



DECISION ON ADMISSIBILITY

Case no. CH/02/12265

M.M.

against

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. Vitimir 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. The application was introduced to the Chamber on 19 September 2002. During the armed conflict in Bosnia and Herzegovina, the applicant was a member of the emergency platoon of the reserve forces of the police in the Ministry of Internal Affairs of the Republic of Bosnia and Herzegovina in Konjic. By a judgment of the Cantonal Court in Mostar of 25 July 2000, the applicant was declared guilty for committing the criminal offence of war crimes against civilians, contrary to the rules of international humanitarian law set out in Article 3.IV of the Geneva Convention for the Protection of Civilians during the War. By the same judgment the applicant was sentenced to 12 years of imprisonment.

2. The applicant appealed to the Supreme Court of the Federation of Bosnia and Herzegovina against the judgment of the Cantonal Court in Mostar of 25 July 2000. The Cantonal Prosecutor filed an appeal against this judgment as well. The Supreme Court of the Federation of Bosnia and Herzegovina, by its judgment of 8 February 2001, rejected those appeals and upheld the judgment of the Cantonal Court.

3. The applicant also filed a request for renewal of the criminal proceeding to the Cantonal Court in Mostar, which the Court rejected by its procedural decision of 27 November 2001.

II. COMPLAINTS

4. In his application to the Chamber, the applicant points out that a proceeding was initiated against him and two other perpetrators for the offence in question in 1994, but that it was suspended and again initiated in 1998. The applicant was detained for the periods from 7 April 1994 until 7 May 1994 and from 15 January 1999 until the first instance judgment was issued on 25 July 2000. The applicant states that such conduct of the court and prosecution caused him serious moral and psychological suffering.

5. The applicant further states that the first instance court made numerous irregularities in the procedure to establish the facts concerning the opinion and assessment of expertise and statements of witnesses. He especially points out that persons who issued orders were heard as witnesses in this proceeding. Finally, the applicant states that the judgment by which he was convicted is a result of speculation and not of evidence.

6. The applicant requests the Chamber to promptly order renewal of the criminal proceeding. The applicant also requests the consideration of his case to be joined with case nos. CH/01/7912 and CH/01/7913 *Adem LANDŽO and Jusuf POTUR v. the Federation of Bosnia and Herzegovina*.

III. OPINION OF THE CHAMBER

7. 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."

8. The Chamber notes that the application was lodged on 19 September 2002. The Chamber finds that the final decision, within the meaning of Article VIII(2)(a) of the Agreement, is the judgment of the Supreme Court of the Federation of Bosnia and Herzegovina of 8 February 2001, which rejected the applicant's appeal. The date of this decision is more than six months before the date on which the application was introduced to 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

9. For these reasons, the Chamber, unanimously,
DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Mato TADIĆ
President of the Second Panel