



DECISION ON ADMISSIBILITY

Case no. CH/98/1596

Marinko KOS

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 9 September 2000 with the following members present:

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

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

I. FACTS

1. The applicant is a citizen of Bosnia and Herzegovina of Serb descent. On 16 September 1995, while serving in the army of the Republika Srpska, he was detained by armed forces of the Federation of Bosnia and Herzegovina. He was detained until 27 January 1996, without ever being brought before a court or other judicial authority. He claims that during his detention he was physically and mentally maltreated. He has not initiated any proceedings in this regard.

II. COMPLAINTS

2. The applicant complains in general of his detention and of the treatment he received during that detention.

III. PROCEEDINGS BEFORE THE CHAMBER

3. The application was introduced on 2 December 1998 and registered on the same day.

IV. OPINION OF THE CHAMBER

4. 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)(a), the Chamber shall take into account, amongst other things, whether effective remedies exist and whether the applicant has demonstrated that they have been exhausted and whether the application has been filed within six months from the date on which the final decision on the matter was taken. If there is no such decision, the six-month period starts to run on the day when the alleged violations of the applicant's rights ended.

5. The Chamber notes that the applicant has not initiated any domestic proceedings concerning his detention. Even if it is assumed that no effective remedy was available to the applicant, the above-mentioned period of six months started to run on the date when the alleged violations ended, i.e. on 27 January 1996, the date of the applicant's release from detention. He did not, however, apply to the Chamber until 2 December 1998, more than three years later. He has not shown that there are any special circumstances in his case which would justify a departure from the requirement that the application be filed within six months.

6. Accordingly, the Chamber decides not to accept the application, as the applicant has failed to comply with the six-month rule under Article VIII(2)(a) of the Agreement.

V. CONCLUSION

7. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Olga KAPIĆ
Deputy Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel