



DECISION ON ADMISSIBILITY

Case no. CH/02/9993

Nedeljko ŠKORIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 7 November 2002 with the following members present:

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

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 18 April 2002. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to prevent the Municipality of Bijeljina from selling the property of the deceased B.P., a cousin of the applicant. On 8 October 2002, the First Panel decided not to order the provisional measure requested.

2. The applicant complains that his rights under Article 1 of Protocol No. 1 to the Convention have been violated, because his right to inheritance has been denied by the Courts.

3. On 11 January 2000, the First Instance Court in Bijeljina issued a decision relating to the inheritance proceedings regarding B.P.'s estate, establishing that since B.P. was not married, had no children, brothers or sisters, uncles or aunts alive at the moment of her death and since none of the remaining relatives were lawful inheritors under the Law on Inheritance, B.P.'s estate becomes state property. It ordered that B.P.'s entire estate be registered as state property with the right of use on behalf of the Municipality Bijeljina.

4. The applicant submitted an appeal against the procedural decision of 11 January 2000. On 29 March 2000, the Second Instance Court in Bijeljina rejected the appeal and confirmed the first instance procedural decision. On 3 July 2000, the applicant submitted a request for revision against the procedural decision of 29 March 2000. On 21 September 2000, the First Instance Court rejected the request for revision as ill-founded. The applicant appealed against the procedural decision of 21 September 2000 before the Second Instance Court which on 15 February 2001, rejected the appeal and confirmed the first instance procedural decision. The applicant then requested from the Constitutional Court of the Republika Srpska to initiate a procedure for assessment of the constitutionality of the Law on Inheritance. However, on 2 April 2001, the Constitutional Court rejected his petition. On 19 February 2002, the First Instance Court, upon the applicant's complaint for annulment of the procedural decision on inheritance of 11 January 2000, issued a judgement rejecting the applicant's complaint.

5. In his application to the Chamber the applicant complains that the procedural decision of 11 January 2000 was issued on the basis of the Law on Inheritance which aims at strengthening the socialist system and therefore is contrary to the current trend of creating a democratic society based on the of rule of law and human freedoms. He pointed out that such decision represents a kind of confiscation, robbery, theft and an act of discrimination of the courts towards the blood relatives of the deceased. He considers that the Municipality will sell his inheritance.

6. The applicant further requests from the Chamber to issue a binding decision retroactively annulling Articles 3, 8, 9, 17, 165 and 238 of the Law on Inheritance. He also requests that the Chamber declare null and void the above-mentioned decisions of the First Instance and Second Instance Courts and return the case for renewed procedure, or, in the alternative, that the Chamber award him compensation by the Republika Srpska for the movable and immovable property of the deceased in the amount of 250,000 KM.

II. 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 because the inheritance law does not allow cousins to be considered as lawful inheritors, there has been an interference with his right to inheritance. However, this is not a right which is included among the rights and freedoms guaranteed under the Agreement. It follows that the application is incompatible *ratione materiae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare this part of the application inadmissible.

9. As to the applicant's claim that he is the victim of discrimination, the Chamber notes that the applicant has failed to substantiate his allegations. Therefore, the Chamber finds that the application does not in this respect disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. 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 this part of the application inadmissible, too.

III. CONCLUSION

10. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel