



DECISION ON REQUEST FOR REVIEW

Case no. CH/02/12279

Jusuf ARAPČIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 3 July 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. 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 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 applicant complains of a decision of his former employer terminating his working relations. He was an employee put on the “waiting list”. He alleges violations of his rights to work, income, and social insurance. He also complains of the length of the domestic court proceedings in his case.

II. SUMMARY OF THE PROCEEDINGS BEFORE THE CHAMBER

2. On 5 March 2003, the First Panel declared the application inadmissible as incompatible *ratione materiae* with the provisions of the Agreement. The First Panel reasoned that the rights complained by the applicant “could be protected under the International Covenant on Economic, Social and Cultural Rights (the “ICESCR”). However, in accordance with Article II(2)(b) of the Agreement, the Chamber only has jurisdiction to consider rights protected under the ICESCR in connection with alleged or apparent discrimination. The applicant has not alleged discrimination, nor do the facts of this case indicate that the applicant has been the victim of discrimination on any of the grounds set forth in Article II(2)(b) of the Agreement..” (paragraph 4 of the decision on admissibility).

3. On 12 May 2003, the First Panel’s decision was communicated to the parties in pursuance of Rule 52. On 28 May 2003, the applicant submitted a request for review of the decision.

4. In accordance with Rule 64(1), the Second Panel considered the request for review on 2 July 2003. In accordance with Rule 64(2), the plenary Chamber considered the request for review and the recommendation of the Second Panel on 3 July 2003. On the latter date, the Chamber adopted the present decision.

III. THE REQUEST FOR REVIEW

5. In the request for review, the applicant asks the Chamber to review its decision because of “discrimination against workers fired during the war” and because of “unfair trial”. He states that “by the Labour Law becoming effective he was directly discriminated against by the management of the Cement Factory in Lukavac and later, by the Municipal and Cantonal Court”. Further he states that employees put on the waiting list were discriminated against in relation with other employees.

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).

7. The Second Panel is of the opinion that the ground upon which the applicant’s request for review is based could have been invoked during the proceedings before the First Panel when it considered the admissibility of the case. At no stage of the proceedings did the applicant submit that his placement on the waiting list and termination were discriminatory, nor was such a complaint apparent from the application. The Second Panel therefore does not consider that “the whole circumstances justify reviewing the decision” as required by Rule 64(2)(b). That being so the Chamber need not consider the question whether the case raises “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 both the conditions set out in Rule 64(2), the Second Panel unanimously, recommends that the request be rejected.

V. OPINION OF THE PLENARY CHAMBER

8. 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

9. 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