



DECISION ON ADMISSIBILITY

CASE No. CH/02/10427

Azem FEJZOVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 5 September 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. INTRODUCTION

1. The application was introduced on 30 April 2002. The applicant requested the Chamber to issue an order for provisional measures annulling its order for a provisional measure of 28 January 2002 in case no. CH/02/8172 *Slobodan Kuvač against the Republika Srpska*. By this provisional measure the Chamber suspended the forced eviction of Mr. Kuvač from a house in Banja Luka claimed by the applicant. On 4 June 2002 the First Panel decided not to order the provisional measure requested.

2. The applicant complains about the Chamber's order for a provisional measure issued in the *Kuvač* case suspending the scheduled eviction of Mr. Kuvač from a family house in Banja Luka, Kolubarska 6. The applicant states that on 28 November 1995 he concluded with Mr. Kuvač the contract on exchange of real estates. He claims that this contract was concluded under duress. On 25 July 2000 the applicant received the decision of the Commission for Real Property Claims of Refugees and Displaced Persons confirming his *bona fide* pre-war possession of the family house in Banja Luka. On 26 September 2001 the first instance court in Banja Luka has issued a judgment determining that the contract on exchange of real estates is invalid.

II. OPINION OF THE CHAMBER

3. 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."

4. The application is directed against the Republika Srpska as a respondent Party. However, in essence the applicant's complaint concerns the Chamber's order for a provisional measure issued in the *Kuvač* case.

5. The Chamber finds that the applicant's complaint does not concern an interference with his rights under the Agreement by the Republika Srpska, and, insofar as it appears to be directed against an order issued by the Chamber, it is incompatible *ratione personae* with the provisions of the Agreement. It follows that the application inadmissible pursuant to Article VIII(2)(c) of the Agreement.

III. CONCLUSION

6. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel