



DECISION ON ADMISSIBILITY

Case no. CH/99/3449

Zehnira LOJO

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 11 May 2000 with the following members present:

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

Mr. Anders MÅNSSON, 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 as well as Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant is a citizen of Bosnia and Herzegovina. On 21 December 1988 her husband filed for divorce at the Municipal Court I in Sarajevo. At that time, both spouses were citizens of Bosnia and Herzegovina. Apparently, the husband presently lives in Germany. The applicant stated from the outset of the Sarajevo divorce proceedings that she had already initiated such proceedings before the Family Court in Kassel, Germany. However, it appears from the case-file that the proceedings before the Kassel court were initiated on 20 June 1989, i.e. later than the proceedings before the court in Sarajevo. The applicant requested the Municipal Court to pronounce itself incompetent to deal with the case as, in her opinion, the matter should be examined by a court in the country where the spouses lived. She maintained that she and her husband never had had residence in the territory of the Federation of Bosnia and Herzegovina and that she had lived in Germany since they got married. Further, their two sons were born in Germany.

2. By a judgment of 26 February 1997, having found itself competent to deal with the matter and thus having rejected the applicant's objection, the Municipal Court dissolved the marriage. The applicant apparently received the judgment on 6 September 1999. On 16 September 1999 she appealed to the Cantonal Court in Sarajevo. She stated, *inter alia*, that the Kassel court refuses to deal with the case as long as it is pending before the courts in Sarajevo.

3. By a judgment of 23 September 1999 the Cantonal Court confirmed the Municipal Court's judgment regarding the divorce. The Cantonal Court was of the opinion that it was competent to deal with the divorce suit, finding that the applicant and her ex-husband were citizens of Bosnia and Herzegovina and that their last joint residence was in Sarajevo.

4. The applicant has lodged a request for review of the Cantonal Court's judgment. The Supreme Court of the Federation of Bosnia and Herzegovina has not yet decided on this request.

II. COMPLAINTS

5. The applicant has not claimed any specific violation of her rights under the Agreement. She is of the opinion that a German court should deal with this matter since it would be able to resolve the case qualitatively better than the courts in the Federation of Bosnia and Herzegovina. Further, she alleges that the Federation courts that examined the case did not properly apply the domestic laws.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was introduced and registered on 30 September 1999.

IV. OPINION OF THE CHAMBER

7. Before deciding on the merits of the application, the Chamber must decide whether to accept it, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement. According to Article VIII(2)(c), the Chamber shall dismiss any application which it considers manifestly ill-founded.

8. The applicant's complaints appear to raise issues under Article 6 of the European Convention on Human Rights, as to the fairness of the divorce proceedings, and Article 8 of the Convention, as to her right to respect for her family life. She mainly complains that the divorce matter should have been dealt with by the courts in Germany, as the Federation courts were incompetent *ratione loci*. The Chamber considers, however, that the determination of the spouses' nationality and residence, and thus the question of the Federation courts' competence to examine the matter, is an issue for the Federation courts to resolve. On the basis of the evidence before it, the Chamber cannot find that the resolution of this issue or any other part of the case before the Federation courts has involved a violation of the applicant's rights under the Agreement.

9. Accordingly, the Chamber decides not to accept the application, it being manifestly ill-founded within the meaning of Article VIII(2)(c) of the Agreement.

V. CONCLUSION

10. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel