



DECISION ON REQUEST FOR REVIEW

Case no. CH/01/7471

Franjo JURIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 7 December 2002 with the following members present:

Ms. Michèle PICARD, President
Mr. Hasan BALIĆ
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 applicant's request for a review of the decision of the First Panel of the Chamber on the admissibility 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. On 5 August 1992 the applicant, who was serving in the Croat Defence Council (the “HVO”), was wounded in the armed conflict. He was formally released from the HVO one month later.
2. In order to obtain a disability pension as a military war invalid, the applicant initiated several proceedings before the domestic administrative bodies and courts. In these proceedings the applicant claimed that he suffered from post-traumatic stress syndrome and depression related to his experiences in the armed conflict which aggravate the disabilities he suffers as a result of the actual injury itself. The applicant is of the opinion that for this reason he should be entitled to a better pension than the one the public authorities have granted him.
3. On 30 March 2000 the Ministry of Defence of the Federation of Bosnia and Herzegovina – Croat Defence Council Mostar (“ the Ministry”) passed a decision that the applicant is a military war invalid of the seventh group with a 50 percent handicap, entitled to a pension adequate to this level of disability. The Ministry of Defence reasoned in fact that the depressive disorder on the basis of which the higher percentage of bodily damage was requested did not originate from performance of military tasks or in the legally prescribed time-limit of 30 days after the termination of military duties, but in significantly later period, in 1993.
4. The applicant appealed against the decision to the Supreme Court of the Federation of Bosnia and Herzegovina (“the Supreme Court”). On 9 March 2001 the Supreme Court gave the final judgement, rejecting the claim. The Supreme Court accepted the reasoning of the 30 March 2000 decision of the Ministry and found that the applicant’s claim that he is entitled to a higher pension because he suffers from depression and post-traumatic stress syndrome related to his experience in the armed conflict was not well substantiated.

II. SUMMARY OF THE PROCEEDINGS BEFORE THE CHAMBER

5. On 9 April 2002 the First Panel declared the application partly inadmissible *ratione temporis* because the applicant’s complaint of inhuman treatment related to a period prior to 14 December 1995, which is the date on which the Agreement came into force. As concerns the applicant’s complaint that the Supreme Court in its decision of 9 March 2001 wrongly assessed the facts and misapplied the law, the Chamber found that the Supreme Court decision didn’t seem unreasonable or arbitrary and there was no evidence that the court failed to act fairly as required by Article 6 of the Convention. The Chamber declared this part inadmissible as well.
6. On 25 May 2002 the First Panel’s decision was communicated to the parties in pursuance of Rule 52 of the Chamber’s Rules of Procedure.
7. On 18 June 2002 the applicant submitted a request for review of the decision.
8. In accordance with Rule 64(1), the request for review was considered by the Second Panel on 5 December 2002. In accordance with Rule 64(2), the plenary Chamber considered the request for review and the recommendation of the Second Panel on 7 December 2002.

III. THE REQUEST FOR REVIEW

9. In the request for review the applicant complains that the Supreme Court didn’t consider properly all the submitted evidence. The applicant also complains that the Chamber wrongly established in its decision that the Supreme Court acted fairly as required by Article 6 of the Convention. He requests it to reconsider the case and withdraw the conclusion issued by the Chamber on 9 April 2002.

IV. OPINION OF THE SECOND PANEL

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

11. 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”.

12. The Second Panel notes that the applicant in his request for review reiterates his complaint that the Supreme Court didn't consider all the proposed evidence in deciding on his claim. The applicant therefore alleges a violation of his right to a fair trial. He also alleges that, as a consequence of the wrong decision of the Supreme Court he received and continues to receive a lower pension than he is entitled to. The Second Panel is of the opinion that the decision of the First Panel is fully in line with the Chamber's constant case law (e.g., case no. CH/99/2565, *Banović*, decision on admissibility of 8 December 1999, paragraph 11, Decisions August-December 1999, and case no. CH/00/4128, DD “*Trgosirovina*” Sarajevo (DDT), decision on admissibility of 6 September 2000, paragraph 13, Decisions July-December 2000). Therefore the applicant's submission regarding this issue fails to 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).

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

V. OPINION OF THE PLENARY CHAMBER

14. 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

15. For these reasons, the Chamber unanimously,

DECIDES TO REJECT THE REQUEST FOR REVIEW.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the Chamber