



DECISION ON ADMISSIBILITY

Case no. CH/02/11098

Hasan MAŠINOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 1 April 2003 with the following members present:

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER
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. INTRODUCTION

1. On 15 May 1996, three persons unlawfully entered into the property of the applicant. The applicant hereupon entered into his house, took his “automatic M 56” and shot one of these three persons. Two days later, the person he shot died.
2. On 20 March 2000, the investigative judge of the Cantonal Court in Bihać performed a reconstruction of the incident.
3. On 2 November 2000, the Cantonal Court in Bihać declared the applicant guilty of murder and sentenced him to eight years of imprisonment. On the same day, the applicant was ordered to be taken into custody.
4. On 21 November 2001, the Supreme Court of the Federation of Bosnia and Herzegovina, during its public session, refused the appeals of the applicant and the public prosecutor and confirmed the judgment of the Cantonal Court in Bihać. The lawyer of the applicant, who was present during this session when the decision was orally delivered, received the written decision on 6 December 2001.

II. PROCEEDINGS AND COMPLAINTS BEFORE THE CHAMBER

5. The applicant sent his application to the Chamber via registered mail on 30 May 2002. The application was introduced to the Chamber on 6 June 2002 and registered on the same day.
6. The applicant alleges violations of the Constitution of Bosnia and Herzegovina, the Constitution of the Federation of Bosnia and Herzegovina, the Law on Criminal Procedure of the Federation of Bosnia and Herzegovina and a violation of Article 6, paragraph 3c of the European Convention on Human Rights.
7. The applicant requested the Chamber to re-open the criminal proceedings. The applicant further requested that the Chamber order the respondent Party, as a provisional measure, to suspend his detention. The applicant submitted a claim for compensation in an unspecified amount for non-pecuniary damage and for costs and expenses.
8. On 2 December 2002, the Chamber decided not to order the provisional measure requested.

III. OPINION OF THE CHAMBER

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: (a) ... that the application has been filed with the Commission within six months from such date on which the final decision was taken.”
10. The Chamber notes that the application was lodged on 30 May 2002. 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 21 November 2001. Although the lawyer of the applicant received the written decision on 6 December 2001, the Chamber notes that the applicant’s lawyer was present during the public session of the Supreme Court of the Federation of Bosnia and Herzegovina when the decision was orally delivered. Accordingly, on 21 November 2001, the period of time to be considered for the purpose of Article VIII(2)(a) starts. 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.

III. CONCLUSION

11. For these reasons, the Chamber, unanimously

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Mr. Mato TADIĆ
President of the Second Panel