



DECISION ON ADMISSIBILITY

Case no. CH/99/2075

Mira BERBIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 8 December 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)(c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant is a citizen of Bosnia and Herzegovina. She was employed in the insurance company "Sarajevo – Osiguranje", branch office Tuzla, from 1972 to May 1993. She is disabled (blind) with a status of 100 % disability. In March 1993 the director of the Tuzla office issued a procedural decision according to which the applicant has the status "waiting for a job" for the period of a month from 1 April to 1 May 1993. According to this procedural decision the applicant had the obligation to report to the office by phone once per week. The applicant obtained a permit by the Secretariat for Defence of the Municipality of Tuzla for a journey to Germany to visit her children. Thereafter, she left Tuzla and could not return because of the war. The applicant stayed in Germany from 1993 until 4 July 1996.

2. On 2 June 1993 the director issued a procedural decision terminating the applicant's working relationship retroactively as of 3 May 1993. The termination was based on the applicant's absence from work from 3 May 1993 until the date of the procedural decision and the fact that she had not excused herself during that time. The decision was published on a notice-board in the office. The applicant, who was still in Germany at the time, did not receive a copy of the decision until the hearing at the Municipal Court in Tuzla on 6 May 1998.

3. On 25 February 1998 the applicant filed a civil action with the Municipal Court in Tuzla requesting the court to repeal the procedural decision and to order her reinstatement into her position and payment of unpaid salaries. The court rejected the action as being out of time by a procedural decision of 4 November 1998. The applicant appealed on 11 December 1998 to the Cantonal Court in Tuzla but has not received a decision to date. The applicant submitted in her appeal that the company had an obligation to deliver to her the procedural decision on the termination of her working relationship in written form and with an instruction on the available legal remedies.

II. COMPLAINTS

4. The applicant complains of violations of her right to work and her right to a fair hearing by an impartial tribunal within a reasonable time.

III. PROCEEDINGS BEFORE THE CHAMBER

5. The application was submitted to the Chamber on 21 April 1999 and registered on 26 April 1999.

IV. OPINION OF THE CHAMBER

6. 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(2)(c), the Chamber shall dismiss any application which it considers manifestly ill-founded or incompatible with the Agreement.

7. The Chamber recalls that its jurisdiction extends to the examination of alleged or apparent violations of the European Convention on Human Rights 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.

8. The applicant complains about a violation of her right to a fair hearing. The Chamber notes, however, that there is no indication in the facts before it that the proceedings in the applicant's case have been unfair within the meaning of Article 6 of the European Convention on Human Rights. A possible wrong interpretation of the applicable domestic law as alleged by the applicant would not as such render the proceedings unfair. The Chamber further notes that the applicant's civil proceedings have so far lasted one year and nine months. Such length of proceedings does not seem excessive.

This part of the application is hence manifestly ill-founded.

9. The applicant also complains about a violation of her 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. However, the applicant does not explicitly allege that she has been discriminated against in the enjoyment of her 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 this part of the application.

10. Accordingly, the Chamber decides not to accept the application, it being partly manifestly ill-founded and partly incompatible *ratione materiae* with the Agreement within the meaning of Article VIII(2)(c) thereof.

VI. CONCLUSION

11. 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