



## **DECISION ON THE ADMISSIBILITY**

**CASE No. CH/98/479**

**Mirko TODIĆ**

**against**

**BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 12 November 1998 with the following members present:

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

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 and 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. In 1992 the applicant lived together with his son at Avde Ćuka street 1/IV in Novi Grad, Dobrina 2, Sarajevo. In this area the applicant's son served in a working unit for the Bosnian Army. On 16 September 1992 he and a neighbour were ordered to fill sacks with earth and to build an observation post. Around 18.00 hours soldiers of the Bosnian Army came to the applicant's house and asked the son to come with them. The father wanted to accompany them but was not allowed to do so.

2. The applicant's son never came back. Eyewitnesses informed the applicant that his son was told that he had "a Chetnik's mother", was beaten heavily and brought to a military police station. There it came out that the "report" brought against him was ill-founded. The applicant's son died shortly afterwards in Koševo hospital.

**II. COMPLAINTS**

3. The applicant alleges a violation of his son's right to life, not to be subjected to torture or to inhuman and degrading treatment, and of his right to liberty and to a fair hearing.

**III. PROCEEDINGS BEFORE THE CHAMBER**

4. The application was introduced on 23 March 1998 and registered on 13 April 1998.

**IV. OPINION OF THE CHAMBER**

5. Before considering the case on its merits the Chamber has to 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 incompatible with the Agreement.

6. The Chamber has already found in its *Majstorović* decision:

"The General Framework Agreement for Peace in Bosnia and Herzegovina was signed on 14 December 1995. Under Article XVI of the Agreement the Chamber is therefore only competent *ratione temporis* to consider events which happened after that date or, if they happened before then, constitute a violation continuing after that date. The proceedings in 1993 and the allocation of the apartment to the applicant's former wife are therefore outside the Chamber's competence *ratione temporis*" (*Vukasin Majstorović v. The Federation of Bosnia and Herzegovina*, CH/98/61, Decision of 22 July 1998, paragraph 15).

The Chamber notes that the events leading to the applicant son's death took place before the Agreement came into force on 14 December 1995. The application therefore lies outside the Chamber's competence *ratione temporis*.

7. Accordingly, the Chamber decides not to accept the application, it being incompatible *ratione temporis* with the Agreement within the meaning of Article VIII(2)(c) thereof.

**V. CONCLUSION**

8. For these reasons, the Chamber, unanimously,

**DECLARES THE APPLICATION INADMISSIBLE.**

(signed)  
Leif BERG  
Registrar of the Chamber

(signed)  
Michèle PICARD  
President of the First Panel