



DECISION ON ADMISSIBILITY

Case no. CH/02/10007

Sead ĆATO

against

**BOSNIA AND HERZEGOVINA
and
THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 7 June 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)(a) and (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 22 April 2002. The applicant was convicted of rape and sentenced to imprisonment for two years by a judgement of the Municipal Court II of Sarajevo of 2 March 2001. The applicant's appeal was refused as manifestly ill-founded by a judgement of the Cantonal Court of Sarajevo (the "Court") issued at its session of 7 June 2001. The applicant was represented before the Court, by his lawyer, Mr. Senad Bilić.

2. The applicant complains that his conviction was based on partial and wrongly established facts and that his guilt has not been proven in the criminal proceedings before the courts. He asks the Chamber to suspend the judgements and to order that the proceedings in the case be reviewed.

3. On 13 May 2002 the applicant submitted a letter asking the Chamber to order the Municipal Court II of Sarajevo to postpone imposition of the prison sentence until the Chamber issues a decision upon the applicant's claim before it.

4. On 27 May 2002 the applicant submitted a letter asking that the Chamber order the respondent Party, as provisional measure, to take all necessary action to postpone imposition of the prison sentence until the Chamber issues a decision upon the applicant's claim before it. On 7 June 2002 the Chamber decided not to order the provisional measure requested.

II. OPINION OF THE CHAMBER

5. 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: "(a) ... that the application has been filed with the Commission within six months from such date on which the final decision was taken" and "(c) [t]he Chamber shall also dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or an abuse of the right of petition."

6. The applicant directs his application against Bosnia and Herzegovina. The Chamber notes that the applicant has not provided any indication that Bosnia and Herzegovina is in any way responsible for the actions he complains of, nor can the Chamber on its own motion find any such evidence. The application is therefore incompatible *ratione personae* within the meaning of Article VIII(2)(c) of the Agreement insofar as it is directed against Bosnia and Herzegovina. The Chamber therefore decides to declare the application inadmissible as against Bosnia and Herzegovina.

7. The Chamber notes that the criminal proceedings contested by the applicant in the application are within the competence of courts of the Federation of Bosnia and Herzegovina. As the applicant failed to direct the application against the Federation of Bosnia and Herzegovina, the Chamber has decided, on its own motion, to consider it as directed against the Federation of Bosnia and Herzegovina.

8. The Chamber further notes that the application was lodged on 22 April 2002. It finds that the final decision for the purposes of Article VIII(2)(a) of the Agreement, was issued by the Cantonal Court of Sarajevo on 7 June 2001. This date is more than six months before the date on which the application was filed with the Chamber. Accordingly, the application does not comply with the requirements of Article VIII(2)(a) of the Agreement. The Chamber therefore decides to declare the application inadmissible as against the Federation of Bosnia and Herzegovina, as well.

III. CONCLUSION

9. 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