



DECISION ON THE ADMISSIBILITY

CASE No. CH/98/1599

Vlade VUKOBRAT

against

REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 14 May 1999 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. 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)(a) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The application concerns the dismissal of the applicant from his employment as a civilian with the Army of the Republika Srpska ("VRS") in 1995.

2. On 15 October 1995, the applicant was dismissed from his employment with the VRS by a decision of that body. The decision took effect from 31 October 1995. The reason given for his dismissal was that he had exceeded the authorised number of absences from work in the previous twelve-month period. The applicant appealed against this decision to the Airforce and Air Defence Command ("*Komanda Vazduhoplovstva*") of the VRS. On 17 January 1996, he received a decision temporarily suspending the entry into force of the decision. On 1 February 1996, he lodged a further appeal to the Supreme Military Court ("*Vrhovni Vojni Sud*") in Zvornik. According to the information provided to the applicant, there has been no decision on this appeal to date. The applicant has written to the General Staff of the VRS, the Airforce of the VRS and to the Ministry of Defence of the Republika Srpska requesting that his appeal be decided upon as a matter of urgency.

II. COMPLAINTS

3. The applicant complains that his right to a fair hearing within a reasonable time has been violated. In addition, he claims that his rights to work and to an efficient remedy have been violated.

III. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced on 4 December 1998 and registered on the same day. The applicant is represented by Ms. Danijela Vukobrat, resident in Banja Luka.

IV. OPINION OF THE CHAMBER

5. 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, *inter alia*, manifestly ill-founded.

6. The applicant claims that, *inter alia*, his right to a fair hearing within a reasonable time and to an efficient remedy have been violated. The Chamber notes that the applicant was employed as a civilian in the VRS and that his application relates to his dismissal from that position.

7. The Chamber has held that "disputes relating to the recruitment, careers and termination of service of civil servants are as a general rule outside the scope of Article 6(1) of the Convention" (*Damir Alagić v. Federation of Bosnia and Herzegovina*, CH/98/691, Decision on Admissibility of 15 October 1998, paragraph 14). Although this general rule is subject to certain exceptions (e.g., where the dispute relates solely to a purely economic right, such as payment of salary – see e.g. European Court of Human Rights, *De Santa v. Italy*, judgment of 2 September 1997, Reports 1997-V, paragraph 18), the present dispute relates to the applicant's employment as a whole rather than just a purely economic right. Accordingly, the general rule set out above is applicable in the present case. Therefore, this aspect of the case is outside the Chamber's competence *ratione materiae*.

8. The applicant also alleges that his right to work has been violated. However, the decision ordering the applicant's dismissal was made on 15 October 1995 and took effect on 31 October 1995. Accordingly, the events complained of occurred before the entry into force of the Agreement on 14 December 1995. The Chamber has held on numerous occasions that events that occurred prior to the entry into force of the Agreement are outside the Chamber's competence *ratione temporis* (see, e.g. *Matanović v. Republika Srpska*, CH/96/1, Decision on Admissibility of 13 September 1996).

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

V. CONCLUSION

10. 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