DECISION ON ADMISSIBILITY

Case no. CH/99/1950

Lucija ČAKAREVIĆ

against

THE REPUBLIKA SRPSKA

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

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
Mr. Mato TADIĆ

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) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant, a citizen of Bosnia and Herzegovina of Croat origin, was employed by a publicly-owned company, "ODP Sirovinaprodukt" in Doboj, Republika Srpska, as a personnel officer. On 25 December 1992 she was allegedly told by the director of the company not to come to work anymore. She claims that the director told her that not a single "Croat or Muslim" would work at the company while he was in charge, due to the treatment at the time of Serbs in Zenica and Tuzla.

2. On 5 January 1993 the director issued a decision terminating her working relation with the company on the ground that she had not come to work for five consecutive days, as she did not accept the assignment of working in the company's warehouse. The applicant did not formally complain against this decision nor did she initiate any court proceedings against it, claiming that this would not have been effective. The applicant remained in Doboj.

3. On 26 May 1998 she requested the new director of the company that she be allowed to return to work. On 24 July 1998 this request was refused, on the ground that her dismissal was in accordance with the relevant law. The new director rejected her allegation that she had been dismissed on the ground of her national origin and pointed out that non-Serbs had worked at the company during the war and continued to do so.

4. On 18 August 1998 the applicant initiated proceedings before the Court of First Instance ("*Osnovni Sud*") in Doboj against the decision of the new director. In these proceedings she requested the court to find that the decision 5 January 1993 terminating her working relation had been made in an illegal manner and had failed to specify the legal basis under which it was adopted and the rights of the applicant to appeal against it. She also requested that the company be ordered to allow her return to work within five days and bear the costs of the proceedings. On 26 January 1999 the court refused her request as impermissible ("*nedopušten*"). The reasons given for this refusal were that the applicant had not lodged an appeal against her dismissal with the executive board of the company within the legally prescribed time-limit. Accordingly, she was not entitled to seek the protection of the courts.

5. On 12 March 1999 the applicant appealed against this decision to the Regional Court in Doboj. On 5 May 1999 her appeal was refused and the decision of the Court of First Instance confirmed. The Regional Court accepted the reasoning of the Court of First Instance that the applicant had lost her right to seek the protection of the courts by not appealing against the decision of the company of 5 January 1993 within the prescribed time-limit.

6. There is no other ordinary remedy available to the applicant in the legal system of the Republika Srpska. The applicant is presently unemployed.

II. COMPLAINTS

7. The applicant complains of a violation of her right to work.

III. PROCEEDINGS BEFORE THE CHAMBER

8. The application was submitted on 14 June 1999 and registered on the same day.

V. OPINION OF THE CHAMBER

9. 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)(c), the Chamber shall dismiss any application which it considers to be, *inter alia*, incompatible with the Agreement or manifestly ill-founded.

10. The Chamber notes that the applicant's working relation was terminated on 5 January 1993. The Chamber has previously held that it is not competent to consider events that took place prior to the entry into force of the Agreement, which occurred on 14 December 1995 (case no. CH/96/1, *Matanović,* decision on admissibility of 13 September 1996, Decisions on Admissibility and Merits 1996-1997). Accordingly, the applicant's complaint that the termination of her working relation with the company violated her right to work is outside the Chamber's competence *ratione temporis*.

11. As regards the court proceedings initiated by the applicant against the termination of her working relation, the Chamber recalls that the Court of First Instance refused her claim and on appeal the Regional Court upheld this decision. The conduct of the proceedings before the courts of the Republika Srpska do not disclose any issue under the Agreement, as they do not appear to have been conducted contrary to the applicant's rights as guaranteed by Article 6 of the Convention. The outcome of the proceedings *per se* cannot, therefore, be challenged before the Chamber.

12. Accordingly, the application is inadmissible as manifestly ill-founded insofar as it concerns the proceedings initiated by the applicant against the termination of her working relation.

13. Accordingly, the Chamber decides not to accept the application, partly as it is outside the Chamber's competence *ratione temporis* and partly as it is manifestly ill-founded within the meaning of Article VIII(2)(c) of the Agreement.

VI. CONCLUSION

14. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the First Panel