



DECISION ON ADMISSIBILITY

Case no. CH/02/8838

N.T.

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 4 February 2003 with the following members present:

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
Mr. Viktor MASENKO-MAVI

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar
Ms. Antonia DE MEO, 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) and (c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS AND COMPLAINTS

1. The applicant, who is of Serb origin, was an employee of the “Tuzlanska banka” in Tuzla (the “Bank”) for 37 years. On 31 December 1993, the applicant’s employment terminated and she retired on 1 January 1994. In 1997 the applicant addressed the Bank in writing, requesting the Bank to make a severance payment to her. The Bank replied that there was no ground for her to receive a severance payment.

2. The applicant complains that the Bank’s allegations are not correct, that it has sufficient funds to pay her a severance and that other employees received their severance payments during the armed conflict, whilst her request was refused. She emphasises that she has been discriminated against in relation to other employees who have received a severance payment. The applicant further states that she has not addressed a competent court as “I don’t think it would be of any use”.

II. PROCEEDINGS BEFORE THE CHAMBER

3. The application was introduced before the Chamber on 8 February 2002 and registered on the same day. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to pay her a severance payment due to her retirement from the Bank. On 5 March 2002, the Chamber decided to reject the provisional measure requested.

III. OPINION OF THE CHAMBER

4. 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: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted ...” and “(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.”

5. The Chamber notes that the applicant failed to initiate any proceeding before the domestic court to pursue her claim for a severance payment from the Bank. The applicant has not shown that this remedy was ineffective and it does not appear so to the Chamber. Accordingly, the Chamber finds that the applicant has not, as required by Article VIII(2)(a) of the Agreement, exhausted the effective remedies.

6. The Chamber further notes that the applicant requested to be granted a severance for retirement. However, the right to be granted a severance for retirement or for any other reason is not a right which is included among the rights and freedoms guaranteed under the Agreement. It follows that the application is incompatible *ratione materiae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c).

7. As to the applicant’s claim that she has been discriminated against by her former employer in relation to other employees in the payment of a severance for retirement, the Chamber notes that applicant has failed to substantiate these allegations. It is not apparent from the facts of the case that the applicant has been the victim of discrimination on any of the grounds set out in Article II(2)(b) of the Agreement. Since there is no evidence of discrimination, it follows that this part of the application is manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement, as well.

8. For these reasons, the Chamber therefore decides to declare the application inadmissible.

IV. CONCLUSION

9. For these reasons, the Chamber, unanimously,
DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Mato TADIĆ
President of the Second Panel