



## **DECISION ON THE ADMISSIBILITY**

**CASE No. CH/98/411**

**O. R.**

**against**

**THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 13 March 1999 with the following members present:

Ms. Michèle PICARD, President  
Mr. Dietrich RAUSCHNING  
Mr. Hasan BALIĆ  
Mr. Želimir JUKA  
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 was the owner of a house at Jukićeva street No. 1 in Sarajevo. In November 1979 the City of Sarajevo decided to expropriate the applicant's house, two garages and other facilities attached to it. The beneficiary of this expropriation was the Institute for Development of the City of Sarajevo ("the Institute"). The applicant was informed that he had the right to compensation. According to an agreement of 19 April 1985 between the applicant and the City, the Institute had to buy two new garages and to transfer ownership of them to the applicant. This agreement was confirmed by a contract of 5 September 1985 between the applicant and the Institute.

2. The new garages were handed over to the applicant in 1985. However, the applicant requested to be given other garages as the ones offered were underground and wet. The applicant also found out that he could not be registered as a private owner of the garages. (Underground garages were and are still considered socially owned property.)

3. Between 1990 and 1997 the applicant initiated several proceedings in relation to the implementation of the agreement of 19 April 1985, leading to three administrative dispute proceedings before the Supreme Court of the Federation and its decisions of 19 April 1990, 14 March 1991 and 9 July 1997. In the last decision, the Supreme Court refused to order the registration of the garages in question as the applicant's property. Under the Law on Registration of Communal Facilities (Official Gazette, Socialist Republic of Bosnia and Herzegovina, No. 21/77, 6/88, 36/90, and Republic of Bosnia and Herzegovina, No. 4/93), those garages are "underground facilities" and cannot be entered in the Land Register.

4. On 1 November 1997 the Supreme Court rejected the applicant's request for a renewal of the proceedings. On 9 February 1998 the Supreme Court informed the applicant that the time-limit for requesting a review of the proceedings had expired.

## **II. COMPLAINTS**

5. The applicant alleges that his rights have been violated due to the expropriation, the refusal to enter the new garages as his property in the Land-Register and the allegedly illegal decision of the Supreme Court. He further requests compensation for the period during which he had no garages.

## **III. PROCEEDINGS BEFORE THE CHAMBER**

6. The application was introduced on 5 March 1998 and registered on 10 April 1998.

## **IV. OPINION OF THE CHAMBER**

7. 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 incompatible with the Agreement, or which it considers manifestly ill-founded.

8. The applicant essentially complains about the expropriation of his property, the allegedly inadequate compensation offered in 1985 and the fact that he was not able to get satisfaction in the administrative and court proceedings that he initiated in the following years. However, for the expropriation as such and the other events occurring before 14 December 1995 the Chamber has no jurisdiction as they preceded the entry into force of the Agreement on that day. In this respect, the case is inadmissible *ratione temporis*.

9. However, the Supreme Court decision of 9 July 1997 was rendered after the entry into force of the Agreement, so that the Chamber has jurisdiction over this part of the application. Leaving aside the question of compliance with the six-month rule prescribed in Article VIII(2)(a) of the Agreement, the Chamber cannot find any indication that the said decision of the Supreme Court was arbitrary or otherwise violated either the applicant's property rights under Article 1 of Protocol No. 1 to the European Convention of Human Rights or his procedural rights under Article 6 (1) of the Convention.

10. The Chamber notes, moreover, that the contract regulating the expropriation entitled the applicant, in the case of a dispute with the City, to bring an action before the Sarajevo (civil) court. The fact that the applicant might not have been aware of the impossibility for him to gain private ownership of the underground garages could have been, and may apparently still be, addressed in such proceedings.

11. Accordingly, the Chamber decides not to accept the application, it being partly incompatible *ratione temporis* with the Agreement and partly manifestly ill-founded within the meaning of Article VIII(2)(c) of the Agreement.

**V. CONCLUSION**

12. 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