



DECISION ON THE ADMISSIBILITY

CASE No. CH/98/617

Pavle LONČAR

against

BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 15 October 1998 with the following members present:

Ms. Michèle PICARD, President
Mr. Dietrich RAUSCHNING, Vice-President
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA
Mr. Miodrag PAJIĆ
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 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 was an employee of the firm "Unioninvest". In 1991 the applicant started to work as the manager of its Frankfurt office. In 1993 he was replaced by another person.
2. On 3 December 1993 the General Director of "Unioninvest" decided to dismiss the applicant as he had been causing negative effects on the economic development of the firm. The applicant was informed that an appeal against this decision was possible within 15 days upon delivery. The applicant received this decision on 3 December 1993 by fax.
3. As it was difficult in those days to send a letter to Sarajevo, the applicant was trying to send a fax through the Frankfurt office, requesting the appeal to be transferred to the competent court in Sarajevo. The Frankfurt office sent this appeal back to the applicant with the explanation that this was his "private matter".
4. On 9 March 1996, after his return to Sarajevo, the applicant requested "Unioninvest" to send him a copy of the decision terminating his employment. He never received an answer.
5. On 12 June 1996 the applicant initiated proceedings against "Unioninvest" before the Court of First Instance I in Sarajevo, requesting the decision of 3 December 1993 to be annulled and "Unioninvest" to be ordered to re-employ him. "Unioninvest" stated that the time-limit for an appeal had expired.
6. On 1 May 1998 the applicant filed a further compensation claim against "Unioninvest" with the Court of First Instance I in Sarajevo.
7. The proceedings before the Court of First Instance I in Sarajevo are still pending. The applicant states that 15 hearings have been held in his case: 11 September, 9 October and 4 November 1996, 23 January, 3 March, 9 April, 15 May, 18 June, 23 July, 19 October, 20 November, 12 December 1997, 19 March and 20 April 1998.
8. The applicant further states that, between 9 October 1996 and 20 November 1997 and on 20 April 1998, the defendant was not represented in the proceedings and that the court "tolerated" this conduct. The last hearing of 20 April 1998 was postponed for an indefinite period of time.

II. COMPLAINTS

9. The applicant complains about the "unlawful" termination of his contract with "Unioninvest".

III. PROCEEDINGS BEFORE THE CHAMBER

10. The application was introduced on 29 April 1998 and registered on 15 May 1998.

IV. OPINION OF THE CHAMBER

11. Before considering the merits of the case the Chamber must 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.
12. Article XVI of the Agreement states that the Agreement shall enter into force upon signature. As the Agreement was signed on 14 December 1995 the Chamber is only competent *ratione temporis* to consider events which happened after that date or, if they happened before then, constitute a situation continuing after that date.
13. In the present case the Chamber notes that the dismissal of the applicant took place before 14 December 1995. The present application therefore lies outside the Chamber's competence *ratione temporis*.

14. Accordingly, the Chamber decides not to accept the application, it being incompatible *ratione temporis* with the Agreement within the meaning of Article VIII(2)(c) thereof.

V. CONCLUSION

15. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel