



DECISION ON ADMISSIBILITY

Case no. CH/99/1875

Duško STANIŠIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 11 May 2000 with the following members present:

Ms. Michèle PICARD, President
Mr. Andrew GROTRIAN, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA
Mr. Miodrag PAJIĆ

Mr. Anders MÅNSSON, Registrar
Ms. Olga KAPIĆ, Deputy Registrar

Having considered the aforementioned application introduced pursuant to Article VIII(1) of the Human Rights Agreement ("the Agreement") set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Adopts the following decision pursuant to Article VIII(2)(a) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. FACTS

1. The applicant is a citizen of Bosnia and Herzegovina. His father, who died in May 1999, was allegedly the owner of land in Tomislavgrad municipality in the Federation of Bosnia and Herzegovina. The application was originally lodged by the applicant's father.
2. The applicant claims that the municipality of Tomislavgrad has allocated the land in question to other persons, who have commenced building work on it. He has written to the municipality requesting them to ensure this work is stopped. He has not taken any other steps against the matters he complains of.

II. COMPLAINTS

3. The applicant complains that his right to property has been violated by the actions of Tomislavgrad municipality and that he has been discriminated against in the enjoyment of that right.

III. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced on 18 March 1999 and registered on the same day. On 16 July 1999 the applicant informed the Chamber that his father had died and requested that he be considered to be the applicant before the Chamber. He also requested that the Chamber order the Federation as a provisional measure to take all necessary steps to prevent any further building work on the land. On 13 August 1999 the President of the Chamber refused the request for a provisional measure.

IV. OPINION OF THE CHAMBER

5. Before considering the merits of the case the Chamber must decide whether to accept it, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement. According to Article VIII(2)(a), the Chamber must consider whether effective remedies exist and whether the applicant has demonstrated that they have been exhausted.
6. The Chamber will consider Mr. Duško Stanišić to be the applicant in the case before it. The Chamber notes that he has written to the municipality of Tomislavgrad, requesting that they ensure the building work on the land concerned is stopped. He has not taken any steps under the law of the Federation in this regard, for example by initiating proceedings before the competent Municipal Court seeking that he be recognised as owner of the land concerned and requesting the court to order that any building works be stopped. The applicant has not provided any evidence to the Chamber which tends to show that the remedies available to him would be ineffective. Therefore, he cannot be relieved of his obligation under Article VIII(2)(a) of the Agreement to exhaust such remedies.
7. Accordingly, the Chamber decides not to accept the application pursuant to Article VIII(2)(a) of the Agreement, as the applicant has not demonstrated that the effective domestic remedies have been exhausted.

V. CONCLUSION

8. For these reasons, the Chamber, unanimously,
DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel