



DECISION ON ADMISSIBILITY

Case no. CH/02/11140

Bajrama MUHEDINOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 8 November 2002 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
Mr. Mato TADIĆ

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) of the Agreement and Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

I. FACTS

1. The applicant is currently in the Correctional Institution Tuzla where she serves a sentence of 4 years and 6 months of imprisonment. By a judgement of the Cantonal Court in Bihać of 3 February 2000, the applicant was sentenced for the criminal offence of robbery. The applicant, through her lawyer, submitted an appeal against the judgement of the Cantonal Court in Bihać. On 8 June 2000, the Supreme Court of the Federation of Bosnia and Herzegovina rejected the appeal as ill-founded and confirmed the first instance judgement.

II. PROCEEDINGS BEFORE THE CHAMBER AND ALLEGED VIOLATIONS OF HUMAN RIGHTS

2. The application was introduced before the Chamber on 10 June 2002 and registered on the same day. The applicant requests the Chamber to issue an order annulling the judgement of the Cantonal Court and returning the case for reconsideration. She requests compensation for pecuniary and non-pecuniary damage without specifying the amount.

3. The applicant alleges that her right to a fair hearing was violated during the trial. During the investigation procedure and the main hearing she was kept in the same room together with F.H., who threatened her. Because of these threats the applicant allegedly did not provide a statement, due to which the correct facts were not established.

4. The applicant states that the co-defendant D.E. was not present during the delivery of the judgement, which is a breach of procedure. She complained that during the procedure the Court did not hear one of the witnesses, whose statement would contribute to a different establishment of the facts.

5. The applicant finally points out that the Court did not take into account the fact that she is sick and that she has 4 children with D.E., who are living in an orphanage, and that one child died during the procedure.

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."

7. The Chamber notes that the application was lodged on 10 June 2002. It finds that the final decision for the purposes of Article VIII(2)(a) of the Agreement, was issued by Supreme Court of the Federation of Bosnia and Herzegovina on 8 June 2000. 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.

IV. CONCLUSION

8. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel