



DECISION ON ADMISSIBILITY

Case no. CH/02/11107

Mustafa MULAMUSTAFIĆ

against

BOSNIA AND HERZEGOVINA

and

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 5 November 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. FACTS

1. The application concerns the petty offence proceedings that have been conducted or are at present conducted against the applicant. By a procedural decision of Municipal Court of Petty Offences in Tuzla dated 7 April 2000, the applicant was found guilty and fined to pay 150,00 KM for driving a lorry without having a tachograph installed. It appears from the documents attached to the application that proceedings were initiated against the applicant also before the Municipal Court of Petty Offences in Ilijaš and the Municipal Court of Petty Offences in Zavidovići. In the petty proceedings before the Municipal Court for Petty Offence in Sarajevo the applicant was found guilty and ordered to pay 150,00 KM. On 30 April 2002 the Municipal Court for Petty Offence in Sarajevo ordered the applicant to pay the fine or to serve a prison sentence.
2. The applicant is unemployed and so is his wife. The couple has two underage children. The obligation to pay the fine is placing him in a very difficult financial situation.
3. The applicant requests the Chamber to suspend the enforcement of his prison sentence, which he must serve as he could not pay the fine.

II. PROCEEDING BEFORE THE CHAMBER

4. The application was submitted to the Chamber on 4 July 2002. The applicant requests the Chamber to suspend the enforcement of his prison sentence.
5. The applicant marked Bosnia and Herzegovina as the respondent Party. The Chamber decided to extend application against the Federation of Bosnia and Herzegovina.

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: ... (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 Bosnia and Herzegovina as respondent Party, the Chamber notes that the Municipal Courts of Petty Offence (Općinski sudovi za prekršaje), responsible for the proceedings complained of by the applicant, are organs of the Federation. Their conduct engages the responsibility of the Federation of Bosnia and Herzegovina, not that of Bosnia and Herzegovina, for the purposes of Article II(2) of the Agreement. Accordingly, as directed against Bosnia and Herzegovina the application is incompatible *ratione personae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare the application inadmissible as against Bosnia and Herzegovina.
8. The Chamber notes that the applicant complains that he has to pay a fine because the Municipal Court of Petty Offence found him to have violated traffic regulations. As the applicant did not pay a fine the Court changed it into a prison sentence. The applicant does not raise any other issue or possible violation of the human rights. Therefore, the Chamber 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.

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