



DECISION ON THE ADMISSIBILITY

CASE No. CH/98/1386

Gojko GAVRILOVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 14 January 1999 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Vlatko MARKOVIĆ
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ

Mr. Leif BERG, Registrar
Ms. Olga KAPIC, 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 lived in an apartment at Braće Jugovića (formerly Braće Bukića) Street No. 9, in Banja Luka, Republika Srpska ("the Apartment"). He is a displaced person from the Municipality of Ključ, Federation of Bosnia and Herzegovina. On 7 May 1996, he lodged a request to the Banja Luka Commission of the Ministry for Refugees and Displaced Persons ("the Ministry"), to be allocated an apartment. On 4 November 1996, the Ministry issued a document, acknowledging the applicant's request. This document had the effect of allowing the applicant to remain in the Apartment until his housing problem had been resolved.

2. On 13 October 1998, the Municipal Court ("Osnovni Sud") in Banja Luka issued a Conclusion, by which it ordered the applicant's eviction from the Apartment. This Conclusion was issued at the request of a Mr. Ibrahim Spahić, the holder of the occupancy right over the Apartment, after the conclusion of proceedings before the Municipal Court. Mr. Spahić is a minority returnee to Banja Luka. The eviction was scheduled for 11 November 1998. The Chamber has not been informed of whether the eviction was actually carried out.

II. COMPLAINTS

3. The applicant makes a general allegation that his human rights have been violated. He complains generally about the Court proceedings initiated by Mr. Spahić and alleges that the Ministry is unwilling to assist him.

III. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced on 6 November 1998 and registered on the same day. The applicant requested that the Chamber order a provisional measure to take all necessary action to prevent his eviction.

5. On 10 November 1998 the Second Panel refused the request for a provisional measure.

IV. OPINION OF THE CHAMBER

6. 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.

7. The Chamber notes that the applicant did not have any property right in the Apartment. The document issued by the Ministry on 4 November 1996 (see paragraph 1 above) merely recognised the fact that the applicant resided in the Apartment. It did not of itself grant the applicant any property right over it. It could not affect the competence of the Municipal Court in Banja Luka to adjudicate on matters relating to the, e.g., occupancy right over the Apartment. The Chamber notes further that the Conclusion of the Municipal Court dated 13 October 1998 was made after proceedings before that Court. It has no reason to doubt that those proceedings were conducted in anything other than a fair manner.

8. It therefore appears that the application does not involve any potential violation of any rights enjoyed by the applicant.

9. 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

10. 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