



DECISION ON ADMISSIBILITY

Case no. CH/02/11073

Ešef ZEJNILOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 5 December 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)(a) and VIII(2)(c) of the Agreement and Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

I. INTRODUCTION

1. On 4 May 2001 the Cantonal Court in Goražde issued a decision in which it convicted the applicant of murder committed on 16 June 1992 and sentenced him to eight years imprisonment.
2. On 11 July 2001 the Supreme Court of Bosnia and Herzegovina, deciding upon the applicant's appeal, confirmed the conviction and sentenced him to six years imprisonment.
3. On 4 February 2002 the Cantonal Court in Goražde rejected the applicant's request for amnesty. The Cantonal Court reasoned that under Article 6 of Annex 7 to the General Framework Agreement (the "Agreement on Refugees and Displaced Persons"), amnesty can only be granted for criminal offences committed during and related to the armed conflict. The Cantonal Court further established that Article 6 of the Agreement on Refugees and Displaced Persons serves as a framework for the Law on Amnesty (Official Gazette of the Federation of Bosnia and Herzegovina no. 48/99 of 3 December 1999). According to the Law on Amnesty, the criminal offence of murder is excluded from amnesty provisions.

II. PROCEEDINGS AND COMPLAINTS BEFORE THE CHAMBER

4. The application was introduced to the Chamber on 27 May 2002.
5. The applicant complains about the length of the proceedings against him since he committed the offence on 16 June 1992, but he was convicted of murder only on 4 May 2001. The applicant further alleges that his right to amnesty has been violated because he committed murder during the armed conflict and therefore he is entitled to amnesty.

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.... (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. With regard to the applicant's claim in relation to the length of proceedings, the Chamber notes that the application was lodged on 27 May 2002. It finds that the final decision for the purposes of Article VIII(2)(a) of the Agreement, was issued on 11 July 2001 by the Supreme Court of Bosnia and Herzegovina. This date is more than six months before the date on which the application was filed with the Chamber. The Chamber further notes that the applicant, after explicitly being asked to do so, failed to provide the Chamber with information about the date on which he received the decision of the Supreme Court. The applicant only provided the Chamber with a copy of the decision which contains the date "19 July 2001" but with no further readable information. The Chamber therefore concludes that the applicant did not prove that he filed his complaint to the Chamber within six months after he received the decision of the Supreme Court. Accordingly, this part of the application does not comply with the requirements of Article VIII(2)(a) of the Agreement. The Chamber therefore decides to declare this part of the application inadmissible.

8. With regard to the applicant's allegation that his right to amnesty was violated, the Chamber notes that the "right to amnesty" is not a right which is included among the rights and freedoms guaranteed under the Agreement. It follows that this part of the application is incompatible *ratione materiae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare the remainder of the application inadmissible 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