



DECISION ON ADMISSIBILITY

Case no. CH/01/8462

R.LJ.

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 9 January 2002 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. 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 20 November 2001. The applicant, who is a professional driver, was found guilty of driving above the speed limit. By its procedural decision of 16 April 2001, the Tuzla Municipal Petty Offence Court imposed a 150 KM fine and determined a security measure of temporary suspension of his driving license. The security measure, however, was conditionally suspended. On 26 September 2001 the Tuzla Cantonal Petty Offence Court, upon the applicant's appeal, confirmed the validity of the procedural decision of 16 April 2001.
2. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to terminate the enforcement of the procedural decision issued by the Cantonal Petty Offence Cantonal Court in Tuzla and to refer the case for reconsideration in new proceedings. On 9 January 2002 the Chamber decided not to order the provisional measure requested.
3. The applicant claims that he was illegally penalised for a petty offence he did not commit. In addition, he claims that the Law on Security of Traffic on Roads, under which he was convicted, was not applicable in his case.

II. OPINION OF THE CHAMBER

4. 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."
5. The Chamber notes that the applicant complains that the Municipal and Cantonal Petty Offence Courts in Tuzla wrongly assessed the facts pertaining to his case and misapplied the law. The Chamber recalls that it has stated on several occasions that it is not within its competence to substitute its own assessment of the facts and application of the law to 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). Accordingly, the application is incompatible *ratione materiae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). 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)
Giovanni GRASSO,
President of the Second Panel