



DECISION ON REQUEST FOR REVIEW

Case no. CH/99/1773

Zorka VUKOVIĆ

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 February 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. Miodrag PAJIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
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 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 her application, registered on 26 March 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 27 November 2001 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 11 October 2002 the First Panel issued a decision to strike out the application. The First Panel considered that since the applicant was reinstated, the main issue raised in the application had been resolved. Furthermore, the First Panel observed that it can only award compensation if it makes a finding of violation of the Agreement. The First 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 First Panel concluded that the claim for compensation cannot be considered.

3. On 23 December 2002 the First Panel’s decision was delivered to the applicant in pursuance of Rule 60 of the Chamber’s Rules of Procedure.

4. On 14 January 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 February 2003.

5. On 7 February 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 challenges the First Panel’s decision for the reason that it did not take into consideration the evidence brought to the Chamber that her apartment was plundered.

IV. OPINION OF THE SECOND PANEL

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

8. Regarding the applicant’s claim for loss of moveable property left in her pre-war apartment, the Second Panel notes that the alleged loss of moveable property and fixtures might not have occurred if the eviction of the temporary occupant of the apartment had occurred at an earlier stage. However, the applicant has not provided any indication that the alleged loss of moveable property has been directly caused by the respondent Party or any person acting on its behalf. To the contrary, it appears that the loss of moveable property has been caused by the temporary occupant of the apartment. As a result, the respondent Party cannot be held responsible for this loss. Accordingly, the Second Panel is of the opinion that, in this respect, the request for review does not raise “a serious question affecting the interpretation or application of the Agreement or a serious issue of general importance” as set forth in Rule 64(2).

9. Concerning the applicant's claim for compensation, the Second Panel recalls that the Chamber awards compensation only if it finds a violation of any of the rights and freedoms protected by the Agreement. As it already stated, for the reasons mentioned above (see paragraph 8) the Second Panel considers that there is no ongoing violation of the applicant's right protected by the Agreement. The issue on compensation for the loss of moveable property constitutes a private dispute between the applicant and the earlier occupant of the apartment. Hence, the applicant can file a civil action before the competent domestic court and request the compensation for the damage suffered.

10. Accordingly, also in this respect, 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 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 REQUESTS FOR REVIEW.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the Chamber