



DECISION ON REQUEST FOR REVIEW

Case no. CH/99/1546

Biljana KRSTIĆ

against

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

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 3 April 2003 with the following members present:

Ms. Michèle PICARD, President
Mr. Mato TADIĆ, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Giovanni GRASSO
Mr. Miodrag PAJIĆ
Mr. Manfred NOWAK
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 to strike out the application of the Second Panel of the Chamber 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. FACTS AND COMPLAINTS

1. In her application, registered on 8 February 1999, the applicant complained of her inability to repossess her pre-war apartment. The applicant claimed that her rights as protected under Article 1 of Protocol No. 1 to the European Convention on Human Rights (“the Convention”) were violated. On 29 November 2000 the applicant entered into possession of her pre-war apartment. However, she informed the Chamber that she would like to maintain her claims for compensation.

II. SUMMARY OF THE PROCEEDINGS BEFORE THE CHAMBER

2. On 8 November 2002 the Second Panel issued a decision to strike out the application. The Second Panel considered that since the applicant was reinstated, the main issue raised in the application had been resolved. Furthermore, the Second Panel observed that it can only award compensation if it makes a finding of violation of the Agreement. The Second Panel found that no specific circumstances were presented in the application which would require the examination of the application to be continued after the main issue of the case had been resolved. Consequently, the Second Panel concluded that the claim for compensation cannot be considered.

3. The Second Panel’s decision was delivered 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 21 January 2003.

4. On 24 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 First Panel on 1 April 2003.

5. On 3 April 2003 the Plenary Chamber deliberated on the request for review and adopted the present decision.

III. THE REQUESTS FOR REVIEW

6. In her request for review, the applicant points out that her name was wrongly given as “Branka” in the decision delivered to her.

7. The applicant also argues that the Second Panel’s decision did not take into consideration that the proceedings before the competent bodies lasted from 31 May 1996 until 29 November 2000 when she was reinstated into possession of her pre-war apartment. Therefore, the proceedings lasted too long which has caused her pecuniary and non-pecuniary damages.

IV. OPINION OF THE FIRST PANEL

8. The First Panel notes that the request for review has been lodged within the time limit prescribed by Rule 63(3)(a), as it was sent by the applicant’s representative from Belgrade on 17 February 2003. The First 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.

9. Firstly, the First Panel notes that although the name of the applicant was wrongly written, the decision that was issued is related to the applicant’s claim for repossession of her pre-war apartment. Furthermore, the First Panel notes that the case number CH/99/1546 was the appropriate one, and therefore the error in relation to the fact that the applicant’s name was wrongly given in the decision is to be considered as a typing error and does not affect the outcome of the case. There is no doubt that the person referred to in the decision is the applicant.

10. As to the applicant's claim that the proceedings before the administrative bodies lasted too long, the First Panel notes that the Second Panel did not decide on the merits of the alleged violation of Article 6 of the Convention. However, the First Panel notes that the decision to strike out the application was taken in accordance with the established case-law of the Chamber.

11. Therefore, the applicant has failed to provide any grounds why the request for review raises "a serious question affecting the interpretation or application of the Agreement or a serious issue of general importance" and that "the whole circumstances justify reviewing the decision". Therefore the First Panel unanimously, recommends that the request be rejected.

V. OPINION OF THE PLENARY CHAMBER

12. The plenary Chamber agrees with the First 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

13. 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