



DECISION ON ADMISSIBILITY

Case no. CH/01/7599

Habib DŽANANOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 9 April 2002 with the following members present:

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

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)(c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The application was introduced on 13 June 2001. It concerns proceedings before the Municipal Court in Gračanica and the Cantonal Court in Tuzla, deciding in a civil action filed against the applicant for payment of a debt. The applicant requested, as a provisional measure, that the Chamber prevent the forced payment of the adjudged amount and legal costs and expenses, until the date of the final decision of the Chamber. On 10 October 2001 the Chamber decided not to order the provisional measure requested.

2. The applicant complains specifically that the courts deciding in the proceedings were biased in favour of the plaintiff, and unfair, and especially that the second instance court, *i.e.*, the Cantonal Court in Tuzla, did not consider his appeal against the Gračanica Municipal Court judgement at all. According to the applicant, his right to a fair trial under Article 6 of the European Convention of Human Rights has been violated.

3. On 6 December 2001 the applicant submitted a letter to the Chamber with a statement dated 8 November 2001 by one of the witnesses, who testified in the civil proceedings before the Municipal Court in Gračanica, M.C.. The statement contains the witness's own assessment of the facts in the applicant's case and assessment of what the sides should had done before the civil proceedings commenced. The statement was given seven months after the proceedings before the Cantonal Court were concluded and is not addressed to any specific addressee.

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 that the Municipal Court in Gračanica and the Cantonal Court in Tuzla wrongly assessed the facts pertaining to his case and misapplied the law. 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 and application of the law 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 the application is manifestly ill-founded within the meaning of Article VIII(2)(c) of the Agreement. The Chamber therefore decides to declare the application inadmissible.

III. CONCLUSION

6. 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