



DECISION ON ADMISSIBILITY

Case no. CH/00/4820

Mile ČAJEVIĆ

against

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

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 12 October 2000 with the following members present:

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

Mr. Peter KEMPEES, 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) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant is a citizen of Bosnia and Herzegovina of Serb origin. He alleges that in June 1992 his brother, Mr. Ognjen Čajević, was taken from his Sarajevo apartment located at Ulica Danila Đokića 25 by a group of armed persons and placed in the camp “Viktor Bubanj” also in Sarajevo. In November 1992 the Red Cross registered the applicant’s brother as a camp inmate. In the same month, the Red Cross delivered a letter from Ognjen Čajević to his wife in Belgrade.
2. In the prison camp, the applicant’s brother was allegedly tortured and ill treated. Moreover, during his imprisonment, the applicant’s brother was allegedly subjected to criminal proceedings in which he was found guilty and sentenced to imprisonment.
3. At the end of December 1992 or the beginning of January 1993, the applicant’s brother was allegedly removed from the camp with the explanation that he was going to be exchanged. The exchange never took place. Instead, the victim was allegedly put to death by an officer of the military police in “Viktor Bubanj.”
4. The applicant has no knowledge of the circumstances under which Mr. Ognjen Čajević was arrested, judged and killed or of the location of his remains. It appears from the application form that he has never attempted to obtain such information from the respondent Parties.

II. COMPLAINTS

5. The applicant alleges on his brother’s behalf violations of Article 2 (right to life), Article 3 (prohibition of torture), Article 4 (prohibition of slavery and forced labour), Article 5 (right to liberty and security), Article 6 (right to a fair trial) and Article 14 (prohibition of discrimination.)
6. On his own behalf, the applicant asks the Chamber to order the respondent Parties to reveal the circumstances surrounding the abduction and murder of his brother, to provide him exact information of the place of his brother’s burial and to allow him to exhume the body. The applicant is especially interested in retrieving his brother’s remains. Moreover, he requests the Chamber to order the Federation of BiH to initiate criminal proceedings against Mr. Ognjen Čajević’s killer.

III. PROCEEDINGS BEFORE THE CHAMBER

7. The application was received on 8 May 2000 and registered on the following day.

IV. OPINION OF THE CHAMBER

8. As regards the applicant’s complaints on behalf of his brother, the Chamber notes that Mr. Ognjen Čajević’s detention, his placement in the camp “Viktor Bubanj”, torture and ill-treatment, the conviction and his death allegedly occurred before the entry into force of the Agreement. Therefore these issues are outside the Chamber’s competence *ratione temporis*.
9. The applicant’s complaint on his own behalf that he has not received his brother’s remains might raise an issue under Article 8 of the European Convention on Human Rights if he could show that the respondent Parties were in possession of the body and unreasonably refused to hand it over to him. In the present case the applicant has not substantiated that the respondent Parties are arbitrarily withholding his brother’s body from him or withholding from him information concerning its whereabouts. This complaint being unsubstantiated, it must be rejected as manifestly ill-founded (see case no. CH/00/4033, Simaković, decision on admissibility of 5 July 2000, paragraph 7, to be published in Decisions July-December 2000).

V. CONCLUSION

10. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Peter KEMPEES
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel