



DECISION ON ADMISSIBILITY

Case no. CH/99/2411

Borko MIJATOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 9 March 2000 with the following members present:

Ms. Michèle PICARD, President
Mr. Andrew GROTRIAN, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
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)(a) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant is a citizen of Bosnia and Herzegovina and a displaced person. This case concerns his attempts to regain possession of an apartment in Sanski Most over which he holds the occupancy right. On 7 September 1998 the applicant applied to regain possession over the apartment. This request was rejected by a decision dated 17 November 1998 of the Department for Spatial Affairs and Environment in Sanski Most, claiming that the applicant could not be a holder of the occupancy right since the building in question was only finished in 1997. On 8 December 1998 the applicant initiated proceedings before the Cantonal Ministry for Spatial Affairs and Environment. There has been no answer from that organ despite the applicant's request for urgency.

II. COMPLAINTS

2. The applicant claims violations of his rights as protected by Articles 6 and 8 of the European Convention on Human Rights and Article 1 of Protocol No. 1 to the Convention.

III. PROCEEDINGS BEFORE THE CHAMBER

3. The application was introduced and registered on 8 November 1999.

IV. OPINION OF THE CHAMBER

4. 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)(a) the Chamber shall take into account whether effective remedies exist, and whether the applicant has demonstrated that they have been exhausted.

5. The Chamber notes that the applicant complains of the failure of the relevant organ in Sanski Most to decide upon his request. However, the applicant has not shown that he has either initiated proceedings under the Law on Administrative Disputes before the Cantonal Court in Bihać or that such proceedings would be ineffective in his case.

6. Accordingly, the Chamber decides not to accept the application pursuant to Article VIII(2)(a) of the Agreement, as the applicant has not demonstrated that the effective domestic remedies have been exhausted.

V. CONCLUSION

7. 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