



DECISION ON ADMISSIBILITY

Case no. CH/02/11200

Ahmo PRLJAČA

against

**BOSNIA AND HERZEGOVINA
and
THE REPUBLIKA SRPSKA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 December 2002 with the following members present:

Mr. Viktor MASENKO-MAVI, Acting President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Vitimir POPOVIĆ
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) (c) of the Agreement and Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

I. INTRODUCTION

1. The application was submitted on 24 June 2002 and registered on the same day. The applicant requests the Chamber to order the respondent Parties, as a provisional measure, to take all necessary action to ensure the payment of a full pension for 12 months. On 4 November 2002 the Second Panel decided not to order the provisional measure requested.
2. The applicant worked in the Former Yugoslav Republic of Macedonia ("Macedonia") with interruptions from 1963 to 1989. After that, he worked in the Socialist Republic of Bosnia and Herzegovina, in Brčko, with interruptions from 1989 to 1991.
3. On 30 October 2001, the Pension and Disability Fund of the Republika Srpska ("the Fund") issued a procedural decision recognising the applicant's right to an appropriate part of disability pension.
4. It was established in an administrative proceeding prior to the issuance of the procedural decision, that the applicant had a working experience of 24 years, 3 months and 23 days. He had worked for 23 years, 2 months and 15 days in Macedonia and 1 year, 1 months and 15 days in Bosnia and Herzegovina.
5. The applicant lodged an appeal against the procedural decision of the Fund. On 24 February 2002 the second instance organ issued its procedural decision rejecting the applicant's appeal and confirming the first instance decision.
6. The second instance organ pointed out that the first instance organ acted in accordance with Article 197 of the Law on Pension and Disability Insurance since his working experience acquired in another Republic shall be counted only for the recognition of the right to pension, while the amount of pension is determined only according to the working experience acquired within Bosnia and Herzegovina's territory.
7. There is no Agreement between Bosnia and Herzegovina and Macedonia in relation to the pension and disability insurance.
8. The applicant claims that Article 1 of Protocol No. 1 to the European Convention on Human Rights (the "Convention") has been violated in his case.

II. RELEVANT LEGAL PROVISIONS

9. Article 197 of the Law on Pension and Disability Insurance (Official Gazette of the Republika Srpska no. 32/00 and 40/00) provides in pertinent part as follows:

"1) Working experience of citizens of the Republika Srpska acquired in other Republics of the former SFRY and also in the Federation of Bosnia and Herzegovina until their Independence Day, shall be taken into account only for determination of requirements for acquiring the right.

2) As to the recognition of the working experience acquired in the States referred to in paragraph 1 of this Article after their independence ... the principle of reciprocity shall be applied until certain agreement with those States is made."

III. OPINION OF THE CHAMBER

A. As to Bosnia and Herzegovina

10. 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.”

11. The applicant directs his application against Bosnia and Herzegovina and the Republika Srpska. The Chamber notes that the applicant has not provided any indication that Bosnia and Herzegovina is in any way responsible for the actions he complains of, nor can the Chamber on its own motion find any such evidence. Accordingly, as directed against Bosnia and Herzegovina, the application is incompatible *ratione personae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare the application inadmissible as against Bosnia and Herzegovina.

B. As to the Republika Srpska

12. 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.”

13. Regarding the responsibility of the Republika Srpska to pay the applicant's pension, the Chamber notes that on 30 October 2001, the Fund issued a procedural decision recognising the applicant's right to an appropriate part of disability pension. Therefore the Chamber considers that the authorities of the Republika Srpska have acted in accordance with the domestic law and with the provisions of the Convention and its Protocols, including Article 1 of Protocol No. 1 to the Convention. Consequently, the Chamber finds that the application does not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. It follows that 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 as against the Republika Srpska.

III. CONCLUSION

14. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Viktor MASENKO-MAVI
Acting President of the Second Panel