



DECISION ON THE ADMISSIBILITY

CASE No. CH/98/697

Bakir DŽONLIĆ

against

THE REPUBLIKA SRPSKA

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

Ms. Michèle PICARD, President
Mr. Rona AYBAY, Vice-President
Mr. Hasan BALIĆ
Mr. Dietrich RAUSCHNING
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) of the Agreement and Rule 52 of the Chamber's Rules of Procedure:

I. FACTS

a) Introduction

1. The applicant is a citizen of FR Yugoslavia of Bosniak descent, resident in Banja Luka. He and his father live in the applicant's house in Banja Luka.
2. In August 1995 two families of displaced persons from Drvar moved into the house without the permission of the applicant's father, who was the owner of the house at the time and still occupied it. He was left one room of 16 m² to use.
3. On 20 November 1997 the applicant came to Banja Luka from Yugoslavia to take care of his ill father. On the same day his father donated the house to the applicant by a contract validated by the Municipal Court in Banja Luka. The applicant registered himself as the owner of the house in the Land Register.
4. The applicant and his father have been disturbed by one of the occupants. On 19 July 1998 the applicant reported an incident to the police. Police intervened and the provocation stopped until 7 August 1998 when it started again. The applicant has not reported any further incidents, because he believes that such reports would not result in any action against the occupants.
5. The applicant states that the occupants refuse to participate in paying the electricity bills and the maintenance expenses which rose to the sum of DEM 1,000 since they occupied the house. He states that since all the bills are addressed to him there is no authority to address to in order to force the occupants to participate in these expenses.

b) The administrative proceedings

6. On 13 February 1998 the Commission for Resettlement of Refugees and Displaced Persons issued decisions allocating the house to the families mentioned in paragraph 2 above. On 25 February 1998 the applicant appealed against these decisions. On 14 April 1998 the Ministry for Refugees and Displaced Persons ("the Ministry") refused the applicant's appeal as ill-founded.
7. On 23 June 1998 the applicant initiated an administrative dispute before the Supreme Court of Republika Srpska against the Ministry's decision. There have been no developments in these proceedings to date.

c) Proceedings before the Municipal Court in Banja Luka (the "Court")

8. On 8 December 1997 the applicant filed a lawsuit before the Municipal Court in Banja Luka (the "Court") against the occupants for disturbance of possession. The Court scheduled a hearing on 23 February 1998. On 9 March 1998 the Court suspended the proceedings because of the proceedings still pending before the Ministry. On 19 March 1998 the applicant appealed against the Court's decision. The appeal is still pending and the proceedings have not been continued, although the proceedings before the Ministry have been completed.
9. On 5 February 1998 the applicant initiated another set of proceedings against the occupants requesting the return of the house into his possession. There appear to have been no developments in these proceedings to date.

II. COMPLAINTS

10. The applicant complains that the decisions of the Commission for Resettlement of Refugees and Displaced Persons violate his right to property, since he is prevented from using his property rights in full. He also states that his right to privacy and family life is being violated, since he cannot bring his wife and son to live with him, because the house is occupied.

11. The applicant alleges that the Ministry and the Court violate his human rights since they do not act in such a manner as to conclude the proceedings he had initiated before these institutions. He also complains of a violation of his right to liberty and personal security since the occupants threaten him and his father, and of discrimination since the Government of the Republika Srpska is depriving him of his rights and liberties.

III. PROCEEDINGS BEFORE THE CHAMBER

12. The application was forwarded to the Chamber by the Office of the Human Rights Ombudsperson, at the applicant's request. It was received in OHRO on 2 June 1998 and in the Chamber on 15 June and registered on the last mentioned date.

13. On 14 September 1998 the applicant requested the Chamber to issue a provisional measure ordering the respondent Party to evict the occupants of his house. On 15 October the First Panel decided to refuse the request.

14. On 15 October 1998 the First Panel decided pursuant to Rule 49(3)(b) of the Rules of Procedure to transmit the application to the respondent Party for its observations on the admissibility and merits. On 29 October 1998 a deadline of two months was set for the receipt of the respondent Party's observations as to Articles 6 and 8 of the European Convention on Human Rights ("the Convention"), Article 1 of Protocol No. 1 to the Convention and Article II(2)(b) of Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina. No observations have been received.

15. On 18 January 1999 the applicant was requested to lodge his written statement and any claim for compensation he wished to make. A time limit of a month was set for the receipt of any such statement. On 21 January 1999 the applicant submitted his written statement and his claim for compensation. These letters were sent to the respondent Party on 22 January 1999 for observations in relation to the claim for compensation. A deadline of one month was set for the receipt of any such observations, which have not been received.

16. On 23 February 1999 the application and the applicant's statement were transmitted to the Ombudsperson and she was invited to submit any written observations she wished to make on the case. A deadline of one month was set for the receipt on any such observations. No statement has been received to date. On 25 January 1999 Ms. Valerija Šaula, Deputy Ombudsperson, informed the Registry that her Office had a policy of submitting observations only on cases where the application had been referred to the Chamber after the adoption of a Report. Accordingly, the Ombudsperson did not intend to submit observations in this case.

IV. SUBMISSIONS ON THE ADMISSIBILITY

17. The respondent Party has not submitted any observations on the admissibility and merits of the case.

V. OPINION OF THE CHAMBER

18. 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.

19. The Chamber notes that the respondent Part has not put forward any objection to the admissibility of the case. It has not suggested that the case should be declared inadmissible on any of the grounds as set out in Article VIII(2) of the Agreement. Since the case does not appear to be *prima facie* inadmissible, the Chamber finds no obstacles to considering the merits of the application.

20. Accordingly, the Chamber decides to accept the application pursuant to Article VIII(2) of the Agreement, as the respondent Party has not demonstrated that the application should be rejected under that provision.

VI. CONCLUSION

21. For these reasons, the Chamber, without prejudging the merits unanimously,

DECLARES THE APPLICATION ADMISSIBLE.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel