



DECISION ON ADMISSIBILITY

Case no. CH/02/11206

M. K.

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 5 June 2003 with the following members present:

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
Mr. Viktor MASENKO-MAVI

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar
Ms. Antonia DE MEO, 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 Rule 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. On 11 September 1998, the Municipal Prosecutor's Office in Tuzla issued an indictment against the applicant, alleging that he had endangered other people's lives by the reckless handling of explosives. The Municipal Court in Tuzla convicted the applicant on these charges by a judgment of 11 October 1999 and sentenced him to three months imprisonment, which was placed on probation.

2. Upon the appeal of the applicant, the Cantonal Court in Tuzla on 29 February 2000 found that the judgment of 11 October 1999 contained an incomplete finding of facts. The first instance judgment was quashed and a re-trial was ordered. On 20 September 2001, the Municipal Court delivered a new judgment, upholding its previous findings and also the length of the non-custodial sentence. A further appeal of the applicant to the Cantonal Court was not successful.

3. The applicant complains of an erroneous statement of facts in the judgment of 20 September 2001, and, in addition, of the unreasonable length of his trial and of the alleged partiality of the judges determining his sentence.

II. OPINION OF THE CHAMBER

4. 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."

5. The Chamber notes that the applicant complains in part that the Municipal Court wrongly assessed the facts pertaining to his criminal 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 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 within the meaning of Article VIII(2)(c) of the Agreement. The Chamber therefore decides to declare this part of the application inadmissible.

6. The Chamber further notes that the applicant complains that the length of the proceedings in his criminal case were unreasonably long and that the judges lacked impartiality. However, the Chamber cannot find that the applicant's trial lasted an unreasonably long time, within the meaning of Article 6 of the Convention, and moreover, the applicant has failed to substantiate his other allegations. Therefore, the Chamber finds that these parts of application also do not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. It follows that these parts of the application are manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement. The Chamber therefore decides to declare the remainder of the application inadmissible as well.

III. CONCLUSION

7. For these reasons, the Chamber, unanimously,
DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Mato TADIĆ
President of the Second Panel