



DECISION ON REQUEST FOR REVIEW

Case no. CH/01/7725

Đula HASANAGIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 6 June 2002 with the following members present:

Ms. Michèle PICARD, President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
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 applicant'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. In her application, filed on 23 July 2001, the applicant complained of a decision of the Administration for Housing Affairs of Canton Sarajevo ordering her eviction from an apartment which she occupied. The applicant also requested the Chamber to order the respondent Party, as a provisional measure, to take all necessary actions to prevent her eviction from the apartment.

II. SUMMARY OF THE PROCEEDINGS BEFORE THE CHAMBER

2. On 1 August 2001 the President of the First Panel decided not to order the provisional measure requested.

3. On 6 September 2001 the First Panel adopted a decision on admissibility which declared the application inadmissible as manifestly ill-founded.

4. On 31 October 2001 the First Panel's decision was communicated to the applicant in pursuance of Rule 52 of the Chamber's Rules of Procedure.

5. On 14 November 2001 the applicant submitted a request for review of the decision.

6. In accordance with Rule 64(1), the request for review was considered by the Second Panel on 3 June 2002. In accordance with Rule 64(2), the plenary Chamber considered the request for review and the recommendation of the Second Panel on 6 June 2002.

III. THE REQUEST FOR REVIEW

7. In her request for review, the applicant challenges the First Panel's decision on the grounds that the First Panel has overlooked that the applicant's main request was to return into possession of her pre-war real estate in Čapljina. According to the applicant, the request for a provisional measure to prevent the eviction was only a secondary request. In the opinion of the applicant, the Chamber has failed to decide on her main request that was explicitly stated in the application.

IV. OPINION OF THE SECOND PANEL

8. The Second Panel notes that the request for review has been lodged within the time limit prescribed by Rule 63(3)(b).

9. The Second Panel recalls that under Rule 64(2) the Chamber "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".

10. Since one of the basic principles laid down in the Agreement is that the Chamber will decide on applications, and since it might be possible that in this case, having regarded the application of 23 July 2001 in combination with the explanation of this application in the request for review, a part of the request has not been decided yet by the Chamber, the Second Panel finds that this case "raises a serious issue of general importance". The Second Panel is further of the opinion that the particular circumstances of the case "justify reviewing the decision".

11. Being of the opinion that the request for review meets the conditions set forth in Rule 64(2), the Second Panel unanimously recommends that the request be accepted.

V. OPINION OF THE PLENARY CHAMBER

12. The plenary Chamber agrees with the Second Panel that, for the reasons stated, the request for review meets the two conditions required for the Chamber to accept such a request pursuant to Rule 64(2). It will determine the further procedure by a separate Order.

VI. CONCLUSION

13. For these reasons, the Chamber, unanimously,

DECIDES TO ACCEPT THE REQUEST FOR REVIEW.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the Chamber