



## **DECISION ON ADMISSIBILITY**

**Case no. CH/02/9599**

**Fadil AHMIĆ**

**against**

**THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 11 October 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. FACTS**

1. On 28 March 2001, the Municipal Petty Offence Court in Tešanj issued a procedural decision in which it declared the applicant guilty of the petty offence defined in Article 50 of the Law on Petty Offence Procedure. The Municipal Petty Offence Court punished him with a pecuniary fine in the amount of 400 KM and, as a protective measure, prohibited him from driving for three months.
2. The applicant submitted an appeal against the procedural decision in question. On 16 April 2001 the Cantonal Petty Offence Panel in Zenica rejected the applicant's appeal and confirmed the procedural decision of the Municipal Petty Offence Court.
3. On 22 May 2001, the applicant submitted a request for court protection. On 12 June 2001, the Cantonal Court in Zenica rejected that request as ill-founded.
4. On 12 September 2001, the applicant submitted a request for renewal of the proceedings to the Municipal Petty Offence Court, and the Court rejected that request. The applicant appealed, and the Cantonal Petty Offence Panel refused the appeal and confirmed the procedural decision of the Municipal Petty Offence Court.
5. On 1 February 2002, the Municipal Petty Offence Court issued a procedural decision changing the applicant's punishment from the pecuniary fine to three days imprisonment.
6. The applicant complains that the courts wrongly established the facts, refused the applicant's request to perform a reconstruction of the underlying event, and heard only two witnesses in the applicant's defence.

## **II. PROCEEDINGS BEFORE THE CHAMBER AND REQUESTED REMEDIES**

7. The application was submitted to the Chamber on 20 March 2002.
8. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to issue an order annulling the procedural decision declaring him guilty of a petty offence and quashing the procedural decision changing his punishment for that petty offence. On 4 September 2002 the Chamber decided not to order the provisional measure requested.

## **III. 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. Although the applicant did not indicate any respondent Party on his application form, it follows from the application that the proper respondent Party is the Federation of Bosnia and Herzegovina because the procedural decisions against which he complains were issued by the Municipal Petty Offence Court in Tešanj and the Cantonal Petty Offence Panel in Zenica. The Chamber, therefore, *proprio motu* considers the application as directed against the Federation of Bosnia and Herzegovina.
11. The Chamber notes that the applicant complains that the Municipal Petty Offence Court in Tešanj and the Cantonal Petty Offence Panel in Zenica wrongly assessed the facts pertaining to his case. 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 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 courts 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.

**IV. CONCLUSION**

12. 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