



DECISION ON ADMISSIBILITY

Case no. CH/02/12060

Nadil HASIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

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

Mr. Viktor MASENKO-MAVI, Acting President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
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 applicant complains that his right to a fair trial, as guaranteed by Article 6 of the European Convention on Human Rights (“the Convention”), was violated in criminal proceedings against him.

2. On 12 March 2001, the Municipal Court in Tuzla issued a judgement declaring the applicant guilty of the criminal offence of violent behaviour under Article 339 of the Criminal Code of the Federation of Bosnia and Herzegovina. By the same judgement, five other persons were declared guilty and sentenced for their participation in a brawl resulting in grievous bodily injury to another person. The Court sentenced the applicant to six months imprisonment, with credit for the time previously spent in detention from 5 May to 29 May 1998.

3. On 23 April 2001, the applicant filed an appeal against this judgement to the Cantonal Court in Tuzla. On 27 March 2002, the Cantonal court rejected the appeal and upheld the first instance judgement, which then became valid.

4. On 2 August 2002, the Municipal Court in Tuzla issued a procedural decision rejecting the applicant’s request to postpone serving his sentence. The procedural decision states that on 25 July 2002 the applicant requested postponement of the execution of his sentence for health reasons. After examining the request and the medical findings of the Psychiatric Clinic in Tuzla, the President of the Court found that, under Article 27 of the Law on Execution of Criminal Sanctions in the Federation of Bosnia and Herzegovina, there were no reasons to postpone execution of the applicant’s sentence. The procedural decision states that the applicant had adequate time, before the execution of the sentence, to make arrangements to provide for his family.

5. The applicant alleges that the request to open an investigation against him was based on false claims by the prosecutor that the applicant shot firearms. The applicant further states that the main guilty parties to the relevant events have not been accused or punished. He also claims that he was not allowed to prepare a proper defence and that the Court was not impartial in his case.

II. PROCEEDINGS BEFORE THE CHAMBER

6. The application was introduced on 23 August 2002 and registered on the same day. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to postpone execution of his sentence until the conclusion of criminal proceedings against all the participants in the event. On 5 November 2002, the Chamber decided not to order the provisional measure requested.

7. The applicant requests the Chamber to order renewal of the criminal proceedings against him.

III. 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 concludes that the applicant has not substantiated the alleged violations of his rights. Therefore, the Chamber finds that the application does not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. 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

10. 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