



DECISION ON ADMISSIBILITY

Case no. CH/98/782

Mijo PRANJIĆ

against

THE FEDERATION OF 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. 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 application was introduced on 17 July 1998.
2. The applicant requests the Chamber to annul all decisions issued in proceedings conducted before domestic courts between the applicant and his brother, A.P., concerning the disturbance of and reinstatement into possession of plot no. k.č. 1742/1 KO Pisci, plowfield "Njiva".

II. FACTS

3. On the basis of contracts on donation concluded with their father, the applicant acquired ownership of the plot registered as k.č. 1742/2 KO Pisci, of 5000 m², and his brother, A.P., acquired ownership of the plot registered as k.č. 1742/1 KO Pisci, of 1500 m².
4. However, in actuality, the applicant used only a part of the plot he was given, in the amount of 4279 m². In order to be compensated for the size of a plot up to 5000 m², as he was originally given by his father, on 6 February 1994 the applicant concluded a contract on donation with his mother for the plot registered as k.č. 1742 KO Pisci, of 721 m².

A. Proceedings before the court on the lawsuit of A.P.

5. On 28 March 1994 A.P. filed a lawsuit with the Municipal Court in Tuzla against the applicant for disturbance of possession with the plot registered as k.č. no. 1742/1. The Municipal Court issued a procedural decision on 4 July 1994 establishing that the applicant had disturbed such peaceful possession of A.P. The applicant filed an appeal against that procedural decision. On 17 August 1995 the Higher Court in Tuzla rejected the appeal and upheld the first instance procedural decision.
6. On 21 February 1997 the Municipal Court issued a procedural decision on execution of the judgment of 4 July 1994. The applicant filed an objection against that procedural decision. On 24 April 1997 the Municipal Court rejected the applicant's objection and also rejected the applicant's proposal to postpone the execution. The applicant filed an appeal. On 14 May 1999 the Cantonal Court in Tuzla accepted the appeal, quashed the first instance procedural decision, and returned the case to the first instance court for reconsideration.

B. Proceedings before the court on the applicant's lawsuit

7. On 30 May 1994 the applicant filed a lawsuit with the Municipal Court against A.P. to regain possession of certain real estate. On 8 August 1995 the Municipal Court issued a judgment rejecting the applicant's request. The applicant filed an appeal. On 26 March 1996 the Higher Court in Tuzla rejected the appeal and upheld the first instance judgment.
8. The applicant filed a request for review against the judgment of the Higher Court. On 28 August 1997 the Supreme Court of the Federation of Bosnia and Herzegovina issued a judgment rejecting the request for review.

III. OPINION OF THE CHAMBER

9. 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."
10. The Chamber notes that the applicant complains that the courts wrongly assessed the facts pertaining to his case. 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 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). The applicant's allegations regarding lack of impartiality of the courts are unsubstantiated, and 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

11. 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