



DECISION ON THE ADMISSIBILITY

CASE No. CH/98/736

United Association of Citizens-Pensioners in the Federation of Bosnia and Herzegovina

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 13 October 1998 with the following members present:

Ms. Michèle PICARD, President
Mr. Manfred NOWAK, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Vlatko MARKOTIĆ
Mr. Želimir JUKA
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Giovanni GRASSO
Mr. Miodrag PAJIĆ
Mr. Vitomir POPOVIĆ
Mr. Viktor MASENKO-MAVI
Mr. Andrew GROTRIAN

Mr. Leif BERG, 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. FACTS

1. The applicant association is a registered legal person, established by a decision of the Ministry of Justice of 3 March 1997. It represents pensioners and co-operates with state institutions, humanitarian and other organisations in order to safeguard the rights of members in relation to pension and disability insurance.

2. Under Article 6 of the Law on Pension and Disability Insurance of 30 April 1982 (Official Gazette SFRY 23/82) which was also applied in the territory of the Federation of Bosnia and Herzegovina, and under Article 45 of the Law on Pension and Disability Insurance of 16 November 1990 (Official Gazette of the Socialist Republic of Bosnia and Herzegovina 38/90) all pensions had to be increased in proportion to the increase of salaries. The applicant association alleges that, since the beginning of 1995, these increases, amounting to a total sum of 444.277,00 DEM, an average of 2.475 DEM per pensioner, have not been awarded to pensioners.

3. Where pensions were increased, the increase was not awarded for the following month but only for the month after that. Moreover, pensions were not paid monthly but after gaps of 45 to 60 days.

4. On 16 April 1998 the applicant association stated that some pensioners have initiated proceedings before the Court of First Instance II of Sarajevo but that they have no hope that these proceedings will progress in view of the huge amount of cases pending before this court.

II. COMPLAINTS

5. The applicant association states that the rights of 207.000 pensioners under Article 6 of the European Convention of Human Rights and under Article 1 of Protocol No. 1 to the Convention have been violated.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was introduced on 29 June 1998 and registered on 1 July 1998. The applicant association is represented by Ms. Lijana Vladimir Bašić, a lawyer practising in Sarajevo.

7. On 15 July 1998 the Chamber refused the applicant association's request for a provisional measure to the effect that the Federation of Bosnia and Herzegovina be ordered to pay all outstanding pensions. The Chamber decided to request further information from the applicant association in relation to its status as a "victim" in the sense of Article VIII (1) of the Agreement.

8. On 10 August 1998 the applicant association confirmed that it represents its members directly before official authorities of the Federation, humanitarian and other organisations. The applicant association further renewed its request for a provisional measure to the above-mentioned effect.

IV. OPINION OF THE CHAMBER

9. Before considering the case on its merits the Chamber has to decide whether to accept the case, taking into account the admissibility criteria set out in Article VIII (2) of the Agreement. According to Article VIII(2)(c), the Chamber shall dismiss any application which it considers incompatible with the Agreement.

10. The Chamber notes that the grievances to be examined effectively relate to procedural and property rights of individual members of the applicant association. The Chamber finds, however, that this association cannot in itself be regarded as a "victim" within the meaning of Article VIII (1) of the Agreement. It is true that the applicant association might, as a matter of domestic law and association statutes have standing to represent its members before various bodies. The Chamber notes, however, that it has not been provided with any letter of authority by which one or several individual members have authorised the association to act on their behalf before the Chamber.

11. Accordingly, the Chamber decides not to accept the application, it being incompatible *ratione personae* with the Agreement within the meaning of Article VIII(2)(c) thereof. Consequently, the Chamber must also refuse the renewed request for a provisional measure.

V. CONCLUSION

12. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Michèle PICARD
President of the Chamber