



DECISION ON ADMISSIBILITY

Case no. CH/02/12329

Ferdinand BRADVIĆ

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

I. INTRODUCTION

1. The applicant is of Croat origin. The applicant complains that the Municipal Court Judge, A.S., who is of Bosniak origin, discriminated against him because of his ethnic origin when issuing a judgment that obliged the applicant to pay an excessive amount of money.

II. FACTS

2. On 12 April 2001, Judge A.S. of the Municipal Court in Tuzla issued a partial judgment in a civil case against the applicant initiated by the family members, including the parents, of a man killed by the applicant. The partial judgment of 12 April 2001 orders the applicant to pay 9,000 KM in non-pecuniary compensation for mental suffering to the parents.

3. On 11 June 2001, the applicant's lawyer appealed to the Cantonal Court in Tuzla. On 20 June 2001, the applicant supplemented the appeal.

4. On 14 September 2001, the applicant addressed the High Judicial Commission of the Office of the High Representative for assistance in his proceedings before the Cantonal Court. The High Judicial Commission informed him that it could not support him in his court proceedings.

5. On 1 February 2002, the Cantonal Court partly accepted the applicant's appeal. It reduced the amount of compensation due to the parents to 5,000 KM.

6. On 19 April 2002, the parents initiated enforcement proceedings requesting the payment of the awarded sum.

III. PROCEEDINGS AND COMPLAINTS BEFORE THE CHAMBER

7. The application was introduced before the Chamber on 11 October 2002 and registered on the same day. The applicant alleges to have been discriminated against in his right to a fair, impartial and lawful trial.

8. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to stop the enforcement of the judgment in question. On 4 November 2002, the Chamber rejected the provisional measure requested.

IV. 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: ... (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."

10. The Chamber notes that the applicant complains to have been discriminated against by a judge of the Municipal Court in Tuzla in his right to a fair trial because of his Croat origin. The Chamber notes that the applicant has failed to substantiate his allegation. The Chamber cannot find any evidence *proprio motu* that the applicant has been discriminated against. In particular, the amount of compensation awarded by the Municipal Court in Tuzla in itself is not so high as to raise doubts as to the impartiality of the judge issuing the decision. 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.

V. CONCLUSION

11. 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