



DECISION ON ADMISSIBILITY

Case no. CH/03/13590

Ljubomir KOLUNDŽIJA

against

BOSNIA AND HERZEGOVINA

and

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 Articles VIII(2)(a) and 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 19 May 2003. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to prevent his eviction from an apartment which he occupies, scheduled for 17 June 2003. On 6 June 2003, the Chamber decided not to order the provisional measure requested.

2. The applicant complains of a decision of the Ministry for Refugees and Displaced Persons of the Republika Srpska, Department Banja Luka, ordering his eviction from an apartment which he occupies. The eviction was ordered because the pre-war occupant has obtained a decision entitling him to regain possession of the apartment and terminating the applicant's temporary right to use it. The applicant states that the pre-war occupancy right holder does not have refugee and displaced persons' status and accordingly does not have the right to repossess the apartment. The applicant did not file an appeal against the above-mentioned decision of the Ministry for Refugees and Displaced Persons of the Republika Srpska, Department Banja Luka.

II. OPINION OF THE CHAMBER

A. As related to Bosnia and Herzegovina

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 applicant addressed his application against Bosnia and Herzegovina. The Chamber notes that the Ministry for Refugees and Displaced Persons of the Republika Srpska, Department Banja Luka, and other Republika Srpska government organs are responsible for the actions of which the applicant is complaining. These organs' actions fall under the competence of the Republika Srpska and not under the competence of Bosnia and Herzegovina. It follows that the application, as against Bosnia and Herzegovina, is incompatible *ratione personae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare the application inadmissible as against Bosnia and Herzegovina.

B. As related to Republika Srpska

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. As regards the complaints addressed against the Republika Srpska, the Chamber notes that the applicant failed to file an appeal against the decision of the Ministry for Refugees and Displaced Persons of the Republika Srpska, Department Banja Luka, ordering him to move out of the apartment he is currently occupying. 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 as against the Republika Srpska.

III. CONCLUSION

7. 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