



DECISION ON ADMISSIBILITY

**Case nos. CH/03/10928, CH/03/10929, CH/03/10930, CH/03/10931,
CH/03/10932, CH/03/10933, CH/03/10934, CH/03/10935,
CH/03/10936, CH/03/10937, CH/03/10938, CH/03/10939, CH/03/10940,
CH/03/10941, CH/03/10942, CH/03/10943, CH/03/10944, CH/03/10945,
CH/03/10946, CH/03/10947, CH/03/10948, CH/03/10949,
CH/03/10950, CH/03/10951, CH/03/10952, CH/03/10953, CH/03/10954,
CH/03/10955, CH/03/10956, CH/03/10957, CH/03/10958, CH/03/10959,
CH/03/10960, CH/03/10961, CH/03/10962, CH/03/10963, CH/03/10964,
CH/03/10965, CH/03/10966, CH/03/10967, CH/03/10968,
CH/03/10969, CH/03/10970 and CH/03/10971**

**Niko BOŠKOVIĆ, Momčilo CVIJETIĆ, Borko DANILOVIĆ, Nedo DAVIDOVIĆ,
Veseljko ĐURIĆ, Jovan JANKOVIĆ, Savo KALAJDŽIĆ, Manojlo KALAJDŽIĆ,
Slavko KALAJDŽIĆ, Željko KALAJDŽIĆ, Dragica KARAČA, Risto KARAČ, Marko KARAČ,
Mitar KARAČ, Veljko KARAČ, Đorđo KARAČ, Rosa KARAČ, Simeun KARAČ,
Borko KRAJIŠNIK, Nedeljko KRAJIŠNIK, Risto KUPREŠAK, Pero KUPREŠAK,
Stoja KUPREŠAK, Ostoja KUPREŠAK, Marko KUPREŠAK, Đuka LAZIĆ, Jelka LAZIĆ,
Zdravko LAZIĆ, Aleksa and Petar LUKIĆ, Velimir LUKIĆ, Uroš MARIĆ, Mirko MARIĆ,
Radovan MARIĆ, Marinko MARIĆ, Jovo MARIĆ, Ilija MARIĆ, Sekula TOŠANOVIĆ,
Željko TOŠANOVIĆ, Savo TOŠANOVIĆ, Stevan TOŠANOVIĆ, Tomislav TRIVAKOVIĆ,
Niko TOŠANOVIĆ, Veljko TRIFKOVIĆ and Momčilo TRIFKOVIĆ**

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 2 April 2003 with the following members present:

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

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar
Ms. Antonia DE MEO, 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 AND COMPLAINTS

1. All the applicants are citizens of Bosnia and Herzegovina of Serb origin. They are owners of real property in neighbouring villages in the Municipality Zenica, the Federation of Bosnia and Herzegovina. All the applicants left the Federation of Bosnia and Herzegovina due to the armed conflict and moved to the Republika Srpska. During their absence, their pre-war property was, allegedly, destroyed in operations of open-pit mining by the mine "Mošćanica".
2. The applicants state that they have not initiated available domestic proceedings to protect their rights because they feel unsafe in the Federation of Bosnia and Herzegovina. Further, they emphasise their lack of confidence in the competent organs of the Federation of Bosnia and Herzegovina, and, accordingly, their lack of confidence in the efficiency of remedies lodged before those organs.
3. The applicants ask the Chamber to order the respondent Party to provide them with adequate compensation for pecuniary and non-pecuniary damages. Some applicants further request the Chamber to order the respondent Party, as a provisional measure, to take all necessary actions to forbid the mine from continuing with its mining operations on their pre-war property.
4. The applicants allege violations of their rights as protected under the Constitution of Bosnia and Herzegovina and the Agreement. The applicants particularly claim that they have been discriminated against on the ground of their ethnic or national origin.

II. 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, due to their lack of confidence in the competent organs of the Federation of Bosnia and Herzegovina, the applicants have not initiated any domestic proceedings to attempt to obtain protection for their property rights or a remedy for the alleged damage to their pre-war property. However, the applicants' mere belief in the ineffectiveness of domestic remedies is not sufficient to render those remedies ineffective for the purposes of Article VIII(2)(a) of the Agreement. The applicants have not sought to avail themselves of any available domestic legal remedy — either administrative or judicial. Further, they have not presented any evidence to the Chamber to substantiate their belief that these remedies would be ineffective. Accordingly, the applicants have not exhausted domestic remedies as required by Article VIII(2)(a) of the Agreement. The Chamber therefore decides to declare the applications inadmissible.
7. The Chamber also rejects the requests for provisional measures.

III. CONCLUSION

8. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATIONS INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel