



DECISION ON ADMISSIBILITY

Case no. CH/01/6670

Veljko GOLIJEANIN

against

BOSNIA AND HERZEGOVINA

and

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 February 2002 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. 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. FACTS

1. The applicant claims that on 22 July 1999 he was victim of a politically motivated assassination attempt in Pale, Republika Srpska, in which he was wounded by a bullet in the upper right arm. According to the applicant, on the day after the alleged assassination attempt he was heard by the police about this event. The applicant states that he does not know whether there has been any further investigation into the case.

2. The applicant underwent medical treatment in a clinic in Murnau in Germany between 20 and 29 March 2000. He had to pay 20,922.92 German Marks for medical expenses.

3. The applicant applied to the Ministry of Health Care of the Republika Srpska on 21 July 2000 to reimburse his medical costs, but never received any reply. On 21 June 2001 the applicant initiated proceedings before the First Instance Court in Sokolac in order to get compensation for the medical costs. The case is still pending.

4. On 24 July 2001 the applicant informed the Chamber that the Ministry of Internal Affairs in the Republika Srpska canceled his license to deal in arms because of an ongoing criminal investigation against him. The applicant claims that the investigation was made up in order to prevent further investigations against the perpetrators of the attack against him on 22 July 1999.

II. PROCEEDINGS BEFORE THE CHAMBER

5. The filing and the completion of the application were somehow laborious. On 14 December 2000 the Chamber received a letter from the applicant. A provisional file was opened and the applicant was asked to fill out an application form. On 4 January 2001 the applicant submitted an incompletely filled out application form, which *inter alia* contained no statements on the alleged violations and on the remedies requested. On 24 July 2001 the Chamber received a letter from the applicant asking the Chamber to treat his case with urgency. On 23 August 2001 the Chamber sent the application form back to the applicant and asked him to complete the missing parts. On 4 September 2001 the applicant submitted a completed application form to the Chamber.

6. On 14 September 2001 the Registry asked the applicant to submit a more detailed explanation in regard to the alleged assassination attempt and in regard to the applicant's claim that there has been no effective police investigation. On 1 October 2001 the Chamber received a reply from the applicant.

III. COMPLAINTS

7. The applicant considers the assassination attempt to constitute a violation of his fundamental human rights, in particular the right to life and the right to physical integrity. He asks the Chamber to order the Republika Srpska to reimburse him for his medical expenses and to urge for a solution of the criminal case, so that the perpetrators are found and punished.

IV. OPINION OF THE CHAMBER

A. Admissibility against Bosnia and Herzegovina

8. During the proceedings before the Chamber, the Chamber has not received any evidence which would tend to indicate that Bosnia and Herzegovina is responsible for any of the matters the applicant complains of. The competencies of Bosnia and Herzegovina are set out in Article III of the Constitution of Bosnia and Herzegovina, contained in Annex 4 to the General Framework Agreement. These do not include matters relating to compensation for medical costs or criminal investigations. Accordingly, this matter is within the competence of the Entities. Consequently, the case does not raise any issues engaging the responsibility of Bosnia and Herzegovina and therefore the case is to be declared inadmissible *ratione personae* as against that respondent Party.

B. Admissibility against the Republika Srpska**a) Complaint in regard to the claim for reimbursement of the medical costs**

9. In accordance with Article VIII(2) of the Agreement, “the Chamber shall decide which applications to accept ... and shall take into account the following criteria: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted”

10. The applicant asks the Chamber to award him compensation in the amount of his medical expenses. He is of the opinion that the regular legal remedies are of no use under the particular circumstances of his case, which he describes as a compensation issue connected to terrorist activity.

11. The Chamber notes that the applicant initiated proceedings before the first-instance Court in Sokolac on 21 June 2001 which are still pending. The Chamber finds that the applicant has not sufficiently substantiated his claim that this law suit does not constitute an effective legal remedy in his case. It notes that the court proceedings which the applicant initiated are still pending. Accordingly, the Chamber finds that the applicant’s complaint is premature. The Chamber decides that the applicant has therefore not, as required by Article VIII(2)(a) of the Agreement, exhausted the available effective remedies. It therefore decides to declare the application inadmissible in so far as it concerns the compensation for medical expenses.

b) Complaint in regard to the assassination attempt and the lack of proper investigation

12. In accordance with Article VIII(2) of the Agreement, “the Chamber shall decide which applications to accept ... and 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.”

13. In the final version of the application form, the applicant complains that the alleged assassination attempt against him on 22 July 1999 has not been properly investigated by the police. In his letter of 20 July 2001, the applicant further alleges that the criminal proceedings against him were initiated with the sole purpose of distracting from the failure to properly investigate the crime against him and hints at the possibility that the public authorities might be connected to the attempt of assassination.

14. The Chamber has asked the applicant to further substantiate this claim. The applicant states that a police inspector came to question him in the hospital about the circumstances of the event. He further states that he never inquired about the state of the investigation as he was afraid after the attack against him. He therefore does not know whether criminal charges have been lodged with the competent public prosecutor’s office concerning the assassination attempt against him.

15. The Chamber notes that the applicant’s allegations concerning the assassination attempt and the failure to properly investigate it could potentially raise issues under Article 2 of the Convention, protecting the right to life. However, the applicant’s allegations have remained unsubstantiated, notwithstanding the requests by the Chamber that he provide more specific information in this respect. The applicant has not taken any steps to ascertain whether there has been an effective investigation into his case. The applicant has also failed to substantiate his assertion that the criminal investigation against him was only conducted to cover up a lack of investigation into the alleged assassination attempt of 22 July 1999. The Chamber therefore decides that the application is manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement in so far as it concerns the assassination attempt.

V. CONCLUSION

16. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel