



DECISION ON REQUEST FOR REVIEW

Case no. CH/02/9993

Nedjeljko ŠKORIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 7 June 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. Miodrag PAJIĆ
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 on admissibility of the First Panel of the Chamber 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 63-66 of the Chamber's Rules of Procedure:

I. FACTS AND COMPLAINTS

1. In his application, registered on 18 April 2002, the applicant complained of his inability to inherit the estate of his deceased cousin. In particular, the applicant complained about the procedural decision of 11 January 2000 by the First Instance Court in Bijeljina, later confirmed on appeal, in which the Court established that since the deceased had no lawful inheritors under the Law on Inheritance, his estate should be registered as state property with the right of use on behalf of the Bijeljina Municipality.

2. The applicant claimed that because his right to inheritance was denied by the courts, his right protected under Article 1 of Protocol No. 1 to the European Convention on Human Rights (“the Convention”) had been violated. He further claimed that he was the victim of discrimination by the courts against the blood relatives of deceased persons.

II. SUMMARY OF THE PROCEEDINGS BEFORE THE CHAMBER

3. On 7 November 2002, the First Panel issued a decision finding the application inadmissible pursuant to Article VIII(2)(c) of the Agreement. The First Panel noted that the right of cousins to be considered as lawful inheritors under the inheritance law is not a right included among the rights and freedoms guaranteed under the Agreement; therefore, this part of the application is incompatible *ratione materiae* with the Agreement. As to the applicant’s claim that he was a victim of discrimination, the First Panel found that part of the application inadmissible as manifestly ill-founded because the applicant had failed to substantiate his allegations.

4. On 17 January 2003, the First Panel’s decision was mailed to the applicant in pursuance of Rule 60 of the Chamber’s Rules of Procedure. The date on which the applicant received the decision can not be determined, but the return slip was received by the Chamber on 28 January 2003.

5. On 17 February 2003, the applicant submitted a request for review of the decision. In accordance with Rule 64(1), the request for review was considered by the Second Panel on 3 June 2003.

6. On 7 June 2003, the plenary Chamber deliberated on the request for review and adopted the present decision.

III. THE REQUEST FOR REVIEW

7. In his request for review, the applicant restates his complaints as they were formulated in his application. He challenges the decision of the First Panel because it fails to nullify the court decisions in question and it does not order the respondent Party to conform the Law on Inheritance with the principles of an unlimited right to inheritance.

IV. OPINION OF THE SECOND PANEL

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

9. The Second 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”.

10. The Second Panel notes that the applicant’s request for review is based upon complaints that were already examined and rejected on adequate grounds by the First Panel when it considered the admissibility of the case. The Second Panel therefore does not consider that “the whole

circumstances justify reviewing the decision” as required by Rule 64(2)(b). As the request for review fails to fulfil the condition set forth in Rule 64(2)(b), the Second Panel need not consider it further. Therefore, the Second Panel, unanimously, recommends that the request be rejected.

V. OPINION OF THE PLENARY CHAMBER

11. The plenary Chamber agrees with the Second Panel that, for the reasons stated, the request for review do not meet the first of the two conditions required for the Chamber to accept such request pursuant to Rule 64(2).

VI. CONCLUSION

12. 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