



DECISION ON REQUEST FOR REVIEW

Case no. CH/98/1066

Savka KOVAČEVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 6 July 2001 with the following members present:

Ms. Michèle PICARD, President
Mr. Giovanni GRASSO, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
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. Peter KEMPEES, Registrar
Ms. Olga KAPIĆ, Deputy Registrar

Having considered the respondent Party's request for a review of the decision of the Second Panel of the Chamber on the admissibility and merits 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 32 and 63-66 of the Chamber's Rules of Procedure:

I. FACTS AND COMPLAINTS

1. The Chamber refers to the decision of the Second Panel, finding violations of Article 8 of the European Convention on Human Rights and Article 1 of Protocol No. 1 to the Convention, which is appended to the present decision (Annex 1).

II. SUMMARY OF THE PROCEEDINGS BEFORE THE CHAMBER

2. On 11 May 2001, the Second Panel delivered its decision on admissibility and merits pursuant to Rule 60 of the Chamber's Rules of Procedure. On 11 June 2001, the respondent Party submitted a request for review of the decision.

3. On 11 June 2001, the Organization for Security and Cooperation in Europe (OSCE), pursuant to Rule 32 ter of the Chamber's Rules of Procedure, submitted a request to be allowed to participate in the review proceedings of the present case as *amicus curiae*.

4. In accordance with Rules 64(1) and 32 ter of the Chamber's Rules of Procedure, the request for review and request to appear *amicus curiae* were considered by the First Panel.

5. On 5 July 2001, the First Panel decided to refer the OSCE's request to participate in the review proceeding as *amicus curiae* to the plenary Chamber.

III. THE REQUEST FOR REVIEW

6. The Chamber refers to the requests for review, which is appended to the present decision (Annex 2).

IV. OPINION OF THE FIRST PANEL

7. The First Panel notes that the respondent Party's request for review has been lodged within the time-limit prescribed by Rule 63(3).

8. Given that the Human Rights Ombudsperson for Bosnia and Herzegovina did not initiate proceedings before the Chamber under Article V(7) of the Agreement based on her report in the applicant's case, the First Panel is of the opinion that the applicant's prior application to the Human Rights Ombudsperson and the latter's report raise a "serious issue affecting the interpretation or application of the Agreement" in relation to the Chamber's jurisdiction. The First Panel is further of the opinion that the case raises a "serious issue" affecting the application of Article VIII(3) of the Agreement. Finally, the First Panel is of the opinion that "the whole circumstances justify reviewing the decision". Being of the opinion that the request for review meets the conditions set out in Rule 64(2), the First Panel unanimously recommends that the respondent Party's request for review be accepted.

V. OPINION OF THE PLENARY CHAMBER

9. The Plenary Chamber considers that the issues raised by the respondent Party in its request for review raise a "serious issue" affecting the interpretation and application of Articles II(2), VIII(2)(b), VIII(2)(d), VIII(3), and XI(1) of the Agreement, and that "the whole circumstances justify reviewing the decision". Since the requirements of Rule 64(2) of the Chamber's Rules of Procedure are met, the Chamber decides to accept the request for review.

10. The Chamber also accepts, under Rule 32 ter of its Rules of Procedure, the request of the OSCE to participate as *amicus curiae* in the review proceedings of the present case.

VI. CONCLUSION

11. For these reasons, the Chamber, by 12 votes to 2,

ACCEPTS THE REQUEST FOR REVIEW

(signed)
Peter KEMPEES
Registrar of the Chamber

(signed)
Michèle PICARD
President of the Chamber