



DECISION ON ADMISSIBILITY

Case no. CH/01/7117

Hikmet and Muharema BEGOVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 7 February 2003 with the following members present:

Ms. Michèle PICARD, President
Mr. Miodrag PAJIĆ, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA
Mr. Andrew GROTRIAN

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)(a) and VIII(2)(c) of the Agreement and Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

I. INTRODUCTION

1. The applicants are of Bosniak origin. On 31 January 1993, their son left their house in Gradiška, Republika Srpska, and he did not return. On the next day the applicants contacted the police station in Gradiška, hospital in Gradiška, military police in Gradiška, military camp Kozara in Banja Luka, and other organs to try to obtain some information about the whereabouts of their son. The competent organs did not reply to their requests. However, by accident, one woman informed them that the body of a young man, who had been thrown from the car "Lada-Karavan" on 31 January 1993, had been found in the Municipality Srbac.

2. The applicants identified their son by looking at photos of his body as he was already buried in Banjica, Municipality Srbac. The applicants requested the exhumation of the body of their son. The exhumation took place, but the applicants claim that they were forbidden to be present during the exhumation. Thereafter, the applicants positively identified the exhumed body of their son, and his body was transported from Banjica to Gradiška.

3. Soon after these events, all of which occurred in 1993, the applicants left their house in Gradiška due to the armed conflict. They returned in 1998.

4. The applicants complain that while they know that their son is dead, it is obvious that he was killed and they have not been informed about the circumstances of his death. The applicants admit that they have not initiated any proceedings before domestic organs in order to pursue an investigation into the death of their son. They claim that they have not done so because they are uneducated and they are not aware of the relevant regulations.

II. PROCEEDING BEFORE THE CHAMBER

5. The application was introduced on 13 March 2001 and registered on the same day. The applicants complain that their rights protected under Articles 2, 3, 5, and 8 of the European Convention on Human Rights have been violated. They ask the Chamber to order the respondent Party to initiate an investigation and to pay compensation to them for pecuniary and non-pecuniary damages.

III. OPINION OF THE CHAMBER

6. 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: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted ..." and "(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."

7. As to the applicants' claims under Article 2 (right to life) and Article 5 (right to liberty and security of person) of the Convention, the Chamber observes that these claims relate to the detention and death of their son, which occurred in January 1993. The Chamber finds that the facts complained of relate to a period prior to 14 December 1995, which is the date on which the Agreement entered into force. However, the Agreement only governs facts subsequent to its entry into force. It follows that this part of the application is incompatible *ratione temporis* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare the application inadmissible with respect to Articles 2 and 5 of the Convention.

8. As to the applicants' claims under Article 3 (prohibition of torture and inhuman or degrading treatment) and Article 8 (right to respect for private and family life), the Chamber notes that the applicants have failed to initiate any proceedings before the domestic organs in order to pursue an investigation into the death of their son. The applicants have stated that they did not initiate any domestic proceedings because they are not familiar with the relevant law; however, this is not a sufficient reason to establish that the available remedies are ineffective, and they do not appear so

to the Chamber. Accordingly, the applicants have not exhausted domestic remedies as required by Article VIII(2)(a) of the Agreement. The Chamber therefore decides to declare the application inadmissible with respect to Articles 3 and 8 of the Convention as well.

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