



## **DECISION ON ADMISSIBILITY**

**Cases no. CH/99/1941, CH/99/2365, CH/99/2384 and CH/99/2391**

**Gojko KOVAČEVIĆ, Davor ĆETOJEVIĆ, Siniša LAZIĆ and Nedo KRNDIJA**

**against**

**THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 3 April 2001 with the following members present:

Ms. Michèle PICARD, President  
Mr. Dietrich RAUSCHNING, Vice-President  
Mr. Hasan BALIĆ  
Mr. Rona AYBAY  
Mr. Želimir JUKA  
Mr. Miodrag PAJIĆ  
Mr. Andrew GROTRIAN

Mr. Peter KEMPEES, Registrar  
Ms. Olga KAPIĆ, Deputy Registrar

Having considered the aforementioned applications 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 applicants are citizens of Bosnia and Herzegovina of Serb origin who were detained by armed forces of the Federation of Bosnia and Herzegovina in September and October 1995 and released between January and March 1996. All of the applicants complain that they suffered physical and mental ill-treatment during their detention.

2. Between 28 April and 18 October 1999 all of the applicants initiated proceedings before the Municipal Court II in Sarajevo against the Federal Ministries of Internal Affairs, Justice and Defence, claiming compensation for damages suffered during their detention. These proceedings are still pending. The facts of each particular case are set out below.

3. Mr. Gojko Kovačević was detained on 16 September 1995 and released on 25 March 1996. On 3 June 1999 he initiated proceedings before the court. On 17 June 1999 he was requested by the court to provide certain further information, which he did on 25 June 1999.

4. Mr. Davor Četojević was detained on 10 September 1995 and released on 27 January 1996. On 28 April 1999 he initiated proceedings before the court. On 25 June 1999 he was requested by the court to provide certain further information, which he did on 2 July 1999.

5. Mr. Siniša Lazić was detained on 15 September 1995 and released on 27 January 1996. On 11 October 1999 he initiated proceedings before the court. According to the information available to the Chamber, there have been no developments in these proceedings to date.

6. Mr. Neđo Krndija was detained on 5 October 1995 and released on 27 January 1996. On 18 October 1999 he initiated proceedings before the court. According to the information available to the Chamber, there have been no developments in these proceedings to date.

## **II. COMPLAINTS**

7. All of the applicants complain that their rights as guaranteed by Articles 3, 4 and 5 of the European Convention on Human Rights have been violated. They also complain of violations of their rights 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**

8. The applications were registered between 4 June and 19 October 1999.

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

9. Before considering the merits of the cases the Chamber must decide whether to accept them, 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 and whether the application has been filed within six months from the date on which the final decision on the matter was taken. If no effective remedy is available, the six-month period starts to run on the day when the alleged violations of the applicant's rights ended.

**10. The Chamber notes that the applicants have initiated domestic proceedings against various organs of the respondent party before the courts in Sarajevo. These proceedings are still pending. Assuming that the proceedings in question are an effective remedy capable of providing adequate redress for the applicant's complaint, they are a remedy which the applicants should exhaust, but they has failed to do so. If, however, this remedy is incapable of remedying the matters the applicants complain of, the above mentioned six-month time-limit started to run on the date when the alleged violations ended, i.e. on 27 January 1996 and 25 March 1996, respectively, the date of the applicants' respective release from detention. They have not shown**

**that there are any special circumstances in these cases which would justify a departure from the six-month rule.**

11. **Accordingly, the Chamber decides not to accept the applications, on the ground that the applicants have failed to comply with the requirements of Article VIII(2)(a) of the Agreement.**

**V. CONCLUSION**

12. For these reasons, the Chamber, unanimously,  
**DECLARES THE APPLICATIONS INADMISSIBLE.**

(signed)  
Peter KEMPEES  
Registrar of the Chamber

(signed)  
Michèle PICARD  
President of the First Panel