



DECISION ON ADMISSIBILITY

Case no. CH/99/2356

Fikreta BJEKIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 13 May 2000 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
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(2) 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 of Bosniak origin, was employed by the primary school "Dositej Obradović" in Prijedor, Republika Srpska, as a teacher. On 23 November 1993 the director issued a decision terminating her working relation with the company on the ground that, due to the reduced number of pupils at the school, there was no need for her services. The applicant did not formally complain against this decision nor did she initiate any court proceedings against it, claiming that it would not have been safe for her to do so due to the prevailing circumstances in Prijedor at the time.

2. On 7 September 1998 the applicant initiated proceedings before the Court of First Instance ("Osnovni Sud") in Prijedor against the decision of the school of 23 November 1993, claiming that it was based on incorrect facts, as the school had soon afterwards recruited other persons to the position of teacher. She requested that the school be ordered to allow her return to work, to pay her all salaries from 23 November 1993 until the date she recommences her employment and to bear the costs of the proceedings.

3. On 28 October 1998 the court rejected her claims. The reason given for this refusal was that the applicant had not lodged a complaint against her dismissal with the competent body, the Ministry for Education, Science and Culture, within the legally prescribed time-limit.

4. On 29 December 1998 the applicant appealed against this decision to the Regional Court in Banja Luka. On 4 June 1999 it refused her appeal and confirmed the decision of the Court of First Instance. The Regional Court held in its decision that the applicant had lost her right to seek the protection of the courts by not appealing against the decision of the school of 23 November 1993 terminating her employment.

5. There is no other ordinary remedy available to the applicant in the legal system of the Republika Srpska.

II. COMPLAINTS

6. The applicant complains of violations of her right to work and to a fair hearing. She also claims that she has been discriminated against in the enjoyment of the above rights on the ground of her national origin.

III. PROCEEDINGS BEFORE THE CHAMBER

7. The application was submitted on 14 September 1999 and registered on the same day.

IV. OPINION OF THE CHAMBER

8. Before considering the merits of the case the Chamber must decide whether to accept it, 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 to be, *inter alia*, incompatible with the Agreement or manifestly ill-founded.

9. The Chamber notes that the applicant's working relation was terminated on 23 November 1993. The Chamber has previously held that it is not competent to consider events that took place prior to the entry into force of the Agreement, which occurred on 14 December 1995 (case no. CH/96/1, *Matanović*, decision on admissibility of 13 September 1996, Decisions on Admissibility and Merits 1996-1997). Accordingly, the applicant's complaint that the termination of her working relation with the company violated her right to work is outside the Chamber's competence *ratione temporis*.

10. As regards the court proceedings initiated by the applicant against the termination of her working relation, the Chamber recalls that the Court of First Instance refused her claim and on appeal the Regional Court upheld this decision. The conduct of the proceedings before the courts of the Republika Srpska does not disclose any issue under the Agreement, as they do not appear to have been conducted contrary to the applicant's rights as guaranteed by Article 6 of the Convention. The outcome of the proceedings *per se* cannot, therefore, be challenged before the Chamber.

11. Accordingly, the application is inadmissible as manifestly ill-founded insofar as it concerns the proceedings initiated by the applicant against the termination of her working relation.

12. Accordingly, the Chamber decides not to accept the application, partly as it is outside the Chamber's competence *ratione temporis* and partly as it is manifestly ill-founded within the meaning of Article VIII(2)(c) of the Agreement.

V. CONCLUSION

13. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel