



DECISION ON ADMISSIBILITY

Case no. CH/01/7670

Muhidin ZUKIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 6 February 2002 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Manfred NOWAK
Mr. Mehmed DEKOVIĆ
Mr. Vitomir POPOVIĆ
Mr. Mato TADIĆ

Mr. Ulrich GARMS, 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 3 July 2001 and registered on the same day. It concerns disputes before the Commission for Real Property Claims of Displaced Persons and Refugees ("CRPC") and the Administration for Housing Affairs of the Sarajevo Canton (the "Administration") relating to an apartment located at ul. Pruščakova no.7 (former ul. Pavla Goranina), in Sarajevo, the Federation of Bosnia and Herzegovina (the "apartment"). The applicant submitted a request for a provisional measure on 7 January 2002. He requested the Chamber to order the respondent Party, as a provisional measure to prevent his eviction from the apartment scheduled on 10 January 2002, until the proceedings before the Chamber are concluded. On 11 January 2002 the Chamber decided not to order the provisional measure requested.

2. According to the CRPC decision of 1 February 2000, the pre-war occupancy right holder of the apartment is Mrs. Z.I. The applicant stated that he requested a review of this decision as it is illegal in his opinion. The request has not been decided yet. According to the Administration's hearing record of 25 June 2001, Mrs. Z.I. is the pre-war occupancy right holder of the apartment and the applicant is a temporary occupant.

3. According to the applicant, before the war, Mrs. Z.I. used the apartment with no legal basis as allegedly she was not allocated the apartment nor did she conclude a contract on use of the apartment. The applicant claimed that he had been using the apartment since 1995 based on the consent of Mrs. R.J., the owner according to the land registry. Moreover, on 30 May 2001 he purchased the apartment based on a contract concluded with Mrs. R.J.

II. OPINION OF THE CHAMBER

4. In accordance with Article VIII(2) of the Agreement, "the Chamber shall decide which applications to accept ... In so doing, the Chamber shall take into account the following criteria: ... (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted ..."

5. The Chamber notes that the applicant could have initiated civil proceedings before the court in order to seek to protect his rights over the apartment in question. According to the application and enclosed documents, such proceedings have not been initiated. Therefore, domestic remedies have not been exhausted for any of the applicant's complaints as required by Article VIII(2)(a) of the Agreement. The Chamber therefore decides to declare the application inadmissible.

III. CONCLUSION

6. For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Giovanni GRASSO,
President of the Second Panel