



DECISION TO STRIKE OUT

Case no. CH/98/556

Nada MARINKOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 13 October 2000 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. Peter KEMPEES, 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 and Rules 49(2) and 52 of the Chamber’s Rules of Procedure:

I. FACTS

1. The applicant was employed as a bookkeeper in the accounting department with the Municipality Stari Grad in Sarajevo for 23 years. The applicant does not state what her ethnic origin is.
- 2, On or around 10 July 1992 the applicant was told that she should not come into work due to the war hostilities until she was otherwise notified. On 15 July 1992 the applicant's employment was terminated. The reasons stated for her termination were her alleged failure to respond to compulsory work orders and a reduction in the number of bookkeepers. The applicant received her salary through July 1992.
3. On or around 24 September 1992 the applicant submitted a complaint to the Executive Board of the Municipality of Stari Grad and a complaint to the Court of First instance in Sarajevo contesting her termination. The Municipality of Stari Grad rejected the complaint as untimely. On 9 September 1996 the Court of First Instance issued a decision ordering the Municipality of Stari Grad to reinstate the applicant into her original position within 8 days. The appeal lodged by the Municipality of Stari Grad was rejected and the decision of the Court of First Instance confirmed.
4. On 30 April 1997 the Head of the Municipality Stari Grad issued a procedural decision by which the applicant was employed in the position of bookkeeper in the accounting department, apparently retroactive to 25 June 1992. Further, her legal-labour status was changed to that of an employee on the "waiting list", retroactive to 25 November 1992. Further, the Municipality determined that starting on 20 March 1997 the legal-labour status of the applicant would be an employee with "no assignment".
5. The applicant lodged an appeal against the 30 April 1997 procedural decision to the Municipality Stari Grad. On 29 September 1997 the applicant received a decision from the Municipality Stari Grad giving her six months notice of termination. On 20 March 1998 once the applicant's employment was terminated, the applicant appealed the decision to the Municipality. By a decision of 13 April 1998, the appeal was rejected as ill-founded. On or around 10 December 1997 the applicant brought an action before the Municipal Court I Sarajevo contesting the 29 September 1997 procedural decision of the Municipality Stari Grad.
6. On 11 August 2000 the Chamber was informed that the parties have reached a court settlement and the applicant has been re-employed.

II. COMPLAINTS

7. The applicant alleged that she had been discriminated against with respect to her employment due to her national origin and gender. She invoked Article 14 of the European Convention of Human Rights, Article 6 of the Covenant on Economic, Social and Cultural Rights, Article 5(e)(i) of the Convention on the Elimination of All Forms of Racial Discrimination, and Article 26 of the International Covenant on Civil and Political Rights. Additionally, the applicant alleges a violation of her child's rights under the Convention on the Rights of the Child.

III. PROCEEDINGS BEFORE THE CHAMBER

8. The application was submitted to the Chamber on 20 April 1998 and registered on 14 May 1998. The applicant is represented by Jakša Mitrović, a lawyer practising in Sarajevo.
9. The chamber considered the case on 8 March 1999 and decided to transmit the case to the respondent Party for its observations on the admissibility and merits under Rule 49(3)(b) of the Rules of Procedure. The case was transmitted to the respondent Party on 13 March 1999. The Federation submitted its observations on 18 May 1999. The applicant replied on 18 June, 2 July and 22 July

1999 wherein she submitted a claim for compensation. On 2 August 1999 the Federation submitted additional observations.

10. In a letter from the applicant's lawyer, dated 11 August 2000, the applicant stated that she had resolved her employment status and wished to withdraw her application.

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 resolved her employment status and wishes to withdraw the application. In these circumstances and considering that the underlying matter has been resolved, the Chamber finds, pursuant to Article VIII(3)(a) and (b) of the Agreement, that it is no longer justified to continue the examination of the present case. Moreover, such an outcome would not be inconsistent with the objective of respect for human rights.

V. CONCLUSION

13. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Peter KEMPEES
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel