DECISION ON ADMISSIBILITY

Case no. CH/02/8696

Amir JAŠAREVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 11 October 2002 with the following members present:

Mr. Viktor MASENKO-MAVI, Acting President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
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)(c) 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 17 January 2002. The applicant is currently serving a prison sentence in the Correctional Institution in Zenica.

2. The applicant complains that his rights under Article 6 of the European Convention on Human Rights have been violated. The applicant alleges that the Court violated the Code of Criminal Procedure and wrongfully and incompletely established the factual background. He requests the Chamber to annul the judgement and return the case for reconsideration.

3. By a judgement of the Cantonal Court in Tuzla of 21 March 2001 the applicant was declared guilty of murder under Article 171 paragraph 1 of the FBiH Criminal Code and sentenced to 14 years of imprisonment. The applicant filed an appeal to the Supreme Court claiming that the establishment of the facts was wrong and incomplete. On 16 October 2001, the Supreme Court of the Federation of Bosnia and Herzegovina rejected the appeal as ill-founded and confirmed the 21 March 2001 judgement of the Cantonal Court in Tuzla.

II. OPINION OF THE CHAMBER

4. 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."

5. The Chamber notes that the applicant complains that both the Cantonal and Supreme courts wrongly assessed the facts pertaining to his case and misapplied criminal procedure laws. Article 6 of the Convention guarantees the right to a fair hearing. However, the Chamber has stated on several occasions that it has no general competence to substitute its own application of the law for that of the national courts (see, e.g., case no. CH/99/2565, *Banović*, decision on admissibility of 8 December 1999, paragraph 11, Decisions August-December 1999, and case no. CH/00/4128, *DD "Trgosirovina" Sarajevo (DDT)*, decision on admissibility of 6 September 2000, paragraph 13, Decisions July-December 2000). There is no evidence that the court failed to act fairly as required by Article 6 of the Convention. 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.

III. CONCLUSION

6. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Viktor MASENKO-MAVI
Acting President of the Second Panel