



DECISION ON ADMISSIBILITY

Case no. CH/02/12368

Atif BRATIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 December 2002 with the following members present:

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

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 applicant complains of a judgement of the Supreme Court of the Federation of Bosnia and Herzegovina ordering his eviction from his apartment. He alleges violations of Articles 6 and 8 of the European Convention on Human Rights and Article 1 of Protocol No. 1 to the Convention.
2. On 10 November 1975, the applicant obtained a procedural decision from the company "Izgradnja" (Construction), allocating for his use an apartment located at ulica Saliha Čakana Mulalića no. 6/C. On the basis of that decision, the applicant entered into a contract for the use of the apartment on 9 February 1976.
3. The applicant alleges that, on 9 January 1978, "Željezara Zenica" (Steel Factory Zenica) filed a lawsuit against Izgradnja and the applicant, requesting annulment of the 10 November 1975 procedural decision allocating the apartment to the applicant. A third defendant, "SIZ stanovanja Zenica" (Self-managing Housing Community Zenica), was subsequently added to the lawsuit in connection with the plaintiff's request to annul the 9 February 1976 contract, to which the three defendants were parties.
4. According to the applicant, several judgements were issued in this proceeding, but they were annulled by the second instance courts. The 1978 civil proceeding was ultimately concluded by a judgement of the Supreme Court dated 31 July 2002, establishing that the 10 November 1975 procedural decision and the 9 February 1976 contract were without legal effect. The Supreme Court ordered the applicant to vacate the apartment within 15 days of his receipt of the judgement.
5. The applicant states that a 1963 general contract between Izgradnja and Željezara Zenica regulates their respective rights to dispose of apartments. He asserts that he legally obtained the apartment and that his rights have been violated by the decisions of the courts.

II. PROCEEDINGS BEFORE THE CHAMBER

6. The application was introduced on 23 October 2002 and registered the same day. The applicant is represented by Anto Petrušić, a lawyer practising in Zenica. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to prohibit the enforcement of a judgement issued by the Supreme Court of the Federation of Bosnia and Herzegovina ordering his eviction from his apartment. On 5 November 2002, the Chamber decided not to order the provisional measure requested. On 6 December 2002, the Chamber considered the admissibility of the case and adopted the present decision.

III. OPINION OF THE CHAMBER

7. 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."
8. The Chamber notes that the applicant complains that the courts 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 or 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 courts 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

9. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Viktor MASENKO-MAVI
Acting President of the Second Panel