



DECISION ON ADMISSIBILITY

Case no. CH/03/12982

Dušan VANOVAČ

against

**BOSNIA AND HERZEGOVINA
and
THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 1 April 2003 with the following members present:

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER
Mr. Giovanni GRASSO
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) 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 to the Chamber on 12 February 2003. The applicant requested that the Chamber order the respondent Party, as a provisional measure, to recognise his right to an old-age pension and to pay such pension starting from 2 May 1997. On 5 March 2003, the Chamber decided not to order the provisional measure requested.

II. STATEMENT OF FACTS

2. In a letter dated 3 May 1997, the applicant requested that the Office of the High Representative (the "OHR") transmit a request to the Retirement and Disability Insurance Fund of Bosnia and Herzegovina (the "Fund") in Sarajevo to initiate proceedings recognising his right to an old-age pension. The applicant alleges that he doubts the objectivity of the Fund, having in mind the seat of the Fund and the applicant's national origin. The OHR received the applicant's request on 2 June 1997.

3. On 16 May 1998, the applicant filed an action before the Supreme Court of the Federation of Bosnia and Herzegovina and initiated an administrative dispute for the silence of the administration since his request had not been taken into consideration. On 3 December 1998, the Supreme Court of the Federation of Bosnia and Herzegovina issued a procedural decision rejecting the applicant's action because there was no evidence that the applicant's request had been received by the competent body. Since the applicant's request had been directed to an incompetent body and that body did not direct the request to the competent body, the Supreme Court of the Federation of Bosnia and Herzegovina decided there was no silence of the administration and it rejected the applicant's action.

III. COMPLAINTS BEFORE THE CHAMBER

4. The applicant alleges that he suspects that the OHR transmitted his request to the Fund but the Fund ignored it. The applicant alleges that by such actions he has been deprived of his right to an old-age pension, which he has been entitled to since 2 May 1997.

IV. OPINION OF THE CHAMBER

A. As against Bosnia and Herzegovina

5. 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."

6. The applicant has directed his application against Bosnia and Herzegovina. The Chamber notes that the Supreme Court and other authorities of the Federation of Bosnia and Herzegovina are responsible for the actions complained of by the applicant. Therefore, as 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 against the Federation of Bosnia and Herzegovina

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 and that the application has been filed with the Commission within six months from such date on which the final decision was taken."

8. The Chamber notes that the application was introduced on 12 February 2003. The Chamber finds that the final decision for the purposes of Article VIII(2)(a) of the Agreement, rejecting the applicant's action, was issued by the Supreme Court of the Federation of Bosnia and Herzegovina on 3 December 1998. This date is more than six months before the date on which the application was filed with the Chamber. Accordingly, the application does not comply with the requirements of Article VIII(2)(a) of the Agreement. The Chamber therefore decides to declare the application inadmissible as against the Federation of Bosnia and Herzegovina as well.

V. CONCLUSION

9. 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