



DECISION TO STRIKE OUT

Case nos. CH/99/2712, CH/99/2831, and CH/99/2832

Mahira OSMANČAUŠEVIĆ, Esad CERO, and Mersija CERO

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 7 February 2003 with the following members present:

Ms. Michèle PICARD, President
Mr. Miodrag PAJIĆ, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA
Mr. Andrew GROTRIAN

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar
Ms. Antonia DE MEO, Deputy Registrar

Having considered the aforementioned applications 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)(c) of the Agreement and Rule 49(2) of the Chamber’s Rules of Procedure:

I. INTRODUCTION

1. All three applicants are employees of “I – Livnobus” (“Livnobus”) of Bosniak origin who were removed from their positions in 1993. The applicants allege that their removal was based on ethnic grounds, and they assert violations of their rights under Articles 6 and 8 of the European Convention on Human Rights (the “Convention”); Article 1 of Protocol No. 1 to the Convention; Articles 6, 7, and 8 of the International Covenant on Economic, Social and Cultural Rights; and their right to work under the Constitution of the Federation of Bosnia and Herzegovina.

2. On 9 December 1999, the applicants received decisions from the Municipal Court in Livno establishing that their working relations had not ceased and ordering Livnobus to reinstate the applicants to their positions within 15 days.

II. FACTS

A. The facts of the individual cases

1. Case no. CH/99/2712, Mahira Osmančaušević

3. The Chamber received the application of Mahira Osmančaušević on 19 July 1999, and it was registered on 26 July 1999. The applicant, who is of Bosniak origin, began working for Livnobus on 1 October 1970 as an administrative clerk. She was dismissed from work on 21 July 1993. Until July 1997, she received a monthly payment of 80 DM from the company. The 9 December 1999 decision of the Municipal Court in Livno established that the applicant’s working relation did not cease and ordered Livnobus to reinstate the applicant to her position within 15 days. According to the applicant, she was reinstated to her position in May 2000 and receives a monthly salary of 500 KM and a warm meal allowance.

2. Case no. CH/99/2831, Esad Cero

4. The Chamber received the application of Esad Cero on 3 September 1999, and it was registered on 13 September 1999. The applicant, who is of Bosniak origin, began working for Livnobus in 1971 as a bus driver. He was dismissed from work on 21 July 1993. Until July 1997, he received a monthly payment of 80 DM from the company. The 9 December 1999 decision of the Municipal Court in Livno established that the applicant’s working relation did not cease and ordered Livnobus to reinstate the applicant to his position within 15 days. According to the applicant, he was invited to resume his position in July 2002 and was subsequently reinstated.

3. Case no. CH/99/2832, Mersija Cero

5. The Chamber received the application of Mersija Cero on 3 September 1999, and it was registered on 13 September 1999. The applicant, who is of Bosniak origin, began working for Livnobus in 1971 as a clerk. She was dismissed from work on 21 July 1993. Until July 1997, she received a monthly payment of 80 DM from the company. The 9 December 1999 decision of the Municipal Court in Livno established that the applicant’s working relation did not cease and ordered Livnobus to reinstate the applicant to her position within 15 days. According to the applicant, she was reinstated to her position in May 2000 and receives a monthly salary of 500 KM and a warm meal allowance.

III. OPINION OF THE CHAMBER

6. In accordance with Article VIII(3) of the Agreement, “the Chamber may decide at any point in its proceedings to suspend consideration of, reject or strike out, an application on the ground that ... (c) for any other reason established by the Chamber, it is no longer justified to continue the examination of the application; provided that such a result is consistent with the objective of respect for human rights.”

7. The Chamber notes that the applicants' working relations have not been terminated, as established by valid court judgments, and that they have been reinstated into their positions. The Chamber considers that the ongoing alleged human rights violations have been brought to an end, and the main issue of the application has been resolved. The Chamber recognises that valid reasons may underlie the applicants' requests to nonetheless maintain their claims for compensation. However, in light of the considerations discussed above, the Chamber finds that "it is no longer justified to continue the examination of the application" within the meaning of Article VIII(3)(c) of the Agreement. The Chamber moreover finds that this result is "consistent with the objective of respect for human rights," as this "objective" must be understood to embrace not only the individual applicant's human rights, but also the Chamber's more general mandate to assist the Parties in securing to all persons within their jurisdiction the highest level of internationally recognised human rights pursuant to Articles I and II of the Agreement.

8. The Chamber, therefore, decides to strike out the applications pursuant to Article VIII(3)(c) of the Agreement.

IV. CONCLUSION

9. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATIONS.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel