



DECISION TO STRIKE OUT

Case no. CH/98/119

Hamdo SULJOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 8 September 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. 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 Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant was employed by the company DD "Centrotrans – Autocisterne" Sarajevo ("Centrotrans"). Centrotrans terminated the applicant's employment by a decision dated 15 April 1994. On 29 July 1997 the Cantonal Court annulled Centrotrans' decision and ordered Centrotrans to restore the applicant into the working relation, to re-establish all his rights emanating from the working relation (except his salary for the period 10 March 1993 to 31 January 1994) and to employ him in a position corresponding to his qualifications.

2. Centrotrans did not act in accordance with the above decision and on 19 September 1997 the applicant submitted a request for its execution to the Court of First Instance II in Sarajevo. By Procedural Decision on Execution No. 211/97 the execution was scheduled for 25 September 1997.

3. Centrotrans subsequently submitted an appeal against the Procedural Decision on Execution and the court postponed the execution until 7 November 1997. Due to the lack of documentation, the execution was again re-scheduled, for 9 January 1998. In its appeal Centrotrans stated that it had acted according to the Cantonal Court's decision of 29 July 1997 by restoring the applicant into the working relation on 2 October 1997 and by taking a new decision afterwards on 10 October 1997 to terminate the working relation of the applicant, as the conditions were met for his retirement because of his age on 31 October 1994. By a procedural decision of 12 February 1998 the Court of First Instance denied Centrotrans' appeal.

4. Following the completion of the appeal proceedings, Centrotrans issued decision no. 36-3/98 dated 6 March 1998, restoring the applicant into the working relation as of 23 February 1998. There is no information available as to whether an appeal was lodged against this Decision.

5. On 15 January 1999 Municipal Court II in Sarajevo issued a conclusion that its decision of 25 September 1997 had been executed and the applicant had been reinstated into his working relation with Centrotrans.

II. COMPLAINT

6. The applicant complained of the non-execution of the legally valid and enforceable decision of the Cantonal Court in Sarajevo dated 29 July 1997.

III. PROCEEDINGS BEFORE THE CHAMBER

7. The application was introduced on 5 January 1998 and registered on the same day. The applicant is represented his wife, Mrs. Hanka Suljović. The applicant requested that the Chamber order a provisional measure providing him with financial security until the execution of the court decision.

8. On 10 September 1998 the First Panel refused the request for a provisional measure and decided pursuant to Rule 49(3)(a) of the Rules of Procedure to request the applicant to provide certain information. On 30 September 1998 the Chamber received a response from the applicant.

9. On 6 May 1999 the applicant's representative withdrew his application.

IV. OPINION OF THE CHAMBER

10. 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) 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.

11. In the present case the Chamber notes that the applicant's representative informed the Registry in writing that the court decision of 25 September 1997 had been fully executed and that the applicant was satisfied with the result. In addition, the representative requested, in writing, to terminate the proceedings before the Chamber.

12. Accordingly, the Chamber concludes that the applicant does not intend to pursue his application. It also appears that the matter initially complained of has been resolved. 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 First Panel