



DECISION ON ADMISSIBILITY

Case no. CH/02/9519

Edin OSMANČEVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

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

Ms. Michèle PICARD, President
Mr. Rona AYBAY, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Želimir JUKA
Mr. Miodrag PAJIĆ
Mr. Andrew GROTRIAN

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 13 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 further complains that the Federal Ministry of Defence has failed to pay a contribution toward his unemployment insurance and that, as a result, he cannot receive monetary compensation while unemployed.
3. On 1 November 1997, 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 three-month period from 1 February 2001 to 1 May 2001, with continued payment of his salary. On 1 May 2001, the Federal Ministry of Defence issued a procedural decision establishing a 30-day dismissal period for the applicant beginning on 1 May 2001. This decision established that the applicant's professional military service would terminate at the end of the dismissal period if the applicant was not assigned to other tasks in the Federation Army.
4. The Federal Ministry of Defence terminated the applicant's professional military service effective 31 May 2001.
5. The applicant complains that he did not receive his salary for seven months of 2001 (February, March, and June-November). He further complains that a contribution for his unemployment insurance had not been paid, thus preventing him from collecting monetary compensation while unemployed. According to a 8 January 2002 decision of the Employment Service, the applicant's request for recognition of his right to monetary compensation was rejected as out of time.
6. 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

7. 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."

8. 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 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.

9. With regard to the payments of contributions for unemployment insurance by his former employer, the Chamber notes that the applicant failed to initiate administrative or court proceedings. The applicant has therefore 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. 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

10. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel