



DECISION ON ADMISSIBILITY

Case no. CH/03/14040

Vladimir PLANINČIĆ

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)(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 24 April 2003. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to postpone enforcement of the judgment of the Court of First Instance in Sokolac of 17 May 2002, ordering the applicant to return his pre-war apartment to the allocation right holder for its disposal. On 2 June 2003, the President of the Second Panel decided not to order the provisional measure requested.

2. On 17 April 2000, the applicant filed a request for repossession of his apartment to the Ministry for Refugees and Displaced Persons, Section Sokolac, and received a procedural decision establishing him as the occupancy right holder over the apartment concerned and allowing him to repossess it. On 22 June 2001, the allocation right holder of the apartment, ODP "Romanija" Sokolac, filed a lawsuit before the Court of First Instance in Sokolac against the applicant for cancellation of the contract on use of the apartment in Sokolac because the applicant was allocated an apartment in Sarajevo in 1991 and he moved there before the war. The Court of First Instance in Sokolac issued a judgment accepting the appeal of ODP "Romanija" and ordered the applicant to return the apartment to the allocation right holder for its disposal. The applicant filed an appeal, stating that the Court of First Instance wrongly assessed the facts of his case. The District Court in Srpsko Sarajevo, by its judgment of 10 March 2003, rejected his appeal. On 5 April 2003, the applicant filed a request for review (*revizija*) to the Supreme Court of the Republika Srpska. These proceedings are still pending.

3. The applicant claims that the Court of the First Instance in Sokolac, by issuing a judgment ordering him to return the apartment in Sokolac to the allocation right holder for its disposal, has violated his rights under Articles 6 and 8 of the European Convention on Human Rights (the "Convention") and Article 1 of Protocol No. 1 to the Convention.

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: ... (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."

5. The Chamber notes that the applicant complains that the First Instance Court in Sokolac wrongly assessed the facts pertaining to his case. Article 6 of the Convention guarantees the right to a fair hearing. However, the Chamber has stated on several occasions that it has no general competence to substitute its own assessment of the facts and application of the law for that of the national courts (see, e.g., case no. CH/99/2565, *Banović*, decision on admissibility of 8 December 1999, paragraph 11, Decisions August-December 1999, and case no. CH/00/4128, *DD "Trgosirovina" Sarajevo (DDT)*, decision on admissibility of 6 September 2000, paragraph 13, Decisions July-December 2000). There is no evidence that the courts failed to act fairly as required by Article 6 of the Convention. It follows that the application is manifestly ill-founded within the meaning of Article VIII(2)(c) of the Agreement. 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