



## **DECISION ON ADMISSIBILITY**

**case no. CH/99/2339**

**Commission concerning the location of a graveyard in Banja Luka**

**against**

**THE REPUBLIKA SRPSKA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 11 May 2000 with the following members present:

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

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

**I. FACTS**

1. The applicant is an association of people affected by the establishment of a graveyard in Banja Luka.
2. On 2 September 1996 the Municipality of Banja Luka passed a decision to assess the public interest in expropriating certain land for the purpose of placing a graveyard in Banja Luka. On 21 September 1998 the people living in the neighborhood submitted a request to the Executive Board of the Municipality of Banja Luka, requesting that the above-mentioned decision be put out of force. There has been no reply to this request. On 20 April 1999, in proceedings brought by the applicant, the Supreme Court of the Republika Srpska declared itself incompetent *ratione materiae* to decide upon an appeal regarding the case in question. By the same decision the Court transferred the case to the Regional Court in Banja Luka. On 22 July 1999 the Regional Court rejected the appeal, also finding itself incompetent *ratione materiae*. On 23 August 1999 the applicant appealed to the Constitutional Court of the Republika Srpska. There has been no decision on this appeal to date.

**II. COMPLAINTS**

3. The applicant association complains of violations of its rights to peaceful enjoyment of property, to a fair hearing and to family life, privacy and home.

**III. PROCEEDINGS BEFORE THE CHAMBER**

4. The application was introduced to the Chamber on 1 September 1999 and registered on the same date.

**IV. OPINION OF THE CHAMBER**

5. Before considering the merits of the case the Chamber must decide whether to accept it, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement. According to the Article VIII(2)(c) the Chamber shall dismiss any application which it considers incompatible with the Agreement.
6. The Chamber notes that the complaint before it essentially relates to alleged violation of the rights of unspecified individuals. It is not alleged, nor does it appear, that any right of the applicant is alleged to have been violated. The Chamber finds, therefore, that the applicant cannot be regarded as a victim within the meaning of Article VIII(1) of the Agreement. As the Chamber held in its decision in *United Association of Citizens-Pensioners in the Federation of Bosnia and Herzegovina* (case no. CH/98/736, decision on admissibility of 13 October 1998, Decisions and Reports 1998) such an application is to be dismissed under Article VIII(2)(c) of the Agreement as it incompatible therewith *ratione personae*.
7. Accordingly, the Chamber decides not to accept the application, finding it incompatible *ratione personae* within the meaning of Article VIII(2) of the Agreement.

**V. CONCLUSION**

8. For these reasons, the Chamber, by 6 votes to 1,

**DECLARES THE APPLICATION INADMISSIBLE.**

(signed)  
Anders MÅNSSON  
Registrar of the Chamber

(signed)  
Michèle PICARD  
President of the First Panel