



## **DECISION ON ADMISSIBILITY AND TO STRIKE OUT**

**Case no. CH/02/11020**

**B.K.**

**against**

**THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 10 January 2003 with the following members present:

Mr. Mato TADIĆ, President  
Mr. Jakob MÖLLER  
Mr. Mehmed DEKOVIĆ  
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 Articles VIII(2)(c) and VIII(3)(a) of the Agreement and Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

## I. INTRODUCTION

1. The applicant is a citizen of Bosnia and Herzegovina of Croat origin.
2. It is alleged that the applicant is the victim of an incestuous rape, although the precise details pertaining to the criminal trial remain unclear. As far as can be ascertained from the application form, criminal charges were brought against I.K. under Article 226 of the Criminal Code of the Federation of Bosnia and Herzegovina (hereinafter the "Criminal Code") (Official Gazette of the Federation of Bosnia and Herzegovina no. 43/98), and a criminal trial commenced on 5 February 1999 before the Tomislavgrad Municipal Court. It is further alleged that during the domestic criminal proceedings, the applicant was ridiculed by the court, and as a result of this, she was forced to "drop out" of school.
3. The exact relationship between the applicant and I.K. has not been identified.

## II. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced to the Chamber on 17 May 2002 and registered on the same day. The applicant is represented by Mr. Predrag Kelava, a lawyer practising in Tomislavgrad.
5. On 12 July 2002 the Chamber wrote to the applicant, by registered mail, requesting her to clarify certain aspects of her application. Although the Chamber received the signed delivery receipt for its letter, it has not received a response and the deadline expired on 20 August 2002.
6. On 7 September 2002 the Chamber agreed to extend the time limit for the applicant to provide further information by one month. The Chamber deliberated on the admissibility of the application on 7 September and 10 October 2002.
7. On 13 November 2002 the Chamber wrote to the applicant once again, by registered mail, requesting additional information and whether she wished to continue with her application. The Chamber specifically cautioned the applicant that if she did not respond, the Chamber might decide to strike out her application, and it provided her with a deadline of two weeks for such response. The Chamber received the signed delivery receipt for this letter, but the applicant has failed to respond to any of Chamber's correspondence within the allotted time limits.

## III. COMPLAINTS

8. The applicant complains that her right to a fair trial in a reasonable time as guaranteed under Article 6(1) of the European Convention on Human Rights (the "Convention") has been violated, that she has failed to receive equal treatment before the court as guaranteed under Article 14 of the International Covenant on Civil and Political Rights and that her right to education as guaranteed under Article 2 of Protocol No. 1 to the Convention has been violated. Although not specifically detailed, it is apparent from the application that the applicant also seeks to raise a violation of Article 3 of the Convention in that she has been allegedly subjected to degrading treatment before the domestic courts and that such lengthy proceedings amount to an unjustifiable interference with her right to private and family life as guaranteed under Article 8 of the Convention.

## IV. OPINION OF THE CHAMBER

### A. *Ratione personae*

9. 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."

10. To the extent that the applicant directs her application against I.K., the Chamber finds that the applicant's complaint against I.K. does not concern an interference with her rights under the Agreement by the authorities of any of the signatories to the Agreement. Moreover, I.K. is not capable of engaging the responsibility under the Agreement of any of the signatories to the Agreement. It follows that the application against I.K. is incompatible *ratione personae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare this part of the application inadmissible.

**B. Remainder of the application**

11. In accordance with Article VIII(3) of the Agreement, "the Chamber may decide at any point in its proceedings to suspend consideration of, reject or strike out, an application on the ground that (a) the applicant does not intend to pursue his application; ... provided that such a result is consistent with the objective of respect for human rights."

12. The Chamber notes that the applicant has failed to respond to the letters of 12 July 2002 and 13 November 2002, even though the Chamber warned the applicant that a failure to respond might result in her application being struck out. Accordingly, the Chamber finds that the applicant does not intend to pursue the application. Furthermore, the Chamber finds no special circumstances regarding respect for human rights, which require the examination of the application to be continued. The Chamber therefore decides to strike out the application.

**V. CONCLUSION**

13. For these reasons, the Chamber, unanimously,

**DECLARES THE APPLICATION INADMISSIBLE IN PART and  
STRIKES OUT THE REMAINDER OF THE APPLICATION.**

(signed)  
Ulrich GARMS  
Registrar of the Chamber

(signed)  
Mato TADIĆ  
President of the Second Panel