



DECISION ON ADMISSIBILITY

Cases nos.

**CH/02/10062 Jusuf and Esad MULAĆ against THE REPUBLIKA SRPSKA,
CH/02/10064 Halil MULAĆ against THE FEDERATION OF BOSNIA AND HERZEGOVINA
and
CH/02/10065 Himzo MULAĆ against THE FEDERATION OF BOSNIA AND HERZEGOVINA**

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 applications 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) and (c) of the Agreement and Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

I. INTRODUCTION

1. Before the armed conflict the applicants, who are citizens of Bosnia and Herzegovina of Bosniak origin, owned property in the area of the Municipality of Stolac. During the armed conflict their property was destroyed. Applications were introduced on 29 April 2002. The applicants request that the Chamber order to responsible parties to pay them compensation for pecuniary and non-pecuniary damage resulting from the destruction of their property.

II. PARTICULAR FACTS OF THE CASES

1. Jusuf and Esad MULAĆ (CH/02/10062)

2. The applicants are farmers. Before the armed conflict they lived in the hamlet Veliš in the Municipality of Stolac. They own two large farms on which houses, stables and wells had been built. At the end of 1991 and in the beginning of 1992 the hamlet Veliš was totally destroyed. The front lines of Serb forces were located in the hamlet Veliš, and as a result, woods, electrical wiring and all houses were destroyed.

3. The applicants request 980,000 KM as compensation for pecuniary damage and 180,000 KM for electrical system. They request 40,000 KM for non-pecuniary damage.

2. Halil MULAĆ (CH/02/10064)

4. Before the armed conflict the applicant lived in Stolac. He owned a house and a garage. His property was mined and destroyed during the period from 24 November 1995 to 2 February 1996. He alleges that the HVO (the armed forces of the Croats in Bosnia and Herzegovina) or the authorities of "Herzeg Bosna" are responsible for the destruction.

5. The applicant requests 155,000 KM as compensation for pecuniary damage and 30,000 KM for non-pecuniary damage.

3. Himzo MULAĆ (CH/02/10065)

6. Before the armed conflict the applicant owned a house and a garage in Stolac. He has obtained a CRPC decision confirming his ownership. During the period from 24 November 1995 to 2 February 1996 his house was mined and totally destroyed. The applicant alleges that the HVO or the authorities of "Herzeg Bosna" are responsible for the destruction, which was allegedly performed with the aim to ethnically cleanse Stolac.

7. The applicant requests compensation for pecuniary damage in the amount of 210,000 KM and 30,000 KM for non-pecuniary damage.

III. COMPLAINTS

8. The applicants complain that their right to life (Article 2 of the European Convention on Human Rights), their right to private and family life (Article 8 of the Convention) and their right to peacefully enjoy their property (Article 1 of Protocol No. 1 to the Convention) have been violated. All applicants allege that their property was destroyed because of discrimination based on their Bosniak origin. They further allege that they and their children have suffered both physical and mental harm.

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 and that the application has been filed with the Commission within six months from such date on which the final decision was taken(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.”

10. Insofar as the applicants allege that their property was destroyed prior to 14 December 1995, the Chamber finds that the facts complained of relate to a period prior to 14 December 1995, which is the date on which the Agreement entered into force. However, the Agreement only governs facts subsequent to its entry into force. It follows that the applications are incompatible *ratione temporis* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare the applications inadmissible in this respect.

11. Insofar as the applicants Himzo and Halil Mulać allege that the destruction of their property continued until 2 February 1996, the complaints are compatible with the Chamber’s competence *ratione temporis*. However, the Chamber notes that the applicants failed to initiate any administrative or court proceedings. The applicants have not shown that such remedies would have been ineffective and it does not appear so to the Chamber. Accordingly, the Chamber finds that the applicants have not, as required by Article VIII(2)(a) of the Agreement, exhausted the effective remedies. Even assuming that no effective remedy existed, the applications will be inadmissible because of the 6 months rule, as required by Article VIII(2)(a) of the Agreement. The Chamber therefore decides to declare the applications inadmissible in this regard as well.

12. Insofar as the applicants allege that their right to life has been violated, the Chamber finds that the applicants’ allegations are not substantiated. It follows that the applications in that part are manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement. The Chamber therefore decides to declare that part of the applications inadmissible.

V. CONCLUSION

13. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATIONS INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel