



DECISION ON ADMISSIBILITY

Case no. CH/00/4809

Anton LUNG

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 5 September 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) 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. He was the occupancy right holder over an apartment located at Ulica Sulejmana ef. Musića br. 4/IV (formerly Ulica Bosanska). His wife was the occupancy right holder over an apartment Ulica Trg heroja br. 8. Both apartments are socially-owned apartments in Sarajevo. Allegedly, because of the war in Bosnia and Herzegovina, he and his wife were not able to use either apartment. The applicant requested to the relevant municipal authority that he and his wife be allowed to exchange the two apartments over which they held occupancy rights for the apartment located at Ulica M. Handžića br. 18.

2. On 25 April 1996 the municipal authority accepted this request and allocated the latter apartment to the applicant. He completed a contract on use for this apartment on 15 May 1996.

3. On 1 September 1999 the applicant was divorced from his wife. She filed to regain the apartment over which she was previously the occupancy right holder, mentioned above.

4. Upon a request of V.M., the pre-war occupancy right holder over the apartment located at Ulica M. Hamdžića br. 18, the Administration for Housing Affairs of the Sarajevo Canton, on 11 April 2000, ordered that that apartment be returned to V.M. and that the applicant vacate the premises. The applicant has informed the Chamber that he will appeal against this decision. The applicant then discovered that the apartment over which he had previously held the occupancy right and had given up in exchange for his current apartment had been sold and was being occupied by another individual.

II. COMPLAINTS

5. The applicant complains that his right to his home has been violated, as well as his right to return to his first apartment.

III. PROCEEDINGS BEFORE THE CHAMBER

6. The application was introduced on 8 May 2000 and registered the same day. As part of the application the applicant requested as a provisional measure that the respondent Party be ordered not to evict him from his current residence until he could return to his first apartment. The Chamber rejected this request on 10 May 2000.

IV. OPINION OF THE CHAMBER

7. Before considering the merits of a case the Chamber must decide whether to accept it, taking into 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.

8. In the present case, the applicant has stated that he will appeal against the decision which concluded that he must leave the apartment located at Ulica M. Handžića. Therefore, it is clear that the applicant has not exhausted domestic remedies. Further, noting that the applicant has stated that he will pursue an appeal, the Chamber cannot find any evidence to show that the remedies are not effective. Accordingly, the Chamber decides not 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

9. 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