



## **DECISION ON ADMISSIBILITY**

**Case no. CH/99/2340**

**Novica ŽIVANOVIĆ**

**against**

**THE REPUBLIKA SRPSKA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 8 February 2000 with the following members present:

Mr. Giovanni GRASSO, President  
Mr. Viktor MASENKO-MAVI, Vice-President  
Mr. Jakob MÖLLER  
Mr. Mehmed DEKOVIĆ  
Mr. Manfred NOWAK  
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 is a citizen of Bosnia and Herzegovina. His son was killed in 1993 while serving in the army of the Republika Srpska, allegedly by another soldier of that army. However, the alleged perpetrator was acquitted on 24 June 1994 by a judgment of the First Instance Military Court in Banja Luka. The applicant appealed to the Regional Military Court, but his appeal was rejected on 8 April 1998 on the ground that he has no standing to appeal. He appealed to the Supreme Military Court also, but this appeal was rejected on 24 March 1999.

## **II. COMPLAINT**

2. The applicant claims that his right to a fair trial as guaranteed by Article 6 of the European Convention on Human Rights has been violated.

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

3. The application was introduced and registered on 17 August 1999.

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

4. 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 incompatible with the Agreement.

5. The Chamber notes that the applicant's son was killed in 1993 and that the person accused of committing this act was acquitted in 1994. These events occurred before the entry into force of the Agreement and are accordingly outside the Chamber's competence *ratione temporis*. Furthermore, Article 6 of the Convention, while affording the right to a fair trial to a person charged with criminal offence, does not extend that right to a person seeking to have someone convicted (see the decision of the European Commission of Human Rights in the case *X. v. the Federal Republic of Germany* of 4 October 1976, application no. 7116/75, Decisions and Reports 7, p. 91). The applicant's complaint is therefore also incompatible with the Agreement *ratione materiae*, in respect of the appeals that ensued.

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

## **V. CONCLUSION**

7. For these reasons, the Chamber, unanimously,

**DECLARES THE APPLICATION INADMISSIBLE**

(signed)  
Anders MÅNSSON  
Registrar of the Chamber

(signed)  
Giovanni GRASSO  
President of the Second Panel