



DECISION ON REQUEST FOR REVIEW

Case no. CH/01/7540

Vaso RADEVIĆ

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. 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 Second Panel of the Chamber to strike out 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

1. The case concerns the applicant's attempts to regain possession of his pre-war apartment, located at Nusreta Šišića Dede no. 11 in Sarajevo, the Federation of Bosnia and Herzegovina.
2. On 26 June 1998, the applicant filed a request to repossess the apartment in question to the Administration for Housing Affairs of Canton Sarajevo (the "Administration").
3. On 7 May 1999, the Administration issued a procedural decision establishing that the applicant is the occupancy right holder over the apartment in question and allowing him to repossess the apartment.
4. On 24 August 1999, the applicant filed a request for execution of the procedural decision of 7 May 1999 to the Administration.
5. On 9 December 1999, the Commission for Real Property Claims of Displaced Persons and Refugees (the "CRPC") issued a decision confirming the applicant's occupancy right.
6. On 8 March 2000, the applicant filed a request for execution of the CRPC decision to the Administration.
7. On 27 February 2002, the applicant entered into possession of his pre-war apartment.

II. SUMMARY OF THE PROCEEDINGS BEFORE THE CHAMBER

8. The application was submitted on 25 May 2001.
9. On 10 April 2002, the applicant informed the Chamber that he had regained possession of his apartment on 27 February 2002 and he asked Chamber to adopt a decision on admissibility and merits in relation to his other request. The Chamber understood this statement to mean that the applicant wished to maintain his claim for compensation.
10. On 4 February 2003, the Second Panel of the Chamber unanimously adopted a decision to strike out the application pursuant to Article VIII(3)(c) of the Agreement on the ground that it is no longer justified to continue the examination of the application, taking into account that the applicant had regained possession of his apartment and that the main issue raised in the application was resolved.
11. On 19 March 2003, the Second Panel's decision was communicated to the parties in pursuance of Rule 52 of the Chamber's Rules of Procedure.
12. On 7 April 2003, the applicant submitted a request for review of the decision.
13. In accordance with Rule 64(1), the request for review was considered by the First Panel on 5 May 2003. In accordance with Rule 64(2), on 8 May 2003, the plenary Chamber considered the request for review and the recommendation of the First Panel.

III. THE REQUEST FOR REVIEW

14. In the request for review, the applicant points out that the Chamber "did not transmit the respondent Party's observations to him for his written observations", which could have impacted the outcome of the decision of the Chamber.
15. Also, while the applicant agrees that the Chamber correctly established the facts and the proceedings, he complains because the Chamber failed to establish a violation of his right to compensation. In accordance with the Agreement, the respondent Party is obliged to secure "the highest level of internationally recognised human rights". However, in this case, the respondent Party "for a long period of time neglected its legal obligations" toward the applicant. The applicant's request for enforcement of his right to repossession was pending for 30 months (from 8 August 1999

to 27 February 2002), and during that time the respondent Party “solved hundreds of similar cases, showing that it had the possibility to reinstate the applicant”. Meanwhile, the applicant was forced to live in his place of exile and to go into debt to pay rent. Therefore, the applicant contends he has a valid basis for maintaining his request for pecuniary and non-pecuniary damages. Accordingly, the Chamber’s decision fails to respect his human rights.

IV. OPINION OF THE FIRST PANEL

16. The First Panel notes that the request for review has been lodged within the time limit prescribed by Rule 63(3)(b).

17. The First Panel recalls that under Rule 64(2) the Chamber “shall not accept the request unless it considers (a) that the case raises a serious question affecting the interpretation or application of the Agreement or a serious issue of general importance and (b) that the whole circumstances justify reviewing the decision”.

18. Regarding the applicant’s claim that the Chamber has not transmitted the respondent Party’s observations to him, the First Panel notes that the Chamber did not transmit the case to the respondent Party pursuant to Rule 47 of the Chamber’s Rules of Procedure. Rather, the Chamber exercised its right to decide the case without transmitting it, pursuant to Rule 49(2). Therefore, there were no observations from the respondent Party to transmit. Accordingly, the First Panel is of the opinion that, in this respect, the request for review is based on a misunderstanding and 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).

19. Concerning the applicant’s claim for compensation, the First Panel recalls that the Chamber may only award compensation if it finds violation of any of the rights and freedoms protected by the Agreement. The First Panel is of the opinion that the decision of the Second Panel is fully in line with the Chamber’s case law (case no. CH/99/2198, *Vujičić v. the Federation of Bosnia and Herzegovina*, decision strike out of 10 October 2002, Decision July-December 2002). Therefore, the applicant’s complaints on this issue fail to raise “a serious question affecting the interpretation or application of the Agreement or a serious issue of general importance”, as stipulated in Rule 64(2)(a)

20. As the request for review does not meet both conditions set out in Rule 64(2), the First Panel, unanimously, recommends that the request for review be rejected.

V. OPINION OF THE PLENARY CHAMBER

21. The plenary Chamber agrees with the First Panel that, for the reasons stated, the request for review does not meet the conditions required for the Chamber to accept such a request pursuant to Rule 64(2).

VI. CONCLUSION

22. For these reasons, the Chamber, unanimously,

REJECTS THE REQUEST FOR REVIEW.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the Chamber