



DECISION ON ADMISSIBILITY

Case no. CH/03/12833

Hasan VELADŽIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 6 May 2003 with the following members present:

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

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar
Ms. Antonia DE MEO, 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 7 January 2003. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to forbid the beneficiary of expropriation to hand over the expropriated real property before the completion of proceedings initiated before the Chamber or before the procedural decision on expropriation becomes valid. On 31 March 2003, the Chamber decided not to order the provisional measure requested.

2. The subject matter of the application is the applicant's complaint against a procedural decision on expropriation of real property marked as Cadastral lot no. 4439/4 "Brdo", arable land of the 5th class with a surface area of 602 m², registered into Cadastral entry no. 923, Cadastral Municipality Varoška Rijeka, owned by the applicant. The applicant also complains against a procedural decision allowing the beneficiary of the expropriation to enter into possession of the real property before the procedural decision on expropriation becomes valid.

II. FACTS

3. On 14 November 2002, the Administrative Commission of the Government of the Federation of Bosnia and Herzegovina (hereinafter: "the Administrative Commission") issued a procedural decision allowing the beneficiary of the expropriation to enter into possession of real property expropriated by a procedural decision of the Head of the Municipality Bužim of 13 June 2002, before the procedural decision on expropriation became valid.

4. The reasoning of the procedural decision of the Administrative Commission states that the Public Attorney's Office of the Una-Sana Canton submitted a request to hand over the expropriated real property before the procedural decision on expropriation became valid. It further states that the request for expropriation of the real property in question was submitted on the proposal of the Local Community Lubarda and the Municipality Bužim for the purpose of constructing a local road Lubarda – Nanići. After that, the competent Service of the Municipal Bužim conducted proceedings and the procedural decision on expropriation was issued. The Administrative Commission in its decision further states that large material damages could be imposed upon the beneficiary of the expropriation if construction of the mentioned road was postponed.

5. The applicant alleges that he initiated an administrative dispute before the Supreme Court of the Federation of Bosnia and Herzegovina against the procedural decision on expropriation. However, he complains that the Administrative Commission issued its decision of 14 November 2002 and did not take into account that the proceedings before the Supreme Court have not been completed yet.

III. OPINION OF THE CHAMBER

6. 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...."

7. The Chamber notes that, according to the applicant's allegations, the administrative dispute against the procedural decision on expropriation is still pending before the Supreme Court of the Federation of Bosnia and Herzegovina. Therefore, the Chamber finds that 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.

IV. CONCLUSION

8. 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