



DECISION ON REQUEST FOR REVIEW

Case no. CH/98/726

D.Đ.

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 9 November 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. Miodrag PAJIĆ
Mr. Vitomir POPOVIĆ
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 Second Panel of the Chamber on the admissibility of and 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 AND COMPLAINTS

1. The Chamber refers to the decision of the Second Panel, by which the application was declared inadmissible and which is appended to the present decision (Annex 1).

II. SUMMARY OF THE PROCEEDINGS BEFORE THE CHAMBER

2. On 8 May 2001 the Second Panel's decision was communicated to the parties in pursuance of Rule 52. On 1 June 2001 the applicant submitted a request for review of the decision.

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

III. THE 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 FIRST PANEL

5. The applicant is of the opinion that he exhausted all domestic remedies, since he was not entitled to appeal against the decision of the Municipal Court I in Sarajevo.

6. The First Panel notes that this case involves a dispute between the parties over the allocation of an apartment. On 8 April 1991 the First Instance Court of Associated Labour in Sarajevo ordered the Secretariat of Economy of the Socialist Republic of Bosnia and Herzegovina to annul the allocation of the apartment in question and create a new rank and order concerning the new allocation. On 18 July 1994 the Court of First Instance I in Sarajevo ordered the Ministry of Economy of the Republic of Bosnia and Herzegovina, which was the successor to the Secretariat, to enforce the decision of 8 April 1991. On 22 November 1999 the Ministry of Energy, Mining and Industry of the Federation of Bosnia and Herzegovina, the successor to the Ministry of Economy, stated that it was not capable of fully enforcing the decision of 8 April 1991 because it was no longer the allocation right holder. On 30 November 1999 the applicant requested that the Court of First Instance I in Sarajevo enforce the decision of 8 April 1991 in full. On 5 February 2001 the Court of First Instance I in Sarajevo held a hearing. During that hearing it issued a procedural decision, pursuant to domestic law, ordering the Ministry to initiate civil proceedings against the applicant, within thirty (30) days in order to settle the dispute and establish the viability of complying with the 8 April 1991 order. This procedural decision was not the final decision in the case. It was only a further step in the procedure. Accordingly, the case is still pending and therefore, the application was properly rejected for non-exhaustion of domestic remedies.

7. As result, this case does not raise a "serious question affecting the interpretation or application of the Agreement" or a "serious issue of general importance". Consequently, since the request does not meet either of the conditions set out in Rule 64(2), the First Panel unanimously recommends that the request be rejected.

V. OPINION OF THE PLENARY CHAMBER

8. The plenary Chamber agrees with the First 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).

VI. CONCLUSION

9. 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