



DECISION ON ADMISSIBILITY

Case No. CH/97/78

Muhamed DUBRAVAC

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 10 September 1999 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
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)(d) of the Agreement and Rule 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. On 11 February 1992 the applicant concluded a purchase contract for a JNA apartment located at Ložionička No. 5/I, Novo Sarajevo, and paid the purchase price due. On 28 December 1993 the applicant was evacuated from Sarajevo. Upon his return in June 1996, the applicant was unable to re-enter the apartment as it had been declared abandoned on 24 May 1996 and allocated to another person.

2. The applicant lodged an application to re-enter possession of his apartment to the Commission for Real Property Claims of Displaced Persons and Refugees on 6 June 1997 ("Annex 7 Commission").

II. COMPLAINTS

3. The applicant claimed that the deprivation of his occupancy right and possession over his apartment violated his human rights as guaranteed by Article 1 of Protocol No. 1 to the European Convention on Human Rights.

III. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced and registered on 30 October 1997.

5. On 19 May 1998 the Chamber wrote to the applicant requesting further details of any other applications the applicant had made concerning his apartment. On 29 July 1998 the Chamber requested a reply to the letter of 19 May 1998. In a letter of 5 August 1998 the applicant stated that he had submitted a request to the Annex 7 Commission on 6 June 1997.

6. On 10 December 1998 the applicant informed the Chamber that he had inquired about the possibility of withdrawing his application from the Annex 7 Commission in order that he proceed with the case before the Human Rights Chamber. The applicant was advised by the Annex 7 Commission not to withdraw his application.

7. On 18 June 1999 the Chamber wrote to the applicant asking him to clarify the reasons why he considers that the Chamber should deal with the case simultaneously with the Annex 7 Commission. On 23 June 1999 the applicant replied that he would like the Chamber to issue a decision returning him to his apartment.

8. The application was considered by the Panel at its session on 10 September 1999.

IV. OPINION OF THE CHAMBER

9. According to Article VIII(2)(d) of the Agreement, the Chamber may reject or defer further consideration of a case, if it concerns a matter currently pending before... "any other Commission established by the Annexes to the General Framework Agreement for Peace."

10. The Chamber recalls that the applicant has also claimed the return of his real property by petitioning the Annex 7 Commission. According to Article XI of Annex 7, the mandate of that Commission is to receive and decide any claims for real property in Bosnia and Herzegovina, where the property has not been sold voluntarily or otherwise transferred since 1 April 1992 and where the claimant does not now enjoy possession of that property. The Chamber notes that in the present case the applicant has not indicated nor does it appear that his complaint before the Chamber is different from the subject matter which he has brought before the Annex 7 Commission.

11. Accordingly, the Chamber decides not to accept the application pursuant to Article VIII(2)(d) of the Agreement.

V. CONCLUSION

12. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel