



DECISION ON REQUEST FOR REVIEW

Case no. CH/02/10062
Jusuf and Esad MULAĆ
against
THE REPUBLIKA SRPSKA

and

Case nos. CH/02/10064 and CH/02/10065
Halil MULAĆ and Himzo MULAĆ
against
THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 7 February 2003 with the following members present:

Ms. Michèle PICARD, President
Mr. Mato TADIĆ, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Miodrag PAJIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
Mr. Viktor MASENKO-MAVI
Mr. Andrew GROTRIAN

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar
Ms. Antonia DE MEO, Deputy Registrar

Having considered the applicants' 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 to 66 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The applicants are citizens of Bosnia and Herzegovina of Bosniak origin. Their property in the Municipality Stolac in the Federation of Bosnia and Herzegovina was destroyed. The applicants Jusuf and Esad MULAĆ stated that their property was destroyed at the end of 1991 and in the beginning of 1992. The applicants Halil and Himzo MULAĆ stated that their property was destroyed during the period from 24 November 1995 to 2 February 1996. All applicants allege that their property was destroyed because of discrimination based on their Bosniak origin. The applicants request the Chamber to order the responsible parties to pay them compensation for pecuniary and non-pecuniary damage resulting from the destruction of their property.
2. On 5 September 2002, the First Panel declared the applications inadmissible as incompatible *ratione temporis* with the Agreement, or on the ground of failure to exhaust domestic remedies and because of the six months rule.

II. SUMMARY OF THE PROCEEDINGS BEFORE THE CHAMBER

3. On 27 September 2002, the First Panel's decision was communicated to the parties in pursuance of Rule 52. On 31 October 2002, the applicants submitted a request for review of the decision.
4. In accordance with Rule 64(1), the Second Panel considered the request for review on 10 January and 3 February 2003. In accordance with Rule 64(2), the plenary Chamber considered the request for review and the recommendation of the Second Panel on 7 February 2003. On the latter date, the Chamber adopted the present decision.

III. THE REQUEST FOR REVIEW

5. In their request for review, the applicants complain that, for purposes of initiating administrative or court proceedings, the institutions in Stolac and Berkovići Municipality "were unreachable for them because they could not go there without being at risk, even one year after the Washington and Dayton Agreement". Further, they allege that they "could not obtain remedy because the system was not organised". Also the applicants point out that they were not free to request that those who committed the crime be brought to trial.

IV. OPINION OF THE SECOND PANEL

6. The Second Panel notes that the request for review has been lodged within the time limit prescribed by Rule 63(3)(b). It is of the opinion, however, that the reasons upon which the applicants' request for review is based were in essence already examined and rejected on adequate grounds by the First Panel when it considered the admissibility of the case. The Second Panel therefore does not consider that "the whole circumstances justify reviewing the decision" as required by Rule 64(2)(b). In addition, the case does not raise "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 either of the conditions set out in Rule 64(2), the Second Panel unanimously, recommends that the request be rejected.

V. OPINION OF THE PLENARY CHAMBER

7. 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

8. 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