



DECISION ON REQUEST FOR REVIEW

CASE No. CH/97/73

Marija BOJKOVSKI

against

**BOSNIA AND HERZEGOVINA
and
THE FEDERATION OF BOSNIA AND HERZEGOVINA**

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

Ms. Michèle PICARD, President
Mr. Giovanni GRASSO, Vice-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. Peter KEMPEES, Registrar
Ms. Olga KAPIĆ, Deputy Registrar

Having considered the respondent Party's request for review of the decision of the First Panel of the Chamber on the admissibility of the aforementioned case;

Having considered the Second Panel's recommendation;

Adopts the following decision pursuant to Article X (2) of the Agreement and Rules 63, 64, 65 and 66 of the Chamber's Rules of Procedure:

I. FACTS AND COMPLAINTS

1. The Chamber refers to the decision of the First Panel, which is appended to the present decision (Annex 1).

II. SUMMARY OF THE PROCEEDINGS BEFORE THE CHAMBER

2. On 6 April 2001 the First Panel's decision was delivered in pursuance of Rule 60 to the parties. On 7 May 2001 the Federation of Bosnia and Herzegovina submitted a request for review of the decision.

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

III. 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 SECOND PANEL

5. The Second Panel notes that the party seeking review, being one of the two respondent Parties in the proceedings which led to the original decision, disagrees with the award of monetary compensation made by the First 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 First Panel failed to establish that the damage for which the compensation was awarded was actually incurred. However, the Second Panel is of the opinion that the First Panel's award of compensation is in accordance with the Plenary Chamber's consistent case-law and is based on adequate grounds (cases nos. CH/00/6143 TURUNDŽIĆ and CH/00/6150 FRANČIĆ, decisions on admissibility and merits of 5 February 2001).

6. The Second Panel is accordingly of the opinion that, in the present case, it cannot be said that "the whole circumstances justify the reviewing of the decision". The Second Panel is further of the opinion that the case does not "raise a serious question affecting the interpretation or application of the Agreement or a serious issue of general importance" in accordance with Rule 64(2)(a). Since the request for the review does not meet the conditions set in Rule 64(2)(a) and (b) of the Chamber's Rules of Procedure, the Second Panel, unanimously, recommends that the plenary Chamber not accept the request.

V. OPINION OF THE PLENARY CHAMBER

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

VI. CONCLUSION

8. For these reasons, the Chamber, unanimously,

REJECTS THE REQUEST FOR REVIEW.

(signed)
Peter KEMPEES
Registrar of the Chamber

(signed)
Michèle PICARD
President of the Chamber