



DECISION ON ADMISSIBILITY

Case no. CH/99/2108

Armin BUKARIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 April 2000 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
Mr. Mato TADIĆ

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 25 January 1999 he was arrested for speeding. The Municipal Court of Minor Offences in Sarajevo suspended his driving license for four months and fined him 200 Convertible Marks (*Konvertibilnih Maraka*) for his offence. According to the court's decision, he was proceeding at 84 kilometres per hour (km/h) in a 40 km/h zone and the police measured his speed using a radar gun. The applicant appealed and, on 13 March 1999, the Cantonal Court for Minor Offences confirmed the Municipal Court's decision.

II. COMPLAINTS

2. The applicant complains that his right to a fair hearing was violated during the Municipal Court proceedings. Further, he complains that the suspension of his driving license was a violation of his liberty of movement and right to "fulfil his daily obligations", assumedly meaning his right to work.

III. PROCEEDINGS BEFORE THE CHAMBER

3. The application was introduced and registered on 28 April 1999.

IV. OPINION OF THE CHAMBER

4. Before considering the merits of the case 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.

5. In the present case, the applicant asserts that, because he was not allowed to present witnesses at the hearing and because the court did not believe his testimony (that he was not aware of how fast he was driving) but did believe the testimony of the arresting police officer, his right to a fair hearing was violated.

6. The Chamber recalls that it is first and foremost for the national courts to decide upon the questions of admission and evaluation of evidence, including what witnesses to hear and the value of testimony it does hear. They are left a certain margin to decide upon the relevance of proposed and heard evidence, insofar as this is compatible with the concept of a fair trial (see e.g. Eur. Court HR, *Engel and Others v. the Netherlands* judgment of 8 June 1976, Series A no. 22, p. 38, paragraph 91). The Chamber finds that the present case does not appear to raise a question of unfairness, as the domestic court appears to have made a reasonable assessment as to what evidence to accept and as to the evaluation of evidence it did hear.

7. In regard to the applicant's assertion that his right to liberty of movement and to work was violated, the Chamber notes that, while his driver's license was temporarily suspended, this in no way limited his ability to find alternate means of transportation to fulfil his work obligations.

8. 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

9. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel