



DECISION TO STRIKE OUT

Case no. CH/98/1174

Rusmira TESKEREDŽIĆ-MEMON

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 9 December 1999 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
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(3) of the Agreement as well as Rule 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant, a citizen of Bosnia and Herzegovina of Bosniak descent, is employed by “JODP za Telekomunikacije RS”, the publicly-owned telephone company of the Republika Srpska. In 1992 she was placed on an enforced vacation by the company. In June 1993, her employment was terminated by the company on the ground that there was a shortage of work. She appealed to the Executive Board of the company against this decision. There has been no decision on this appeal to date.

2. In August 1993, the applicant initiated court proceedings against her dismissal before the Court of First Instance in Banja Luka. The Court issued its decision in the case on 3 March 1998 and delivered it to the applicant on 26 August 1998. The Court found that she had initiated her proceedings three days outside the relevant time-limit and accordingly her proceedings were dismissed in this regard. It also ordered her reinstatement to her employment pending the determination of her appeal against her dismissal by the Executive Board of the company. On 3 August 1998 the applicant appealed to the Regional Court against this decision. The company also appealed against this decision. On 17 March 1999 the Regional Court rejected the appeals of both the applicant and the company and upheld the first instance decision. On 23 August 1999 the applicant sought enforcement of the part of the first instance decision ordering her reinstatement.

3. On 17 October 1999 the company ordered her reinstatement to her previous position for an indefinite period. The decision took effect the following day. The applicant has recommenced working at the company.

4. On 2 December 1999 the applicant informed the Chamber of the fact of her reinstatement and asked to withdraw her case from the Chamber.

II. COMPLAINTS

5. The applicant claimed that her rights to work and to compensation for illegal dismissal had been violated.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was introduced on 21 September 1998 and registered on the same day.

7. On 19 February 1999 the application was transmitted to the respondent Party for its observations on the admissibility and merits of the case. No observations have been received from the respondent Party.

8. The applicant's further observations were received on 21 June 1999 and transmitted to the respondent Party for information on the same day.

9. On 9 October 1999 the Chamber decided to postpone consideration of the application until the conclusion of the enforcement proceedings initiated by the applicant.

10. On 9 December 1999 the Chamber considered the information submitted by the applicant on 2 December 1999 and adopted the present decision.

IV. OPINION OF THE CHAMBER

11. 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.

12. The Chamber notes that the applicant has been reinstated to her employment with the company. She requests that her application to the Chamber be withdrawn.

13. Accordingly, the Chamber concludes that the applicant does not intend to pursue her application as she considers the matter to have been resolved. In these circumstances it is no longer justified to continue the examination of the case. Moreover, such an outcome would not be inconsistent with the objective of respect for human rights.

V. CONCLUSION

14. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel