



DECISION ON ADMISSIBILITY

Case no. CH/01/8441

Emina BUZADŽIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 8 February 2002 with the following members present:

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

Mr. Ulrich GARMS 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 INTRODUCTION

1. The applicant alleges that she is completely incapable of working. She initiated proceedings to have her rights arising from her disability recognized, but her request was rejected by a procedural decision of the Social Fund for Pension and Disability Insurance of Bosnia and Herzegovina (hereinafter PIO). Not being satisfied with the above-mentioned procedural decision, the applicant filed an appeal which was refused by the second instance PIO commission.

2. The applicant then initiated an administrative dispute before the Supreme Court of the Federation of Bosnia and Herzegovina to invalidate the procedural decision of the first and second instance organs of the PIO. The Supreme Court issued a decision accepting the complaint and invalidating the contested procedural decision.

3. On 23 May 2000 the Director of the PIO, Branch Office in Tuzla, issued a new procedural decision rejecting the applicant's claim for disability insurance.

4. The applicant filed a second complaint to the Supreme Court against the procedural decision of the PIO Director in Tuzla, but this time the complaint was refused.

II ALLEGED VIOLATION AND REMEDIES SOUGHT

5. The applicant complains of a violation of her right to social protection. She did not designate a respondent Party, but it follows from the application that the facts complained of fall within the responsibilities of the Federation of Bosnia and Herzegovina. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to stop the execution of the judgment of the Supreme Court and to enable her to appear before the first instance commission again to establish her disability with medical evidence.

III PROCEEDING BEFORE THE CHAMBER

6. The application was submitted to the Chamber on 14 November 2001 and registered on the same day. On 7 January 2002 the Chamber decided to reject the request for provisional measures.

IV OPINION OF THE CHAMBER

7. 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."

8. The Chamber notes that the subject matter of the dispute has been decided by the procedural decision of the Director of PIO, Branch Office Tuzla, and confirmed in the decision of the Supreme Court of the Federation of Bosnia and Herzegovina. The Chamber points out that it is not normally its task to review findings of fact made by domestic courts (see, e.g., case no. CH/99/2565, *Banović*, decision on admissibility of 8 December 1999, paragraph 11, Decisions August-December 1999, and case no. CH/00/4128, *DD "Trgosirovina" Sarajevo (DDT)*, decision on admissibility of 6 September 2000, paragraph 13, Decisions July-December 2000). Article 6 of the Convention guarantees the right to a fair hearing. However, there is no evidence that the court failed to act fairly as required by Article 6 of the Convention. It follows that this part of the application is manifestly ill-founded within the meaning of Article VIII(2)(c) of the Agreement. The Chamber therefore decides to declare the application inadmissible in so far as the applicant complains about the proceedings before administrative and judicial bodies in her case.

9. The applicant also complains that there has been a violation of her entitlement to social security on the basis of her disability. However, this is not a right included among the rights and freedoms guaranteed under by the European Convention on Human Rights. To the extent such a right

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may fall within the scope of Article 9 of International Covenant of Economic, Social and Cultural rights (ICESCR), the Chamber notes that it only has jurisdiction to consider rights protected by the ICESCR in connection with alleged or apparent discrimination in their enjoyment. 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 this part of 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 this part of the application inadmissible as well.

IV CONCLUSION

10. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(Signed)
Ulrich GARMS
Registrar of the Chamber

(Signed)
Michèle PICARD
President of the First Panel