



DECISION ON ADMISSIBILITY

Case no. CH/98/1403

Halim KOVAČEVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 8 December 1999 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. 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 is a citizen of Bosnia and Herzegovina. In the early 1980s he was serving a four year sentence in Zenica Correctional Facility (the reason for his incarceration is unclear). During this period the applicant alleges that he suffered burns while working in the iron foundry in the prison. He was treated in the prison infirmary but has provided no medical records regarding this or subsequent treatment. The applicant was released in 1986.
2. Later, the applicant served as a member of the Croatian Defence Council ("HVO") during the war in Bosnia and Herzegovina. On 12 March 1993 the applicant was arrested and taken to Zenica. The applicant was charged with three counts of murder.
3. On 17 February 1994 the applicant was convicted and sentenced to 20 years in prison. The applicant appealed this decision and on 10 March 1995 the Supreme Court in Sarajevo rejected his appeal.
4. The applicant submitted a request for a renewal of proceedings to the High Court in Zenica. This request was refused on 10 October 1997. The applicant appealed to the Supreme Court of the Federation of Bosnia and Herzegovina, which refused his appeal on 1 September 1998.
5. The applicant has also appealed to the Ombudsmen of the Federation of Bosnia and Herzegovina and to the Constitutional Court of Bosnia and Herzegovina, without gaining any favourable results.

II. COMPLAINTS

6. The applicant complains, regarding his conviction in 1994, that his right to a fair trial has been violated. In addition the applicant complains that his rights under the law have been violated owing to the events associated with the burns he suffered in the early 1980s and subsequent treatment.

III. PROCEEDINGS BEFORE THE CHAMBER

7. The application was introduced on 23 December 1998 and registered the same day.
8. The Chamber considered the applicant's complaints on 1 November and 8 December 1999 and adopted this decision on the latter date.

IV. OPINION OF THE CHAMBER

9. Before considering the merits of the case the Chamber must decide whether to accept the case, 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 which it considers manifestly ill-founded or incompatible with the Agreement.
10. The applicant states that his right to a fair trial has been violated in the proceedings leading to his conviction in February 1994. 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 had further proceedings regarding his conviction after this date, he has not made any assertions that these proceedings in any way violated his right to a fair trial.
11. The applicant also claims that his rights have been violated regarding the burns he suffered in the early 1980s and the subsequent treatment. Although the Chamber may examine past events as evidence regarding possible violations after the Agreement entered into force, the applicant does not raise any tenable claims regarding these burns that occurred after such time.

12. Accordingly, the application is inadmissible, it being incompatible *ratione temporis* with the Agreement within the meaning of Article VIII(2)(c) thereof.

V. CONCLUSION

13. 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