



DECISION ON REQUEST FOR REVIEW

Case no. CH/01/8578

Mladen ĐORĐIĆ

against

BOSNIA AND HERZEGOVINA

and

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 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. INTRODUCTION

1. The case concerns the applicant's attempts, on the one hand, to secure his rights over an apartment located on ulica Hamdije Kreševljakovića, Sarajevo, of which his late grandmother was the occupancy right holder and in which the applicant had lived for more than 20 years, or, on the other hand, to prevent his eviction from an apartment located on Prusačka ulica, Sarajevo.

2. After the death of his grandmother in 1997 the applicant applied to be transferred his late grandmother's occupancy right over the apartment on ulica Hamdije Kreševljakovića. The government official A.F., working on the allocation of apartments, informed him that he, as a single person, was not entitled to reside in his late grandmother's apartment. Instead he was offered a contract on use over a smaller apartment located on Prusačka ulica, Sarajevo, which he accepted. He eventually purchased this apartment in 1998. The applicant also did not pursue his claim for transfer of the occupancy right over the apartment located on ulica Hamdije Kreševljakovića any further. As a result he was never allocated such a right.

3. A.F., who had told the applicant that he had to leave the apartment on ulica Hamdije Kreševljakovića, later on moved into that apartment herself and eventually bought it. The pre-war occupancy right holder over the apartment on Prusačka ulica applied for repossession and the applicant's eviction from his apartment was scheduled.

4. The applicant initiated an administrative dispute against the termination of his right to stay in the apartment on Prusačka ulica and proceedings before the Municipal Court I in Sarajevo to secure his rights over the apartment on ulica Hamdije Kreševljakovića. He also filed criminal charges against A.F. for abuse of office.

5. The applicant complained of a violation of his rights under Articles 6, 8 and 13 of the Convention and Article 1 of Protocol No. 1 to the Convention, as well as discrimination in relation to those Articles. The applicant also complained that the criminal proceedings against A.F. were pending for an unreasonably long time. He further considered it unjust that he might be left without any rights over either the apartment on ulica Hamdije Kreševljakovića or the apartment on Prusačka ulica.

II. PROCEEDINGS BEFORE THE CHAMBER

6. On 10 January 2003 the Second Panel adopted its decision on admissibility in this case. The Second Panel declared the applicant's case inadmissible against Bosnia and Herzegovina *ratione personae*. The Second Panel further declared the applicant's case inadmissible against the Federation of Bosnia and Herzegovina, partly for non-exhaustion of domestic remedies, partly as manifestly ill-founded and partly *ratione materiae*.

7. On 15 January the Second Panel's decision was communicated to the parties in pursuance of Rule 52 and according to the return receipt received by the applicant's representative on 16 January 2003. The applicant's representative submitted a request for review of the decision dated 1 April 2003 which was received by the Chamber on 3 April 2003.

8. 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 recommendation of the First Panel.

III. REQUEST FOR REVIEW

9. The applicant requests review of the decision as a whole, in particular claiming that the applicant was left without any home in violation of Article 8 and that there was no effective legal remedy available to him. He also claims in the request for review that the allocation of the apartment on ulica Hamdije Kreševljakovića to A.F. was an illegal act of both the Government of the Federation of Bosnia and Herzegovina and the Assembly of the Republic of Bosnia and Herzegovina.

IV. OPINION OF THE FIRST PANEL

10. The First Panel notes that the request for review, received by the Chamber on 3 April 2003, has not been lodged within one month from the date of communication of the Second Panel's decision, received by the applicant's representative on 16 January 2003. As the request therefore does not meet the time-limit condition set out in Rule 63(3)(b) of the Rules of Procedure, the First Panel, unanimously, recommends that the request be rejected.

V. OPINION OF THE PLENARY CHAMBER

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

VI. CONCLUSION

12. 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