



DECISION ON ADMISSIBILITY

Case no. CH/01/7715

Sifet HANDŽIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 12 October 2001 with the following members present:

Ms. Michèle PICARD, President
Mr. Hasan BALIĆ
Mr. Rona AYBAY
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 12 June 2001. By a letter dated 10 September 2001 the applicant requested that the Chamber order the respondent Party, as a provisional measure, to prevent the Municipal Court in Banovići enforce his four months prison sentence until the Chamber has issued its final decision. On 14 September 2001 the President of the First Panel decided to refuse the applicant's request.

2. The applicant complains of the fact that he has been found guilty of having committed the criminal offence of forest theft and sentenced to imprisonment. The applicant complains that the courts wrongly established the facts pertaining to his case and that his right to a fair trial, as guaranteed under Article 6 of the European Convention, therefore has been violated. The applicant is also complaining that his right to life, as guaranteed by Article 2 of the European Convention has been violated since his and his family's life would be jeopardised if he had to serve his prison-sentence as he is the family's breadwinner.

II OPINION OF THE CHAMBER

3. In accordance with Article VIII(2) of the Agreement, "the Chamber shall decide which applications to accept ... and 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."

4. The Chamber recalls that the European Court of Human Rights has stated that it is not within its competence under Article 6 of the European Convention to substitute its own assessment of the facts to that of the national courts (see e.g. the *Dombo Beheer B.V. v. the Netherlands* judgment of 27 October 1993, Series A no. 274, pp. 31-32, paragraph 31). The same principles apply to proceedings before the Chamber regarding domestic courts (see e. g. case no. CH/00/4128, *DD "Trgosirovina" Sarajevo (DDT)*, decision on admissibility adopted on 6 September 2000, paragraph 13, Decisions July-December 2000). Accordingly, it is not within the province of the Chamber to determine whether national authorities and courts erred in finding the applicant guilty for the criminal offence of forest theft. It follows that this part of the application is incompatible *ratione materie* with the provisions of the Agreement.

5. Regarding the applicant's complaint under Article 2 of the Convention, the Chamber finds that the application does not 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 the application inadmissible.

III CONCLUSION

6. 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