



DECISION ON ADMISSIBILITY

Case no. CH/01/7856

Mehmed ŠEHIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 March 2002 with the following members present:

Mr. Viktor MASENKO-MAVI, Acting 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. By a decision of the First Instance Court in Maglaj dated 22 March 1991, the applicant was found guilty of the criminal offence of causing grievous bodily harm and inflicting life-threatening injuries. The applicant was sentenced to a term of three months imprisonment.

2. By the judgement of the Municipal Court in Maglaj dated 9 June 1999 the applicant was ordered to compensate the injured party the amount of 13,600 KM in damages with legal interest as of 9 June 1999. The applicant filed an appeal to the Cantonal Court in Zenica, which was denied on 27 December 1999, and subsequently submitted a request for review (revizija) to the Supreme Court of the Federation of Bosnia and Herzegovina on 2 March 2001. This was also denied on 7 March 2001.

3. On 4 March 2000 the Municipal Court in Maglaj issued a procedural decision enforcing its previous judgement of 9 June 1999. The procedural decision ordered for the debt to be paid by way of the sale of the applicant's unfinished family house. On 6 October 2000 the applicant filed an appeal against this procedural decision to the Cantonal Court in Zenica stating that the Municipal Court had not considered his material situation. The applicant proposed to pay by instalments from his personal income. At the same time he requested postponement of the enforcement order. The Cantonal Court in Zenica denied the applicant's appeal on 28 May 2001, stating that the applicant was unable to settle the debt within one year as his employment status was that he was on a "waiting list" and because he had insufficient personal funds. The Cantonal Court also dismissed his proposal to exempt his house from enforcement

II. COMPLAINTS

4. The applicant alleges that he requested disqualification of an expert and a certain judge from the Court in Maglaj. Further, the applicant alleges that his authorised representatives did not represent him professionally inasmuch that they failed to appeal against a wrongly established factual state in the review proceedings before the Supreme Court. Furthermore, the applicant complains that he has offered the sale of 7000m² of forest ceded to him by his mother and sister as an alternative method of payment.

5. The applicant alleges violations of his rights under Articles 6 and 8 of the Convention and Article 1 of Protocol no. 1 to the Convention.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was introduced on 3 September 2001. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary steps to prevent the sale of his family house for the settlement of the debt, to review the proceedings or to allow that the debt be settled by the sale of the forest. On 6 December 2001, the President of the Second Panel decided not to order the provisional measure requested.

IV. OPINION OF THE CHAMBER

7. 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."

8. The Chamber notes that the applicant complains that the courts wrongly assessed the facts pertaining to his case and misapplied the law. As a consequence of this, he further alleges that his right to respect for private and family life and his right to property have been violated by the enforcement order for the sale of his house. He alleges a violation of Article 1 of Protocol No. 1 to the Convention for the same reasons. Article 6 of the Convention guarantees the right to a fair hearing. However, the Chamber has stated on several occasions that it has no general competence to substitute its own assessment of the facts and application of the law for 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). There is no evidence that the court failed to act fairly as required by Article 6 of the Convention. As a consequence, there is no indications that the interference with the applicant's private and family life, if any, and his peaceful enjoyment of possessions are not in accordance with the law and fully justified. 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.

V. CONCLUSION

9. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Viktor MASENKO-MAVI
Acting President of the Second Panel