DECISION ON ADMISSIBILITY

Case no. CH/00/4194

Draško RADIĆ

against

THE INTERNATIONAL STABILISATION FORCE IN BOSNIA AND HERZEGOVINA (SFOR)

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 7 June 2000 with the following members present:

Mr. Viktor MASENKO-MAVI, Acting President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
Mr. Mato TADIĆ

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 October 1998 a large tracked vehicle of the British forces of the Multi-National Division South West of the Stabilisation Force (hereinafter "British SFOR") was travelling on the road between Prijedor and Banja Luka. Near the village of Orlovac, the applicant was injured as he stood on the road next to his stationary car when the SFOR vehicle passed by. The liability for the incident is in dispute.

2. The applicant has claimed compensation for pecuniary and non-pecuniary damage in the amount of 19,000 German Marks (DEM). The Area Claims Officer of the British SFOR in Banja Luka has refused to assume any responsibility for the accident. However, he accepted that there was an operational risk in using such a vehicle in road traffic and on 11 November 1999 offered to pay the applicant DEM 1,000. No settlement of the dispute was reached and no civil proceedings have been instituted before the domestic courts.

B. Relevant legal provisions

3. Article VIII(1) of the Agreement provides:

> "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 preamble 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. The applicant alleges a violation of his right to a fair hearing.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 21 February 2000 and registered on 24 February 2000. The applicant is represented by Messrs. Miodrag Deretić and Draško Zec, lawyers practising in Prijedor.

IV. OPINION OF THE CHAMBER

6. 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.

7. The Chamber notes that it can only receive applications directed against the Parties to the Agreement. The British SFOR is not a party to the Agreement and the Chamber cannot find that any of the acts underlying the instant application falls within the responsibility of the possible respondent Parties.

8. The Chamber therefore concludes that the application is incompatible *ratione personae* with the Agreement within the meaning of Article VIII(2)(c) thereof.

V. CONCLUSION

9. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATIONS INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Viktor MASENKO-MAVI
Acting President of the Second Panel