



DECISION ON ADMISSIBILITY

Case no. CH/99/2410

Mirko GAVRANOVIĆ

against

BOSNIA AND HERZEGOVINA

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, a citizen of Bosnia and Herzegovina of Serb origin, is the holder of an occupancy right over an apartment in Bihać, Federation of Bosnia and Herzegovina. He was forced to leave Bihać in 1992 and went to the former Republika Srpska Krajina in Croatia. He was forced to leave there in 1995 and currently resides in Banja Luka. The application concerns his attempts to regain possession of the apartment in Bihać, over which he holds the occupancy right.
2. On 8 June 1998 the applicant applied to the relevant organ of the Municipality of Bihać in this regard. There has been no decision on his application to date. On 31 May 1999 the applicant appealed to the second instance organ at cantonal level, complaining of the silence of the administration. There has been no decision on this appeal to date. The applicant has not initiated an administrative dispute before the Cantonal Court, although he is entitled to do so under the law of the Federation.
3. The matter is still pending before the cantonal authorities.

II. COMPLAINTS

4. The applicant does not make any allegations of specific violations of his human rights as protected by the Agreement. He complains in a general manner of the failure of the organs of the Federation to decide upon his application to regain possession of the apartment over which he holds the occupancy right.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 4 November 1999 and registered on the same day. The applicant requested that the Chamber order as a provisional measure that he be allowed to regain possession of the apartment. On 8 December 1999 the Chamber refused the request for a provisional measure and considered the admissibility of the application.

IV. OPINION OF THE CHAMBER

6. 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 shall consider whether effective domestic remedies exist and whether the applicant has demonstrated that they have been exhausted. Article VIII(2)(c) states the Chamber shall dismiss any application which it considers manifestly ill-founded.
7. The Chamber notes that the applicant has not initiated court proceedings before the Cantonal Court against the silence of the administration, as provided for by the law of the Federation of Bosnia and Herzegovina. The applicant has not sought to prove that the initiation of such proceedings would not be an effective remedy in his case. Nor can the Chamber of its own motion find such proof. The applicant cannot, therefore, be relieved of the obligation imposed upon him by Article VIII(2)(a) of the Agreement to exhaust this remedy.
8. The applicant also directs his application against Bosnia and Herzegovina. He has not provided any evidence that Bosnia and Herzegovina could in any way be responsible for the actions he complains of, nor can the Chamber of its own motion find any such evidence.
9. Accordingly the Chamber decides not to accept the application, partly as the applicant has neither demonstrated that he has exhausted the domestic remedies available to him, nor that they are ineffective, as required by Article VIII(2)(a) of the Agreement and partly as it is 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)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel