



DECISION ON ADMISSIBILITY

Case no. CH/03/13447

Ivo PETROVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 4 July 2003 with the following members present:

Ms. Michèle PICARD, President
Mr. Miodrag PAJIĆ, Vice-President
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA
Mr. Andrew GROTRIAN

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 18 March 2003. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to take all necessary action to suspend the proceedings on enforcement of a judgment of the Municipal Court in Tuzla, which was confirmed by the Cantonal Court in Tuzla, ordering him to pay compensation in the total amount of 9,753 KM, until the proceedings before the Chamber are concluded. In addition, the applicant requested the Chamber to order the respondent Party to alter the judgments in question or to annul them and return the case for retrial. On 5 May 2003, the Chamber decided not to order the provisional measures requested.

2. On the 6 December 2001, the Municipal Court in Tuzla issued a judgment in the injured party's lawsuit against the applicant because, while he was operating a utility motor vehicle, which was the property of the French humanitarian organisation "Handicap International", he caused a traffic accident and seriously injured two pedestrians. The Municipal Court ordered the applicant to pay the amount of 7,300 KM for non-pecuniary damages for pain and suffering and permanently diminished general life capabilities, as well as the amount of 2,453 KM for legal expenses. The applicant lodged an appeal against this judgment. On 9 July 2002, the Cantonal Court in Tuzla issued a decision rejecting the applicant's appeal and confirming the first instance decision.

3. The applicant complains against the judgment of 6 December 2001 by the Municipal Court in Tuzla because he claims that the injured party could not claim compensation for damages from him directly, but only from "Handicap International", which owns the vehicle involved in the accident. He further claims that the Cantonal Court in Tuzla violated his right to defence and to a fair trial when it rejected his appeal.

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 the Municipal Court and the Cantonal Court in Tuzla wrongly assessed the facts and misapplied the law 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 and 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 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.

III. CONCLUSION

6. 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