



DECISION ON ADMISSIBILITY

Case no. CH/99/1981

Slavica ILIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 12 January 2000 with the following members present:

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

Mr. Anders MÅNSSON, Registrar
Ms. Olga KAPIĆ, 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. FACTS

1. The applicant, a citizen of Bosnia and Herzegovina, is a displaced person of Serb origin from Sarajevo, currently residing in Bijeljina, Republika Srpska.
2. On 10 July 1992 she was allocated part of a house by the municipal authorities in Bijeljina. On 2 February 1995 another person, Mr. D.K., was allocated the remainder of the house by the municipal authorities. Mr. D.K. also occupied part of the house allocated to the applicant, although not entitled to do so. The applicant appealed against the decision of 2 February 1995. On 15 October 1995 the second instance body refused her appeal. The applicant initiated an administrative dispute against the second instance decision before the Supreme Court of the Republika Srpska, claiming that the decision allocating part of the property she occupied to Mr. D.K. was made on incorrect legal and factual bases.
3. On 17 July 1996 the Supreme Court refused the applicant's claim as unsubstantiated. She later requested the Supreme Court to review its decision, which is an extraordinary remedy under the law of the Republika Srpska. On 14 October 1997 it refused her request.
4. The applicant alleges that Mr. D.K. physically and mentally maltreats her and members of her family. She claims that she has addressed the local police for assistance on a number of occasions, and that they have refused to assist her. She claims that the reason for this is that Mr. D.K. has a close relative in a senior position in the police in Bijeljina. She also complains that Mr. D.K. runs a business from the property they occupy and that he has demanded that she share the costs of electricity with him. She claims that as a result of her failure to share these costs, which are very high, she now has no electricity.
5. On 17 February 1997 the applicant requested the Ministry for Refugees and Displaced Persons to remove Mr. D.K. from the part of the house allocated to her for occupation. On 22 December 1998 she made an addition to this request. She has not informed the Chamber of the response of the Ministry, if any, to this request.

II. COMPLAINTS

6. The applicant complains that her right not to be subjected to inhuman and degrading treatment and her rights to liberty and security of person, to respect for home, private and family life and to access to court have been violated.

III. PROCEEDINGS BEFORE THE CHAMBER

7. The application was introduced on 19 July 1999 and registered on the following day. The applicant requested that the Chamber order the respondent Party as a provisional measure to move Mr. D.K to the ground floor of the house and to allow the applicant to use the first and second floors. She also requested that the respondent Party be ordered as a provisional measure to restore the electricity supply to the part of the house she occupies.
8. On 1 November 1999 the Chamber refused the request and considered the admissibility of the application.

IV. OPINION OF THE CHAMBER

9. Before considering the merits of the case the Chamber must decide whether to accept the case, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement. According to Article VIII(2)(a), the Chamber must consider whether effective remedies exist and whether the applicant has demonstrated that they have been exhausted and whether the application has been filed within six months from the date of the final decision on the matter at national level.

A. The applicant's residence in the property and her procedural rights

10. The Chamber notes that the applicant initiated an administrative dispute before the Supreme Court of the Republika Srpska against the decision of the municipal authorities allocating part of the property she occupies to Mr. D.K. The final decision in these proceedings was issued by the Supreme Court on 14 October 1997. Her application was lodged to the Chamber on 19 July 1999, one year and nine months later. The applicant has not sought to explain any special circumstances which would justify a departure from the six-months time-limit provided for in Article VIII(2)(a), nor can the Chamber find any of its own motion. Accordingly, this part of the application is to be declared inadmissible.

B. The applicant's complaints concerning her alleged maltreatment and the disconnection of her electricity

11. The applicant also complains of maltreatment at the hands of Mr. D.K. and of the failure of the police in Bijeljina to take any action on her behalf and also of the fact that her electricity has been disconnected. The Chamber notes that it would be open to her to initiate proceedings before the courts of the Republika Srpska in respect of these matters. She has not done so, however. In addition she has not sought to show that the initiation of such proceedings would not be an effective remedy in her case. Accordingly, this part of the application is to be declared inadmissible for failure to exhaust domestic remedies.

12. Accordingly, the application is to be declared inadmissible in accordance with Article VIII(2)(a) of the Agreement, partly as the application was not lodged with the Chamber within six months of the final decision at national level and partly as the applicant has not demonstrated that she has exhausted the effective domestic remedies available to her.

V. CONCLUSION

13. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel