



DECISION ON THE ADMISSIBILITY

DELIVERED IN WRITING ON 22 JULY 1998

in

CASE No. CH/97/115

Sabrija SMOLO

against

The Federation of Bosnia and Herzegovina

The Human Rights Chamber for Bosnia and Herzegovina, sitting on 16 July 1998 in a panel composed of the following Members:

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

Peter KEMPEES, Registrar,
Olga KAPIĆ, Deputy Registrar,

Having considered the application by Sabrija Smolo against The Federation of Bosnia and Herzegovina submitted on 4 December 1997 under Article VIII paragraph 1 of the Human Rights Agreement (the "Agreement") set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina and registered on 5 January 1998 under Case No. CH/97/115;

Adopts the following Decision on the admissibility of the application in accordance with Article VIII paragraph 2 of the Agreement.

I. THE FACTS

1. The facts of the case, as they appear from the application and the documents, submitted by the applicant, are as follows:
2. In May 1977, after a professional disease, the applicant was declared invalid by a procedural decision of the Pension Fund. From 1980 onwards he received regular payment on the basis of this decision, which was confirmed by a series of subsequent procedural decisions (RS-2663/88, RS 3082/88, RS 1408/91).
3. On 25 September 1991 the applicant's right to compensatory payment was confirmed by the Court of Associated Labour in Sarajevo on the basis of Articles 44 and 101 of the Law on Pension and Disablement Insurance (Socialist Republic of Bosnia and Herzegovina, Official Gazette No. 21/83). The subsequent Law on Pension and Disablement Insurance (Republic of Bosnia and Herzegovina, Official Gazette No. 38/90, as amended by O.G. 22/91, 27/92, 13/94) which came into force on 19 December 1990 contains similar provisions.
4. In March 1996 and August 1996 the applicant submitted a request to implement the Decision of 25 September 1991 to the Municipal Court in Visoko but both requests were rejected.
5. On 25 February 1998, again upon the applicant's request, the Municipal Court in Visoko issued a procedural decision under the Law on Executive Proceedings, implementing the above mentioned decision of 25 September 1991. However, the applicant stated that he was not satisfied with the monetary compensation calculated by experts on behalf of the court. The applicant would have still the possibility to appeal against this decision to the Cantonal Court in Zenica as the Second Instance Court.

II. COMPLAINTS

6. The applicant alleges that his rights under Article 44 and 101 of the Law on Pension and Disabled Insurance have been violated. He also thinks that there is "some sort of co-operation between his superior and the President of the Court".

III. PROCEEDINGS BEFORE THE CHAMBER

7. The applicant lodged his application directly with the Chamber on 4 December 1997 where the application was registered on 5 January 1998 under the above mentioned case number. The applicant is not represented.

IV. OPINION OF THE CHAMBER

8. 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. Under this provision the Chamber must take into account, *inter alia*, whether other effective remedies exist and whether the applicant has demonstrated that they have been exhausted, whether the Chamber was competent *ratione temporis*, whether the application falls within the Chamber's jurisdiction *ratione materiae* and whether the application was manifestly ill-founded.
9. The applicant complained that he was not satisfied with the monetary compensation he was awarded by the Municipal Court's decision of 25 February 1998, by which the decision of 25 September 1991 was implemented. Even assuming that this complaint is within the Chamber's

competence *ratione materiae*, the applicant would still have the possibility to appeal to the Cantonal Court in Zenica as the Second Instance Court. The applicant did not allege that the remedy available was not effective. The Chamber therefore finds that the applicant has not exhausted domestic remedies in relation to the amount of compensation he received.

10. The applicant alleges that there was some sort of “co-operation between his superior and the President of the Court”. This allegation might raise an issue under Article 6 paragraph 1 of the Convention which provides for a right to a fair hearing before an independent and impartial tribunal. He does not specify who the superior is, or which court is meant, but states that the husband of the President of the court concerned is an employee of what he calls “his firm”. The Chamber notes, moreover, that the applicant has not put forward any evidence in support of this allegation, nor has he even given any indication as to the nature and extent of this co-operation. In these circumstances the Chamber cannot find this allegation to have sufficient *prima facie* credibility to justify further examination. It will therefore declare this complaint manifestly ill-founded.

11. No other violations of Article 6 or any other provision of the Convention are apparent.

12. For these reasons, the Chamber, unanimously,

DECIDES TO DECLARE THE APPLICATION INADMISSIBLE

(signed) Peter KEMPEES
Registrar of the Chamber

(signed) Michèle PICARD
President of the Panel