



DECISION ON THE ADMISSIBILITY

CASE No. CH/98/807

Nail RIZVANOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 7 June 1999 with the following members present:

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

Mr. Leif BERG, 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. FACTS

1. The applicant was sentenced to death by the District Military Court of Zenica on 4 August 1993 for crimes he committed as a member of the Army of the Republic of Bosnia and Herzegovina on 17 June 1993. The applicant is currently in prison in Zenica.

2. On 9 August 1997 the father of the applicant contacted the Chamber seeking assistance in having the death sentence against the applicant commuted to imprisonment. The case was registered by the Chamber on 1 September 1997 under number CH/97/59. On the same day the Chamber issued a provisional measure ordering the respondent Party to refrain from executing the death sentence pending the Chamber's consideration of the case.

3. On 12 June 1998 the Chamber issued a decision on the admissibility and merits of the application concluding that the execution of the death penalty against the applicant would breach his rights under Article 1 of Protocol No. 6 to the Convention and Article 2(1) of the Convention itself. The Chamber ordered the respondent Party not to execute the death sentence.

4. On 13 October 1998 the Supreme Court of the Federation of Bosnia and Herzegovina commuted the death sentence of the applicant into 20 years' imprisonment.

II. COMPLAINTS

5. The applicant complains about the bad conditions in prison and requests the Chamber to grant him amnesty.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The present application was introduced on 27 July 1998 and registered the next day under the above-mentioned case number. The applicant is again represented by his father.

IV. OPINION OF THE CHAMBER

7. Before considering the case on its merits the Chamber has to decide whether to accept the case, 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 incompatible with the Agreement.

8. The applicant in this case requests amnesty for himself. However, he does not bring any explicit claim concerning a violation of his human rights with regard to the prison sentence or the procedure in which the death penalty against him was commuted into a prison sentence. According to the Agreement, it is within the Chamber's powers to find violations of the human rights protected therein and to order the appropriate remedies for the respondent Party's breach of its obligations under the Agreement. As no right to amnesty is guaranteed in the Agreement, the Chamber has no authority to grant amnesty or to order the domestic courts to do so. This aspect of the case, therefore, appears to be incompatible *ratione materiae* with the Agreement.

9. The applicant could be understood as also alleging inhuman or degrading treatment or punishment contrary to Article 3 of the European Convention on Human Rights. However, the applicant does not provide any particular evidence to support such an allegation. The mere claim of "bad conditions in the prison" and of not being allowed to work or to be more outdoors is not sufficient to show that the threshold of treatment proscribed by Article 3 has been reached. Therefore, this aspect of the application is manifestly ill-founded.

10. Accordingly, the Chamber decides not to accept the application, it being incompatible *ratione materiae* with the Agreement as far as relating to the request for amnesty, and otherwise manifestly ill-founded, within the meaning of Article VIII(2)(c) thereof.

V. CONCLUSION

11. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel