DECISION ON ADMISSIBILITY

Case no. CH/99/1925

Radovan PANIĆ

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)(a) 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 of Serb descent. On 20 September 1995, while serving in the Army of the Republika Srpska ("VRS"), he was detained by the armed forces of the Federation of Bosnia and Herzegovina in Jajce, which at that time came under the control of those forces. He was detained until 27 January 1996, without ever being brought before a court or other judicial authority.

2. On 20 May 1999 he initiated proceedings before the Court of First Instance II in Sarajevo against the Ministries of Justice, Defence and Internal Affairs of the Federation. In these proceedings he claims 30,000 Convertible Marks (*Konvertibilnih Maraka*) for damage he suffered during his detention. On 3 June 1999 the Court rejected his proceedings on the ground of incompetence. It held that the matter should be decided upon by the Commission on Human Rights under Annex 6 to the General Framework Agreement. On 25 June 1999 the applicant appealed against this decision to the Cantonal Court where, according to the information available to the Chamber, his appeal is still pending.

II. COMPLAINTS

3. The applicant complains that his rights as guaranteed by Articles 3, 4 and 5 of the European Convention on Human Rights have been violated. He also complains of a violation of his right to an effective remedy against violations of those rights and of discrimination in the enjoyment of those rights, as guaranteed by Articles 13 and 14 of the Convention respectively.

III. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced on 12 May 1999 and registered on 20 May 1999. On 3 November 1999 the Chamber considered the admissibility of the application.

IV. OPINION OF THE CHAMBER

5. 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)(a), the Chamber shall take into account, amongst other things, whether effective remedies exist and whether the applicant has demonstrated that they have been exhausted.

6. The Chamber notes that the applicant has initiated proceedings against various organs of the Federation of Bosnia and Herzegovina before the courts of that entity. These proceedings are still pending. The conduct of the proceedings to date does not appear to have been contrary to the applicant's rights as guaranteed by the Agreement. He has not sought to claim that these proceedings are incapable of remedying the violations of his rights he alleges he suffered nor can the Chamber of its own motion find that this is the case. Thus, he cannot be relieved of the obligation to exhaust them.

7. Accordingly, the Chamber decides not to accept the application as the applicant has not demonstrated that he has exhausted the domestic remedies available to him or that they are ineffective, as required by Article VIII(2)(c) of the Agreement.

V. CONCLUSION

8. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)   (signed)
Anders MÅNSSON   Michèle PICARD
Registrar of the Chamber   President of the First Panel

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