



DECISION ON THE ADMISSIBILITY

CASE No. CH/98/921

L.B. and L.V.

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 9 February 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. Andrew GROTRIAN

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 Article VIII(2)(a) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The application concerns the expropriation by the Municipality of Sanski Most (“the Municipality”) of land and buildings owned by the applicants. On 7 June 1997, the Transitional Council of the Municipality issued a decision, finding that it would be in the interests of the Municipality to build an agricultural school on certain land, including that concerned in the present application.

2. On 18 August 1997, the Department for Environmental Planning, Natural Resources and Environmental Protection of the Municipality issued a decision, ordering that certain land belonging to the first applicant and to the deceased husband of the second applicant be expropriated. This was stated to be for the purpose of building an agricultural school on the land. The decision ordered that the compensation to be paid to the owners be determined at a later date, under a separate procedure. The decision also stated that the whereabouts of the owners of the land concerned in the decision was unknown. A representative was appointed to act on their behalf. This representative did not oppose the expropriation.

3. On 22 July 1997, the first applicant had written to the Municipality, requesting the suspension of the expropriation proceedings. On 28 August 1997, the applicants submitted a claim to the Municipality for compensation in respect of the expropriated land.

4. The decision of the Municipality of 18 August 1997 was delivered to the applicants on 5 March 1998. On 17 March 1998, they submitted an appeal against this decision to the competent organ of the Unsko – Sanski Canton, which is the Department for Environmental Planning, Natural Resources and Environmental Protection. There has been no decision on this appeal to date.

II. COMPLAINTS

5. The applicants complain that their right to property and to fair proceedings have been violated by the actions of the Municipality of Sanski Most.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was introduced on 4 September 1998 and registered on the same day. The applicants are represented by Mr. Lazo Borenović, resident in Banja Luka. The applicants requested that the Chamber order a provisional measure preventing the construction of the agricultural school on the land concerned and also protecting their property rights until the issue of compensation has been resolved.

7. On 10 September 1998 the First Panel refused the request for a provisional measure.

8. On the same date, the First Panel decided, pursuant to Rule 49(3)(a) of the Rules of Procedure, to request the applicants to provide certain information relating to the issue of whether they had exhausted all of the domestic remedies available to them.

9. The applicant submitted information on 21 September 1998, relating to the proceedings they had initiated.

IV. OPINION OF THE CHAMBER

10. 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)(a), the Chamber must consider whether effective remedies exist and whether the applicant has demonstrated that they have been exhausted.

11. The Chamber notes that, according to the information provided by the applicants, they appealed to the second instance organ within the Unski Sanski Canton on 10 March 1998 and that no decision has been made on this appeal to date. Accordingly, the domestic proceedings initiated by

the applicants are still pending and the applicants cannot be considered to have exhausted such remedies. The applicants have not provided any evidence to the Chamber which tends to show at this stage that this remedy is ineffective. Therefore, they cannot be relieved of their obligation under Article VIII(2)(a) of the Agreement to exhaust such remedies.

12. Accordingly, the Chamber decides not to accept the application pursuant to Article VIII(2)(a) of the Agreement, as the applicant has not demonstrated that the effective domestic remedies have been exhausted.

V. CONCLUSION

13. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel