



DECISION ON REQUEST FOR REVIEW

Case no. CH/99/2985

Jusuf BRKIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 5 July 2002 with the following members present:

Ms. Michèle PICARD, President
Mr. Giovanni GRASSO, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Želimir JUKA
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Miodrag PAJIĆ
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 and to strike out 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 applicant is a citizen of Bosnia and Herzegovina of Bosniak origin. At the time of the armed conflict between Bosniaks and Croats in the area of Livno, the applicant was not allowed to come to his work at the “Livno-Bus Company”, but he was put on a so-called waiting list. In February 1998 the applicant initiated court proceedings, and he obtained a valid judgement according to which his labour relationship had not been terminated. In March 2000 the applicant initiated new court proceedings before the Municipal Court in Livno concerning compensation. The applicant was reinstated into his job in June 2000.

II. SUMMARY OF THE PROCEEDINGS BEFORE THE CHAMBER

2. On 3 July 2001 the First Panel struck out the application in so far as it related to the applicant’s complaint that he was not re-employed and declared the remainder of the application inadmissible partly because the applicant, as the Municipal Court on Livno acted upon the applicant’s action in issuing its decision, is not to be considered a “victim” of any apparent violation, and partly because of non-exhaustion of domestic remedies.

3. On 21 September 2001 the First Panel’s decision was communicated to the parties in pursuance of Rule 52 of the Chamber’s Rules of Procedure.

4. On 5 October 2001 the applicant submitted a request for review of the decision.

5. In accordance with Rule 64(1), the request for review was considered by the Second Panel on 3 June, 4 June and 2 July 2002. In accordance with Rule 64(2), the plenary Chamber considered the request for review and the recommendation of the Second Panel on 5 July 2002.

III. THE REQUEST FOR REVIEW

6. In the request for review the applicant complains that his right to compensation of unpaid salaries during the time he was on the so-called waiting list as well as his right to payment of all contributions on the basis of his labour relation have been violated. Considering the situation of lack of efficiency of the courts and the activities of the Livno-Bus Company, the applicant questions whether a decision of the Municipal Court in Livno would be complied with. The applicant also complains that the Chamber wrongly established in its decision that, although he was requested to do so, he did not specify his compensation claim.

IV. OPINION OF THE SECOND PANEL

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

8. 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”.

9. The Second Panel notes that the applicant in his request for review complains of the fact that the Municipal Court in Livno does not deal with labour disputes as a matter of urgency and that his employer probably will not implement a court decision in his favour. The applicant therefore alleges a violation of his right of a fair trial and the possibility of having a court decision implemented. However, since the applicant did not substantiate these allegations in his request for review, it cannot be concluded that his submissions regarding this issue raise “a serious question affecting the interpretation or application of the Agreement or a serious issue of general importance” as stipulated in Rule 64(2)(a)

10. With regard to the part of the request for review related to the claim of compensation, the Second Panel notes that the Chamber has previously held that a request for review directed against “the amount and type of compensation awarded (...) as well as the method used when deciding on (the) claim for compensation” does not raise “a serious question affecting the interpretation or application of the Agreement or a serious issue of general importance”, as required in Rule 64(2)(a) (see case no. CH/97/95, *Rizvanovic*, decision on request for review of 13 November 1998, paragraph 17, Decisions and Reports 1998). Accordingly, the applicant’s submissions with regard to compensation do not raise “a serious question affecting the interpretation or application of the Agreement or a serious issue of general importance” as stipulated in Rule 64(2)(a). In addition, “the whole circumstances of the case do not justify reviewing the decision”. Accordingly, the Second Panel takes the view that the request for review should be rejected.

11. Being of the opinion that the request for review does not meet the conditions set forth in Rule 64(2), the Second Panel unanimously recommends that the request be rejected.

V. OPINION OF THE PLENARY CHAMBER

12. The plenary Chamber agrees with the Second Panel 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

13. 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