



DECISION ON ADMISSIBILITY

Case no. CH/98/298

Dragan NIKIĆ

against

**BOSNIA AND HERZEGOVINA
and
THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 3 July 2002 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Mehmed DEKOVIĆ
Mr. Vitomir POPOVIĆ
Mr. Mato TADIĆ

Mr. Ulrich GARMS, 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 (c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I FACTS

1. The application was introduced on 6 February 1998. The application, which was directed only against Bosnia and Herzegovina, contains two complaints by the applicant. As both complaints involve responsibility of authorities of the Federation of BiH, the Chamber has considered the application to be directed against that Party as well.

2. The first complaint concerns the recognition of the purchase of apartments from the former Yugoslav National Army (JNA) Housing Fund. In April 1992 the applicant purchased an apartment at Aleja Bosanskih Vladara no. 7, and his father N.N. purchased an apartment at Slatina no. 3, both in Tuzla. However, they never received a copy of the contracts on the purchase of the apartments in question. N.N. died in 1996 and he devised to the applicant the apartment at Slatina no. 3.

3. The applicant's second complaint relates to his labour status. The applicant was employed as a civilian with the JNA, as a highly skilled catering worker. After the outbreak of armed conflict in BiH, the applicant was assigned to the logistics base unit of the Second Corps of the RBiH Army (the Unit). Based on procedural decision of the General Medical Panel of the RBiH Army which declared the applicant permanently disabled for military service, the Command of the Second Corps-Department for Legal Affairs issued a procedural decision releasing the applicant from the Unit.

II COMPLAINTS

4. The applicant alleges that his right to be recognised as the owner of the apartment at Aleja Bosanskih Vladara no. 7 and his right to inherit the apartment at Slatina no. 3 have been violated. The applicant further alleges a violation of his right to work. He does not allege any discrimination with respect to his right to work.

III OPINION OF THE CHAMBER

5. In accordance with Article VIII(2) of the Agreement, "the Chamber shall decide which applications to accept... In so doing, the Chamber shall take into account the following criteria: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted ..."

6. The Chamber notes that the applicant has failed to initiate any proceeding before domestic organs for the establishment of the existence of the contracts on purchase, although this is the pre-condition for the realisation of the applicant's further requests. Accordingly, the Chamber finds that the applicant has not, as required by Article VIII(2)(a) of the Agreement, exhausted the effective remedies. The Chamber therefore decides to declare the application inadmissible in this part.

7. In accordance with Article VIII(2) of the Agreement, "the Chamber shall decide which applications to accept... In so doing, the Chamber shall take into account the following criteria: ... (c) The Chamber shall also dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or an abuse of the right of petition."

8. The applicant complains that his right to work was violated. However, this is not a right which is included among the rights and freedoms guaranteed under the Convention (see case no. CH/98/660 *Babić*, Decision on admissibility and merits of 8 February 2001, paragraphs 24 and 25) The applicant's complaints could come within the ambit of Article 6 of the International Covenant on Economic, Social and Cultural Rights. However, under Article II(2)(b) of the Agreement the Chamber only has jurisdiction to consider whether there has been "alleged or apparent discrimination in relation to the rights guaranteed by the Covenant and other international instruments referred to", including the right to work. The applicant has not alleged that there has been any such discrimination. Further, the facts of the case do not establish that the applicant has been the victim of such discrimination. Accordingly, the Chamber finds the applicant's claim regarding his right to work inadmissible *ratione materiae*.

IV CONCLUSION

9. For these reasons, the Chamber unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel