



DECISION ON ADMISSIBILITY

Case no. CH/99/3102

Goran VELIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 6 June 2003 with the following members present:

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

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar
Ms. Antonia DE MEO, 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) and VIII(3)(b) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The application was introduced on 4 November 1999 and registered on the same day.
2. The applicant complains of proceedings before the domestic courts concerning the termination of his labour relations and compensation for lost salaries.

II. FACTS

3. The applicant, who is of Bosniak origin, worked as a qualified auto-mechanic with the company "Bosna" in Livno (later renamed "Euroservis d.o.o.") since 1971. On 21 July 1993, the authorities of the company did not allow the applicant to come to work any more. He has not received any procedural decision or any monthly reimbursement, except for the period until April 1994, when the director of the company annulled that right.
4. On 14 December 1998, the applicant was employed by another employer.
5. In 1998, the applicant initiated civil court proceedings before the Municipal Court in Livno, requesting the court to reinstate him to his work at "Euroservis d.o.o.". During the court proceedings, the applicant changed his claim and requested the court to establish instead that he was employed by "Euroservis d.o.o" until 14 December 1998 and, as a result, that he was entitled to all the rights flowing from such employment (salaries, pension fund contributions, etc.,).
6. On 8 March 1999, the Municipal Court rejected the applicant's claim as premature, since he had not sought protection of his rights from the employer, as required by the law. The applicant appealed against that decision to the Cantonal Court in Livno (Županijski sud u Livnu).
7. On 30 September 1999, the Cantonal Court in Livno annulled the first instance decision and returned the case to the Municipal Court in Livno for a new trial.
8. The applicant alleges that in the renewed trial the judge verbally ordered the representative of "Euroservis d.o.o." to issue a decision recognising the working status of the applicant until 14 December 1998, but that no written decision was issued.
9. On 31 January 2000, "Euroservis d.o.o." issued a decision on terminating the labour relations of the applicant as of 14 December 1998, because of his employment with a new employer. It follows that all the applicant's rights and obligations derived from labour relations with "Euroservis d.o.o." were terminated as of 14 December 1998.
10. On 13 March 2000, the applicant filed a claim to "Euroservis d.o.o." for compensation for unpaid salaries and pension and disability insurance contributions. "Euroservis d.o.o." did not respond to his claim.
11. On 27 April 2000, the applicant filed a civil action to the Municipal Court in Livno requesting the Court to order "Euroservis d.o.o." to pay him compensation for unpaid salaries and to pay all contributions due to the Pension and Disability Fund for him.
12. On 13 June 2000, the Municipal Court in Livno issued a judgment ordering the employer to pay the contributions for pension and disability insurance for the applicant. Neither the applicant nor the employer appealed against this judgment and it became final and binding.
13. The applicant complained that he initiated executive proceedings on 29 September 2000 but the enforcement of the judgement was very slow.
14. On 24 January 2003, the applicant informed the Chamber that on 14 January 2003 the employer finally paid his contributions for pension and disability insurance. However, the applicant complains of the fact that the contributions have been paid in the minimum amount.

III. COMPLAINTS

15. The applicant alleges violations of his right to fair hearing guaranteed under Article 6 and the right to respect for his private life guaranteed under Article 8 of the European Convention on Human Rights (the "Convention"). Further, he alleges a violation of his right protected by Article 1 of Protocol No. 1 to the Convention.

16. The applicant seeks compensation for unpaid salaries and contributions for the pension and disability fund.

IV. OPINION OF THE CHAMBER

A. With respect to the length of the proceedings

17. 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."

18. The Chamber notes that in 1998, the applicant initiated the first set of civil proceedings before the Municipal Court in Livno, requesting the court to order the employer to reinstate him to his work, and later he changed his claim. On 8 March 1999, the Municipal Court issued a decision rejecting the applicant's request. On 30 September 1999, the District Court in Livno, acting upon the applicant's appeal, quashed the first instance judgment and returned the case to the Municipal Court. According to the applicant, these proceedings were finished in January 2000, in a way that "Euroservis d.o.o." complied with the applicant's request. On 27 April 2000, the applicant initiated the second set of civil proceedings before the Municipal Court in Livno, requesting the court to order the employer to pay him compensation for unpaid salaries and to pay contributions for pension and disability fund. On 13 June 2000, the Municipal Court issued a judgment ordering the employer to pay all contributions due for pension and disability insurance. On 29 September 2000, the applicant initiated enforcement proceedings, and all due contributions were finally paid on 14 January 2003.

19. In these circumstances, the Chamber does not note any *prima facie* violation of the right to a fair hearing within a reasonable time. Regarding the length of proceedings before the Federation courts, and considering the complexity of the issue and the conduct of the applicant, the Chamber considers that the applicant's claim was solved within a reasonable time and that the courts showed due diligence in solving the matter. Therefore, the Chamber finds that this part of the application does not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. It follows that this part of the application is manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement. The Chamber therefore decides to declare this part of the application inadmissible.

B. With respect to compensation claim for unpaid salaries

20. 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: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted"

21. The Chamber notes that the applicant filed an action before the Municipal Court in Livno against his former employer requesting the employer be ordered to pay him compensation for unpaid salaries and contributions to the pension and disability fund. The Chamber further notes that although the Court issued a decision only in respect to his claim for paying contributions to the pension and disability fund, the applicant did not appeal against this judgment and it is now final and binding. Hence, the applicant failed to raise either in form or in substance the complaint that is being made to the Chamber. Accordingly, the applicant has not exhausted domestic remedies as required by

Article VIII(2)(a) of the Agreement. The Chamber therefore decides to declare this part of the application inadmissible.

C. With respect to claim for contributions for pension and disability fund

22. In accordance with Article VIII(3) of the Agreement, “the Chamber may decide at any point in its proceedings to suspend consideration of, reject or strike out, an application on the ground that ... (b) the matter has been resolved; ... provided that such a result is consistent with the objective of respect for human rights.”

23. Considering that the applicant informed the Chamber that his former employer paid all contributions due to pension and disability fund on 14 January 2003, the Chamber finds that this matter raised in the application has been resolved. Furthermore, the Chamber finds no special circumstances regarding respect for human rights which require the examination of the application to be continued. The Chamber therefore decides to strike out the remainder of the application, pursuant to Article VIII(3)(b) of the Agreement.

V. CONCLUSION

24. For these reasons, the Chamber, unanimously,

**DECLARES THE APPLICATION INADMISSIBLE IN PART and
STRIKES OUT THE REMAINDER OF THE APPLICATION.**

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel