



DECISION ON THE ADMISSIBILITY

CASE No. CH/98/192

Dragan VUJMILOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 14 October 1998 with the following members present:

Ms. Michèle PICARD, President,
Mr. Manfred NOWAK, Vice-President,
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Vlatko MARKOVIĆ
Mr. Želimir JUHA
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Giovanni GRASSO
Mr. Miodrag PAJIĆ
Mr. Vitomir POPOVIĆ
Mr. Viktor MASENKO-MAVI
Mr. Andrew GROTRIAN

Mr. Leif BERG, 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 of the General Framework Agreement for Peace in Bosnia and Herzegovina;

Adopts the following decision pursuant to VIII(2) of the Agreement and Rule 49(2) and 52 of its Rules of Procedure:

I. FACTS

1. The application relates to the operation of Article 24 of the Law on Courts of Associated Labour (Official Gazette of the SFRY, Nos. 24/74, 38/84 and 57/89). The applicant claims that this provision operates in a manner which discriminates unfairly between persons who are employed and persons who are self-employed, in that it gives employed persons greater rights of access to court than it gives to self-employed persons.

2. The applicant refers to proceedings before the Supreme Court of the Federation of Bosnia and Herzegovina (the "Federation"), to which he was a party. These proceedings were terminated by a decision of the Supreme Court of the Federation dated 28 March 1997, which declared his claims inadmissible on procedural grounds.

3. The precise facts of the proceedings initiated by the applicant do not form part of his complaint to the Chamber. He does not give precise details of the factual background to the proceedings.

II. COMPLAINTS

4. The applicant complains that Article 24 of the Law on Courts of Associated Labour (Official Gazette of the SFRY, Nos. 24/74, 38/84 and 57/89) and the judgement of the Supreme Court of the Federation breach the rights to equal protection before the law and to protection of property, as guaranteed by the Constitution of the Federation of Bosnia and Herzegovina. The applicant claims that the judgement of the Supreme Court breaches these rights, by not acceding to the applicant's request for a review of the constitutionality of the impugned provision. He requests that the Chamber initiate proceedings before the Constitutional Court of the Federation to assess the constitutionality of the provisions in question.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was introduced on 9 January 1998 and was registered on 16 January 1998. It was registered under the above case number on the same day. The application was considered by the Chamber at its plenary session on 9 September 1998. As the application is being declared inadmissible at once, in accordance with Rule 49(2) of the Chamber's Rules of Procedure, it was not transmitted to the respondent Party under Rule 49(3) of those Rules.

IV. OPINION OF THE CHAMBER

6. Before considering the merits of the case, the Chamber must decide whether to accept the case, taking into account the criteria for admissibility as set out in Article VIII(2) of the Agreement.

7. The Chamber notes that Article VIII of the Agreement, entitled "Jurisdiction of the Chamber" states as follows:

"1. The Chamber shall receive by referral from the Ombudsman on behalf of an applicant, or directly from any Party or person, non-governmental organisation, or group of individuals claiming to be the victim of a violation by any Party or acting on behalf of alleged victims who are deceased or missing, for resolution or decision applications concerning alleged or apparent violations of human rights within the scope of paragraph 2 of Article II."

8. The Chamber further notes that the applicant has not substantiated his application with regard to the domestic proceedings in which he was involved. In particular, he has not shown how the relevant law or the judgement of the Supreme Court breached his rights. It appears to the Chamber that the applicant essentially seeks to obtain, through an initiative to be taken by the Chamber, a constitutional review of a provision in domestic law.

9. However, the Chamber is established as a judicial body to decide on alleged or apparent violations of human rights by any of the Parties to the Agreement, as clearly set out in Article VIII. Its jurisdiction does not include the power to initiate proceedings before the courts of either the State of Bosnia and Herzegovina or either of the Entities. Nor can the Chamber review domestic legislation *in abstracto* for the purpose of deciding whether it complies with the human rights instruments set out in Annex 6 to the Agreement.

10. Accordingly, the Chamber considers that, in accordance with Article VIII(2)(c) of the Agreement, it should refuse to accept the present application on the grounds that it is incompatible *ratione materiae* with the provisions of the Agreement.

V. CONCLUSION

11. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Michèle PICARD
President of the Chamber