



DECISION ON REQUEST FOR REVIEW

CASE No. CH/99/3050

Muhamed MUJAGIĆ

against

BOSNIA AND HERZEGOVINA

and

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 10 May 2001 with the following members present:

Ms. Michèle PICARD, President
Mr. Giovanni GRASSO, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Želimir JUKA
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Miodrag PAJIĆ
Mr. Vitimir 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, the Federation of Bosnia and Herzegovina's, request for review of the decision of the Second Panel of the Chamber on the admissibility and merits 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. The Chamber refers to the decision of the Second Panel, which is appended to the present decision (Annex 1).

II. SUMMARY OF THE PROCEEDINGS BEFORE THE CHAMBER

2. On 9 March 2001, the Second Panel's decision on admissibility and merits was delivered in pursuance of Rule 60. On 10 April 2001, the respondent Party, 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 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 First Panel notes that the request for review has been lodged within the time-limit prescribed by Rule 63(3). It is of the opinion, however, that the grounds upon which the respondent Party's request for review is based, that is the length of the proceedings before the domestic courts, was already examined by the Second Panel in accordance with the European Court of Human Rights case-law and the case-law of the Human Rights Chamber. The respondent Party also stated that the order given by sub-paragraph VIII.66.5. of the decision of the Second Panel has been fulfilled, so that, the order of the Chamber has become irrelevant. The First Panel notes that Article XI(b) of the Agreement set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina requires the Parties to the Agreement to implement fully the decisions of the Chamber. Consequently, the fact that the respondent Party fulfilled the order given in the original Decision, whilst welcome, cannot be a ground for review. The First Panel therefore does not consider that "the whole circumstances justify reviewing the decision" as required by Rule 64(2)(b). In addition, the case does not 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).

6. The First Panel further notes that the party seeking review, being the respondent Party in the proceedings which led to the original Decision, disagrees with the award of monetary relief made in favour of the applicant. However, that involves neither a serious issue affecting the interpretation of the Agreement nor an issue of general importance. Moreover, it cannot be said that the whole circumstances justify reviewing the original Decision in this point either. That being so, it is recommended that the Plenary Chamber not accept the request. As the request for review 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

7. The Plenary Chamber agrees with the First Panel that, for the reasons stated, the request for review does not fulfil 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

Attachments: Annex 1
Annex 2