



DECISION ON ADMISSIBILITY

Cases no. CH/00/4027 and CH/00/4074

**MUNICIPAL COUNCIL OF THE
MUNICIPALITY SOUTH-WEST MOSTAR**

against

THE HIGH REPRESENTATIVE

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

A. The particular facts of the case

1. On 22 November 1999 Mr. Gerhard Sontheim, Acting Head of Office of the Regional Office South of the High Representative, requested the Head of the Municipality South-West Mostar, Mr. Stipe Marić, to instantly replace the Head of the South-West Mostar Municipality Housing Commission, Ms. Marina Deronjić, on the grounds of failure to implement the relevant Federation housing laws and, thereby, obstructing the return of displaced persons. Mr. Sontheim also requested Mr. Marić to inform him who will be the new Head of the Housing Commission. As Mr. Marić failed to carry out the order, the High Representative subsequently issued a decision removing both Mr. Marić and Ms. Deronjić from their respective offices. The applicant has not submitted a copy of the High Representative's decision.

2. On 10 December 1999 the Municipal Council of the Municipality South-West Mostar decided to address the High Representative for reconsideration and withdrawal of the decision to remove the officials in question. The applicant has not informed the Chamber of the outcome of this petition.

B. Relevant legal provisions

3. According to Article VIII(1) of the Agreement

"The Chamber shall receive ... from any Party or person, non-governmental organisation, or group of individuals claiming to be the victim of a violation by any Party ... applications concerning alleged or apparent violations of human rights within the scope of paragraph 2 of Article II".

The umbrella paragraph of the Agreement defines the Republic of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and the Republika Srpska as "the Parties".

II. COMPLAINTS

4. In case no. CH/00/4027 the applicant complains that the High Representative's decision to remove Ms. Deronjić from office violates her freedom of thought, conscience and belief, her freedom of expression, as well as her right to work. In case no. CH/00/4074 the applicant complains of the same violations with regard to Mr. Marić.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The applications were lodged on 7 February and registered on 10 February 2000. The applicant requested that the Chamber issue an order for provisional measures annulling the decision of the High Representative and reinstating Ms. Deronjić and Mr. Marić in their office.

6. On 25 February 2000 the President of the First Panel refused the request for a provisional measure.

7. On 9 March 2000 the Chamber decided to join the applications pursuant to Rule 34 and adopted the present decision.

IV. OPINION OF THE CHAMBER

8. 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.

9. The Chamber notes that it can only receive applications from alleged victims of a violation of the Agreement committed by one of the Parties. The High Representative is not a party to the Agreement and the Chamber cannot find that any of the acts complained of by the applicant falls within the responsibility of the possible respondent Parties.

10. The Chamber therefore concludes that these applications are incompatible *ratione personae* with the Agreement within the meaning of Article VIII(2)(c) thereof.

V. CONCLUSION

11. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATIONS INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel