



DECISION ON ADMISSIBILITY

**Cases no. CH/00/4424, CH/00/4425, CH/00/4426
CH/00/4427, CH/00/4428, CH/4429, CH/00/4430**

**Kemal ŠLJIVO, Safet HADŽIAHMETOVIĆ, Ramiz KULAŠEVIĆ, Lutvija ŠUKALO,
Hidajet LJUBINAC, Sabira ODOBAŠIĆ, Muradif ČENGIĆ**

against

**BOSNIA AND HERZEGOVINA
and
THE REPUBLIKA SRPSKA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 12 October 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. Peter KEMPEES, 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) and Article VIII(2)(c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicants are citizens of Bosnia and Herzegovina of Bosniak origin who were born in Foča, now in the Republika Srpska. According to the applicants the municipality of Foča was multiethnic before the war broke out. However, today, there are no Moslems and Croats there.
2. The name of Foča was changed to Srbinje in 1994. Since then, that is the name used in all official and public documents, including all birth and marriage certificates, certificates on citizenship and certificates on privatisation issued by the authorities of this municipality.
3. The applicants applied to several elected representatives of Bosniak origin in the municipality to get the name changed back to Foča. These representatives asked this matter to be placed on the agenda of the Assembly of the municipality in 1998 and 1999, but without success.
4. Elected representatives in the Assembly of the Republika Srpska have done the same, but without success, because, as stated in the application, the Assembly of the Republika Srpska will never change the name of the town. Applicants state that Bosnia and Herzegovina and the Republika Srpska refuse to respond to any request of representatives who ask for the name Srbinje to be changed back to Foča.

II. COMPLAINTS

5. The applicants state that Articles 2 and 5 of the European Convention on Human Rights /are violated because they are not allowed to live freely in Foča. Moreover, they claim that Article 8 of the Convention has been violated because they are not allowed to return to their homes in Foča, and also as regards private and personal information in public and official documents. Furthermore, the applicants claim that Article 13 is also violated because they have no right to a legal remedy in either the state of Bosnia and Herzegovina or the Republika Srpska. All the above violations occurred, as they claim, because the applicants have been discriminated against as Bosniaks, i.e. Moslems, in violation of Article 14 of the Convention.
6. The applicants further complain that these violations prevent them from returning voluntarily to their apartments and property from which they were exiled. The applicants state that they were exiled from Foča, not Srbinje, and that they want to return to Foča, not Srbinje.

III. PROCEEDINGS BEFORE THE CHAMBER

7. All applications were submitted to the Chamber on 24 March 2000 and registered the same day. The applicants asked the Chamber to issue a provisional measure ordering the respondent Parties to replace the name »Srbinje« by »Foča« on all documents issued by legislative, judicial, executive and administrative authorities, as well as official stamps.
8. On 5 June 2000 the Chamber decided to join the applications and rejected the requests for a provisional measure.

IV. OPINION OF THE CHAMBER

9. 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.
10. The Chamber notes that the primary aim of the applicants is to have the town's pre-war name of "Foča" restored.

11. The Chamber finds that the assignment of names to municipalities and settlements is not amongst the matters listed in Article III of the Constitution of Bosnia and Herzegovina (Annex 4 to the General Framework Agreement) as falling within the competence of the institutions of the State. Accordingly, it falls within the responsibility of the Entities by virtue of Article III of the Constitution. It follows that the application is incompatible *ratione personae* with the provisions of the Agreement, and must be rejected, in so far as it is directed against Bosnia and Herzegovina.

12. The Chamber notes that a right to have the pre-war name restored is not included among the rights and freedoms guaranteed under the Agreement. It follows that the application is incompatible *ratione materiae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c), and must be rejected.

13. Accordingly, the Chamber decides not to accept the application, partly because it is incompatible *ratione personae* and partly because it is incompatible *ratione materiae* with the Agreement within the meaning of Article VIII(2)(c) thereof.

V. CONCLUSION

14. For these reasons, the Chamber, by 6 votes to 1,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Peter KEMPEES
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel