



DECISION ON ADMISSIBILITY

Case no. CH/02/8995

Halil HRUSTANOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 11 October 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 21 February 2002 and registered the same day. The applicant requested a provisional measure prohibiting the cutting of forest on a wooded plot in the Brijeg Forest. The Chamber rejected this request for a provisional measure on 2 September 2002.

2. The case concerns the applicant's request for a provisional measure or other order prohibiting cutting and arson on a wooded plot in the Brijeg forest. The applicant alleges that the plot in question was seized from his legal predecessors in interest in 1952 by a procedural decision of the District Agrarian Commission Sarajevo. He alleges that he is entitled to restitution for the devaluation of the property, although no Law on Restitution has been adopted by the Parliament of the Federation of Bosnia and Herzegovina. The applicant claims a violation of his property rights under Article 1 of Protocol No. 1 to the Convention.

II. OPINION OF THE CHAMBER

3. 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."

4. The Chamber finds that certain facts complained of relate to a period prior to 14 December 1995, which is the date on which the Agreement entered into force. However, the Agreement only governs facts subsequent to its entry into force. It follows that the application, insofar as it addresses earlier events, 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 partly inadmissible on this basis.

5. The Chamber will next examine whether the applicant's prospect of receiving restitution, once restitution legislation will have been enacted and come into force, constitutes a "possession" within the meaning of Article 1 of Protocol No. 1 to the Convention.

6. The first paragraph of Article 1 of Protocol No. 1 reads:

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided by law and by the general principles of international law."

7. The Chamber recalls that a protected "possession" can only be an "existing possession" or, at least, an asset that the applicant has a "legitimate expectation" to obtain (case no. CH/98/1040, *Živojnović*, decision on admissibility of 9 October 1999, paragraphs 18-21, Decisions August-December 1999).

8. The Chamber is of the opinion that, in order to be a "legitimate expectation" constituting a protected possession, the applicant's prospects would have to be based on legislation currently in force or on a valid administrative act. The applicant's claim to restitution, however, is based on his expectation that the Federation of Bosnia and Herzegovina will enact a law on restitution and that, under this future law, he will be entitled to restitution for the alleged devaluation of the property. This expectation, as reasonable as it may be, cannot constitute a "legitimate expectation" protected by Article 1 of Protocol No. 1 to the Convention. The remainder of the application is therefore incompatible *ratione materiae* with the provisions of the Agreement.

III. 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