



DECISION ON ADMISSIBILITY

Case no. CH/02/11144

Meho RAMIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

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

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Giovanni GRASSO
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)(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 11 June 2002. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to immediately and unconditionally bring him into possession of the apartment Aleja Bosanskih Vladara 18, in Tuzla, the Federation of Bosnia and Herzegovina. On 2 December 2002, the Chamber decided not to order the provisional measure requested.
2. On 11 June 1992 the applicant, who was the occupancy right holder over an apartment in Belgrade concluded an exchange contract with M.A. to exchange his apartment in Belgrade for M.A.'s apartment Aleja Bosanskih Vladara 18, in Tuzla. However, the applicant never moved into the apartment in Tuzla.
3. It appears that M.A. purchased the apartment in Belgrade in April 1993 and sold it to a third party. The applicant alleges that thereby he has lost his rights over the apartment in Belgrade.
4. It appears that the apartment in Tuzla is listed in the official record as an abandoned apartment and was used by the family of a killed soldier.
5. On 3 March 1999 M.A. filed a request to repossess the apartment in Tuzla which was rejected as it was addressed to an incompetent body.
6. On 30 April 1999 the applicant addressed the HQ of the Second Corps of the Federation of Bosnia and Herzegovina Army ("the Second Corps"). On 20 December 1999 the Second Corps rejected the applicant's request for repossession of the apartment, stating that the exchange contract could not produce legal consequences and that the applicant was not entitled to the apartment. In his application to the Chamber the applicant does not state whether he appealed against this decision or initiated an administrative dispute.

II. 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 an administrative dispute or civil court proceedings in order to repossess his apartment. The applicant has not shown that these remedies would have been 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. The Chamber therefore decides to declare the application inadmissible.

III. 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