



DECISION ON REQUEST FOR REVIEW

Case no. CH/98/1166

Mile JOKIĆ

against

**BOSNIA AND HERZEGOVINA
THE REPUBLIKA SRPSKA
and**

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 11 February 2000 with the following members present:

Ms. Michèle PICARD, President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Želimir JUKA
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Miodrag PAJIĆ
Mr. Vitomir POPOVIĆ
Mr. Viktor MASENKO-MAVI
Mr. Andrew GROTRIAN
Mr. Mato TADIĆ

Mr. Anders MÅNSSON, Registrar
Ms. Olga KAPIĆ, Deputy Registrar

Having considered the applicant's request for a review of the decision of the Second Panel of the Chamber on the admissibility of the aforementioned case;

Having considered the First Panel's recommendation;

Adopts the following decision pursuant to Article X(2) of the Human Rights Agreement ("the Agreement") set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina as well as Rules 63-66 of the Chamber's Rules of Procedure:

I. FACTS AND COMPLAINTS

1. The applicant is a citizen of Bosnia and Herzegovina of Serb descent. He is the owner of real property (consisting of land and a house) in Gornja Sanica, Ključ municipality, Federation of Bosnia and Herzegovina, which he was forced to leave during the war.
2. The house on the applicant's land was destroyed between 1996 and 1997. He does not claim or provide any evidence that any damage caused to his property was caused either directly or indirectly by persons or authorities for whose actions any of the respondent Parties could be held responsible.
3. The applicant claims that his right to peaceful enjoyment of his possessions, as guaranteed by Article 1 of Protocol No. 1 to the European Convention on Human Rights, has been violated.

II. SUMMARY OF THE PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced on 15 September 1998 and registered on the same day.
5. On 9 February 1999 the Second Panel declared the case inadmissible as manifestly ill-founded, in accordance with Article VIII(2)(c) of the Agreement.
6. On 8 April 1999 the Second Panel's decision was delivered to the applicant in writing, in accordance with Rule 52(1). On 28 April 1999 the applicant submitted a request for a review of the decision. In pursuance of Rule 64(1) the request was considered by the First Panel which, on 7 February 2000, decided to recommend to the plenary Chamber that the request be rejected. The plenary Chamber considered the request and the First Panel's recommendation on 11 February 2000.

III. REQUEST FOR REVIEW

7. In his request the applicant argues that the decision of the Second Panel should be reconsidered as the Panel should have requested more information regarding the case before adopting its decision. He states that Rule 50 enables the Chamber to do so, before deciding upon the admissibility of an application. He contests the finding of the Second Panel that he had failed to provide details of how any of the respondent Parties could be held responsible for the violations he allegedly suffered, stating that it was impossible for him to do so for reasons of his personal safety. He claims that the decision of the Second Panel was not in accordance with the Agreement.

IV. OPINION OF THE FIRST PANEL

8. The First Panel recalls that under Article X(2) of the Agreement the Chamber shall normally sit in panels of seven members. When an application is decided by a Panel, the plenary Chamber may decide, upon motion of a party to the case or the Human Rights Ombudsperson, to review the decision. Article XI(3) of the Agreement stipulates that, subject to the aforementioned review, the decisions of the Chamber shall be final and binding.
9. The First Panel notes that the request for review has been lodged within the time-limit prescribed by Rule 63(2). According to Rule 64(1), the request shall be referred to the Panel which did not take the challenged decision and that Panel shall make a recommendation to the plenary Chamber as to whether the decision should be reviewed. The plenary Chamber shall consider the request for review as well as the recommendation of the aforementioned Panel, and shall decide whether to accept the request. Under Rule 64(2), it shall not accept the request unless it considers (a) that the case raises a serious question affecting the interpretation or application of the Agreement or a serious issue of general importance and (b) that the whole circumstances justify

reviewing the decision (see cases nos. CH/97/59 and CH/97/69, *Rizvanović* and *Herak*, decisions on requests for review of 13 November 1998, Decisions and Reports 1998).

10. The First Panel notes that the grounds upon which the applicant's request for review is based could have been raised by the applicant in his original application to the Chamber. In any event, the First Panel does not consider that the case raises "a serious question affecting the interpretation or application of the Agreement or a serious issue of general importance" or that "the whole circumstances justify reviewing the decision". Consequently, as the request for review does not meet the two conditions set out in Rule 64(2), the First Panel, unanimously, recommends that it be rejected.

V. OPINION OF THE PLENARY CHAMBER

11. The plenary Chamber agrees with the First Panel, for the reasons stated above, that the request for review does not meet the two conditions required for the Chamber to accept such a request pursuant to Rule 64(2).

VI. CONCLUSION

12. For these reasons, the Chamber, unanimously,

REJECTS THE REQUEST FOR REVIEW.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Michèle PICARD
President of the Chamber