



DECISION ON ADMISSIBILITY

Case no. CH/00/4056

Nebojša and Stojanka DOMUZ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 5 March 2003 with the following members present:

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Giovanni GRASSO
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) of the Agreement and Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

I. INTRODUCTION

1. The application was introduced on 10 February 2000. The applicants request the Chamber to order the respondent Party to pay them pensions that were not paid to them for the period from 1 August 1994 until 1 August 2001. The applicants state that from February until August 2001, they were only paid a portion of their pensions, and from August 1994 until February 2001, they were not paid any of their pensions.

II. STATEMENT OF THE FACTS

2. The applicants retired in 1990 on the basis of procedural decisions of the Self-Governing Community of Interest for Pension and Disability Insurance. The procedural decision for Nebojša Domuz was issued on 14 September 1990, and the procedural decision for Stojanka Domuz was issued on 7 September 1990. The applicants state that they received their pensions until 1 August 1994, when the payment of their pensions stopped. The applicants left Sarajevo on 20 January 1995 and moved to Norway, where they still live.

3. The applicants orally applied to the Pension and Disability Insurance Fund of Novi Grad Municipality (the "Fund") in 2000, requesting it to start paying them their pensions. They were informed that the Administrative Board of the Fund issued a decision in 1998 providing that returnees may receive their pensions if they submit confirmation that they entered into possession of their pre-war apartments and that they unregistered themselves in the countries where they were refugees.

4. On 20 September 2001, the applicants informed the Chamber that they obtained a procedural decision on repossession of their pre-war apartment and that they started receiving their pensions as from 1 August 2001, with compensation for unpaid pensions for the period from February until July 2001.

5. On 11 November 2002, the Chamber requested the applicants to inform it whether they had applied to the competent organs requesting to be paid their unpaid pensions for the time period complained of. On 27 November 2002, the applicants informed the Chamber that they had not applied to the competent organ requesting compensation for the period for which their pensions were not paid to them because they consider that the competent organ does not wish to pay such compensation for the remaining period.

III. OPINION OF THE CHAMBER

6. 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...".

7. The Chamber notes that the applicants failed to apply to the competent organ requesting compensation for the period for which their pensions were not paid to them. The applicants have not shown that this remedy would be ineffective, and it does not appear so to the Chamber. Accordingly, the Chamber finds that the applicants have not, as required by Article VIII(2)(a) of the Agreement, exhausted the effective remedies. The Chamber therefore decides to declare the application inadmissible.

IV. CONCLUSION

8. 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