



DECISION ON ADMISSIBILITY

Case no. CH/02/11268

Milan TOMIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 5 June 2003 with the following members present:

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitimir POPOVIĆ
Mr. Viktor MASENKO-MAVI

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. FACTS AND COMPLAINTS

1. On 31 March 1999, the applicant's father was allocated a site, 400 m² of size, on the basis of the Doboj Municipality Assembly's procedural decision for the construction of a business-residential facility.
2. The applicant states that the "Izbor" Company Doboj has initiated court proceedings against the Doboj Municipality for the annulment of the procedural decision on allocation of the site to the applicant. The dispute was resolved in favour of the Company, so the applicant was left without the site, and the money invested has not been returned.
3. On 23 December 1999, the applicant's father addressed the Doboj Municipality in writing seeking that the matter be resolved, but there was no response. The applicant's father became sick and died in 2000, and after that, the applicant continued to apply to the Doboj Municipality in writing and orally.
4. The applicant requests the Chamber's assistance in resolving his property right problems.
5. The applicant points out that no legal remedy has been used, as he has no financial means for that.

II. PROCEEDING BEFORE THE CHAMBER

6. The application was introduced to the Chamber on 8 July 2002 and registered on the same day. The applicant complains that his right to property has been violated.

III. OPINION OF THE CHAMBER

7. 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"
8. The Chamber notes that the applicant failed to initiate proceedings before the domestic courts. The applicant has not shown that this remedy was ineffective and it does not appear so to the Chamber. Although the applicant states that he have not initiated the court proceeding because he does not have financial means, it does not appear to the Chamber that applicant is so destitute to be unable to not bring a lawsuit before a domestic court. Accordingly, the Chamber finds that the applicant has not, as required by Article VIII(2)(a) of the Agreement, exhausted the effective remedies. The Chamber therefore decides to declare the application inadmissible.

IV. CONCLUSION

9. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Mato TADIĆ
President of the Second Panel