



## **DECISION ON ADMISSIBILITY**

**Case no. CH/99/2799**

**Kemal SOKOLUŠIĆ**

**against**

**THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 9 March 2000 with the following members present:

Ms. Michèle PICARD, President  
Mr. Andrew GROTRIAN, Vice-President  
Mr. Dietrich RAUSCHNING  
Mr. Hasan BALIĆ  
Mr. Rona AYBAY  
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)(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 of Bosniak origin born in 1944, was a member of the army of the Republic of Bosnia and Herzegovina from 1992 to 1997. On 15 October 1997, however, he was discharged without benefits as part of a group of 20 others who the applicant states were all in a similar situation as he. Before this occurred, he was attempting to remain in the military so that he could apply for early retirement with benefits. The discharge apparently occurred because of an army policy to discharge persons over the age of 50. Since that date the applicant has pursued various appeals against that decision as he desires to be reinstated into the army long enough to become eligible for early retirement.

## **II. COMPLAINTS**

2. The applicant complains the his right to a fair hearing and to an effective remedy have been violated. Further, the applicant complains that the decision to discharge him was discriminatory.

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

3. The application was introduced and registered on 25 August 1999.

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

4. Before considering the merits of the case the Chamber must decide whether to accept it, 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 or which it considers manifestly ill-founded.

5. The Chamber has previously held that disputes relating to the termination of employment relationships of civil servants are outside the scope of Article 6 paragraph 1 of the Convention (see case no. CH/98/681 *Alagić*, decision on admissibility of 15 October 1998, paragraph 14, Decisions and Reports 1998). The European Commission of Human Rights has stated that this applies to members of the military as well (European Commission of Human Rights, application no. 9208/80, decision of 10 July 1981, Decisions and Reports 26, p. 262). Therefore, the Chamber finds this that complaint is incompatible with the Agreement *ratione materiae*.

6. With regard to the applicant's claim that the decision to discharge him from the army was discriminatory, the Chamber first notes that he has failed to articulate the grounds upon which the alleged discrimination occurred. Further, the sum of the applicant's complaint is that he was part of a larger group of persons seeking to remain in the army, that they were retired in contrast to his being discharged and that therefore he was the victim of discrimination. The Chamber cannot find that this statement alone is clear evidence of the applicant's claim that he was discriminated against. Rather, it appears that he was discharged according to a policy which applied to all persons over the age of 50. Accordingly, this claim must be rejected as being manifestly ill-founded.

7. The applicant further complains that his right to an effective remedy before a national authority under Article 13 of the Convention has been violated. This article can only apply, however, when an individual has an arguable claim that he has been the victim of a violation of the rights set forth in the Convention. Having regard to the Chamber's conclusions above, however, there is no showing that such an arguable claim exists and therefore Article 13 cannot be considered. Accordingly, the Chamber finds that this claim must also be rejected as being incompatible with the Agreement *ratione materiae*.

8. Accordingly, the Chamber decides not to accept the application, it being partly incompatible *ratione materiae* with the Agreement and partly manifestly ill-founded within the meaning of Article VIII(2)(c) thereof.

**V. CONCLUSION**

9. 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