



DECISION ON REQUEST FOR REVIEW

CASE no. CH/00/3546

Dževdet TUZLIC

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 7 September 2001 with the following members present:

Mr. Giovanni GRASSO, Acting President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
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 respondent Party's request for a review of the decision of the Second Panel of the Chamber on the admissibility and merits 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. The Chamber refers to the decision of the Second Panel, which is appended to the present decision (Annex 1).

II. SUMMARY OF THE PROCEEDINGS BEFORE THE CHAMBER

2. On 8 February 2001 the Second Panel's decision was delivered in pursuance of Rule 60. On 9 March 2001 the respondent Party submitted a request for a review of the decision.

3. In accordance with Rule 64(1) the request was considered by the First Panel.

III. THE REQUEST FOR REVIEW

4. The Chamber refers to the request for review, which is appended to the present decision (Annex 2).

IV. OPINION OF THE FIRST PANEL

5. The First Panel notes that the respondent Party's request for review has been lodged within the time limit prescribed by Rule 63(3).

6. From the First Panel's examination of the case file it appears that the applicant's claim for pecuniary and non-pecuniary damages was never forwarded to the respondent Party and that, consequently, the respondent Party was never able to respond to it. The First Panel is of the opinion that this raises a "serious issue affecting the application of the Agreement", in particular Article XI(1) thereof, and that "the whole circumstances justify reviewing the decision", as required by Rule 64(2).

7. In addition, the respondent Party argues that the orders given in the original decision to reinstate the applicant and to pay to the applicant damages for each month from February 2001 in which he is prevented from returning to his apartment have become devoid of purpose because the authorities of the Respondent Party in fact reinstated the applicant into possession of his apartment within forty-eight hours of the delivery of the original decision. The First Panel notes that Article XI(b) of the Agreement set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina requires the Parties to the Agreement to implement fully the decisions of the Chamber. Consequently, the fact that the respondent Party fulfilled the order given in the original Decision to reinstate the applicant, whilst welcome, cannot be a ground for review. The First 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) (see case no. CH/99/3050, *Mujagić*, decision on request for review of 10 May 2001, paragraph 5).

8. The First Panel therefore unanimously recommends that the request for review be accepted in so far as it relates to the decision on pecuniary and non-pecuniary damages contained in the original decision and rejected for the remainder.

V. OPINION OF THE PLENARY CHAMBER

9. The plenary Chamber agrees with the First Panel that, for the reasons stated, the request for review, insofar as it relates to the pecuniary and non-pecuniary damages, meets the two conditions required for the Chamber to accept such a request pursuant to Rule 64(2).

VI. CONCLUSION

10. For these reasons, the Chamber unanimously,

ACCEPTS THE REQUEST FOR REVIEW IN SO FAR AS IT RELATES TO THE DECISION ON PECUNIARY AND NON-PECUNIARY DAMAGES CONTAINED IN THE ORIGINAL DECISION; and

REJECTS IT FOR THE REMAINDER.

Ulrich GARMS
Registrar of the Chamber

Mr. Giovanni GRASSO
Acting President of the Chamber