DECISION ON REQUEST FOR REVIEW

Case no. CH/02/9436

Tufik HAMZIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 8 May 2003 with the following members present:

Ms. Michèle PICARD, President
Mr. Mato TADIĆ, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Želimir JUKA
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Giovanni GRASSO
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 applicant's request for review of the decision of the Second Panel of the Chamber on the admissibility of the aforementioned case;

Having considered the First 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 his application, registered on 7 March 2002, the applicant alleged that after protracted proceedings, he concluded a contract with his employer to resolve a dispute over his working relations and to establish the amount of compensation due to him. The applicant complained about the amount of compensation he received during the period he was laid off, as agreed on in the contract. He also considered that he has been discriminated against in relation to other employees of his employer as they allegedly received higher amounts of compensation while they were laid off.

II. SUMMARY OF THE PROCEEDINGS BEFORE THE CHAMBER

2. On 6 December 2002 the Second Panel issued a decision declaring the application inadmissible. The Second Panel considered that, since the applicant freely concluded the contract on the amount of compensation, as well as the amount of severance pay with his employer, the application did not disclose any appearance of a violation of the rights and freedoms guaranteed under Agreement. As to the applicant's claim that he has been discriminated against by his employer in relation to other employees, the Second Panel considered that the applicant has failed to substantiate his allegations.

3. The Second Panel's decision was delivered to the applicant in pursuance of Rule 60 of the Chamber's Rules of Procedure and the applicant received it on 15 February 2003.

4. On 29 March 2003 the applicant submitted to the Chamber a request for review of the decision by e-mail. In accordance with Rule 64(1), the request for review was considered by the First Panel on 5 May 2003.

5. On 8 May 2003 the Plenary Chamber deliberated on the request for review and adopted the present decision.

III. THE REQUESTS FOR REVIEW

6. In his submissions (request for review), the applicant points out that he had to accept the employer's proposal and sign the contract on compensation and severance pay, because he was in a very hard situation and he has no financial means to support his family.

7. The applicant also alleges that he forgot to submit the document which proves his allegations on discrimination, during the procedure before the Chamber. He points out that he will submit that document for deliberation in the procedure on the request for review. The applicant has not submitted the alleged document up to date.

IV. OPINION OF THE FIRST PANEL

8. Rule 45 of the Chamber's Rules of Procedure provides as follows:

> "Any application made under VIII para. 1 of the Agreement shall be submitted in writing and shall be signed by the applicant or by the applicant's representative [...]"

9. Rule 63(3)(b) of the Chamber's Rules of Procedure provides that: "Any such request for review shall be submitted: b) in all others cases [i.e. when the decision was not read out at a public hearing]: within one month starting on the day following that on which the Panel's reasoned decision was delivered to the Parties in writing."

10. The First Panel notes that, whether it can accept a request for review submitted by e-mail or not, the request has not been lodged within the time limit prescribed by Rule 63(3)(b). The First Panel recalls that according to the mentioned Rule, the request for review should be submitted within one

month starting on the day following that on which the Panel's reasoned decision was delivered to the parties in writing. The applicant received the decision of the Chamber on 15 February 2003, as it can be established by the return slip, and sent an e-mail to the Chamber on 29 March 2003. Hence, the applicant's request is out of time and cannot be considered.

11. In conclusion, the First Panel, unanimously, recommends that the plenary Chamber not accept the request.

V. OPINION OF THE PLENARY CHAMBER

12. The plenary Chamber agrees with the First Panel that the request for review does not meet the condition required for the Chamber to accept such request pursuant to Rule 63(3)(b).

VI. CONCLUSION

13. For these reasons, the Chamber, unanimously,

REJECTS THE REQUESTS FOR REVIEW.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the Chamber