



DECISION ON ADMISSIBILITY

Case no. CH/98/867

Ljubinka JOVANOVIĆ

against

**BOSNIA AND HERZEGOVINA
and
THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 8 June 2000 with the following members present:

Ms. Michèle PICARD, President
Mr. Andrew GROTRIAN, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA

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 Articles VIII(2)(a) and VIII(2)(c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. ESTABLISHMENT OF THE FACTS

1. The applicant is a citizen of Bosnia and Herzegovina living in Sarajevo. She is a chemistry engineer. Until the beginning of the war she was employed by the gas company PLIN in Sarajevo. Her place of work was in Rajlovac.

2. Until 4 May 1992 she was working on a regular basis. As from that date she could not report to work due to the start of intensive shelling of Sarajevo and as Rajlovac was situated on the front-line. The applicant left Sarajevo on 18 May 1992 with her two under-age children. Between 4 and 18 May she regularly contacted her supervisors at the company, who knew that she could not come to work and agreed that she would stay at home until further notice. Allegedly, the applicant did not receive her salary for the month of April 1992 although she was working during this month.

3. The applicant returned to Sarajevo in July 1997 following the partial reconstruction of her apartment which had been devastated during the war. She contacted the gas company as she wished to start working again. However, the company director told her that her working relationship had been terminated. On 28 January 1998 she received a copy of the procedural decision on the termination of her working relationship which had been issued on 23 July 1992. In this decision it is stated that she had been dismissed due to unjustified absence from work for five consecutive days starting on 3 April 1992.

4. On 31 January 1998 the applicant submitted a complaint against her dismissal to the Management Board of the company. The Board was obliged to reply to her complaint within 30 days. However, the applicant received no answer. While waiting for an answer from the Board, the applicant failed to submit a complaint to the competent court within the legally prescribed time-limit of 15 days from the expiration of the mentioned 30-day period.

II. COMPLAINTS

5. The applicant alleges violations of her right to a fair hearing under Article 6 of the European Convention on Human Rights and her right to work under Article 6 of the International Covenant on Economic, Social and Cultural Rights. She further complains that she did not receive her salary for the month of April 1992.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was introduced on 13 August 1998 and registered on the same day. The applicant is represented by Božo Mrkajić, a lawyer practicing in Sarajevo.

IV. OPINION OF THE CHAMBER

7. Before considering the merits of the case the Chamber must decide whether to accept it, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement. According to Article VIII(2)(a), the Chamber shall take into account whether effective remedies exist and whether the applicant has demonstrated that they have been exhausted. According to Article VIII(2)(c), the Chamber shall dismiss any application which it considers incompatible with the Agreement.

8. The Chamber recalls that its jurisdiction extends, *inter alia*, to alleged or apparent discrimination in the enjoyment of the rights contained in the international agreements listed in the Appendix to the Agreement. The applicant complains of a violation of her right to work. Article 6 paragraph 1 of the International Covenant on Economic, Social and Cultural Rights, which is listed in the Appendix, guarantees the right to work. However, the applicant does not explicitly allege discrimination in the enjoyment of that right. Moreover, such discrimination is not apparent from the facts presented. Accordingly, the Chamber has no jurisdiction *ratione materiae* to examine this complaint.

9. As regards the applicant's complaint that she did not receive her salary for the month of April 1992, the Chamber notes that this occurred before the entry into force of the Agreement on 14 December 1995. The Chamber is thus not competent *ratione temporis* to decide whether this event involved a violation of the applicant's human rights.

10. Finally, with respect to the applicant's allegation that she did not have a fair hearing, the Chamber notes that the applicant had the possibility to submit a complaint against the procedural decision on the termination of her working relationship to the competent court. However, she failed to do so within the legally prescribed time-limit. Accordingly, the applicant cannot be considered to have exhausted the domestic remedies available to her.

11. Accordingly, the Chamber decides not to accept the application, partly for being incompatible *ratione materiae* and *ratione temporis* with the Agreement and partly for non-exhaustion of domestic remedies.

V. CONCLUSION

12. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel