



DECISION ON ADMISSIBILITY

Case no. CH/99/2240

Hasan and Omer ARNAUT

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 5 November 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. 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 as well as Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

I. FACTS

1. This case concerns the right of the applicants, two brothers, to inherit various plots of land from their mother who died on 30 January 1989. On 23 March 1989 the Municipal Court in Gračanica issued a procedural decision according to which the land in question was to be divided among the applicants, their other brother, two sisters and two grandchildren of another sibling.

2. On 15 April 1997 the applicants initiated civil proceedings against one of the sisters to exclude her from the inheritance. On 23 June 1997 the Municipal Court issued a judgment in the applicants' favour. However, the sister appealed. On 25 September 1997 the Cantonal Court in Tuzla annulled the judgment and returned the case to the Municipal Court for renewed proceedings.

3. On 23 February 1998 the Municipal Court reversed its earlier finding and established equal shares to the land among the heirs, including the sister. Upon the applicants' appeal, this judgment was upheld by the Cantonal Court in Tuzla on 22 June 1998. On 10 December 1998 the Supreme Court of the Federation of Bosnia and Herzegovina refused the applicants' request for review.

II. COMPLAINTS

4. The applicants allege violations of their rights under Article 6 of the European Convention on Human Rights, regarding the right to a fair trial, and Article 1 of Protocol No. 1 to the Convention, regarding the right to property.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 31 May 1999 and registered on the same day.

6. On 21 September 1999 the President of the Second Panel refused the applicants' request for a provisional measure.

7. The Chamber considered the case on 9 October and 5 November 1999 and adopted this decision on the latter date.

IV. OPINION OF THE CHAMBER

8. Before considering a case on its merits the Chamber must decide whether to accept it, taking into account the admissibility criteria set out in Article VIII (2) of the Agreement which, so far as relevant, provides as follows:

"The Chamber shall decide which applications to accept In so doing, the Chamber shall take into account the following criteria:

...

(c) The Chamber shall also dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or an abuse of the right of petition.

..."

9. The applicants complain that there were irregularities in the conduct of the court proceedings. They further allege that the substantive law used in this case was wrongly applied and that the facts upon which the courts based their decisions were both incomplete and improperly established.

10. However, based upon the submitted materials, the Chamber cannot find any indication that the above-mentioned decisions violated either their procedural rights under Article 6 paragraph 1 of the Convention or the applicants' property rights under Article 1 of Protocol No. 1 to the Convention.

11. 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

12. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel