



DECISION ON ADMISSIBILITY

Case no. CH/02/12282

Fahrudin ŠKAPUR

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 4 February 2003 with the following members present:

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

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. INTRODUCTION

1. The application was introduced on 25 September 2002. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to forbid the publication of a new vacancy announcement for a position sought by the applicant and to require the immediate dismissal of any other person appointed to that position. On 2 December 2002, the Chamber decided not to order the provisional measure requested.

2. The applicant complains against various administrative procedural decisions and court judgments regarding his challenge to the appointment of another individual to the position of Chief of the Tešanj Tax Branch Office and the applicant's alleged right to hold that position and to receive damages for unpaid salary. The applicant alleges that he meets the requirements for this position better than any of the other candidates.

II. OPINION OF THE CHAMBER

3. 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."

4. The Chamber notes that the applicant complains that there has been an interference with his rights to work and salary. However, these rights are not included among the rights and freedoms guaranteed under the Agreement (case no. CH/02/9500, *Šabić*, decision on admissibility of 5 September 2002; case no. CH/98/1171, *Čuturić*, decision on admissibility and merits delivered 8 October 1999, paragraph 38, Decisions August-December 1999). Such rights could be protected under the International Covenant on Economic, Social and Cultural Rights (the "ICESCR"). However, in accordance with Article II(2)(b) of the Agreement, the Chamber only has jurisdiction to consider rights protected under the ICESCR in connection with alleged or apparent discrimination. The facts of this case do not indicate that the applicant has been the victim of discrimination on any of the grounds set forth in Article II(2)(b) of the Agreement. It follows that the application is incompatible *ratione materiae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare the application inadmissible.

III. CONCLUSION

5. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Mato TADIĆ
President of the Second Panel