



DECISION ON ADMISSIBILITY

Case no. CH/98/923

Pero PERIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 7 October 1999 with the following members present:

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

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

I. FACTS

1. The applicant, born in 1935, is a lawyer. He had worked for the Municipal Administration for Land Surveying and Property-Legal Affairs of the Municipality of Tomislavgrad. By a decision of the Municipality dated 29 May 1991 the applicant was put on early retirement with effect as of 31 May 1991. His appeal to the Executive Board of the Municipality of Tomislavgrad was rejected as ill-founded. Thereafter, he submitted a complaint to the Higher Court of Mostar. On 12 March 1992 the court annulled the early retirement decision.

2. However, the Municipality of Tomislavgrad did not issue the administrative act required to implement the court's judgment. Thus, on 23 December 1996 the applicant requested the Higher Court to issue the administrative decision instead of the authorities. Having kept the file for one year without taking any action, the Higher Court transmitted it to the Municipal Court in Tomislavgrad. Upon request the applicant was told that his matter had not been resolved due to a dispute of competencies between the courts. No decision has been issued to date.

3. The Federation Ombudsmen issued a report regarding the applicant's case on 30 May 1997, finding that the conditions for retiring the applicant were not fulfilled and recommending his reinstatement into a position commensurate with his qualifications and capabilities. The Ombudsmen encouraged the applicant to seek compensation for the damage he had suffered by initiating proceedings before the Municipal Court.

4. Following these recommendations, the Federal Ministry of Justice sent a letter of 21 July 1997 to the municipal authorities of Tomislavgrad, requesting them to reinstate the applicant and to report within 15 days of receipt of the letter on the steps taken to that effect. Moreover, the authorities were requested to report why he had been put on early retirement and why the Municipality had not implemented the judgment of the Higher Court Mostar. Petitions by the applicant to the Ministry of Justice in Livno, the Government of Herceg-Bosna District Livno, the Commission for Petitions and Claims of the Municipality of Tomislavgrad and the Ministry of the Croatian Republic of Herceg-Bosna did not have any effect.

II. COMPLAINTS

5. The applicant alleges that his right to work has been violated as he was put on early retirement before the normal pension age. He submits that his job was not suppressed and that he is sufficiently qualified for doing it.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was introduced to the Chamber on 4 September 1998 and registered on the same day. The applicant noted in the application that it should be directed against the municipal authorities of Tomislavgrad.

IV. OPINION OF THE CHAMBER

7. Before considering the merits of the case the Chamber must decide whether to accept the case, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement. According to Article VIII(1), the Chamber shall receive applications of persons claiming to be the victim of a violation of human rights by any Party to the Agreement.

8. The applicant filed the application against the municipal authorities of Tomislavgrad. However, only Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and the Republika Srpska are Parties to the Agreement and bound by the obligations following from it. As the decisions of public authorities fall within the responsibility of the respective entity, the application will be considered as directed against the Federation of Bosnia and Herzegovina.

9. According to Article VIII(2)(c), the Chamber shall dismiss any application which it considers incompatible with the Agreement.

10. The Chamber recalls that its jurisdiction extends to the examination of alleged or apparent violations of the European Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") and of discrimination on any ground mentioned in Article II(2)(b) of the Agreement in the enjoyment of the rights contained in the international agreements listed in the Appendix to the Agreement.

11. The present applicant complains about a violation of his right to work. The Chamber notes that the right to work is not as such guaranteed by the Convention (see, e.g., case no. CH/98/681, *Alagić*, decision on admissibility of 15 October 1998, paragraph 12, Decisions and Reports 1998). The International Covenant on Economic, Social and Cultural Rights, which is included in the above-mentioned list, guarantees the right to work and the right to the enjoyment of favourable conditions of work in its Articles 6 and 7.

12. However, the applicant does not explicitly allege that he has been discriminated against in the enjoyment of his right to work or other related rights. Moreover, such discrimination is not apparent from the presented facts. Therefore, the Chamber has no jurisdiction *ratione materiae* to examine the complaint.

13. Accordingly, the Chamber decides not to accept the application, it being incompatible *ratione materiae* with the Agreement within the meaning of Article VIII(2)(c) thereof.

VI. CONCLUSION

14. 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