following members present:

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

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) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant is citizen of Bosnia and Herzegovina and a refugee of Serb origin. On 1 August 1993 he entered into a contract with A.H., under which they sought to exchange occupancy rights over their apartments in Banja Luka and Rijeka, Croatia respectively. On 17 August 1993 the applicant entered into possession of the apartment in Banja Luka.

2. On 25 August 1993 A.H. requested the Municipality of Banja Luka, who holds the allocation right over the apartment in Banja Luka, to approve the exchange contract. It did not do so.

3. On 1 September 1993 the applicant was evicted from the apartment by the police, pursuant to a decision of the Municipality of Banja Luka. He has since been living in a property in Gradiška, in accordance with a decision of the Ministry for Refugees and Displaced Persons.

4. In June 1997 the applicant initiated proceedings concerning the refusal of the authorities to allow him to obtain the occupancy right over the apartment in Banja Luka. According to the information provided to the Chamber by the applicant, these proceedings are now before the Supreme Court of the Republika Srpska.

5. On 17 February 1999 the applicant applied to the Chamber (registered under case number CH/99/1843), complaining of his eviction from the apartment and requesting that the Chamber order that he be reinstated into it. On 7 October 1999 the Chamber declared this case inadmissible under Article VIII(2)(a) of the Agreement, as the applicant had not shown that he had exhausted the effective domestic remedies available to him.

6. On 10 September 1999 the applicant received a decision of the Ministry for Refugees and Displaced Persons in Gradiška, ordering him to vacate the property he currently occupies within 90 days, in order that the owner may regain possession of it. The applicant has not informed the Chamber of whether he still occupies this property.

II. COMPLAINTS

7. The applicant complains of his inability to regain possession of the apartment in Banja Luka and also of the decision to evict him from the property he currently occupies in Gradiška.

III. PROCEEDINGS BEFORE THE CHAMBER

8. The application was introduced on 15 October 1999 and registered on the same day. The applicant requested that the Chamber order the respondent Party as a provisional measure to prevent his eviction from the property he currently occupies in Gradiška. On 4 November 1999 the Chamber decided to refuse the request and considered the admissibility of the application.

IV. OPINION OF THE CHAMBER

9. 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)(b) the Chamber shall not address any application which is substantially the same as a matter which it has already examined. According to Article VIII(2)(c), the Chamber shall dismiss any application which it considers manifestly ill-founded.

10. The Chamber notes that in its decision in case no. CH/99/1843 of 7 October 1999 it declared the complaint of the applicant concerning his inability to regain possession of the apartment in Banja Luka inadmissible for failure to exhaust the effective domestic remedies. This part of the present case is substantially the same and the applicant has not provided any new information that might lead to a different decision.

11. As to the applicant's complaint concerning his impending eviction from the property he currently occupies in Gradiška, the Chamber notes that the decision of the Ministry of 10 September 1999 which orders the applicant to vacate the property was taken after proceedings under the Law on the Cessation of Application of the Law on the Use of Abandoned Property, as amended. That law intends to allow the owner of the property to regain possession of it and terminates the temporary right of the applicant to occupy the property. There is no indication that the conduct of the proceedings raises an issue in relation to any of the applicant's rights as protected by the Agreement. This part of the application is therefore to be dismissed as manifestly ill-founded.

12. Accordingly, the Chamber decides not to accept the application, in part pursuant to Article VIII(2)(b) of the Agreement as it is substantially the same as a matter which it has already examined and in part pursuant to Article VIII(2)(c) as it is manifestly ill-founded.

V. CONCLUSION

13. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel