



DECISION ON REQUEST FOR REVIEW

Case No. CH/98/575

Jasmin ODOBAŠIĆ

against

THE REPUBLIKA SRPSKA

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. 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 First Panel of the Chamber on the admissibility of the aforementioned case;

Having considered the Second 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 Chamber refers to the decision of the First Panel, finding violations of Article 1 of Protocol No. 1 to the European Convention on Human Rights and Article 8 of 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 First Panel's decision was delivered in pursuance of Rule 60. On 7 June 2001, the respondent Party, the Republika Srpska, submitted a request for review of the decision.

3. In accordance with Rule 64(1), the request was considered by the Second Panel.

III. THE REQUEST FOR REVIEW

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

IV. OPINION OF THE SECOND PANEL

5. The Second Panel notes that the request for review has been lodged within the time-limit prescribed by Rule 63(2).

6. As for the respondent Party's argument regarding exhaustion of domestic remedies, the Second Panel is of the opinion that the grounds upon which the respondent Party's request is based were already examined by the First Panel which considered the admissibility and merits of the case and rejected on adequate grounds.

7. As for the respondent Party's *lis alibi pendens* argument, the Second Panel is of the opinion that this case is distinguishable from the *Dubravac* (Case No. CH/97/78, Decision on Admissibility of 10 September 1999, Decisions August-December 1999) and *Uzelec* (Case No. CH/00/3806, Decision on Admissibility of 7 June 2000, Decisions January-June 2000) cases, in which the Chamber declared the applications inadmissible because they concerned the same subject matter pending before the CRPC. In this case, by contrast, the applicant had received a decision in his favour from CRPC prior to the First Panel's consideration of the application. In addition, the Second Panel notes that in the present case the applicant raised issues with respect to his enjoyment of rights guaranteed to him under the Agreement that fall outside the competence of the CRPC (*see, e.g.,* case no. CH/98/756, *D.M.*, Decision on Admissibility and Merits, delivered on 14 May 1999, paragraphs 58-60, Decisions January-July 1999).

8. As for the respondent Party's argument concerning the award of monetary relief made in favour of the applicant, the Second Panel is of the opinion that the award is based on adequate grounds.

9. In conclusion, the Second Panel considers that the case does not involve a "serious issue affecting the interpretation or application of the Agreement or an issue of general importance" as required by Rule 64(2)(a) and that it cannot be said that "the whole circumstances justify reviewing the original decision" as required by Rule 64(2)(b). That being so, the Second Panel unanimously recommends that the Plenary Chamber not accept the request.

V. OPINION OF THE PLENARY CHAMBER

10. The Plenary Chamber agrees with the Second Panel that, for the reasons stated, 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

11. For these reasons, the Chamber, unanimously,

REJECTS THE REQUEST FOR REVIEW.

(signed)
Peter KEMPEES
Registrar of the Chamber

(signed)
Michèle PICARD
President of the Chamber