



DECISION ON ADMISSIBILITY

Case no. CH/01/8049

Zemka AVDIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 3 July 2003 with the following members present:

Ms. Michèle PICARD, President
Mr. Miodrag PAJIĆ, Vice-President
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)(c) of the Agreement and Rules 34, 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The application was introduced and registered on 10 October 2001.
2. The applicant, who appears to be mentally very unstable, claims that she has been seriously physically maltreated and abused by her relative, Ismet Avdić, and that the police and the public prosecutor's office in Banja Luka denied her any form of protection. She submitted documents that she was treated for a bodily injury in March and April 2001.
3. On 18 February 2003, the case was transmitted to the respondent Party for information on the facts of the case and for observations on the question whether domestic remedies have been exhausted. On 11 March 2003, the Chamber received the observations of the respondent Party and a number of documents.
4. According to the observations of the respondent Party, the applicant was treated several times in psychiatric clinics in Banja Luka but does not have a legal guardian. On 6 November 2001, she submitted charges to the First Instance Public Prosecutor against Ismet Avdić alleging that he physically maltreated her. On 10 August 2002, she submitted charges against an unknown person also alleging physical maltreatment. It appears that upon those charges an investigation was initiated. According to the information of the First Instance Public Prosecutor in Banja Luka of 26 February 2003 there are doubts whether a person named Ismet Avdić really lives in Banja Luka, because he could not be found in the public register, and is not only an imagination of the applicant. In spite of this, the Public Prosecutor's office claims that the investigation concerning the charges brought by the applicant continues.
5. The respondent Party alleges that the case is inadmissible for non-exhaustion of domestic remedies because the applicant could have privately initiated criminal proceedings against the person who inflicted the bodily injury.
6. In April 2003 the Chamber invited the applicant during her visit of the Chamber's office in Banja Luka to reply to the respondent Party's observations and to substantiate her allegations further within two weeks. The applicant, who is not literate, was orally explained what was expected of her and she was given a letter with the Chamber's request to submit further information to take home. However, up to date the applicant failed to submit any further information.

II. OPINION OF THE CHAMBER

7. 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."
8. The Chamber notes that the respondent Party claims that upon the charges of the applicant before the domestic authorities an investigation took place, supporting this claim with letters from the public prosecutor and other documents. The Chamber then asked the applicant to respond to the submission of the respondent Party and to further substantiate her allegations which she outlined only vaguely in the application form. The applicant, however, has failed to respond. Lacking any further substantiation from the applicant with regard to her claims, the Chamber has no reason to doubt of the truthfulness of the observations of the respondent Party to the effect that the respondent Party's authorities have investigated the charges brought by the applicant. It finds that the application does not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. 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

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