



DECISION ON ADMISSIBILITY

Case no. CH/01/7894

Fuad BAJRIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 11 October 2002 with the following members present:

Mr. Viktor MASENKO-MAVI, Acting President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Vitimir POPOVIĆ
Mr. Mato TADIĆ

Mr. Ulrich GARMS, 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 Rule 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The application was introduced on 14 September 2001. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to prevent the sale of real estate whose ownership is currently disputed in a court procedure. On 6 May 2002 the President of the Second Panel decided not to order the provisional measure requested.

2. The applicant complains about a judgement issued by the Travnik Municipal Court on 30 October 1996 regarding the division of a joint property between himself and his brother and sister. He requests the Chamber to invalidate that judgement.

3. On 24 May 1975, E.B. and A.B. (the applicant's brother and sister) filed a lawsuit to the Municipal Court in Travnik against the applicant, claiming that the property in which the applicant lives is a joint property of all of them and their father. The plaintiffs requested the court to issue a judgement establishing that each of the plaintiffs and the applicant are entitled to a share of ownership over the real estate.

4. After completion of ordinary proceedings and in renewed proceedings, on 30 June 1996 the Municipal Court in Travnik issued a judgement establishing the co-ownership of all members of the family over the real estate, stating that the plaintiffs E.B. and A.B., on the basis of their own contributions and on the basis of inheritance, were co-owners of the real estate. By the same judgement the applicant was also obliged to accept the plaintiff's registration as co-owners and to be compensated for the expenses of the civil proceedings.

5. The applicant appealed the judgement of 30 June 1996. On 8 December 1998, the Cantonal Court in Travnik issued an appeal judgement in the case, recognising the co-ownership of all members of the family over the real estate. The applicant was obliged to sustain the registration of the ownership right and the division of the mentioned real estate.

II. OPINION OF THE CHAMBER

6. In accordance with Article VIII(2) of the Agreement, "the Chamber shall decide which applications to accept.... In so doing, the Chamber shall take into account the following criteria: (a) ... that the application has been filed with the Commission within six months from such date on which the final decision was taken."

7. The Chamber notes that the application was lodged on 14 September 2001. It finds that the final decision for the purposes of Article VIII(2)(a) of the Agreement was issued by the Cantonal Court in Travnik on 8 December 1998. This date is more than six months before the date on which the application was filed with the Chamber. Accordingly, the application does not comply with the requirements of Article VIII(2)(a) of the Agreement. The Chamber therefore decides to declare the application inadmissible.

III. CONCLUSION

8. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Viktor MASENKO-MAVI
Acting President of the Second Panel