



DECISION ON ADMISSIBILITY

Case no. CH/99/1607

Sead PIRIĆ

against

BOSNIA AND HERZEGOVINA

and

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 2 July 2003 with the following members present:

Mr. Miodrag PAJIĆ, Acting President
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA
Mr. Andrew GROTRIAN

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. FACTS

1. The application was introduced on 17 February 1999. The applicant is a citizen of Bosnia and Herzegovina from Tuzla.
2. On 18 June 1985, the applicant's father, Mr. Paša Pirić, and the applicant concluded a contract on life support. On 18 January 1992 the applicant's father died. It appears that before his death, the applicant's father initiated court proceedings with a view to cancel all obligations arising from the contract. On 3 March 1997, the First Instance Court in Tuzla issued a judgment to that end. Upon appeal of the applicant, the judgment was confirmed by the Cantonal Court in Tuzla on 2 June 1997 and again in revision proceedings by the Supreme Court of the Federation of Bosnia and Herzegovina on 11 December 1997.
3. On 19 July 2000, the Municipal Court in Tuzla issued a decision declaring that the applicant along with two of his sisters had a joint share of 1/3 each in the inheritance of their father Paša Pirić. The applicant appealed against this decision, alleging the Municipal Court had relied on an incomplete assessment of facts and misapplied the relevant legal provisions. On 20 June 2001, the Cantonal Court in Tuzla rejected the appeal and confirmed the Municipal Court decision of 19 July 2000.

II. COMPLAINTS

4. The applicant alleges a violation of his right to property and of his right to a fair hearing by the domestic courts both in the proceedings leading to the cancellation of the contract on life support and in the determination of his inheritance share.

III. OPINION OF THE CHAMBER

5. 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."
6. The applicant directs his application against Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina. The Chamber notes that the applicant has not provided any indication that Bosnia and Herzegovina is in any way responsible for the actions he complains of, nor can the Chamber on its own motion find any such evidence. The application is therefore incompatible *ratione personae* with the Agreement insofar as it is directed against Bosnia and Herzegovina.
7. The Chamber further notes that the applicant complains that the courts in Tuzla wrongly assessed the facts pertaining to his 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.

IV. CONCLUSION

8. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Miodrag PAJIĆ
Acting President of the First Panel