



DECISION ON ADMISSIBILITY

Case no. CH/02/9500

Osman ŠABIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 5 September 2002 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitomir 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)(a) and (c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The application was introduced on 12 March 2002 and registered the same day.
2. The applicant complains of a decision of the Federal Ministry of Defence terminating his service in the army. The applicant appears to complain further that the Federal Ministry of Defence has failed to pay a contribution toward his pension insurance and that, as a result, he cannot receive monetary compensation while unemployed.
3. On 23 April 1998, the applicant entered into a four-year contract for professional military service with the Federal Ministry of Defence. On 11 April 2001, pursuant to a procedural decision of the Federal Ministry of Defence, he was placed on inactive duty for a six-month period from 1 February 2001 to 1 August 2001, with continued payment of his salary at the January 2001 level. This decision established that the applicant's professional military service would terminate, pursuant to a second procedural decision, at the end of the dismissal period if the applicant was not assigned to other tasks in the Federation Army.
4. The applicant alleges that during his placement on inactive duty, he was informed that he had to be employed by a private company, KSC-Karić in Zenica. The applicant complied, but gave up the job after three days when he "realised he had been tricked." (The applicant provides no further explanation for this characterisation of the situation.)
5. On 10 July 2001, the Federal Ministry of Defence issued a procedural decision terminating the applicant's professional military service effective 9 July 2001. The reasoning states that the applicant submitted a request to the Ministry for termination of his employment, and that the applicant did not perform his duties from the date of his submission of that request.
6. The applicant alleges that he did not submit any request for termination of his employment. He also complains that he did not receive his salary for February and March, to which he is entitled. He further complains that a contribution for his pension insurance had not been paid since 31 July 2001.
7. The applicant states that he appealed against the procedural decision of 10 July 2001, but he has not received any answer.
8. The applicant does not specify which of his human rights have allegedly been violated. It appears, however, that he complains about violations of his rights to work, salary, and pension insurance.

II. OPINION OF THE CHAMBER

9. 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."

...

"(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."

10. The Chamber notes that the applicant complains that there has been an interference with his rights to work, salary, and pension insurance. However, these rights are not included among the rights and freedoms guaranteed under the European Convention on Human Rights. Such rights could be protected under the International Covenant on Economic, Social and Cultural Rights; however, because no discrimination is alleged or apparent, the applicant's claim does not fall within Article II(2)(b) of 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). The Chamber therefore decides to declare the application inadmissible with regard to the alleged violations of the applicant's right to work and salary.

11. With regard to the payments of contributions for unemployment insurance by his former employer, the Chamber notes that the applicant failed to exhaust domestic remedies. In particular, the applicant has failed to raise the complaint in court proceedings. The applicant has not shown that these remedies are 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 the application inadmissible with regard to the alleged violations of the applicant's right to pension insurance.

III. CONCLUSION

12. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel