



## **DECISION ON ADMISSIBILITY**

**Case no. CH/98/1234**

**Dušan KAČAR**

**against**

**THE REPUBLIKA SRPSKA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 9 July 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. 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 Articles VIII(2)(a) and VIII(2)(b) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

**I. FACTS**

1. The applicant is a Bosnian Serb displaced person from (Bosanski) Petrovac in the Federation of Bosnia and Herzegovina. On 7 September 1998 the Commission for the Accommodation of Refugees and the Administration of Abandoned Property in Banja Luka allocated the applicant an abandoned apartment located at Od Zmijanja Rajka 115 in Banja Luka for his use. The apartment is currently occupied by another applicant to the Chamber, Mr. Goran Aleksić (case no. CH/98/1188). On 25 September 1998 the President of the Chamber issued an order for provisional measures in that case, preventing the eviction of that applicant. The order in that case will remain in force until the Chamber's final decision in the case, unless withdrawn at an earlier stage by the Chamber.

**II. COMPLAINTS**

2. The applicant complains that the provisional measure issued by the Chamber in case no. CH/98/1188 has violated his right to property and asks that the Chamber solve his housing problem.

**III. PROCEEDINGS BEFORE THE CHAMBER**

3. The application was introduced on 19 October 1998 and registered on 20 October 1998.

**IV. OPINION OF THE CHAMBER**

4. 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. According to Article VIII(2)(c), the Chamber shall dismiss any application which it considers incompatible with the Agreement.

5. The Chamber notes that the complaint of the applicant is directed against its order for provisional measures issued by the President of the Chamber in case no. CH/98/1188.

6. The Chamber notes that case no. CH/98/1188 has not yet been decided by the Chamber. As the Chamber has previously held, an order for provisional measures does not determine a case; it is designed to prevent the occurrence of irremediable harm pending the final decision of the Chamber in the case concerned (case no. CH/98/1184, *Ovuk*, decision on admissibility of 13 March 1999, paragraph 10, Decisions January-July 1999). As a complaint against a provisional measure is in effect a complaint against the Chamber itself, rather than any of the Parties to the Agreement, such an application must be rejected as being incompatible *ratione personae* with the Agreement (*Ovuk*, *sup. cit.*, paragraph 10).

7. Accordingly, the Chamber decides not to accept the application pursuant to Article VIII(2)(c) as incompatible *ratione personae* with the Agreement.

**V. CONCLUSION**

8. For these reasons, the Chamber, unanimously,

**DECLARES THE APPLICATION INADMISSIBLE.**

(signed)  
Leif BERG  
Registrar of the Chamber

(signed)  
Giovanni GRASSO  
President of the Second Panel