



DECISION ON ADMISSIBILITY

Case no. CH/99/2329

Razija BERBEROVIĆ

against

THE REPUBLIKA SRPSKA

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)(c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The applicant complains that the organs of the respondent Party fail to recognise her entitlement to certain “basic social security” benefits, which had been allocated to her in 1979 due to her status as a widow of a member of the People’s Liberation Army in the Second World War. Further, she contends that a proper administrative act denying the above-mentioned benefits was never issued by a competent authority.

II. PROCEEDINGS BEFORE THE CHAMBER

2. The application was introduced and registered on 19 August 1999.

3. On 10 May 2000 the Chamber decided to transmit the case to the respondent Party for its observations on the admissibility and merits under Article 1 of Protocol No. 1 to the European Convention on Human Rights (the “Convention”) and in relation to Article 14 of the Convention.

4. In its observations of 27 July 2000, the respondent Party opines that the case should be declared inadmissible due to lack of competence *ratione temporis* and the applicant’s failure to initiate proceedings before the Chamber in accordance with the six-month rule.

5. On 1 August 2000, the applicant submitted her observations in reply in which she presents arguments opposite to the respondent Party’s arguments.

III. OPINION OF THE CHAMBER

6. 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.”

7. The Chamber finds that the applicant was informed by the responsible organ that her right to “basic security” benefits was terminated. The Chamber is aware that the administrative organ did not decide upon merits of the applicant’s individual case, but it is also clear that the applicant’s right to the benefits in question was terminated *ipso jure* on the basis of the Law on the Rights of Disabled Persons and Killed Soldiers Families (Official Gazette of Republika Srpska no. 17/93). According to the applicable national law, the applicant is no longer entitled to the benefits previously granted to her.

8. The Chamber finds that the facts complained of relate to a period prior to 14 December 1995, which is the date on which the Agreement entered into force. However, the Agreement only governs facts subsequent to its entry into force. It follows that the application is incompatible *ratione temporis* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare the application inadmissible.

IV. CONCLUSION

9. 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