



DECISION ON REQUEST FOR REVIEW

Case no. CH/00/3708

Zorica LAZAREVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 10 May 2001 with the following members present:

Ms. Michèle PICARD, President
Mr. Giovanni GRASSO, Vice-President
Mr. Dietrich RAUSCHNING
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. Peter KEMPEES, 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 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 9 March 2001 the Second Panel's decision was delivered in pursuance of Rule 60 to the parties. On 10 April 2001 the respondent Party submitted a request for a review, dated 9 April 2001, 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 party seeking review, being the respondent Party in the proceedings which led to the original decision, argues that the Second Panel ought not to have found a violation of Article 8 of the Convention as the application was never transmitted to it under that Article. Be that as it may, the First Panel notes that the Second Panel, in its original decision, also found a violation of Article 1 of Protocol No. 1 to the Convention. The respondent Party does not contest the latter finding, and indeed the First Panel is of the opinion that it is based on adequate grounds. A decision on review reversing the Second Panel's findings with respect to Article 8 of the Convention would consequently, in the opinion of the First Panel, be incapable of leading to a different outcome of the case as a whole.

6. The First Panel notes in addition that the party seeking review disagrees with the award of monetary compensation made by the Second Panel in favour of the applicant. The party seeking review refers to Rule 63 (1), third sub-paragraph, of the Chamber's Rules of Procedure, which allows the plenary Chamber to review the decision of a Panel on the merits, including a decision on pecuniary or other remedies. It further argues that the Second Panel failed to establish that the damage for which compensation was awarded was actually incurred. However, the First Panel is of the opinion that the Second Panel's award of compensation is in accordance with the plenary Chamber's case-law and is based on adequate grounds (case no. CH/00/6143 *Turundžić* and CH/00/6150 *Frančić*, decision on admissibility and merits of 5 February 2001).

7. The First Panel is accordingly of the opinion that, in the present case, it cannot be said that "the whole circumstances justify reviewing of the decision". Since the request for review does not meet the condition set in Rule 64 (2)(b) of the Chamber's Rules of Procedure, the First Panel, by 4 votes to 2, recommends that the plenary Chamber not accept the request.

V. OPINION OF THE PLENARY CHAMBER

8. The plenary Chamber agrees with the First 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, by 10 votes to 3,

REJECTS THE REQUEST FOR REVIEW.

(signed)
Peter KEMPEES
Registrar of the Chamber

(signed)
Michèle PICARD
President of the Chamber