



DECISION ON ADMISSIBILITY

Case no. CH/02/9857

Radomir VIŠNJIĆ

against

**BOSNIA AND HERZEGOVINA
and
THE FEDERATION OF BOSNIA AND HERZEGOVINA**

and

Case no. CH/02/11271

Jasminka NAHODOVIĆ

against

**THE FEDERATION OF BOSNIA AND HERZEGOVINA
and
THE REPUBLIKA SRPSKA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 8 October 2002 with the following members present:

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

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar

Having considered the aforementioned applications 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) and VIII(2)(c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The application of Radomir Višnjić against Bosnia and Herzegovina, the Municipality Novo Sarajevo, the Municipal Court and the Land Registry was introduced on 5 April 2002.
2. The application of Jasminka Nahodović against the Federation of Bosnia and Herzegovina and the Republika Srpska was introduced on 9 July 2002. The applicant requested the Chamber to order the Federation, as a provisional measure, to take all necessary steps to prevent her eviction from the house and land she occupies.
3. Both cases concern the conflicting claims to the house and land in Grbavica, a Sarajevo neighbourhood, that Jasminka Nahodović has bought from Radomir Višnjić on 16 September 1996.
4. On 1 May 2001, the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) confirmed that on 1 April 1992 Radomir Višnjić was the bona fide possessor of the land and the house in question. On 10 July 2001 the applicant requested enforcement of the CRPC decision. On 3 July 2002 the Department for Housing Affairs of the Municipality Novo Sarajevo issued a decision permitting enforcement of the CRPC decision.
5. On 27 June 2002 Jasminka Nahodović initiated proceedings before the Municipal Court II in Sarajevo in order to obtain a court decision regarding the validity of the purchase contract of 16 September 1996.
6. On 9 July 2002, the Municipal Court II in Sarajevo issued a procedural decision ordering –by means of an order for provisional measures- suspension of the enforcement of the CRPC decision until proceedings before the Municipal Court II in Sarajevo relating to the property rights of the house and land in question are completed.
7. On 10 July 2002, the Department for Housing Affairs of the Municipality Novo Sarajevo suspended the enforcement of the conclusion permitting enforcement of the CRPC decision.
8. On 2 September 2002 the Human Rights Chamber rejected the request for provisional measures of Jasminka Nahodović.

II. OPINION OF THE CHAMBER

9. 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....” and (c) ...The Chamber shall also dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or an abuse of the right of petition”.
10. With regard to the claims of Radomir Višnjić against the Municipality Novo Sarajevo, the Municipal Court and the Land Registry, the Chamber considers the claims to be directed against the Federation of Bosnia and Herzegovina, since these are all three organs of the Federation of Bosnia and Herzegovina.
11. With regard to the claims of Radomir Višnjić against Bosnia and Herzegovina, the Chamber notes that the Municipal Court II in Sarajevo and the organs of the Administration that are involved in this case are organs whose conduct engages the responsibility of the Federation, not of Bosnia and Herzegovina. Accordingly, as directed against Bosnia and Herzegovina, the application of Radomir Višnjić is incompatible *ratione personae* with the provisions of the Agreement, within the meaning of Article VIII (2)(c) and will therefore be declared inadmissible.
12. With regard to the claims of Jasminka Nahodović against the Republika Srpska, the Chamber notes that the complaints concern the proceedings of the Municipal Court II in Sarajevo and administrative organs of the Federation of Bosnia and Herzegovina. The complaints do not concern

an interference with her rights by the authorities of the Republika Srpska. It follows that, as directed against the Republika Srpska, the application of Jasminka Nahodović is incompatible *ratione personae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c) and will therefore be declared inadmissible.

13. The Chamber further notes that the complaints of both the applicants against the Federation of Bosnia and Herzegovina are premature since it is undisputed that the court proceedings relating to the property rights over the house and land in question are still pending. Accordingly, the Chamber finds that the applicants have not, as required by Article VIII(2)(a) of the Agreement, exhausted the effective remedies. The Chamber therefore decides to declare also the remainder of the applications inadmissible.

III. CONCLUSION WITH REGARD TO CASE NO. CH/02/9857 of Radomir VIŠNJIĆ:

14. For the abovementioned reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

IV. CONCLUSION WITH REGARD TO CASE NO. CH/02/11271 of Jasminka NAHODOVIĆ

15. For the abovementioned reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel