



DECISION ON ADMISSIBILITY

Case no. CH/03/14060

Kabaš KRASNIĆI

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)(a) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The application was introduced on 25 April 2003. The applicant complains that the Ministry of Justice has not decided on his request for compensation due to his ill-founded detention.

2. The applicant states that on 10 May 2002, he submitted a request to the Ministry of Defense of the Federation of Bosnia and Herzegovina (hereinafter: "the Ministry") for compensation for damage he suffered as a result of his ill-founded deprivation of liberty from 25 October to 5 November 1999. The applicant was under suspicion for the criminal offence of fraud, i.e. that he was involved in illegal actions leading to the SAB Bank bankruptcy.

3. As the Ministry did not respond to the applicant's request, on 5 July 2002, he sent a request for urgency and a supplement to his request for compensation for damage.

4. The applicant further states that the Ministry never responded to his request for damage compensation for his ill-founded detention. According to the applicant's statements, by such actions the respondent Party, through the Ministry, has violated his right to equal treatment before the law and exceeded the reasonable time limit for deciding upon his request. The applicant states that he is in no position to seek legal remedies as he did not receive a decision from the Ministry of Justice.

II. OPINION OF THE CHAMBER

5. 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: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted"

6. The Chamber notes that the applicant addressed the Ministry for compensation for damage due to his ill-founded detention, but the Ministry never decided upon his request. However, the applicant failed to file a lawsuit before the competent court, claiming damage compensation in regular court proceedings, when this legal opportunity was at his disposal. The applicant has not shown that this remedy was ineffective and it does not appear so to the Chamber. Accordingly, the Chamber finds that the applicant has not, as required by Article VIII(2)(a) of the Agreement, exhausted the effective remedies. The Chamber therefore decides to declare the application inadmissible.

III. CONCLUSION

7. 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