



DECISION ON ADMISSIBILITY

Case no. CH/98/1379

Mira BOŽIĆ

against

**BOSNIA AND HERZEGOVINA
and
THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 12 January 2000 with the following members present:

Mr. Rona AYBAY, Acting 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 Articles VIII(2)(a) and VIII(2)(c) of the Agreement and Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

I. FACTS

1. The applicant, a citizen of Bosnia and Herzegovina, was an employee of the Ministry of the Interior of the Socialist Republic of Bosnia and Herzegovina and later the Ministry of the Interior of the Republic of Bosnia and Herzegovina, in Sarajevo. In June 1992 due to the circumstances of the war, the Ministry certified that she was not under an obligation to come to work.

2. On 2 January 1995 the applicant began her employment without obtaining an official decision of her reinstatement. On 14 March 1995 the applicant received a certificate which stated that the applicant had the status of an "active service" member of the Ministry. On 22 November 1995 the Ministry issued a decision stating that the applicant had the status of an "active service" member of the Ministry from 30 September 1995. On 22 January 1996 the applicant went on sick leave due to a difficult pregnancy.

3. In 1996 and 1997 the Ministry of the Interior of the Federation of Bosnia and Herzegovina which took over from the Republic Ministry (pursuant to the Law on Interior Affairs of the Federation of Bosnia and Herzegovina, Official Gazette of the FBiH no. 1/96 of 1 February 1996) issued several decisions which changed the applicant's employment classification from "active status" to "terminated as from 1992 to 1995", and then to "reserve" status. On 1 August 1997 the applicant returned to work. She submitted several requests to the Federal and Cantonal Ministries of the Interior demanding recognition of her previous time-periods of employment for the pension fund and other insurance. On 2 July 1998 the Cantonal Ministry replied that for the period from 24 April 1992 to 2 January 1995 the applicant was not considered as employed by the Ministry. However, for the period from 2 January 1995 until 31 January 1997 she will be recognized as a "reserve service" employee.

4. The applicant did not initiate any court proceedings regarding her request addressed to the Federal and Cantonal Ministries of the Interior.

II. COMPLAINTS

5. The applicant alleges a violation of her right to work and to receive fair wages during her leave from employment.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was introduced on 21 December 1998 and registered on the same day. The application was directed against Bosnia and Herzegovina only. On 10 September 1999 the Chamber considered the case and decided that the application should be understood as also being directed against the Federation of Bosnia and Herzegovina. On 4 November 1999 it adopted the present decision.

IV. OPINION OF THE CHAMBER

7. 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)(a), the Chamber must consider whether effective remedies exist and whether the applicant has demonstrated that they have been exhausted. Pursuant to Article VIII(2)(c) the Chamber shall declare inadmissible applications which it finds manifestly ill-founded.

8. As far as the application is directed against Bosnia and Herzegovina, the Chamber notes that the former Ministry of the Republic of Bosnia and Herzegovina was dissolved by a law of February 1996 and that the Ministry of the Interior of the Federation of Bosnia and Herzegovina has taken over all rights, competencies and obligations from the former Ministry. Thereafter, only the Ministry of the

Federation adopted decisions impacting on the applicant's employment status. Therefore, the responsibility for the acts complained of cannot attach to Bosnia and Herzegovina.

9. The Chamber further notes that the applicant has not sought to avail herself of domestic remedies in the Federation of Bosnia and Herzegovina. Namely, the applicant did not initiate any court proceedings regarding her employment rights, i.e. the applicant did not initiate a labour dispute before a court. The applicant also had possibility to initiate an administrative dispute before a court. In addition, she has not claimed that any such remedies would be ineffective. Therefore, the applicant cannot be absolved of her responsibility to exhaust the available remedies.

10. Accordingly, the Chamber decides not to accept the application pursuant to Articles VIII(2)(a) and VIII(2)(c) of the Agreement, as the application is partly manifestly ill-founded in so far as it is directed against Bosnia and Herzegovina and as the applicant has not exhausted domestic remedies in the Federation of Bosnia and Herzegovina.

V. CONCLUSION

11. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Rona AYBAY
Acting President of the First Panel