



DECISION ON ADMISSIBILITY

Case no. CH/02/12006

Ibro PELJTO

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 5 November 2002 with the following members present:

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

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)(c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The application was introduced on 5 August 2002. It concerns the applicant's complaints arising from not being elected a judge of the Constitutional Court of Bosnia and Herzegovina.

II. FACTS

2. The applicant applied for one of four vacancies for judges of the Constitutional Court of Bosnia and Herzegovina to be appointed by the Federation of Bosnia and Herzegovina. However, the Parliament of the Federation of Bosnia and Herzegovina elected other candidates to be appointed judges of the Constitutional Court of Bosnia and Herzegovina. The applicant alleges that by its decision the Parliament of the Federation of Bosnia and Herzegovina violated his right to work under equal conditions.

3. The applicant maintains that he possesses expert legal knowledge necessary for successful performance of the position of a judge of the Constitutional Court of Bosnia and Herzegovina, which the appointed candidates do not possess.

III. OPINION OF THE CHAMBER

4. 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."

5. The Chamber recalls that its jurisdiction extends to the examination of alleged or apparent violations of the European Convention on Human Rights and of discrimination on any ground mentioned in Article II(2)(b) of the Agreement in the enjoyment of the rights contained in the international agreements listed in the Appendix to the Agreement.

6. The main issue complained of by the applicant is that his right to work under equal conditions was violated. The European Convention of Human Rights does not contain a right to work as such or any right of access to public service (see, European Court of Human Rights, *Glaserapp case*, judgment of 28 September 1984, Series A No. 104, paragraph 48). The applicant's complaints could come within the ambit of Article 25 of the International Covenant on Civil and Political Rights which provides that "every citizen shall have the right and the opportunity ...to have access, on general terms of equality, to public service in his country". 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 international instruments other than the Covenant.

7. The applicant has alleged that he better meets conditions for a judge of the Constitutional Court than other candidates. He does not, however, allege that he has been the victim of discrimination. Therefore, the Chamber finds that the application does not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. It follows that the application is manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement. The Chamber therefore decides to declare the application inadmissible.

IV. CONCLUSION

8. 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