



DECISION ON ADMISSIBILITY

Case no. CH/98/1044

Dragan OPAČIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 12 January 2000 with the following members present:

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

Mr. Anders MÅNSSON 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. The applicant, born in 1975, is a citizen of Bosnia and Herzegovina currently detained in the Zenica Correctional Facility. During the war in Bosnia and Herzegovina, he was a soldier in the Army of the Republika Srpska even though he was still a minor. In October 1994, he was captured by the Army of Bosnia and Herzegovina.
2. On 19 January 1995 the applicant was charged with war crimes and genocide. He was convicted by the Sarajevo High Court, the first instance court, on 16 May 1995 and sentenced to 10 years in prison in a juvenile detention facility (he was later transferred to the Zenica Correctional Facility).
3. The applicant appealed this decision to Supreme Court of Bosnia and Herzegovina. On 2 June 1995, upon the applicant's appeal, the Supreme Court of Bosnia and Herzegovina confirmed the first instance court's decision.
4. The applicant was then summoned to appear before the International Criminal Tribunal for the Former Yugoslavia ("ICTY") at the Hague. On 16 April 1997, while the applicant was in detention at the Hague, the newspaper "Slobodna Bosna" of Bosnia and Herzegovina published an article regarding his criminal case and his presence before the ICTY. As the article revealed specific facts about the applicant which were allegedly to be kept confidential because the applicant was a minor, he filed suit against the party responsible for the publication of the paper, D.O.O. Pres-Sing, Sarajevo, for non-pecuniary damage.
5. Upon his return from the ICTY in 1997, the applicant filed a request for review of the criminal proceedings in 1997 with the Cantonal Court in Sarajevo. That court dismissed this request on 8 January 1998. The applicant has lodged various similar and related requests for review, all of which have been rejected.

II. COMPLAINTS

6. The applicant complains that his rights to a fair trial have been violated during the criminal proceedings of 1995. Further, he complains that he is being denied justice in his suit against the newspaper publisher and asks the Chamber to help have the proceedings completed.

III. PROCEEDINGS BEFORE THE CHAMBER

7. The application was received on 2 November 1998 and registered on the same day.
8. The Chamber considered the application on 8 June 1999 and requested further information from the applicant. This information was received on 20 June 1999.
9. On 8 September 1999 the Chamber again considered the application and decided to ask the respondent Party for information which the applicant had failed to provide. This information was received on 27 October 1999.
10. On 12 January 2000, the Chamber adopted this decision.

IV. OPINION OF THE CHAMBER

11. Before considering a case on its merits the Chamber must decide whether to accept it, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement. According to Article VIII(2)(c), the Chamber shall dismiss any case it considers incompatible with the Agreement or manifestly ill-founded.

12. The applicant complains that the criminal proceedings which were completed on 2 June 1995 violated his right to a fair trial. However, for events which occurred before 14 December 1995 the Chamber has no jurisdiction as they preceded the entry into force of the Agreement. While the applicant later initiated further proceedings regarding his conviction after this date, he has not made any assertions that these proceedings violated his right to a fair trial.

13. Accordingly, the Chamber decides not to accept this part of the application, it being incompatible *ratione temporis* with the Agreement within the meaning of Article VII(2)(c) thereof.

14. Regarding the applicant's complaint that he is being denied justice in his civil suit against the newspaper publisher, the Chamber has no evidence to substantiate this claim, nor is it within the Chamber's jurisdiction to directly assist individuals in pursuing their cases before the courts of the Federation.

15. Accordingly, the Chamber decides not to accept this part of the application, it being manifestly ill-founded within the meaning of Article VII(2)(c) thereof.

V. CONCLUSION

16. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel