



DECISION ON ADMISSIBILITY

Case no. CH/02/8848

Zoran MLADENVIĆ

against

**BOSNIA AND HERZEGOVINA
and
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)(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 11 February 2002. The applicant, currently serving a prison sentence in the Tuzla correctional detention center, requested that the Chamber order the respondent Party, as a provisional measure, to transfer him from the prison room he is now occupying to another one that will better suit his psychosomatic disorders and claustrophobia. On 4 March 2002, the President of the Second Panel decided not to order the provisional measure requested.

2. The applicant complains about the poor living conditions in the prison and about the fact that his wife, who is also detained there, is the only woman in the prison and no facilities are provided for her on the basis of her gender (e.g., there are no female prison guards or doctors). The applicant considers that his rights under Articles 3, 6, 13 and 14 of European Convention on Human Rights have been violated. He does not indicate which rights have been violated regarding his wife.

3. The applicant states that on 15 January 2002, he was transferred from detention room no. 6 to room no. 5. He states that the reasons for his transfer were not given to him. While in room no. 5, the applicant claims that he was attacked by another detainee, B.N.. On 23 January 2002, the applicant was transferred to detention room no. 17.

4. The applicant is a war veteran and he further states that due to the war events he suffers from psychosomatic disorders and claustrophobia. For these reasons he requested room no. 6 which has a large window. He further states that because of spinal problems, he is not able to climb onto the upper bed in the current prison room and that although he requested the supervisor to assign him to the lower bed, he has not had any answer to this request.

5. The applicant also states that although the President of the Cantonal Court in Tuzla came to the prison to visit some detainees who were on a hunger strike, he did not visit him (who also was on a hunger strike). He considers that he has not been visited because of his "orthodox religion". The applicant further states that the court "prejudged" him and his wife.

II. 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: ... (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."

A. As to Bosnia and Herzegovina

7. The applicant directs his application against Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina. The Chamber notes that the applicant has not provided any indication that Bosnia and Herzegovina is in any way responsible for the actions he complains of, nor can the Chamber on its own motion find any such evidence. The application is therefore incompatible *ratione personae* with the Agreement insofar as it is directed against Bosnia and Herzegovina.

B. As to the Federation of Bosnia and Herzegovina

8. The Chamber notes that the applicant's concerns about the poor living conditions in the prison, as well as his concerns about the fact that his wife, who is also detained there, is the only woman in the prison and no facilities are provided for her on the basis of her gender, do not disclose "per se" any appearance of a violation of the rights and freedoms guaranteed under the Agreement.

9. As to the applicant's claims that his rights under Articles 3, 6, 13 and 14 of European Convention have been violated, the Chamber finds that the applicant has failed to substantiate his allegations. Ill-treatment must attain a minimum level of severity to fall within the provisions of Article 3, and in the present case the Chamber cannot find, pursuant to the facts as presented by the applicant, that the applicant was subjected to any of the different categories of ill-treatment contained

in Article 3. There is further no substantiation as to how the trial was unfair apart from the general allegation by the applicant that the court “prejudged” him and his wife and no indication that he tried to challenge the court decision or any of the acts complained of before the domestic courts. The Chamber thus cannot find the appearance of a violation of either Article 6 or Article 13 of the Convention.

10. 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

11. 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