



DECISION ON ADMISSIBILITY

Case no. CH/02/9498

Dejan JAKOVLJEVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 2 July 2003 with the following members present:

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER, Vice-President
Mr. Mehmed DEKOVIĆ
Mr. Giovanni GRASSO
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)(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 12 February 2002. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to prevent his eviction from the apartment he occupies. On 5 May 2003, the Chamber decided not to order the provisional measure requested.

2. At the time of submission of the application, the applicant occupied an apartment located in Srpski Brod, the Republika Srpska. He entered into possession of this apartment based on a contract on exchange of apartments concluded between him and the pre-war occupancy right holder of the apartment on 7 July 1992. By this contract, the applicant exchanged his apartment in Zaprešić, the Republic of Croatia, for the one in Srpski Brod. The applicant complains of a decision of the Ministry for Refugees and Displaced Persons in Banja Luka, entitling the pre-war occupant to regain possession of the apartment in Srpski Brod and ordering the applicant's eviction from it. The applicant claims the Ministry should have suspended the proceedings and referred the parties to initiate court proceedings concerning the validity of the contract on exchange. The applicant has not submitted any evidence that he initiated any such court proceedings.

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: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted"

4. The Chamber notes that the applicant failed to initiate proceedings before the competent domestic courts concerning the validity of the exchange contract. The applicant has not shown that this remedy is 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

5. 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