



DECISION ON THE ADMISSIBILITY

CASE No. CH/98/1244

Milanko DRAGOSAVAC

against

**BOSNIA AND HERZEGOVINA
REPUBLIKA SRPSKA
FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 13 May 1999 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ

Mr. Leif BERG, 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

1. The applicant is a displaced person of Serb origin from Bihać, Federation of Bosnia and Herzegovina. He currently resides in Mišin Han, Municipality of Banja Luka, Republika Srpska. The application concerns various issues raised by the applicant in his application and subsequent submissions to the Chamber. The facts as submitted by the applicant relate to a large number of unconnected issues.

2. The main issues raised by the applicant appear to be the following:

- the alleged non-payment to him of certain sums he is owed as a result of his previous employment with the company “Autoprevoz-Express”. On 10 April 1998, the applicant initiated proceedings before the Municipal Court in Banja Luka against the company seeking payment of the sums he is owed. There have been a number of hearings in these proceedings to date, the last one being on 24 February 1999. There has been no decision on these proceedings to date;
- an alleged attempt to murder the applicant in 1992 by unknown persons;
- the fact that the International Organisation for Migration (“IOM”) does not permit the applicant and his family to obtain residency in a foreign country so that they can leave the territory of Bosnia and Herzegovina;
- a complaint against a decision of the Supreme Court of the Republic of Serbia;
- the fact that the United Nations Mission to Bosnia and Herzegovina (“UNMIBH”), the Organisation for Security and Co-operation in Europe (“OSCE”) and SFOR have not offered the applicant employment and
- the alleged unwillingness of various national and international authorities in the Republic of Serbia to assist the applicant when he was on the territory of that Republic as a refugee.

II. COMPLAINTS

3. The applicant does not allege any specific violations of his human rights as protected by the Agreement. He complains in a general manner about the financial and other difficulties he is currently experiencing. He states that the only solution to his problems is to be allowed to leave Bosnia and Herzegovina and the Balkans.

III. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced on 20 October 1998 and registered on the same day.

IV. OPINION OF THE CHAMBER

5. Before considering the merits of the case the Chamber must decide whether to accept the case, 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, *inter alia*, manifestly ill-founded or incompatible with the Agreement.

6. The Chamber notes that the applicant does not make any specific allegations of any violations of his human rights as protected by the Agreement. He complains instead in a general manner about the financial and other difficulties he is experiencing. To support his complaint, he has referred to various facts, as set out at paragraph 2 above.

(i) The proceedings initiated by the applicant

7. The Chamber notes that the applicant initiated proceedings against the company “Autoprevoz Express” before the Municipal Court in Banja Luka on 10 April 1998.

8. One of the guarantees provided by Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) is the right to a fair trial within a reasonable time in the determination of, *inter alia*, one’s civil rights and obligations.

9. The Chamber notes that a number of hearings have been held in the case to date.

10. The Chamber does not consider that the period that has elapsed since the applicant initiated proceedings (approximately one year and one month) is excessive for the determination of the case. Accordingly, the Chamber considers that it should refuse to accept this part of the application on the ground that it is manifestly ill-founded, in accordance with the terms of Article VIII(2)(c) of the Agreement.

(ii) The other issues raised by the applicant

11. The applicant has also raised a number of other issues in his application and subsequent submissions to the Chamber. These are summarised at paragraph 2 above.

12. The Chamber recalls Article VIII of the Agreement, entitled “Jurisdiction of the Chamber”. Paragraph 1 of this Article reads, insofar as relevant, as follows:

“The Chamber shall receive by referral from the (Ombudsperson) on behalf of an applicant, or directly from any Party or person, ... claiming to be the victim of a violation by any Party ... for resolution or decision applications concerning alleged or apparent violations of human rights within the scope of paragraph 2 of Article II.”

13. The effect of this provision is that applications may be directed against one or more of the Parties to the Agreement, who are Bosnia and Herzegovina, the Republika Srpska and the Federation of Bosnia and Herzegovina. The Chamber notes that the complaints raised by the applicant concern the actions or otherwise of the Supreme Court of the Republic of Serbia, the OSCE, UNMIBH, the IOM and various national and international organisations in the Republic of Serbia. The applicant has not suggested that any of the Parties to the Agreement is responsible for any of the actions he complains of. Nor can the Chamber find any evidence of its own motion that would suggest that this is the case. Accordingly, the actions the applicant complains of do not come within the scope of responsibility of any of the Parties to the Agreement and are therefore outside the competence of the Chamber *ratione personae* under Articles II and VIII(1) of the Agreement. This part of the application is therefore incompatible with the Agreement within the meaning of Article VIII(2)(c).

14. On the whole, the application, which is directed against all three Parties to the Agreement but concerns none of them, constitutes an abuse of the right to submission under the same provision. Accordingly, the Chamber decides not to accept the application, it being partly manifestly ill-founded, partly incompatible and partly an abuse of the right to petition within the meaning of Article VIII(2)(c) of the Agreement.

V. CONCLUSION

15. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel