



DECISION ON ADMISSIBILITY

Case no. CH/99/2376

Valerij GAJIĆ

against

THE REPUBLIKA SRPSKA

and

THE FEDERATION OF BOSNIA AND HERZEGOVINA

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

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Vitomir POPOVIĆ
Mr. Mato TADIĆ

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 a citizen of Bosnia and Herzegovina of Serb origin, displaced from Sarajevo and currently resident in Banja Luka. On 21 October 1996 the Banja Luka Commission of the Ministry for Refugees and Displaced Persons granted him the right to occupy part of a property located at Sime Pandurevića 57 in Banja Luka. This decision was not limited in point of time. On 23 June 1999 the Commission issued a decision entitling the owners of the property to regain possession of it. This decision also terminated the applicant's right to reside in the property and ordered him to vacate it within ninety days. According to the information provided to the Chamber, no specific date has been set for the applicant's eviction and he still occupies the property. He has applied, so far without success, to regain possession of his pre-war property in Federation Sarajevo.

II. COMPLAINTS

2. The applicant complains of violations of his rights as guaranteed by Articles 6, 8, 13 and 14 of the European Convention on Human Rights and Article 1 of Protocol No. 1 to the Convention.

III. PROCEEDINGS BEFORE THE CHAMBER

3. The application was introduced on 5 October 1999 and registered on the same day. The applicant requested that the Chamber order the respondent Party as a provisional measure to prevent his eviction. On 8 October 1999 the Chamber refused the request. On 8 December 1999 it considered the admissibility of the application.

IV. OPINION OF THE CHAMBER

4. 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 Article VIII(2)(a), the Chamber must consider whether effective remedies exist and whether the applicant has demonstrated that they have been exhausted and, according to Article VIII(2)(c), the Chamber shall dismiss any application which it considers manifestly ill-founded.

5. The Chamber notes that the applicant complains of his eviction from the property he currently occupies. The decision of the Commission of 23 June 1999 terminated his right to reside in the property and, accordingly, he occupies it without any legal basis. Thus, the proceedings to evict the applicant do not reveal any evidence of a violation of the Agreement by the Republika Srpska.

6. In addition, the proceedings the applicant initiated to regain possession of his pre-war property are still pending and, according to the information he has provided to the Chamber, he has not exhausted the remedies available to him nor shown that such remedies would be ineffective in his case. Accordingly the case is to be declared inadmissible as against the Federation of Bosnia and Herzegovina for failure to exhaust domestic remedies.

7. Accordingly, the Chamber decides not to accept the application, partly as the applicant has not demonstrated that he has exhausted the domestic remedies available to him nor shown that they are ineffective, as required by Article VIII(2)(a) of the Agreement, and partly as the application is manifestly ill-founded within the meaning of Article VIII(2)(c) of the Agreement.

V. CONCLUSION

8. 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