



DECISION ON ADMISSIBILITY

Case no. CH/01/8332

Ilija BRKIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel, on 11 January 2002 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Manfred NOWAK
Mr. Mato TADIĆ

Mr. Ulrich GARMS, 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. INTRODUCTION

1. The application was introduced on 29 October 2001. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to stop all construction works on the disputed land until he has regained possession of the land. The applicant further requested that the Chamber order the respondent Party, as a provisional measure, to stop the manipulations and disposal of his property. On 6 December 2001, the Chamber decided not to order the provisional measure requested.

2. The applicant complains that a decision of the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) confirming that he was the bona fide possessor of certain pieces of real estate on 1 April 1992 has not been executed, *i.e.*, that he has not been reinstated into possession of the entire real estate.

II. FACTS

3. On 5 March 1998 CRPC issued a decision (Decision No. 103-2830-1/1) confirming that the applicant on 1 April 1992 was the bona fide possessor of certain pieces real estate in Banja Vručica, Republika Srpska.

4. On 25 January 1999 the applicant filed a request for the execution of the CRPC decision to the Ministry for Refugees and Displaced Persons of Republika Srpska in Teslić (hereinafter: "the Ministry"). On 5 July 2000 the Ministry issued a conclusion on the enforcement of the CRPC decision.

5. On 4 September 2000 the Ministry reinstated the applicant into possession of his house, but not into possession of his entire property.

6. On 11 April 2001 the applicant filed a request to the Ministry for repossession of his entire property in accordance with the CRPC decision.

7. On 10 October 2001 the Ministry issued a record and reinstated the applicant into the remaining plots in accordance with the CRPC decision. However, the applicant claims that he has not been fully reinstated into possession of the property since his neighbor has taken possession of part of his land. A dispute regarding the establishment of the boundaries between the applicant and his neighbor has been introduced and is pending before the First Instance Court in Teslić.

III. ALLEGED VIOLATIONS

8. The applicant alleges that his rights as guaranteed under Articles 8 and 14 of the European Convention on Human Rights and Article 1 of Protocol No. 1 to the Convention have been violated.

IV OPINION OF THE CHAMBER

9. In accordance with Article VIII(2) of the Agreement, "the Chamber shall decide which applications to accept ... In so doing, the Chamber shall take into account the following criteria: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted"

10. The Chamber notes that the applicant's complaint that he has not been completely reinstated into possession of his property is premature as the proceedings regarding establishment of boundaries between the applicant's property and that of his neighbour are still pending before the Court of First Instance in Teslić. Accordingly, the domestic remedies have not been exhausted as required by Article VIII(2)(a) of the Agreement. The Chamber therefore decides to declare the application inadmissible.

V. CONCLUSION

11. For these reasons, the Chamber, unanimously,
DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel