



DECISION ON ADMISSIBILITY

Case no. CH/98/1295

Radomir SAVIĆ

against

**BOSNIA AND HERZEGOVINA
and
THE REPUBLIKA SRPSKA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 4 November 1999 with the following members present:

Ms. Michèle PICARD, President
Mr. Rona AYBAY, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Želimir JUKA
Mr. Miodrag PAJIĆ
Mr. Andrew GROTRIAN

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)(c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant's mother, who died in 1997, held the occupancy right over an apartment in Nevesinje, Republika Srpska. After her death, the holder of the allocation right over the apartment initiated administrative proceedings to regain possession of it. The applicant made numerous representations to the holder of the allocation right and to the relevant organ of the Municipality of Nevesinje, requesting that he not be evicted from the apartment. The applicant does not live in the apartment but left his personal belongings there.

2. On 16 November 1998 the Secretariat for Economy of the Municipality of Nevesinje ordered the applicant to vacate the apartment. This decision was based on the fact that as the applicant did not live in the apartment, he was not entitled under the relevant law (the Law on Housing Relations) to succeed into the occupancy right over it. On 13 April 1999 it issued a further decision to the same effect. On 26 April 1999 it issued a conclusion ordering the applicant to vacate the apartment by 1 May 1999.

3. The applicant states that on 4 June 1999 he initiated an administrative dispute before the Supreme Court of the Republika Srpska. He has not informed the Chamber of the status of these proceedings. Neither has he informed the Chamber of whether the eviction has been carried out.

II. COMPLAINTS

4. The applicant alleges that the following rights as protected by the European Convention on Human Rights have been violated: the right to private and family life, home and correspondence, the right to property and the right to education.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 4 November 1998 and registered on the same day.

6. The applicant requested that the Chamber order the respondent Party as a provisional measure to prevent his eviction until the final decision of the Chamber, to register him as the owner of the apartment or to allow him to purchase it under any future legislation of the Republika Srpska or Bosnia and Herzegovina allowing the purchase of apartments and to prohibit the application of the Law on Housing Relations.

7. On 20 April 1999 the applicant provided a copy of the decision of 13 April 1999 (see paragraph 2 above) and reiterated his request for a provisional measure.

8. On 23 April 1999 the applicant's request was refused by the President of the Chamber. On 4 June 1999 the applicant stated that he nevertheless wished to pursue his application.

IV. OPINION OF THE CHAMBER

9. 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 manifestly ill-founded.

10. The Chamber notes that the applicant's claims essentially relate to the refusal of the authorities to recognise him as entitled to succeed into his mother's occupancy right over the apartment in Nevesinje.

11. The Chamber has previously held that an occupancy right may constitute a "possession" within the meaning of Article 1 of Protocol No. 1 to the Convention. However, the Convention only

protects existing possessions and does not guarantee any right to acquire a right protected under that Protocol (see case no. CH/98/1588, *Tomić*, decision on admissibility of 9 February 1999, paragraph 9, Decisions January-July 1999). In certain circumstances, a right which is recognised under national law as a possession may be protected by Article 1 of Protocol No. 1 (see, e.g., case no. CH/98/1245, *Slavnić*, decision on admissibility and merits delivered on 5 November 1999, paragraphs 71-73). The Chamber notes that in the present case the applicant is not entitled under the law of the Republika Srpska to succeed into the occupancy right over the apartment. Accordingly, the case does not involve a right protected under Article 1 of Protocol No. 1.

12. The Chamber considers therefore that the inability of the applicant to succeed into his mother's occupancy right over the apartment does not raise an issue under the Agreement.

13. 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

14. 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