



DECISION ON ADMISSIBILITY

Case no. CH/00/5057

Sakib ŠKULJ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 4 July 2000 with the following members present:

Mr. Andrew GROTRIAN, Acting 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) 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. He and his wife had been living with S.O. and M.O., her father and stepmother, at Ulica Sedme muslimanske 7. S.O. was the holder of the occupancy right over the apartment. It appears that M.O. lived in the apartment until she left in 1992. In January 1995 the applicant and S.O. made an agreement, witnessed by an official of the First Instance Court in Kakanj, that the applicant could use the apartment and all movable property therein, but only while S.O. was still alive.

2. In 1997 S.O. died and his wife soon after began proceedings to regain possession of the apartment. On 3 December 1999 the Kakanj Municipality issued a decision stating that M.O. should be allowed to repossess the apartment and that the applicant and his wife must vacate the premises. On 31 May 2000 the same municipality issued a conclusion allowing for the execution of that decision and ordering the applicant's eviction. It is not known if the applicant has yet been evicted.

II. COMPLAINTS

3. Although the applicant did not specifically complain of any human rights violations in his application, it would appear to concern his right to property and his right to respect for his home.

III. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced on 6 June 2000 and registered the following day. In his application the applicant requested as a provisional measure that the Chamber render an order that he not be evicted. The Chamber refused this request on 8 June 2000.

IV. OPINION OF THE CHAMBER

5. 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)(c) of the Agreement, the Chamber shall dismiss any application which it considers manifestly ill-founded.

6. In this case, the Chamber cannot find that the applicant has any legal basis to the apartment. While the applicant has an agreement from 1995 stating he has the right to use the apartment, it specifically states that this right terminates upon the death of S.O., which occurred in 1997. Further, the agreement did not relinquish any aspect of the occupancy right to the applicant. Therefore, the applicant has no lawful right to the premises and any claims thereto are without merit.

7. Accordingly, the Chamber decides not to accept the application, it being manifestly ill-founded within the meaning of Article VIII(2)(c) of the Agreement.

V. CONCLUSION

8. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Andrew GROTRIAN
Acting President of the First Panel