



## **DECISION ON ADMISSIBILITY**

**Case no. CH/99/3168**

**Nedžad BIBEROVIĆ**

**against**

**BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 11 January 2000 with the following members present:

Mr. Giovanni GRASSO, President  
Mr. Viktor MASENKO-MAVI, Vice-President  
Mr. Jakob MÖLLER  
Mr. Vitomir POPOVIĆ  
Mr. Mato TADIĆ

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, a citizen of Bosnia and Herzegovina, is a basketball player. On 11 September 1998 the applicant, a representative of the basketball club "Cenex" and a representative of the BiH Basketball Association signed a certificate on entering into a contract (a pre-contract) on mutual rights and obligations, granting a scholarship to the applicant. The club also undertook to ensure the best possible conditions for the applicant's sportive development. The contract was concluded for the period of 4 years and was to expire after the season of 2001/02 with the possibility to terminate it early if both parties agreed. In case of a dispute, the BiH Basketball Association Commission on arbitration should be competent and the Presidency of the Basketball Association should decide in the second instance. It was also noted that the provisions of the certificate were valid if the contract was not concluded.

2. According to the applicant, "Cenex" did not respect its obligations as it did not pay the scholarship and did not enable him to train. The applicant appealed to the BiH Basketball Association but has not received any answer. On 12 August 1999 the applicant filed an action against "Cenex" before the Municipal Court I in Sarajevo requesting the termination of the contract and asking the Court to issue a provisional measure freeing him from his obligations towards the club. The Court rejected the request for provisional measure by a procedural decision of 24 September 1999 and kept the rest of the case pending. The applicant further states that he has been blackmailed by "Cenex" that he would have to pay compensation of – allegedly – 15,000 DEM if the contract was cancelled.

3. The applicant petitioned the Federal Ministry of Justice concerning the irregularities in the fulfilment of the contract. The Ministry stated that it did not have competence in the case. It pointed out that the case concerned a civil contract for which there was no administrative procedure. On 22 July 1999 it referred the letter to Mr. Ejup Ganić, the president of the BiH Basketball Association, asking him to help the applicant.

## **II. COMPLAINTS**

4. The applicant complains of the conduct of "Cenex" and of the Basketball Association, which did not allow him to terminate the contract. He alleges a violation of his right to freely choose another basketball club, and to freely occupy himself with sport.

## **III. PROCEEDINGS BEFORE THE CHAMBER**

5. The application was submitted on 3 November 1999 and registered on 12 November 1999. The applicant is represented by Mr. Fahrudin Ibrišimović, a lawyer practicing in Sarajevo. The applicant requested the Chamber to take action to enable him to continue his basketball carrier and to conclude a contract with another basketball club.

## **IV. OPINION OF THE CHAMBER**

6. 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 application which it considers manifestly ill-founded or incompatible with the Agreement.

7. The Chamber recalls that its jurisdiction extends to the examination of alleged or apparent violations of the European Convention on Human Rights and of discrimination on any ground mentioned in Article II(2)(b) of the Agreement in the enjoyment of the rights contained in the international agreements listed in the Appendix to the Agreement.

8. The applicant complains about violations of rights not contained in the European Convention on Human Rights nor the treaties referred to above. The Chamber further notes that the applicant's

choice of basketball club has been restricted by a civil contract concluded between two civil parties, not involving any official authority or person in official capacity.

9. Accordingly, the Chamber decides not to accept the application, it being incompatible *ratione materiae* with the Agreement within the meaning of Article VIII(2)(c) thereof.

**VI. CONCLUSION**

10. For these reasons, the Chamber, unanimously,

**DECLARES THE APPLICATION INADMISSIBLE.**

(signed)  
Anders MÅNSSON  
Registrar of the Chamber  
Second Panel

(signed)  
Giovanno GRASSO

President of the