DECISION ON REQUEST FOR REVIEW

Case no. CH/99/2656

THE ISLAMIC COMMUNITY IN BOSNIA AND HERZEGOVINA

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 8 March 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. Manfred NOWAK
Mr. Miodrag PAJIĆ
Mr. Vitomir 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 request for a 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 First Panel, which is appended to the present decision (Annex 1).

II. SUMMARY OF THE PROCEEDINGS BEFORE THE CHAMBER

2. On 6 December 2000 the Second Panel's decision on admissibility and merits was delivered in pursuance of Rule 60. On 12 January 2001 the respondent Party, the Republika Srpska, 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 respondent Party submitted its request for review 37 days after the public delivering of the decision on admissibility and merits. Under the terms of Rule 63 (2), according to the English text, a request for review of a decision delivered at a public hearing in accordance with Rule 60 (2) must be lodged within one month from the date of such delivery. Under the terms of Rule 63 (2) as it reads in the Bosnian, Croatian and Serbian languages, such a request for review must be lodged within one month from the date on which the decision is delivered by the Registrar to the parties concerned. However, the word "delivered"(*dostaviti*) is used in Rule 60 (4) as well, where in the English version the word "transmitted" is used. Thus Rule 63 (2) may be read in the national language versions to refer to Rule 60 (4) as well, with the consequence that the delivery takes place when the decision is transmitted. The First Panel is of the opinion that the various language versions of the Chamber's Rules are all equally authoritative and that, in the present case, it is proper that the discrepancy noted should not be detrimental to the position of a party seeking review. Consequently, the First Panel recommends that the request for review of the respondent Party also be deemed to have been lodged within the time-limit prescribed by Rule 63 (2).

6. The First Panel is of the opinion, however, that the arguments upon which the respondent Party's request for review is based were in essence already examined by the Second Panel which considered the admissibility and merits of the case and that they were rejected on adequate grounds. 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).

7. The First Panel further notes that the respondent Party 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 on this point either.

8. In conclusion, the First Panel unanimously recommends that the Plenary Chamber not accept the request.

V. OPINION OF THE PLENARY CHAMBER

9. 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

10. For these reasons, the Chamber, unanimously,

DECIDES NOT TO REFUSE THE RESPONDENT PARTY'S REQUEST FOR REVIEW AS OUT OF TIME, AND

REJECTS THE REQUEST FOR REVIEW.

(signed)
Peter KEMPEES
Registrar of the Chamber

(signed)
Michèle PICARD
President of the Chamber