



DECISION ON ADMISSIBILITY

Case no. CH/02/8783

“ČAVKUNOVIĆ” d.o.o. Bihać

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 10 May 2002 with the following members present:

Ms. Michèle PICARD, President
Mr. Rona AYBAY, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Želimir JUKA
Mr. Miodrag PAJIĆ
Mr. Andrew GROTRIAN

Mr. Ulrich GARMS Registrar
Ms. Olga KAPIĆ, 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 on 1 February 2002. Mr. Muhamed Čavkunović filed the application on behalf of the limited liability company “Čavkunović” Bihać, of which he is the director. The company is represented by Mr. Mehmed Semanić and Mr. Dragan Lončar, lawyers practising in Bihać

2. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to prevent the Municipal Court in Bihać from transmitting the procedural decision on enforcement of 29 August 2001 to the “Universal” bank, branch office in Bihać, for enforcement, and to forbid this bank to pay to Č.R. any amounts of money mentioned in the procedural decision on enforcement.

II. FACTS

3. By judgement of 6 June 2000 the Municipal Court in Bihać ordered the defendant “Čavkunović” Bihać to pay the plaintiff Č.R. the amount of 178,000 KM as compensation for investment in land for the construction of a warehouse on the cadastral lot no. 9655/5, registered in the deed of title no. 4200 of the Cadastral Municipality Bihać-grad. This amount, together with the legally prescribed interest, was due on 6 June 2000, as were all costs of procedure in the amount of 21,368 KM. With regard to the other defendant, the Municipality Bihać, the Municipal Court rejected the complaint.

4. On 26 July 2000 the applicant submitted an appeal against the above-mentioned judgement on grounds of serious violations of the civil procedure, insufficient and wrongly established facts and wrong application of substantive law. On 15 February 2001, the Cantonal Court in Bihać issued a judgement rejecting the applicant’s appeal and confirming the first instance judgement.

5. On 26 March 2001 the applicant submitted a request for “revision” (revizija) against the judgement of the Cantonal Court. On 7 December 2001, the Supreme Court of the Federation of Bosnia and Herzegovina decided to reject the request for revision.

6. On 3 March 2001 Č.R. submitted to the Municipal Court in Bihać a motion for the enforcement of the judgement of the Municipal Court of 6 June 2000. The Municipal Court issued the procedural decision on enforcement on 29 August 2001. The applicant alleges that he submitted an objection to the execution, which was rejected by the procedural decision of the Municipal Court in Bihać of 15 January 2002. The applicant appealed also against this court decision. To the Chamber’s knowledge, this appeal is still pending.

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 courts wrongly assessed the facts pertaining to his case. Article 6 of 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 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 courts 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)
Michèle PICARD
President of the First Panel