



**DECISION ON ADMISSIBILITY
AND TO STRIKE OUT**

Case no. CH/01/6850

Eša HUKIĆ

against

**BOSNIA AND HERZEGOVINA
and
THE REPUBLIKA SRPSKA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 2 July 2002 with the following members present:

Ms. Michèle PICARD, President
Mr. Giovanni GRASSO, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Miodrag PAJIĆ
Mr. Vitomir POPOVIĆ
Mr. Viktor MASENKO-MAVI
Mr. Andrew GROTRIAN
Mr. Mato TADIĆ

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)(a) and Article VIII(3)(b) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I INTRODUCTION

1. This case concerns the applicant's attempts to be re-instated to the Social Income Management of Brčko District as a civil servant, which was her pre-war position. In April 2000 there was a public contest for administration workers, and the applicant applied for two positions. She complained that she was never invited for an interview, and neither was she informed about appointed candidates. She filed an action with the Brčko Basic Court against the Social Income Management on 6 June 2000. The applicant complains: under Article 6 paragraph 1 of the Convention that her right to a fair and public hearing has been violated in that the competent authorities have unduly delayed the decision of her claim; and under Article 13 of the Convention that her right to an effective remedy has been violated in that "there is no functioning appeal procedure available for rightful owners."

2. The case was transmitted to the respondent Parties on 20 April 2001. Bosnia and Herzegovina sent its observations on 22 May 2001, and Republika Srpska on 3 October 2001.

3. Bosnia and Herzegovina informed the Chamber that the applicant, on 30 March 2001, was employed with the Social Income Management of Brčko District, by a decision of the mayor. As a consequence, on 11 May 2001 the applicant withdrew her action before the Court.

4. Republika Srpska stated that the application was inadmissible against Republika Srpska *ratione personae*.

5. On 29 May 2002 the applicant confirmed that she started to work on 1 April 2001, and that she withdrew the action before the court. But she pointed out that a problem, which she still had, was that her pension insurance had not been paid for the period from the beginning of the war to the date of her re-employment. In that period she did not work. She also did not initiate any proceedings relating to that issue.

II 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. In accordance with Article VIII(3) of the Agreement, "the Chamber may decide at any point in its proceedings to suspend consideration of, reject or strike out, an application on the ground that ...
(b) the matter has been resolved; ... provided that such a result is consistent with the objective of respect for human rights."

8. The Chamber notes that the applicant failed to initiate any court or administrative proceedings concerning her pension rights. The applicant has not shown that this remedy would have been 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. The Chamber therefore decides to declare this part of the application inadmissible.

9. Considering that the applicant was re-employed and that she withdrew her action before the court, the Chamber finds, with regard to the complaints relating to the Brčko Basic Court proceedings, that the matter raised in the application has been resolved. Furthermore, the Chamber finds no special circumstances regarding respect for human rights which require the examination of the application to be continued. The Chamber therefore decides to strike out the application in this part.

III CONCLUSION

10. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE in so far as it relates to the applicant's complaint that she has been deprived of her pension rights and

STRIKES OUT THE APPLICATION for the remainder.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the Chamber