



DECISION ON REQUEST FOR REVIEW

Case no. CH/98/713

A.J.

against

BOSNIA AND HERZEGOVINA

and

FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 7 March 2002 with the following members present:

Ms. Michèle PICARD, President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Miodrag PAJIĆ
Mr. Vitomir POPOVIĆ
Mr. Viktor MASENKO-MAVI
Mr. Andrew GROTRIAN
Mr. Mato TADIĆ

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar

Having considered the applicant's request for a review of the decision of the First Panel of the Chamber on strike out 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 AND SUMMARY OF THE PROCEEDINGS BEFORE THE CHAMBER

1. In his application filed on 22 June 1998, the applicant alleges a violation of his rights as protected by Article 1 of Protocol No. 1 to the Convention because, although he concluded a purchase contract over a Yugoslav National Army apartment (“JNA apartment”) on 3 April 1992, he could not get registered as the owner.
2. On 6 April 2000 the First Panel decided to strike out the case as the applicant had chosen to proceed with his case before the institution of the Ombudsperson for Bosnia and Herzegovina. The applicant had applied to both, the Ombudsperson and the Chamber, to deal with the alleged violation of his rights with regard to the purchase of the JNA apartment. On 6 December 1999 the Ombudsperson and the Chamber informed the applicant by registered mail that it was not possible for both institutions to deal with his case. The applicant was invited to submit a statement whether he wished to pursue the case before the Chamber or the Ombudsperson. On 13 January 2000 the applicant informed the Ombudsperson in writing that he intended to pursue his case before that institution. On the same date the applicant also informed the Chamber to that effect.
3. On 4 July 2000 the First Panel’s decision was communicated to the parties in pursuance of Rule 52. On 13 July 2000 the applicant submitted a request for review of the decision.
4. In accordance with Rule 64(1) the request for review was considered by the Second Panel.

II. THE REQUEST FOR REVIEW

5. In his request for review, the applicant challenges the First Panel’s decision on the grounds that he never chose to proceed before the Ombudsperson claiming that he never even applied to the Ombudsperson.

III. OPINION OF THE SECOND PANEL

6. The Second Panel notes that the request for review has been lodged within the time limit prescribed by Rule 63(2). 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.
7. The Chamber received a letter from the applicant, signed by the applicant, in which he unequivocally states that he wishes to proceed with his case before the Ombudsperson. Based on that information, the First Panel decided to strike out the application as the applicant had withdrawn his application in accordance with Rule 47 bis of the Chamber’s Rules of Procedure. The applicant failed to provide any reason why this case would 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), nor do the circumstances of the case, taken as a whole, justify reviewing the case as required by Rule 64(2)(b).
8. As the request for review fails to meet the requirements set forth in Rule 64(2), the Second Panel unanimously recommends that the request be rejected.

IV. OPINION OF THE PLENARY CHAMBER

9. The plenary Chamber agrees with the Second 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).

V. CONCLUSION

10. 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