



DECISION ON ADMISSIBILITY

Case no. CH/03/12978

Goran STANIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

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 10 February 2003. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to de-block the accounts of the "Mesna industrija Stanić" firm until the proceedings are finalised before the Supreme Court of the Federation of Bosnia and Herzegovina. On 5 May 2003, the President of the Second Panel decided not to order the provisional measure requested.

2. Based on the procedural decision issued by the Federal Ministry of Finance – the Customs Office in Novi Travnik, which became final on 25 September 2002, the applicant was obliged to pay the total amount of 12,686,098.46 KM for special tax. On 15 November 2002, the Ministry proposed the forcible execution of the procedural decision and ordered the Hypo-Alpe-Adria Bank, the "Raiffeisen Bank-HPB" and the Zagrebačka banka to block the accounts of the "Mesna industrija Stanić" firm and to charge the indebted amount against the accounts of the applicant. The applicant initiated administrative dispute proceedings before the Supreme Court of the Federation of Bosnia and Herzegovina.

3. The applicant complains that the Federal Ministry of Finance, by issuing the order for forcible execution of the amount of 12,686,098.46 KM from the accounts of the firm, without a court order and adequate court decision authorising such action, has breached his right to defence and to a fair trial.

II. OPINION OF THE CHAMBER

4. 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"

5. The Chamber notes that the administrative dispute proceedings before the Supreme Court challenging the decision of the Ministry of Finance are still pending. 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

6. 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