



DECISION ON ADMISSIBILITY

CASE No. CH/01/8623

Meho IBRAHIMAGIĆ

against

FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 6 March 2002 with the following members present:

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

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

I. FACTS

1. The applicant initiated proceedings before the Municipal Court in Bihać for the partition of a residential family house and real property.
2. By procedural decision of the Municipal Court of Bihać of 19 September 2000, the partition of the real property, which had been in co-ownership and co-possession of the applicant and H.I. and M.I. was carried out. Dissatisfied with the procedural decision of the Bihać Municipal Court the applicant filed an appeal. This appeal was rejected by the Cantonal Court of Bihać as ill founded on 9 April 2001.
3. The Municipal Court issued a decision declaring the decision of 19 September 2000 executive. The applicant filed an objection on 14 September 2001. The Municipal Court issued a decision rejecting the objection. The applicant filed appeal on 22 October 2001 against this decision, which was rejected by the Cantonal Court Bihać on 26 November 2001.
4. Dissatisfied with the Cantonal Court's decision, the applicant filed a request for protection of legality with the Federal Prosecutor, an extra ordinary remedy, which was rejected as out of time.
5. The applicant points out that the partition of the real property was carried out on land upon which a residential family house has been constructed. The applicant alleges that this real property is covered by the Regulatory Plan, according to which the real property cannot be partitioned.

II. ALLEGED VIOLATIONS OF HUMAN RIGHTS

6. The applicant complains that his right to property has been violated, as well as his rights guaranteed under the Law on Building Land and the Law on Physical Planning.

III. PROCEEDINGS BEFORE THE CHAMBER

7. The applicant requested that Chamber order the respondent Party, as a provisional measure, to suspend the enforcement of the judgment of the Municipal Court of Bihać. On 7 January 2002 the Chamber rejected the request for a provisional measure.

IV. OPINION OF THE CHAMBER

8. 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: ... (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 Chamber notes that the applicant's underlying dispute is exclusively a private matter to be resolved by the domestic court. The applicant filed his claim before the Municipal Court, but he complains that the Municipal Court issued a decision contrary to domestic law. Article 6 of the Convention guarantees the right to a fair hearing. However, the Chamber has stated on several occasions that it has no general competence to substitute its own application of the law for that of the national courts (see, e.g., case no. CH/99/2565, *Banović*, decision on admissibility of 8 December 1999, paragraph 11, Decisions August-December 1999). There is no evidence that the Municipal Court failed to act fairly as required by Article 6 of the Convention. It follows that the application is manifestly ill-founded within the meaning of Article VII(2)(c) of the Agreement. The Chamber therefore decides to declare the application inadmissible.

V. CONCLUSION

10. For this reason, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(Signed)
Ulrich GARMS
Registrar of the Chamber

(Signed)
Michèle PICARD
President of the First Panel