



DECISION ON ADMISSIBILITY

Case no. CH/01/7471

Franjo JURIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 9 April 2002 with the following members present:

Ms. Michèle PICARD, President
Mr. Rona AYBAY, Vice President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
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. FACTS

1. On 5 August 1992 the applicant, who was serving in the Croat Defense Council (the "HVO"), was wounded in the armed conflict. He was formally released from the HVO one month later.
2. In order to obtain a disability pension as a military war invalid, the applicant initiated several proceedings before the domestic administrative bodies and courts. In these proceedings the applicant claimed that he suffered from post-traumatic stress syndrome and depression related to his experiences in the armed conflict which aggravate the disabilities he suffers as a result of the actual injury itself. The applicant is of the opinion that for this reason he should be entitled to a better pension than the one the public authorities have granted him.
3. On 30 March 2000 the Ministry of Defence of the Federation of Bosnia and Herzegovina-Croat Defense Council Mostar passed a decision that the applicant is a military war invalid of the seventh group with a 50 percent handicap, entitled to a pension adequate to this level of disability. The applicant appealed against this decision to the Supreme Court of the Federation of Bosnia and Herzegovina ("the Supreme Court"). On 9 March 2001 the Supreme Court gave the final judgement in the applicant's case rejecting his claim. The Supreme Court found that the applicant's claim that he is entitled to a higher pension because he suffers from depression and post-traumatic stress syndrome related to his experiences in the armed conflict was not well substantiated.

II. COMPLAINTS

4. The applicant complains that the decision of the Ministry of Defence of the Federation of Bosnia of 30 March 2000 and the judgement of the Supreme Court of 9 March 2001 were incorrect and based on wrongly established facts.
5. The applicant further complains of inhuman treatment because he was formally released from the HVO 30 days after being injured while still being in medical treatment for his wound instead of being released from the HVO after the end of the medical treatment.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was introduced to the Chamber on 4 May 2001. The applicant requested that the Chamber order the respondent Party, as a provisional measure, that he be paid a disability pension of the second group of invalidity with 100 percent of bodily damage and urgent solution of his case. On 10 October 2001 the Chamber decided not to order the provisional measure requested.
7. On 24 September 2001, the applicant submitted a letter to the Chamber claiming that he has been forcibly banished from his fatherland and endangered by the representatives of the HDZ Party of Bosnia and Herzegovina. On 29 October 2001 the applicant submitted a letter to the Chamber requesting compensation in the amount of 38.500 DM for lost salary and 100.000 DM as not specified compensation. On 4 December 2001 the applicant wrote another letter to the Chamber urging the Chamber to decide the case.

IV. OPINION OF THE CHAMBER

8. 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."
9. The Chamber finds that, insofar as the applicant complains of inhuman treatment, the facts complained of relate to a period prior to 14 December 1995, which is the date on which the Agreement came into force. However, the Agreement only governs facts subsequent to its entry into

force. It follows that this part of the application is incompatible *ratione temporis* with the provisions of the Agreement and must be rejected.

10. The applicant complains further that the Supreme Court in its decision of 9 March 2001 wrongly assessed the facts of the case and misapplied the law. The Chamber notes that 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 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). The Chamber finds that the Supreme Court decision does not seem unreasonable or arbitrary and there is no evidence that the court failed to act fairly as required by Article 6 of the Convention. It follows that this part of the application is manifestly ill-founded. The Chamber therefore decides to declare this part of the application inadmissible as well.

V. CONCLUSION

11. 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