



DECISION ON ADMISSIBILITY

Case no. CH/02/12268

Dragica ĐOKIĆ

against

BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 8 November 2002 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. Ulrich GARMS, 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 INTRODUCTION

1. The application was introduced on 20 September 2002. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to prevent her eviction from an apartment which she occupies. On 11 October 2002 the Chamber decided not to order the provisional measure requested.

II FACTS

2. Ms. P.N. was the occupancy right holder over the apartment in question in Brčko from 1965. The applicant alleges that she took over the care for P.N. since 1994 and they agreed orally on support for lifetime. On 19 December 1999 P.N. and the applicant concluded officially and legally a contract of support for lifetime and ratified it with the First Instance Court in Brčko. According to the contract P.N.'s apartment, after her death, would be left to the applicant.

3. After P.N.'s death the applicant filed to the Brčko District First Instance Court a proposal to establish her as the occupancy right over the apartment concerned.

4. On 13 December 2001 the applicant's request was refused by the decision of the Brčko District First Instance Court, with the reasoning that she was not entitled to the apartment in accordance with Article 6 of the Law on Housing Relations.

5. The applicant filed an appeal against the decision of the Brčko District First Instance Court with the Second Instance Court which refused the applicant's appeal on 20 March 2002 and upheld the decision of the Brčko District First Instance Court of 13 December 2001.

6. On 7 May 2002 the Brčko District First Instance Court allowed the enforcement of the decision of 13 December 2001 against the applicant by vacating the apartment from persons and things and handing it over to its owner. The applicant's eviction was scheduled for 8 October 2002.

III COMPLAINTS

7. The applicant complains of violations of her rights guaranteed by Articles 6 and 14 of the European Convention on Human Rights and Article 1 of Protocol No. 1 to the Convention. The applicant does not explain how and on what grounds she was allegedly discriminated against.

IV OPINION OF THE CHAMBER

8. 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."

9. The Chamber notes that the applicant complains that the courts of the Brčko District wrongly assessed the facts pertaining to her case and misapplied the law. 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 court 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.

V CONCLUSION

10. For these reasons, the Chamber, unanimously,
DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel