



DECISION ON ADMISSIBILITY

Case no. CH/01/7396

Zijad PEZEROVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on July 2003 with the following members present: 2

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER, Vice-President
Mr. Mehmed DEKOVIĆ
Mr. Giovanni GRASSO
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)(a) of the Agreement and Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

I. FACTS

1. The application was introduced on 12 April 2001. The applicant is represented by Mr. Karkin Fahrija, a lawyer practising in Sarajevo.
2. On 18 October 1999, the Cantonal Court in Sarajevo issued a judgment according to which the applicant and two other men on 14 November 1996 robbed a bank in Hamburg, Germany, shot dead one of the bank employees, and stole money in the amount of more than 390,000 DM. The Cantonal Court sentenced the applicant to a prison term of fifteen years.
3. The applicant appealed against the judgment of 18 October 1999 to the Supreme Court of the Federation of Bosnia and Herzegovina, which on 20 April 2000 rejected the applicant's complaints regarding the allegedly wrongful assessment of evidence and confirmed the first instance judgment. On the same day, the judgment and sentence against the applicant became final and binding. On 17 July 2000, the Cantonal Court in Sarajevo rejected the applicant's request to re-open the proceedings in his case due to the finding of new and previously unconsidered facts.
4. On 29 October 2002, the applicant wrote to the Independent Judicial Commission (hereinafter: "the IJC") and complained of various irregularities during the criminal proceedings before the Cantonal Court. In its reply of 19 December 2002, the IJC stated that after a thorough examination of the judgment of 18 October 1999 and of the court minutes, there had been no irregularities and that the Cantonal Court had carried out the criminal proceedings in accordance with the law.

II. COMPLAINTS

5. The applicant claims that the Cantonal Court did not take into account all relevant facts of his case in reaching its judgment and sentence. He states that he is innocent and seeks to receive a trial in Germany.

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) ... that the application has been filed with the Commission within six months from such date on which the final decision was taken."
7. The Chamber notes that the application was lodged on 12 April 2001. It finds that the final decision for the purposes of Article VIII(2)(a) of the Agreement, was issued by the Supreme Court of the Federation of Bosnia and Herzegovina on 20 April 2000. This date is more than six months before the date on which the application was filed with the Chamber. Accordingly, the application does not comply with the requirements of Article VIII(2)(a) of the Agreement. The Chamber therefore decides to declare the application inadmissible.

IV. CONCLUSION

8. 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