



DECISION ON ADMISSIBILITY

CASE No. CH/01/6929

Ramiz KUSTURICA

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 3 April 2001 with the following members present:

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

Mr. Peter KEMPEES, 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. INTRODUCTION

1. The application was introduced on 27 February 2001. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to take all necessary action to ensure that Mr. J.A.'s ownership of the apartment at Ulica Šabana Zahirovića 6 in Tuzla is not registered before the case is decided by the Court of First Instance in Tuzla (Općinski sud u Tuzli) ("the Court"). On 3 April 2001 the Chamber decided not to order the provisional measure requested.

II. FACTS

2. The applicant is the pre-war occupancy right holder over the apartment at Ulica Šabana Zahirovića 6 in Tuzla. On 28 July 1995 the applicant entered into a contract on exchange of apartments with Mr. J.A. The applicant alleges that he was forced to enter the contract. However, the applicant has not clarified this allegation. Presently, Mr. J.A. lives in the apartment at issue, and the applicant lives in Mr. J.A.'s pre-war apartment. Furthermore, Mr. J.A. purchased the apartment at issue according to the Law on Sales of Apartments with Occupancy Right.

3. On 2 April 1999 the applicant requested the Service for Housing Affairs of Municipality Tuzla (Služba za stambene poslove općine Tuzla) ("the Service") to reinstate him into his pre-war apartment.

4. On 4 December 2000 the Service issued a procedural decision (zaključak) suspending the proceedings, until it was decided upon Mr. J.A.'s ownership. On 12 December 2000 the applicant appealed to the Ministry for Urbanism, Urban Planning and Environment of Tuzla Canton (Ministarstvo za urbanizam, prostorno uređenje i zaštitu okolice Tuzlanskog kantona). The applicant has not received any answer.

5. On 23 January 2001 the applicant filed a claim to the Court. On 3 February 2001 the Court issued a procedural decision (rješenje) requesting the applicant to correct the claim within 15 days. On 15 February 2001 the applicant filed the corrected claim. The case is still pending.

III. COMPLAINTS

6. The applicant alleges a violation of Article 1 of Protocol 1 to the European Convention.

IV. OPINION OF THE CHAMBER

7. The Chamber finds that the applicant's complaint is premature as the proceedings are still pending before the Court of First Instance in Tuzla. The domestic remedies have therefore not been exhausted as required by Article VIII(2)(a) of the Agreement. It follows that the application must be rejected.

V. CONCLUSION

8. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Peter KEMPEES
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel