



DECISION ON THE ADMISSIBILITY

CASE No. CH/98/400

Mičo DOŠENOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 15 October 1998 with the following members present:

Mr. Manfred NOWAK, President
Mr. Giovanni GRASSO, Vice-President
Mr. Vlatko MARKOTIĆ
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Viktor MASENKO-MAVI

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 to the General Framework Agreement for Peace and in Bosnia and Herzegovina;

Adopts the following decision pursuant to Article VIII(2) of the Agreement as well as Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The facts of the case, as they appear from the application and other documents in the case-file, may be summarised as follows:

2. The applicant is a resident of Sarajevo of Serb origin. On 9 July 1992 the Municipal Administration for Geodetic and Property Rights Affairs of Stari Grad Sarajevo Municipality ("Municipality") issued a decision terminating the applicant's employment with the Municipality as of 30 May 1992, based on the applicant's failure to appear for work.

3. On 28 July 1992 the applicant lodged an appeal against the above procedural decision to the Executive Board of the Municipality. On the same day the applicant appeared at the Municipality to obtain his workbook and other documents. The applicant subsequently did not receive any decision on his appeal.

4. From 22 December 1994 to 3 May 1996 the applicant was a member of the Army of Bosnia and Herzegovina ("BiH Army"). Sometime after 3 May 1996 the applicant submitted a request to the Municipality for the annulment of the procedural decision dated 9 July 1992 terminating his employment with the Municipality. The applicant also requested that he enjoy same treatment with respect to his rights concerning labour relations as other Municipality employees who had also been members of the BiH Army but whose employment had not been terminated. In response the Municipality issued an undated negative decision.

5. On 20 June 1996 the applicant initiated proceedings before the Court of First Instance I in Sarajevo seeking the annulment of the Municipality's procedural decision of 9 July 1992, the recognition of his circumstances after 30 May 1992 and the back payment of his salary. On 20 November 1996 the Court of First Instance rejected the applicant's complaint as out of time. On 10 January 1997 the applicant appealed against this decision to the Cantonal Court in Sarajevo.

6. On 22 July 1997 the Cantonal Court denied the applicant's appeal and confirmed the decision of the Court of First Instance because the appeal was ill-founded.

7. On 10 October 1997 the applicant submitted, through the Court of First Instance, a request to the Supreme Court of the Federation of Bosnia and Herzegovina for a review of the decisions of the two lower courts. According to the applicant, the Court of First Instance forwarded the case to the Supreme Court on 19 February 1998.

II. COMPLAINT(S)

8. The applicant's complaints are as follows:

(1) Beginning in 1990 when the national party of persons of Bosniak origin came to power the Stari Grad Sarajevo Municipality followed non-democratic and intolerant policies;

(2) At the beginning of the war Municipality officials mistreated persons of Serb origin;

(3) In 1992 Municipality leaders were in contact with armed groups which were engaged in a number of serious criminal acts against the civilian population, resulting in the applicant's reluctance to ask for the protection of the courts for fear of reprisals; and

(4) Both the Court of First Instance I in Sarajevo and the Cantonal Court in Sarajevo took formalistic approaches to the applicant's case, thereby disadvantaging him.

III. PROCEEDINGS BEFORE THE CHAMBER

9. The application was received by the Chamber on 4 March 1998 and registered on the same day.

10. On 10 September 1998 the Chamber considered the application and deliberated on the admissibility of the case.

IV. OPINION OF THE CHAMBER

A. Termination of Employment

11. The applicant's first three complaints concern the policies and activities of Municipality officials around the time that his employment with the Municipality was terminated (see para. 8 (1) - (3) above).

12. The Chamber notes that it is not competent to consider alleged violations of human rights which occurred before 14 December 1995, the date on which the Agreement entered into force (see Case No. CH/96/1, Matanović v. Republika Srpska, Decision on Admissibility of 13 September 1996).

13. In the present case, the applicant's complaints against Municipality officials concern events which allegedly took place prior to, or at the beginning of the war, and in any event before 14 December 1995. These complaints are therefore not within the competence of the Chamber *ratione temporis* and are accordingly inadmissible.

B. Court Proceedings

14. The applicant's final complaint concerns the nature of the proceedings before the Court of First Instance and the Cantonal Court.

15. Under Article VIII (2) (c) of the Agreement, the Chamber cannot consider applications which it considers to be manifestly ill-founded. Article VIII (2) (c) provides as follows:

"The Chamber...shall dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or an abuse of the right of petition."

16. In the present case, the applicant did not provide any evidence in his application to support his allegation that the proceedings before the Court of First Instance and the Cantonal Court were unfairly disadvantageous to him. In the circumstances the Chamber does not find that a *prima facie* case exists against the respondent Party with regard to the nature of the court proceedings. The Chamber thus finds the applicant's allegations regarding the court proceedings as manifestly ill-founded and also declares this part of the application inadmissible.

V. CONCLUSION

17. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Manfred NOWAK
President of the Second Panel