



DECISION ON ADMISSIBILITY

Case no. CH/02/10728

Zvonko LISIČAR

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. 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. FACTS AND COMPLAINTS

1. On 30 October 1996 the applicant initiated proceedings before the First Instance Court Banja Luka for cancellation of a contract on purchase/sale of an apartment.
2. On 30 June 2000 the First Instance Court Banja Luka issued a procedural decision establishing that the lawsuit was withdrawn. By the same procedural decision, the applicant, as plaintiff must pay expenses for the court proceedings. The request by the applicant that the defendants pay to him expenses for the proceedings was rejected as ill-founded.
3. On 10 July 2000 the applicant filed an appeal before the Court against the part related to the proceedings' expenses.
4. The District Court Banja Luka issued a procedural decision on 12 April 2002 partially accepting the plaintiff's appeal. The plaintiff must pay expenses of the proceedings, but the amount of expenses was decreased by the procedural decision of the District Court.
5. The applicant filed a request for protection of legality on 24 May 2002. The Republic Public Prosecutor's Office informed the applicant on 5 August 2002 that it had found no grounds for submitting the request to the Supreme Court of the Republika Srpska.

II. PROCEEDINGS BEFORE THE CHAMBER

6. The applicant introduced the application before the Chamber on 24 September 2002. The applicant is represented by Stevo Ćulibrk, advocate. The applicant requests the Chamber, as a provisional measure, to suspend the enforcement of the procedural decision on expenses of the proceedings at the applicant's burden. The applicant requests compensation for the proceedings' expenses. On 5 May 2003 the Second Panel decided to reject the request for provisional measure.

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: ... (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."
8. The Chamber notes that the applicant complains that the First Instance Court by ordering him to pay expenses for the court proceedings wrongly assessed the facts pertaining to his case and misapplied the law. The domestic law provides that the party will pay the court expenses who withdraws the lawsuit. Article 6 of the European Convention on Human Rights ("the Convention") guarantees the right to a fair hearing. However, the Chamber has stated on several occasions that it has no general competence to substitute its own assessment of the facts and application of the law for that of the national courts (see, e.g., case no. CH/99/2565, *Banović*, decision on admissibility of 8 December 1999, paragraph 11, Decisions August-December 1999, and case no. CH/00/4128, *DD "Trgosirovina" Sarajevo (DDT)*, decision on admissibility of 6 September 2000, paragraph 13, Decisions July-December 2000). There is no evidence that the court failed to act fairly as required by Article 6 of the Convention. It follows that the application is manifestly ill-founded within the meaning of Article VIII(2)(c) of the Agreement. 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