



DECISION TO STRIKE OUT

CASE No. CH/97/37

Dušanka KUŠIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 7 July 1999 with the following members present:

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

Mr. Anders MÅNSSON, 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(3) of the Agreement as well as Rule 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The application relates to the termination of the applicant's employment in the Municipal Court ("the Court") in Bijeljina, Republika Srpska, in 1996. On 3 August 1993 the Court had decided to allow the applicant to continue to work past the retirement age as prescribed by law. On 23 September 1996 the Court overruled this decision and terminated the applicant's employment with effect from 30 September 1996.

2. On 1 October 1996 the applicant complained to the President of the Court against the decision of 23 September 1996. On 10 October 1996 the Court issued a procedural decision, in its capacity as the applicant's previous employer, rejecting the applicant's complaint as ill-founded.

3. On 21 October 1996 the applicant initiated proceedings before the Court against her dismissal and requested her reinstatement to her employment. On 29 September 1997 the applicant's proceedings were dismissed.

4. On 17 December 1998 the Regional Court in Banja Luka accepted the applicant's appeal against this decision and found in her favour. The case was transmitted back to the First Instance Court for the purposes of assessing the amount of compensation to be awarded to the applicant. On 9 June 1999 a hearing was held for this purpose. The applicant has not informed the Chamber of the outcome of this hearing.

II. COMPLAINTS

5. The applicant complained that her proceedings had lasted beyond a reasonable time, as guaranteed by Article 6 of the European Convention on Human Rights. She also alleged that she had been discriminated against on the ground of her sex, as the relevant law provided for different retirement ages for men and women.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was introduced on 5 February 1997 and registered on 14 March 1997. The applicant is represented by Mr. Živorad Vujović, a lawyer practising in Bijeljina. The applicant requested the Chamber to order the respondent Party as a provisional measure to reinstate her into her employment. On 17 March 1997 the Chamber refused this request. On 25 March 1998 the application was transmitted to the respondent Party for its observations on the admissibility and merits. A time-limit of one month was set for the receipt by the Chamber of such observations. No such observations were received within this time-limit. The Chamber of its own motion extended the deadline for the receipt of such observations on two occasions, to 14 August 1998 and to 2 November 1998 respectively. No observations have been received from the respondent Party.

7. On 20 November 1998 the applicant was requested to submit her further observations and any claim for compensation she wished to make. On 3 December 1998 her statement, which included a claim for compensation, was received by the Chamber. On 18 January 1999, this statement was transmitted to the respondent Party for its observations. No observations were received from the respondent Party.

8. On 27 April 1999 the Chamber wrote to the applicant requesting details of any developments in her domestic proceedings. On 3 June 1999 her reply was received. In this letter she informed the Chamber of the facts as set out at paragraph 4 above. She also stated that she wished to withdraw her application to the Chamber and end the proceedings before it. She also stated that she would apply to the Chamber again if necessary after the end of her domestic proceedings.

IV. OPINION OF THE CHAMBER

9. According to Article VIII(3) of the Agreement, the Chamber may at any point decide to strike out an application on the ground that (a) the applicant does not intend to pursue his application; (b) the matter has been resolved; or (c) if, for any other reason established by the Chamber, it is no longer justified to continue the examination of the case. In all these situations, however, a decision to strike out an application must be consistent with the objective of respect for human rights.

10. The applicant states in her letter to the Chamber of 3 June 1999 that she wishes that her application before the Chamber be withdrawn and that the proceedings before the Chamber be terminated. She also states that after the determination the proceedings relating to the amount of compensation she is to be paid, she would apply to the Chamber again if necessary.

11. The Chamber notes that the applicant's domestic proceedings have been successful and that the only issue now to be determined is the amount of compensation to be paid to her.

12. In these circumstances it is no longer justified to continue the examination of the case and such an outcome would not be inconsistent with the objective of respect for human rights.

V. CONCLUSION

13. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Michèle PICARD
President of the Chamber