



DECISION ON REQUEST FOR REVIEW

Case No. CH/98/777

Emadin PLETILIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 10 January 2002 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. Ulrich GARMS, 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 and merits 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. In the decision on admissibility and merits delivered on 8 October 1999, the First Panel found that the Republika Srpska violated the applicant's right to respect for his home as guaranteed by Article 8 of the Convention, the right to the peaceful enjoyment of his possessions as guaranteed by Article 1 of Protocol No. 1 to the Convention, his right to a fair hearing within a reasonable time as guaranteed by Article 6 of the Convention, and his right to be free from discrimination in the enjoyment of these rights as guaranteed by Article II(2)(b) of the Agreement, due to the respondent Party's failure to allow the applicant to return to his pre-war home in spite of the numerous proceedings commenced by the applicant before the judicial and administrative bodies of the respondent Party. That decision also awarded the applicant compensation for such violations and ordered the respondent Party to take remedial action in addition to awarding the applicant compensation for such violations.

II. SUMMARY OF THE PROCEEDINGS BEFORE THE CHAMBER

2. On 8 October 1999 the First Panel's decision was delivered in pursuance of Rule 60. On 4 November 1999 the respondent Party submitted a request for review of the decision.

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

III. THE REQUEST FOR REVIEW

4. The respondent Party seeks review of the decision, arguing that serious issues have been raised. Specifically, with regard to admissibility, the respondent Party is of the opinion that the applicant has failed to exhaust domestic remedies. With regard to the merits, the respondent Party states that it was not responsible for the applicant having left his home, that it appropriately re-allocated the home following his absence, and that it has now afforded the applicant the opportunity to return by making available administrative and judicial means to do so. With regard to the award of compensation, the respondent Party objects to any award for mental suffering because all other citizens also suffered mental distress as a result of the war. The respondent Party also argues that the amount awarded is too high.

IV. OPINION OF THE SECOND PANEL

5. The Second Panel first notes that the request for review has been lodged within the time limit prescribed by Rule 63(2). It is of the opinion, however, that the grounds upon which the request is based could have been invoked during the proceedings before the First Panel which considered the admissibility and merits of the case. At no stage of the proceedings did the respondent Party submit any observations, let alone observations on the points raised in the request for review. The Second Panel therefore does not consider that "the whole circumstances justify reviewing the decision" as required by Rule 64(2)(b). That being so the Chamber need not consider the question whether the case raises "a serious question affecting the interpretation or application of the Agreement or a serious issue of general importance" as required by Rule 64(2)(a). As the request for review does not meet the condition set out in Rule 64(2)(b), the Second Panel unanimously recommends that the request be rejected.

V. OPINION OF THE PLENARY CHAMBER

6. 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

7. For these reasons, the Chamber, unanimously,

REJECTS THE REQUEST FOR REVIEW.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the Chamber