



DECISION ON ADMISSIBILITY

Case no. CH/02/11239

Verica KNEŽEVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 11 October 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. INTRODUCTION

1. On 7 September 2001, the Municipal Court in Orašje issued a judgment finding the applicant guilty of the criminal offence of tax evasion in her capacity as the Director of the Company Dopax. The Court sentenced the applicant to a conditional sentence of 6 months that would not be executed unless she committed a new criminal offence within the next two years.

2. Both the applicant and the Public Prosecutor in Orašje submitted an appeal against the judgment. The applicant maintains her innocence and alleges that she cannot be responsible for tax evasion because her husband, who confirms her allegations, managed the business of the Company Dopax. On 20 February 2002, the Cantonal Court in Odžak issued a judgment rejecting the applicant's appeal, accepting the Prosecution's appeal, and modifying the judgment of the Municipal Court with regard to the punishment for the criminal offence of tax evasion. The Cantonal Court sentenced the applicant to three months imprisonment.

3. On 24 May 2002, the applicant submitted a request for protection of legality to the Municipal Court Orašje (*i.e.*, an extraordinary remedy challenging the legality of the Court decision). The proceedings upon this request are still pending.

II. PROCEEDING BEFORE THE CHAMBER

4. The application was submitted to the Chamber on 1 July 2002. In her application, the applicant requested the Chamber to issue a final decision ordering the Supreme Court to accept her request for protection of legality.

5. On 24 July 2002, the applicant sent a letter to the Chamber requesting it to order the respondent Party, as provisional measure, to prohibit the enforcement of the judgment by which she was sentenced to three months imprisonment. According to the applicant, she could be called to serve this sentence on 2 August 2002, and in that case, she and her children would suffer irreparable harm. On 31 July the President of First Panel decided to reject the provisional measure requested.

6. Although the applicant did not indicate any respondent Party on her application form, it follows from her application that the proper respondent Party is the Federation of Bosnia and Herzegovina because the judgments against which she complains were issued by the Municipal Court in Orašje and the Cantonal Court in Odžak. The Chamber, therefore, *proprio motu* considers the application as directed against the Federation of Bosnia and Herzegovina.

III. 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 Municipal and Cantonal Courts wrongly assessed the facts pertaining to her case. 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 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 courts failed to act fairly as required by Article 6 of the Convention. 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.

IV. 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