



## **DECISION ON ADMISSIBILITY**

**Case no. CH/03/10980**

**Nedo VUKMIR**

**against**

**BOSNIA AND HERZEGOVINA  
and  
THE REPUBLIKA SRPSKA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 5 May 2003 with the following members present:

Mr. Mato TADIĆ, President  
Mr. Jakob MÖLLER  
Mr. Mehmed DEKOVIĆ  
Mr. Manfred NOWAK  
Mr. Vitomir POPOVIĆ  
Mr. Viktor MASENKO-MAVI

Mr. Ulrich GARMS, Registrar  
Ms. Olga KAPIĆ, Deputy Registrar  
Ms. Antonia DE MEO, 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)(c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

## **I. INTRODUCTION**

1. The application was introduced and registered on 4 March 2003. The case concerns the applicant's attempts to be reinstated into his previous employment position and to be compensated for all salaries he has not received since he was dismissed from work in 1999.
2. The applicant requests the Chamber to order the respondent Party, as a provisional measure, to take all necessary steps aimed to reinstate him into his previous working position and to grant him all related employment benefits as prescribed by the Law on Labour. On 5 May 2003, the Chamber decided to reject the provisional measure requested.

## **II. FACTS**

3. By the procedural decision dated 16 September 1999, the applicant was dismissed from his working position at "Tržnica" Banja Luka (the "Company") due to an unexplained absence from work since 31 March 1999.
4. On 10 May 2000, the Management Board of the Company, while deciding upon the applicant's complaint against the procedural decision of 16 September 1999, rejected the complaint as manifestly ill-founded.
5. On 10 May 2001, the First Instance Court in Banja Luka issued a judgment rejecting the applicant's request for annulment of the procedural decision of 16 September 1999. The applicant's request was rejected as manifestly ill-founded.
6. On 28 February 2002, the Second Instance Court in Banja Luka, while deciding upon the applicant's appeal against the judgment of 10 May 2001, rejected the appeal as manifestly ill-founded.
7. On 22 November 2002, the Supreme Court of the Republika Srpska, while deciding upon the request for review, rejected the request and confirmed that the first instance decision and the second instance decision were reached in an adequate manner.

## **III. OPINION OF THE CHAMBER**

8. In accordance with Article VIII(2) of the Agreement, "the Chamber shall decide which applications to accept.... In so doing, the Chamber shall take into account the following criteria: ... (c) The Chamber shall also dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or an abuse of the right of petition."
9. The applicant directs his application against Bosnia and Herzegovina and the Republika Srpska. The Chamber notes that the applicant has not provided any indication that Bosnia and Herzegovina is in any way responsible for the actions he complains of, nor can the Chamber on its own motion find any such evidence. It follows that the application is incompatible *ratione personae* with the Agreement insofar as it is directed against Bosnia and Herzegovina. The Chamber therefore decides to declare the application inadmissible in accordance with Article VIII(2)(c) of the Agreement as against Bosnia and Herzegovina.
10. As to the applicant's claim that his right to work has been violated, the Chamber notes that the European Convention on Human Rights does not guarantee a right to this effect. Accordingly, the Chamber only has jurisdiction to consider the right to work, which is protected by Article 6 of the International Covenant on Economic, Social and Cultural Rights and Article 5(e)(i) of the Convention on the Elimination of All Forms of Racial Discrimination, in connection with alleged or apparent discrimination in the enjoyment of such right (case no. CH/98/1171, *Čuturić*, decision on admissibility and merits delivered on 8 October 1999, paragraph 38, Decisions August – December 1999). The applicant has not alleged that he has been the victim of discrimination on any of the grounds set forth in Article II(2)(b) of the Agreement, nor can the Chamber on its own motion find evidence of such discrimination. It follows

that the application is incompatible *ratione materiae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare the application inadmissible as against the Republika Srpska as well.

**IV. CONCLUSION**

11. For these reasons, the Chamber, unanimously,

**DECLARES THE APPLICATION INADMISSIBLE.**

(signed)  
Ulrich GARMS  
Registrar of the Chamber

(signed)  
Mato TADIĆ  
President of the Second Panel