



DECISION ON ADMISSIBILITY

Case no. CH/00/2498

Mirko STUPAR

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 2 July 2003 with the following members present:

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER, Vice-President
Mr. Mehmed DEKOVIĆ
Mr. Giovanni GRASSO
Mr. Manfred NOWAK
Mr. Vitomir 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)(c) of the Agreement and Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

I. INTRODUCTION

1. The application was introduced to the Chamber on 14 January 2000. The subject matter of the application is the applicant's request for compensation for damage to private property that was destroyed and plundered during the armed conflict in Sanski Most Municipality, consisting of land, a residential building, ancillary facilities and movable property.

II. FACTS

2. The applicant is a displaced person from the village of Dževar, Sanski Most Municipality, the Federation of Bosnia and Herzegovina. He alleges that at the time when he escaped with his family from his place of residence in Dževar, they left behind all their real and movable property, which were subsequently plundered and completely destroyed.

3. The Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) issued two decisions on 28 October 1999, decision no. 701-2359-1/1 confirming that on 1 April 1992, the applicant was a *bona fide* possessor of the real property marked as cadastre lots 809, 818 and 939/2, deed of title no. 289 K.O. Dževar - Sanski Most, a residential building and two auxiliary buildings built on cadastre lot no. 939/2; and decision no. 701-2359-2/1 confirming that the applicant was a *bona fide* co-possessor of part of 1/2 of real property marked as cadastre lot no. 939/4, deed of title no. 535 K.O. Dževar - Sanski Most.

4. The Department for Urban Development, Property-Legal and Housing Issues of the Sanski Most Municipality issued on 26 March 2002 a conclusion authorising the enforcement of the CRPC decision no. 701-2359-2/1. In the operative section of the conclusion, it is stated that the real property in question has been returned into the possession of the owner and that he may repossess it upon the receipt of the conclusion authorising the enforcement. The conclusion also states that the residential building has been devastated.

III. OPINION OF THE CHAMBER

5. 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."

6. The Chamber notes that the facts complained of concern real and movable property destroyed during the armed conflict. Thus, they relate to a period prior to 14 December 1995, which is the date on which the Agreement entered into force. However, the Agreement is only applicable to human rights violations alleged to have occurred subsequent to its entry into force. It follows that the application is incompatible *ratione temporis* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare the application inadmissible.

IV. CONCLUSION

7. 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