



## **DECISION ON ADMISSIBILITY**

**Case no. CH/02/8742**

**Željko GOLUŽA**

**against**

**THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 1 April 2003 with the following members present:

Mr. Mato TADIĆ, President  
Mr. Jakob MÖLLER  
Mr. Mehmed DEKOVIĆ  
Mr. Giovanni GRASSO  
Mr. Manfred NOWAK  
Mr. Vitomir 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)(c) of the Agreement and Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

## **I. INTRODUCTION**

1. The application was introduced on 14 January 2002 and registered on 25 January 2002.
2. On 13 June 2001, the Municipal Court in Stolac declared the applicant guilty of inflicting severe bodily injuries to a person resulting in death and sentenced him to eight years imprisonment.
3. On 6 November 2001, the Cantonal Court in Mostar refused the applicant's appeal, confirmed the judgement of the Municipal Court and sentenced him to nine years imprisonment.
4. The applicant complains that the Municipal Court in Stolac and the Cantonal Court in Mostar did not objectively establish the facts in his case and thereby violated Article 6 of the European Convention on Human Rights. He further alleges that he was denied the right to be represented by a lawyer when he was brought before the police and the investigative judge.
5. On 2 May 2002, the Chamber asked the applicant to provide it with additional information. The applicant's reply was received by the Chamber on 14 May 2002.
6. On 19 July 2002, 5 August 2002, 15 August 2002 and 26 November 2002, the Chamber received letters from the applicant in which he repeated his complaints.

## **II. 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: ... (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."

8. The Chamber notes that the applicant complains that the Municipal Court and the Cantonal Court wrongly assessed the facts pertaining to his case and by doing so misapplied Article 6 of the European Convention on Human Rights. Article 6 of the European Convention on Human Rights 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 assessment of the facts 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 Municipal Court and the Cantonal Court failed to act fairly as required by Article 6 of the European Convention on Human Rights. It follows that this part of the application is manifestly ill-founded within the meaning of Article VIII(2)(c) of the Agreement. The Chamber therefore decides to declare this part of the application inadmissible.

9. The applicant further complains that he was denied the right to be represented by a lawyer when he was brought before the police and the investigative judge. The Chamber notes that the applicant, although having explicitly being requested to do so, failed to provide the Chamber with adequate and consistent information and therefore has failed to substantiate these allegations. Therefore, the Chamber finds that this part of the application does not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. It follows that this part of the application is manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement, too. The Chamber therefore decides to declare this part of the application inadmissible, as well.

**III. CONCLUSION**

10. 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