



DECISION ON ADMISSIBILITY

Case no. CH/03/13014

Izet ZUNDA

against

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

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 6 May 2003 with the following members present:

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

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 Articles VIII(2)(a) and XI 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 15 May 2002, and it was initially included in the file of an application which had already been introduced by the applicant. Subsequently, the Chamber decided to register this application under a separate case number, and the application was registered on 18 February 2003. The applicant requested that the Chamber order the respondent Party, as a provisional measure to block all financial means of the Employment Bureau of the Federation of Bosnia and Herzegovina and of the Republika Srpska until a decision is issued and to suspend from duty persons employed in the courts and the Employment Bureau until the decision is issued. On 7 February 2003 the Chamber decided not to order the provisional measure requested.
2. The application refers to the conduct of domestic organs in the proceedings for the execution of a judgement of the Higher Court in Sarajevo. The applicant states that he has been registered in the Employment Bureau for more than 20 years. He exercised his right to monetary support for unemployed persons in the Socialist Republic of Bosnia and Herzegovina.
3. Before he addressed the Chamber, the applicant filed an appeal to the Constitutional Court of Bosnia and Herzegovina making the same complaints as in his application to the Chamber.

II. FACTS

4. On 20 March 1990 the Independent Community of Interest for Employment of the Socialist Republic of Bosnia and Herzegovina, Section in Sarajevo (hereinafter: SIZ) issued a procedural decision. It appears that the procedural decision referred to calculation of the applicant's monetary support for the period from January until March 1990. The applicant filed an appeal against the procedural decision pointing out that the amount of monetary support is lower in relation to the same period for 1989. Also, the applicant made a request for obtaining monetary support for all unemployed workers within the area of Bosnia and Herzegovina.
5. On 11 April 1990 SIZ issued a procedural decision rejecting the applicant's appeal on the ground that he was not authorized to submit such request on behalf and on the account of all unemployed persons within the territory of Bosnia and Herzegovina.
6. The applicant initiated proceedings before the Higher Court in Sarajevo against SIZ for annulment of the procedural decision of 11 April 1990.
7. On 1 June 1990 the Higher Court issued a judgement accepting the applicant's appeal and annulled the procedural decision of 11 April 1990. It is stated in the judgement of the Higher Court that the position of SIZ is wrong – because by the contested procedural decision it only decided upon the request referring to unemployed persons in BiH and it did not take into account that the applicant requested calculation of monetary support for himself. The Higher Court ordered the SIZ to decide in renewed proceedings on the part of the applicant's request for payment of monetary support for January to March 1990, to decide upon the applicant's request set out on behalf of unemployed persons in the Socialist Republic of Bosnia and Herzegovina, and to issue appropriate decision.
8. It appears that the SIZ never decided upon the decision of the Higher Court. Since 1990 the applicant has tried to execute the judgement of 1 June 1990 in executive proceedings conducted before domestic courts.
9. The Chamber does not have copies of relevant decisions issued in the executive procedure before the domestic courts. A procedural decision of the Supreme Court of the Federation of Bosnia and Herzegovina of 8 June 2000 is the only submitted document. By this decision the Supreme Court rejected the request for revision of a decision of the Cantonal Court as unallowed in accordance with Article 9 of the Law on Executive Procedure which provides that no request for revision can be filed against a valid decision issued in the executive procedure.

10. On 13 September 2000 the applicant filed a request to the Constitutional Court of Bosnia and Herzegovina for assessment of the constitutionality and legality of the procedural decision of the Supreme Court of 8 June 2000.

11. At the session held on 21 December 2001 the Constitutional Court decided not to put the applicant's appeal on the list of cases for consideration, for the reason that the appeal was not filed within 60 days from the date on which the applicant received a decision on the last remedy he had used. The Constitutional Court of Bosnia and Herzegovina sent a letter to the applicant on 14 February 2002, informing the applicant of this decision.

III. COMPLAINTS

12. The applicant alleges violation of his rights guaranteed under the following provisions: Article II paragraphs 1, 2, 3 under a, b, c, d, e, as well as paragraphs 4, 6, 7 and 8 of the Constitution of BiH; Article 3, Article 4 paragraph 1, and Articles 13 and 14 of European Convention; Article 22, Article 23 paragraph 1, Article 25 paragraph 1 etc. of the Universal Human Rights Declaration; and Article 2 paragraph b and c, Article 3 paragraph e, Article 5 paragraphs f, h, i, Article 7 paragraphs 1, 2, 3 etc. of the Statute of the International Tribunal in the Hague.

IV. OPINION OF THE CHAMBER

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

14. The Chamber notes that the applicant appealed to the Constitutional Court of Bosnia and Herzegovina on 13 September 2000. The Constitutional Court did not issue any decision on the merits of the applicant's case, but on 14 February 2002 it informed the applicant that his appeal would not be put on the list of cases for consideration since it was filed out of time. The final decision for the purposes of Article VIII(2) of the Agreement must normally be taken to be the final decision in relation to the exhaustion of effective remedies. Since the applicant did not apply to the Constitutional Court within the applicable time limit he could not reasonably expect to obtain any remedy from the Court. The letter of the Constitutional Court cannot therefore be considered as the final decision within the meaning of Article VIII(2) of the Agreement. Under the circumstances the final decision from which the six month time period ran must be taken to be the Supreme Court decision of 8 June 2000. The applicant was aware of that decision by 13 September 2000, the date when he applied to the Constitutional Court, at the latest. 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.

V. CONCLUSION

15. 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