



DECISION ON THE ADMISSIBILITY

CASE No. CH/98/267

Kata DRINOVAC

against

BOSNIA AND HERZEGOVINA

and

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 15 October 1998 with the following members present:

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

Mr. Leif BERG, 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) and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The facts are based on the application and appended documents and can be summarised as set out below.
2. The applicant is a citizen of Bosnia and Herzegovina of Croat descent. She was born in 1914. Prior to the outbreak of hostilities, she lived in Novo Selo, a village near Bosanski Brod. In March 1992; she was taken from her farm by members of the Hrvatska Vijeće Obrane (“HVO” the Croatian Council of Defence). She was unable to take any of her personal belongings with her. She was taken to a refugee centre in Croatia, where she still lives. Soon afterwards, Novo Selo came under the control of Bosnian Serb forces. All items of value were removed from her house, after which it was destroyed.
3. The refugee centre where the applicant lives is soon to close. Accordingly, she wishes to be allowed to return to her property. The area where she lived is now part of the Republika Srpska. The applicant’s grandson, who has visited her property, states that there is now no trace of her home.

II. COMPLAINTS

4. The applicant alleges a violation of her right to life and her right to freedom from slavery, her right to liberty and security of person, her right to respect for her private life, family and home, her right to the peaceful enjoyment of her possessions and her right to liberty of movement and freedom of residence, as guaranteed by Article II(3) of the Constitution of Bosnia and Herzegovina set out in Annex 4 to the General Framework Agreement for Peace in Bosnia and Herzegovina.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 27 January 1998 and registered on 10 April 1998. The applicant is represented by her grandson, Mr. Nenad Remenović. As provided for in Rule 49(2) of the Rules of Procedure, the application is being declared inadmissible at once by the Chamber. Accordingly, the application was not transmitted to the respondent Party.

IV. OPINION OF THE CHAMBER

6. Before deciding on the merits of the application, the Chamber must decide whether to accept the case, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement. Article VIII(2)(c) provides that “the Chamber shall ... dismiss any application which it considers incompatible with this Agreement...”
7. The Chamber recalls that it has no jurisdiction to consider alleged or apparent violations of human rights which occurred prior to 14 December 1995, the date of entry into force of the Agreement. (see Case No. CH/96/1, Decision on Admissibility of 13 September 1996) The Chamber could therefore find that a respondent Party has breached its obligations under the Agreement only if there were evidence before it demonstrating that the relevant events occurred after 14 December 1995.
8. The Chamber notes that all of the events of which the applicant complains occurred in 1992, i.e. prior to 14 December 1995. There is no evidence of any subsequent conduct on the part of either respondent Party which could constitute a breach of the Agreement.
9. Accordingly, the Chamber considers that it has no competence *ratione temporis* to consider the applicant’s complaints. As a result, the application is incompatible with the Agreement. In accordance with Article VIII(2)(c) of the Agreement, the Chamber must therefore dismiss the application.

V. CONCLUSION

10. For these reasons the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel