



DECISION ON ADMISSIBILITY

Case no. CH/01/7250

Blago MIŠIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 4 February 2003 with the following members present:

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
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. STATEMENT OF FACTS

1. According to the applicant, the Commission for Real Property Claims of Displaced Persons and Refugees ("CRPC") on 5 August 1999 issued a decision, confirming that he is the owner of real estate and land in the Municipality Maglaj, the Federation of Bosnia and Herzegovina, registered as cadastral plot no. 114/2. The applicant claims that the respondent Party has destroyed and exploited his real estate and land.

2. The applicant has not initiated proceedings before any domestic organs or courts with regard to his complaints concerning the alleged damage to his real estate and land. He states that he has no confidence in the domestic judiciary.

II. PROCEEDINGS AND COMPLAINTS BEFORE THE CHAMBER

3. The application was introduced to the Chamber on 6 August 2001. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to stop the exploitation of his family's real estate, land and forest. On 2 December 2002, the Chamber decided not to order the provisional measure requested.

4. In his application, the applicant alleges that the Federation of Bosnia and Herzegovina has destroyed his property, and by doing so, it has violated his rights guaranteed under the Constitution of Bosnia and Herzegovina and Annex 6 and Annex 7 to the General Framework Agreement.

5. The applicant further filed a claim for compensation in the amount of 150,000 KM for pecuniary damage and an unspecified amount for non-pecuniary damage.

III. OPINION OF THE CHAMBER

6. 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"

7. The Chamber notes that the applicant has not initiated any proceedings before the domestic organs or courts with regard to his complaints. Although the applicant has stated that he has no confidence in the domestic judiciary, he has not shown that domestic proceedings would be ineffective and they do not appear so to the Chamber. It is an established rule of international law that the applicant's mere doubts as to the effectiveness of domestic remedies, do not absolve him from the requirement of exhausting them. The Chamber therefore decides to declare the application inadmissible.

IV. CONCLUSION

8. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATIONS INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Mato TADIĆ
President of the Second Panel