



DECISION ON ADMISSIBILITY

Case no. CH/00/6239

Srpska Radikalna Stranka

against

BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 10 January 2003 with the following members present:

Ms. Michèle PICARD, President
Mr. Miodrag PAJIĆ, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
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 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 AND COMPLAINTS

1. On 20 July 2000 the Provisional Election Commission (“the PEC”) of the Organisation for Security and Co-operation in Europe (“the OSCE”) informed the applicant, the Serb Radical Party of the Republika Srpska (“the Party”), that on 14 July 2000 it had decided to reject the Party’s application for certification for (*i.e.*, registration and participation in) the general elections. The PEC explained that the Party had previously been denied registration; therefore, pursuant to Article 402 of the PEC Rules and Regulations, the PEC must reject the application for certification for the elections.
2. On 31 October 2000, in response to a request from the Party, the PEC confirmed that its decision refusing the Party permission to participate in the general elections was final and would not be reconsidered.
3. The Party asks the Chamber to suspend the Rules and Regulations of the PEC, as well as the mandate of the PEC, to annul the results of the elections held on 11 November 2000 and to provide it with compensation for pecuniary and non-pecuniary damages.
4. The applicant alleges that it has been discriminated against it based on political beliefs and its right to freedom of association has been violated.

II. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 17 November 2000 and registered on the same day.
6. The Chamber notes that the Party previously applied to the Chamber challenging the PEC’s initial rejection of its application to register for the general elections (case no. CH/00/3933). In that earlier application, the Party requested that the Chamber declare Article 402 of the PEC Rules and Regulations invalid and suspend future decisions of the PEC forbidding the Party from participating in the November 2000 elections. On 8 December 2000 the Chamber adopted a decision on admissibility declaring case no. CH/00/3933 inadmissible as incompatible *ratione personae* with the provisions of the Agreement (Decisions July—December 2000).

III. OPINION OF THE CHAMBER

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. As the Chamber explained in its previous decision on admissibility of 8 December 2000 (case no. CH/00/3933, Decisions July—December 2000), in Article IV of the General Framework Agreement, the Parties “welcome and endorse the elections program for Bosnia and Herzegovina as set forth in Annex 3”. In Article II(1) of Annex 3 to the General Framework Agreement, the Parties request the OSCE “to adopt and put into place an elections program for Bosnia and Herzegovina...”. In addition, in Article II(2) of Annex 3, the OSCE is requested to supervise the preparation and conduct of elections for various legislatures in Bosnia and Herzegovina, including the Republika Srpska, “in a manner to be determined by the OSCE and in cooperation with other international organizations the OSCE deems necessary....”
9. The PEC Rules and Regulations derive their authority from powers and responsibilities delegated to the OSCE under Annex 3 to the General Framework Agreement.

10. In concluding the General Framework Agreement, the Parties, with the assistance of the international community, created a number of offices and institutions to assist them in achieving the objectives set out therein. The Parties are required to comply with the decisions of such offices and institutions, as provided for in the General Framework Agreement. As the Chamber has found in similar cases (case nos. CH/98/230 & 231, *Suljanović and Čišić and Lelić*, decision on admissibility of 14 May 1998, Decisions and Reports 1998; case no. CH/00/3933 *Srpska Radikalna Stranka*, decision on admissibility of 8 December 2000, Decisions July—December 2000), the functions carried out by the OSCE under Annex 3, which in substance is the management of elections in Bosnia and Herzegovina, pending the entry into force of election legislation enacted by Bosnia and Herzegovina, is not such as to be subject to review, except as specifically provided for in Annex 3. The PEC, established by the OSCE in accordance with Annex 3 to the General Framework Agreement, passed a set of Rules and Regulations regulating the conduct of the elections in question.

11. The actions complained of by the Party in connection with the general elections held on 11 November 2000 were carried out exclusively by the PEC and the OSCE within the scope of performance of their responsibilities under Annex 3 of the General Framework Agreement. The General Framework Agreement does not provide for the intervention of the respondent Party in the conduct of the elections in question. Accordingly, these actions are not capable of engaging the responsibility of the respondent Party under the Agreement. It follows that the application is incompatible *ratione personae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare the application inadmissible.

IV. CONCLUSION

12. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel