



DECISION ON ADMISSIBILITY

Case no. CH/03/13377

Petar HRNJKAŠ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 5 June 2003 with the following members present:

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

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)(c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The application was introduced on 17 March 2003 and concerns proceedings on the partition of real estate before the Municipal Court in Odžak.
2. The applicant initiated such proceedings on 13 November 2000. On 12 November 2001, the Municipal Court in Odžak rejected the applicant's claim as incomplete. This procedural decision was overruled by the Cantonal Court in Odžak, which found that the Municipal Court should have invited the applicant to complete his submissions. The case was to be re-considered by the Municipal Court.
3. In the renewed proceedings of first instance, the applicant filed several requests aiming at the exclusion of the judge in charge, but without any success. Already before exclusion requests were filed, the Municipal Court had suspended proceedings until the applicant's ownership of the land to be partitioned was clarified in ordinary court proceedings. The Cantonal Court on 27 November 2002 quashed the Municipal Court's decision on suspension on the ground that it was issued by a judge whose exclusion was subsequently requested. The proceedings before the Municipal Court are still pending.

II. COMPLAINT

4. The applicant alleges a violation of his right to a fair trial pursuant to Article 6 of the Convention.

III. OPINION OF THE CHAMBER

5. 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 ...".
6. The Chamber notes that the applicant's complaint is premature as the proceedings are still pending before the Municipal Court in Odžak. Accordingly, the domestic remedies have not been exhausted as required by Article VIII(2)(a) of the Agreement. The Chamber therefore decides to declare the application inadmissible.

IV. CONCLUSION

7. 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