



## **DECISION ON ADMISSIBILITY**

**Case no. CH/99/1848**

**Emilija ZDJELAR**

**against**

**THE REPUBLIKA SRPSKA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 10 November 2000 with the following members present:

Mr. Giovanni GRASSO, President  
Mr. Viktor MASENKO-MAVI, Vice-President  
Mr. Jakob MÖLLER  
Mr. Mehmed DEKOVIĆ  
Mr. Vitomir POPOVIĆ  
Mr. Mato TADIĆ

Mr. Peter KEMPEES, 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)(c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

## **I. FACTS**

1. The applicant is a citizen of Bosnia and Herzegovina. Following the dissolution of her marriage with Mr. P.S. on 25 January 1998 she initiated proceedings, on 16 February 1998, before the Court of First Instance in Banja Luka to have their property divided. On 12 June 1998, while conducting these proceedings, the Court ordered Mr. P.S. as a provisional measure to support the applicant by paying her a percentage of his income until the court reached its final decision. On 23 November 1998 the Regional Court in Banja Luka overturned this decision and returned the case to the Court of First Instance for reconsideration. These proceedings are still pending. On 20 July 1998 the Court of First Instance ordered Mr. P.S. as a provisional measure not to dispose with certain real estate. Mr. P.S. appealed against this decision to the Regional Court in Banja Luka. These proceedings are still pending. During a hearing held on 2 March 1999, the Court postponed the proceedings concerning the division of property for an indefinite period of time. However, the Court specified that the date of the following hearing would be fixed after Mr. P.S.'s representative had made submissions in the case. It is not clear whether there have been any developments in these proceedings since then.

## **II. COMPLAINTS**

2. The applicant claims that her property rights have been violated due to the length of the proceedings before the courts.

## **III. PROCEEDINGS BEFORE THE CHAMBER**

3. The application was introduced on 18 February 1999 and registered on the same day.

## **IV. OPINION OF THE CHAMBER**

4. Before considering the merits of the case the Chamber must decide whether to accept it, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement. According to Article VIII(2)(c), the Chamber may dismiss any application which it considers manifestly ill-founded.

5. The Chamber notes that the present case essentially involves proceedings between the applicant and her former husband concerning the division of matrimonial property. Normally, such disputes between private parties do not give rise to a violation which could be attributed to one of the Parties to the Agreement (case no. CH/98/1209, *Beronja*, decision on admissibility of 12 November 1998, Decisions and Reports 1998). The facts in the case do not disclose any matter which would indicate that this case involves the responsibility of the respondent Party.

6. The Chamber recalls that "the reasonableness of the length of the proceedings is to be assessed in the light of the circumstances of the case and having regard to the criteria laid down in the (European) Court's case-law, in particular the complexity of the case and the conduct of the applicant and the relevant authorities" (case no. CH/97/54, *Mitrović*, decision on admissibility of 10 June 1998, paragraph 10 Decisions and Reports 1998). In view of the prevailing circumstances, the Chamber does not consider that the period that has elapsed since the applicant initiated proceedings (2 years and 8 months) is excessive for a case of the present nature, especially in view of the fact that the decision on provisional measure has been appealed against.

7. Accordingly, the Chamber decides not to accept the application pursuant to Article VIII(2)(c) of the Agreement.

**V. CONCLUSION**

8. For these reasons, the Chamber, unanimously,

**DECLARES THE APPLICATION INADMISSIBLE.**

(signed)  
Peter KEMPEES  
Registrar of the Chamber

(signed)  
Giovanni GRASSO  
President of the Second Panel