



DECISION ON ADMISSIBILITY

Case no. CH/98/956

Enisa HADŽAGIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 11 April 2002 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. Ulrich GARMS, 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)(c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The application was introduced on 17 September 1998.
2. The applicant was a judge of the First Instance Court in Banja Luka until 31 August 1992. On that date the President of the Court issued a procedural decision declaring the applicant's employment terminated. The applicant alleges that the grounds given for her dismissal are absurd and that she was in fact only dismissed because of her Bosniak origin. The applicant also states that she submitted an objection against the procedural decision of 31 August 1992 to the President of the Court. She never received a reply.
3. The applicant states that she had to leave Banja Luka at the beginning of 1993. She found a new position as a judge in Sarajevo on 1 August 1996.
4. With regard to the Chamber's competence *ratione temporis*, the applicant argues that "this is a case of a continued discriminatory act the consequences of which lasted until 1 August 1996 and the psychological consequences of which are existing even today."
5. The applicant asks the Chamber to issue a decision annulling the procedural decision on her dismissal from employment and to order the Republika Srpska to pay her contributions to the Pension Fund for the period from 31 August 1992 to 1 August 1996 in order to accordingly realise her right to pension.
6. On 14 December 2000 the Registry asked the applicant to state concrete consequences of the procedural decision dismissing her from employment, and to substantiate her allegations on the impossibility to exhaust legal remedies. No response has been received.

II. OPINION OF THE CHAMBER

7. In accordance with Article VIII(2) of the Agreement, "the Chamber shall decide which applications to accept ... In so doing, the Chamber shall take into account the following criteria: ... (c) The Chamber shall also dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or an abuse of the right of petition."
8. The Chamber notes that the applicant was dismissed from her judicial position on 31 August 1992, that it is to say prior to 14 December 1995, which is the date on which the Agreement entered into force. The applicant states that the consequences of that discriminatory act have continued after 14 December 1995. However, the applicant does not appear to have attempted to regain her position at the First Instance Court Banja Luka after the Agreement entered into force. The applicant has not indicated by which conduct the respondent Party discriminated against her after 14 December 1995. The Agreement only governs facts subsequent to its entry into force. It follows that the application is incompatible *ratione temporis* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare the application inadmissible.

III. CONCLUSION

9. For these reasons, the Chamber, by 6 votes to 1,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel

