



DECISION ON ADMISSIBILITY

Case no. CH/01/7296

Halil HALILOVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel, on 7 November 2001 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
Mr. Mato TADIĆ

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIC, 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 19 September 2001. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to stop construction works over the house situated in Banja Luka. On 7 November 2001, the Chamber decided not to order the provisional measure requested.

2. The applicant complains of procedural decisions of the Court of First instance in Banja Luka, dated 18 July 2001, by which the Court terminated proceedings of judicial separation of property over which the applicant has co-owners rights and instructed him to initiate civil proceedings. The Court further ordered a provisional measure allowing the other co-owner to start construction works on the house in order to prevent irreparable harm to the building.

II. OPINION OF THE CHAMBER

3. In accordance with Article VIII(2) of the Agreement, “the Chamber shall decide which applications to accept ... and shall take into account the following criteria: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted”

4. The Chamber finds that the applicant failed to initiate civil proceedings as instructed by the First Instance Court in Banja Luka. Moreover, the applicant’s appeal of 7 August 2001 against the provisional measure ordered by the Court of First Instance on 18 July is still pending. The applicant has not shown that this remedy was ineffective and it does not appear so to the Chamber. Accordingly, the Chamber finds that the applicant has not, as required by Article VIII(2)(a) of the Agreement, exhausted the effective remedies.

III. CONCLUSION

5. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel