



DECISION ON ADMISSIBILITY AND MERITS
(delivered on 7 June 2002)

Cases nos.
CH/00/4566, CH/00/4674, CH/00/5180, CH/00/5213, CH/00/5216 and
CH/00/5593

Bajazid JUSIĆ, Adem ŠHOVIĆ, Mustafa ŠUKILOVIĆ, Mehmed VELAGIĆ,
Mehmedalija REDŽIĆ and Salih AJDAREVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 10 May 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 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 Articles VIII(2) and XI of the Agreement and Rules 52, 57 and 58 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The applicants are citizens of Bosnia and Herzegovina. They are all pre-war occupancy right holders of apartments or owners of houses in the Municipality Bijeljina in Republika Srpska. The cases concern the applicants' attempts to regain possession of their apartments or houses. All applicants have lodged applications to the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC), which has issued decisions confirming their occupancy rights or ownership as the case may be. However, the competent authorities have failed to execute those decisions. The relevant facts of the individual cases are set out in Section III below.
2. The cases raise issues under Articles 6, 8 and 13 of the European Convention on Human Rights and under Article 1 of Protocol No. 1 to the Convention.

II. PROCEEDINGS BEFORE THE CHAMBER

3. The applications were introduced and registered between 10 April 2000 and 22 August 2000.
4. Between 14 August 2001 and 4 September 2001 the Chamber sent letters to the applicants asking them to inform the Chamber as to whether the situation was still the same as described in their applications. The applicants who had used the Chambers "old" application forms were also invited to specify in detail their claims for compensation or other relief.
5. Between 11 October 2001 and 14 November 2001 the Chamber transmitted the applications to the Republika Srpska as the respondent Party for observations on the admissibility and merits thereof. The respondent Party submitted its observations on 10 and 11 December 2001 respectively.
6. Further observations by the applicants were received between 10 January 2002 and 16 April 2002.
7. On 10 May 2002 the Chamber considered the admissibility and merits of the applications, decided to join the applications and adopted the present decision.

III. FACTS

1. Case no. CH/00/4566 Bajazid JUSIĆ

8. The applicant is the pre-war occupancy right holder over an apartment located at Dr. Kecmanovića 16 in Bijeljina. The applicant left the apartment during the 1992-1995 armed conflict.
9. On a date unknown to the Chamber the applicant requested the CRPC to issue a decision confirming his occupancy right.
10. On 12 November 1998 the CRPC issued a decision (Decision No. 802-371-1/1) confirming the applicant's occupancy right.
11. On 11 October 1999 the applicant filed a request for the execution of the CRPC decision to the Ministry of Refugees and Displaced Persons of the Republika Srpska, Department in Bijeljina (the "Ministry"). On 5 December 2001 the Ministry issued a conclusion on the enforcement of the CRPC decision. However, the applicant has still not been reinstated into his apartment.
12. The applicant has also initiated other proceedings before domestic administrative organs to regain possession of his apartment.

2. Case no. CH/00/4674 Adem ŠEHOVIĆ

13. The applicant is the owner of a house located at Vojvode Petra Bojovića 11 (formerly Jozefa Koukala 9) in Bijeljina. The applicant left the house in September 1994.

14. On a date unknown to the Chamber the applicant requested the CRPC for repossession of his property.

15. On 8 October 1998 the CRPC issued a decision (Decision No. 803-117-1/1) confirming that the applicant was the *bona fide* possessor of the property on 1 April 1992.

16. On 7 December 1999 the applicant filed a request for the execution of the CRPC decision to the Ministry. On 18 April 2001 the Ministry issued a conclusion on the enforcement of the CRPC decision. However, the applicant has still not been reinstated into his house.

3. Case no. CH/00/5180 Mustafa ŠUKILOVIĆ

17. The applicant is the owner of a house located in at Braće Lazića 138 in Janja - Municipality Bijeljina. The applicant left the house during the 1992-1995 armed conflict.

18. On a date unknown to the Chamber the applicant requested the CRPC for repossession of his property.

19. On 3 September 1999 the CRPC issued a decision (Decision No. 802-119-1/1) confirming that the applicant was the *bona fide* possessor of the property on 1 April 1992.

20. On 3 May 2000 the applicant filed a request for the execution of the CRPC decision to the Ministry. However, as of the date of this decision, the applicant has not received a conclusion on the enforcement of the CRPC decision.

21. The applicant has also initiated other proceedings before domestic administrative organs to regain possession of his house.

4. Case no. CH/00/5213 Mehmed VELAGIĆ

22. The applicant is the owner of a house located at Karađorđeva 167 in Janja - Municipality Bijeljina. The applicant left the house during the 1992-1995 armed conflict.

23. On a date unknown to the Chamber the applicant filed a request to the CRPC for repossession of his property.

24. On 30 July 1998 the CRPC issued a decision (Decision No. 803-192-1/1) confirming that the applicant was the *bona fide* possessor of the property on 1 April 1992.

25. On 27 March 2000 the applicant filed a request for the execution of the CRPC decision to the Ministry. However, as of the date of this decision, the applicant has not received a conclusion on the enforcement of the CRPC decision

26. The applicant has also initiated other proceedings before domestic administrative organs to regain possession of his house.

5. Case no. CH/00/5216 Mehmedalija REDŽIĆ

27. The applicant is the owner of a house located at Veljka Vlahovića in Janja - Municipality Bijeljina. The applicant left the house during the 1992-1995 armed conflict.

28. On a date unknown to the Chamber the applicant requested the CRPC to issue a decision for repossession of his property.

29. On 8 October 1998 the CRPC issued a decision (Decision No. 801-259-1/1) confirming that the applicant was the *bona fide* possessor of the property on 1 April 1992.

30. On 27 December 1999 the applicant filed a request for the execution of the CRPC decision to the Ministry. However, as of the date of this decision, the applicant has not received a conclusion on the enforcement of the CRPC decision.

6. Case no. CH/00/5593 Salih AJDAREVIĆ

31. The applicant is the owner of a house located at Braće Lazić bb in Janja - Municipality Bijeljina. The applicant left the house in September 1994.

32. On a date unknown to the Chamber the applicant requested the CRPC to issue a decision for repossession of his property.

33. On 8 October 1998 the CRPC issued a decision (Decision No. 801-285-1/1) confirming that the applicant was the *bona fide* possessor of the property on 1 April 1992.

34. On 22 February 2000 the applicant filed a request for the execution of the CRPC decision to the Ministry. However, as of the date of this decision, the applicant has not received a conclusion on the enforcement of the CRPC decision.

IV. RELEVANT LEGAL PROVISIONS

1. The General Framework Agreement for Peace in Bosnia and Herzegovina – Annex 7, Agreement on Refugees and Displaced Persons

35. Annex 7 to the General Framework Agreement, entitled Agreement on Refugees and Displaced Persons, deals with refugees and displaced persons. In accordance with Article VII of Annex 7 an Independent Commission for Displaced Persons and Refugees, later renamed Commission for Real Property Claims of Displaced Persons and Refugees (CRPC), was established.

36. The CRPC shall receive and decide any claims for real property in Bosnia and Herzegovina, where the property has not voluntarily been sold or otherwise transferred since 1 April 1992, and where the claimant does not enjoy possession of that property (Article XI). The CRPC shall determine the lawful owner of the property - a concept which the CRPC has construed to include an occupancy right holder - according to Article XII(1). The decisions of CRPC are final and any title, deed, mortgage, or other legal instrument created or awarded by the CRPC shall be recognised as lawful throughout Bosnia and Herzegovina (Article XII(7)).

37. The Parties shall cooperate with the work of the CRPC, and shall respect and implement its decisions expeditiously and in good faith (Article VIII).

2. The Law on Implementation of the Decisions of the Commission for Real Property Claims of Displaced Persons and Refugees.

38. The Law on Implementation of the Decisions of the Commission for Real Property Claims of Displaced Persons and Refugees (Official Gazette of the Republika Srpska 31/99, 39/00 and 65/01 – hereinafter “the Law on Implementation”) was imposed as a law of the Republika Srpska by a decision of the High Representative in Bosnia and Herzegovina on 27 October 1999 and amended on 28 October 2000 and 12 December 2001. It sets out a regime for the enforcement of decisions of the CRPC.

39. The responsible body of the Ministry of Refugees and Displaced Persons in the municipality where the property is located shall enforce decisions of the CRPC relating to real property owned by citizens, or relating to apartments for which there is an occupancy right, upon the request for enforcement (Article 3 paragraph 2). The CRPC decisions shall be enforced if a request for the

enforcement has been filed to the relevant organ. The following persons are entitled to file such a request: The right holder specified in the CRPC decision and his/her heirs relating to real property owned by citizens (Article 4 paragraph 1) and relating to apartments for which there is an occupancy right; the occupancy right holder referred to in a CRPC decision and the persons who, in compliance with the Law on Housing Relations are considered to be members of the family household of the occupancy right holder. If a request for enforcement of the Commission's decision is submitted by a person not named in the dispositive of the decision the administrative body shall decide whether she/he can be considered as a member of the family household of the occupancy right holder identified in the decision. (Article 4 paragraphs 2 and 3).

40. The right to file a request for enforcement of a CRPC decision confirming a right to private property is not subject to any statute of limitation (Article 5 paragraph 1). The request for enforcement of a CRPC decision confirming an occupancy right must be submitted within eighteen months from the date when the CRPC decision was issued (Article 5 paragraph 2, as amended by the High Representative on 12 December 2001).

41. The request for enforcement of a CRPC decision shall include two photocopies of the CRPC decision, relating to real property owned by citizens, and three photocopies of the CRPC decision relating to an occupancy right (Article 6). The administrative organ responsible for the enforcement of a CRPC decision is obliged to issue a conclusion on the permission of enforcement, within a period of 30 days from the date when the request for enforcement was submitted and shall not require any confirmation of the enforceability of the decision from CRPC or any other body (Article 7 paragraphs 1 and 2). The conclusion shall contain:

1. a decision on repossession of the property or apartment by the right holder or other requestor for enforcement;
2. a decision terminating the right of the temporary user (where there is one) to use the property or apartment;
3. a time limit for the enforcee to vacate the property;
4. a decision on whether the enforcee is entitled to accommodation in accordance with applicable laws;
5. a requirement that the premises shall be vacated of all persons and possessions, other than those belonging to the person authorised to return into possession.

42. According to Article 7 paragraph 5 the time limit for vacating the property shall be the minimum time limit applicable under the Law on the Cessation of the Application of the Law on the Use of Abandoned Property (Official Gazette of the Republika Srpska nos. 38/98, 12/99, 31/99 and 65/01). No extension of this time limit shall be permitted.

43. If the requestor for enforcement has submitted a claim for repossession to the responsible administrative organ in relation to the same property or apartment in accordance with the Law on Cessation of the Application of the Law on the Use of Abandoned Property and the requestor for enforcement subsequently submits a CRPC decision for enforcement, the responsible administrative body shall join the proceedings for enforcement of both decisions and issue a conclusion on the permission of enforcement in accordance with this Article (Article 7 paragraph 6).

44. Article 9 states that a decision of the CRPC is enforceable against the current occupants of the property concerned, regardless of the basis on which they occupy it.

3. The Law on General Administrative Proceedings

45. The Law on General Administrative Proceedings (Official Gazette of the Socialist Federal Republic of Yugoslavia no. 47/86) was taken over as a law of the Republika Srpska. It governs all administrative proceedings. Under Article 278 of the Law the competent administrative organ has to issue a decision to execute an administrative decision within 30 days upon the receipt of a request to this effect.

4. The Law on Administrative Disputes

46. Article 1 of the Law on Administrative Disputes (Official Gazette of the Republika Srpska no. 12/94) provides that the courts shall decide in administrative disputes on the lawfulness of administrative acts concerning rights and obligations of citizens and legal persons.

47. Article 25 paragraph 3 provides that an administrative dispute may be instituted also if the administrative second instance organ fails to render a decision within the prescribed time limit, whether the appeal to it was against a decision or against the first instance organ's silence.

V. COMPLAINTS

48. Each of the applicants claims that one or more of the following rights have been violated: the right to respect for their home as guaranteed by Article 8 of the Convention, the right to peaceful enjoyment of possessions as guaranteed by Article 1 of Protocol No. 1 to the Convention, the right to a hearing within reasonable time as guaranteed by Article 6 of the Convention, the right to an effective remedy as guaranteed by Article 13 of the Convention.

VI. SUBMISSIONS OF THE PARTIES

A. The respondent Party

49. The respondent Party objects, in its observations received on 10 and 11 December 2001, to the admissibility of the applications on the ground that the domestic remedies provided by the Law on General Administrative Proceedings and by the Law on Administrative Disputes have not been exhausted.

50. As to the merits of the complaint relating to the applicants' right to respect for their homes as protected by Article 8 of the Convention and the applicants' property rights as protected by Article 1 of Protocol No. 1 to the Convention, the respondent Party is of the opinion that there has been no violation, because it did not issue any decision depriving the applicants of their homes and property.

B. The applicants

51. The applicants maintain their complaints.

VII. OPINION OF THE CHAMBER

A. Admissibility

52. Before considering the merits of this case the Chamber must decide whether to accept it, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement.

1. Exhaustion of effective domestic remedies

53. According to Article VIII(2)(a) of the Agreement, the Chamber must consider whether effective remedies exist and whether the applicants have demonstrated that they have been exhausted. In the *Blentić* case (case no. CH/96/17, decision on admissibility and merits of 5 November 1997, paragraphs 19-21, Decisions on Admissibility and Merits 1996-1997, with further references) the Chamber considered this admissibility criterion in the light of the corresponding requirement to exhaust domestic remedies in the former Article 26 of the Convention (now Article 35(1) of the Convention). The European Court of Human Rights has found that such remedies must be sufficiently certain not only in theory but in practice, failing which they will lack the requisite accessibility and effectiveness. The Court has, moreover, considered that in applying the rule on exhaustion it is necessary to take realistic account not only of the existence of formal remedies in the legal system

of the Contracting Party concerned but also of the general legal and political context in which they operate as well as of personal circumstances of the applicants.

54. In the present cases the respondent Party objects to the admissibility of the applications on the ground that the domestic remedies provided by the Law on General Administrative Proceedings and by the Law on Administrative Disputes have not been exhausted. Whilst these laws afford remedies which might qualify as effective ones within the meaning of Article VIII(2)(a) of the Agreement in so far as the applicants are seeking to return to their apartments or houses and are faced with the authorities' inaction, the Chamber must ascertain whether, in the cases now before it, these remedies can also be considered effective in practice.

55. The Chamber notes that the applicants filed requests to the CRPC with a view to being reinstated into their apartments or houses. The CRPC issued decisions confirming their occupancy rights and ownership, from which it follows that they are entitled to seek the removal of the temporary occupants from the apartments or houses. However, those decisions have not been enforced despite the applicants' enforcement requests to the competent administrative organ, which have been pending between 24 and 31 months.

56. The Chamber further notes that according to Article 7 of the Implementation Law the competent administrative organ is obliged to issue a conclusion on the enforcement within a period of 30 days from the date when the request for enforcement is submitted. The Chamber interprets this provision to require the competent administrative organ, in cases in which the applicant filed a request for enforcement before the Implementation Law entered into force, to issue a conclusion on the enforcement at the latest 30 days after the date on which the Implementation Law entered into force, i.e. 30 days after 28 October 1999.

57. The Chamber also notes that it is still open to the applicants to make further attempts to have their CRPC decisions enforced. However, the applicants have already made repeated attempts to remedy their situation and they have been unsuccessful. Use of other remedies, even if successful, would also not remedy the applicants' complaints in so far as they relate to the failure of the authorities to enforce the CRPC decisions within the prescribed time-limit. Furthermore, there is no reason to suppose that the responsible authorities, which have for a long period disregarded their legal obligations to enforce the CRPC decisions, will treat the decisions of the courts with any greater respect.

58. In these circumstances the Chamber is satisfied that the applicants could not be required, for the purposes of Article VIII(2)(a) of the Agreement, to pursue any further remedy provided by domestic law.

59. The Chamber further finds that no other ground for declaring the case inadmissible has been established. Accordingly, the case is to be declared admissible.

B. Merits

60. Under Article XI of the Agreement the Chamber must next address the question whether the facts established above disclose a breach by the respondent Party of its obligations under the Agreement. Under Article I of the Agreement the parties are obliged to "secure to all persons within their jurisdiction the highest level of internationally recognized human rights and fundamental freedoms", including the rights and freedoms provided for in the Convention.

1. Article 8 of the Convention

61. Article 8 of the Convention, insofar as relevant, provides:

"1. Every one has the right to respect for...his home...

2. There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention

of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

62. The Chamber notes that all of the applicants have lived in the apartments or houses and used them as their homes until such times as they were forced to leave. The Chamber has previously held that links that persons in similar situations as the applicants in the present cases retained to their dwellings were sufficient for them to be considered to be their “homes” within the meaning of Article 8 of the Convention (see case no. CH/97/58, *Onić*, decision on the admissibility and merits of 12 January 1999, Decisions January-July 1999, paragraph 48; and case no. CH/97/46, *Kevešević*, decision on the merits of 15 July 1998, paragraphs 39-42, Decisions and Reports 1998).

63. Therefore, the applicants’ apartments or houses are to be considered as their homes for the purposes of Article 8 of the Convention.

64. It is the respondent Party assertion that it did not issue any decision depriving the applicants’ right to respect for their homes.

65. The Chamber notes that it is correct that there is no evidence in the case-file indicating that, after the entry into force of the Agreement, the authorities of the Republika Srpska took any steps to deprive the applicants of their homes. In fact, the applicants had already previously been forced to leave their homes. However, both the Chamber and the European Court of Human Rights have held that, although the object of Article 8 is essentially that of protecting the individual against arbitrary interference by the authorities, it may also give rise to positive obligations (see e.g. case no. CH/96/17, *Blentić v. Republika Srpska*, decision on admissibility and merits, Decisions 1997, paragraph 27; *Marckx v. Belgium*, 1979 Series A No. 31 para 31; *Airey v. Ireland*, 1979 Series A No. 32, para 32; *Velosa Barreto v. Portugal*, 1995 Series A No. 334, para 23). Therefore, the Chamber considers that the Republika Srpska is under a positive obligation to implement the legislation under which the applicants have reclaimed their houses.

66. In the present cases the Chamber recalls that the CRPC has issued decisions confirming the applicants’ right to repossess their apartments or houses. The applicants have been unable to regain possession of their apartments or houses due to the failure of the authorities of the respondent Party to deal effectively, in accordance with Republika Srpska law, with their requests for the enforcement of the CRPC decisions. It follows that the result of the inaction of the respondent Party is that the applicants cannot return to their homes and that there is an ongoing interference with the applicants’ right to respect for their homes.

67. The Chamber must therefore examine whether this interference is in accordance with paragraph 2 of Article 8 of the Convention.

68. According to Article 7 of the Implementation Law, the competent administrative organ is obliged to issue a conclusion authorising the execution of the decision within 30 days from the date of the request for such enforcement. If a request for enforcement was filed before the Implementation Law entered into force, the Chamber interprets Article 7 of that Law to require the competent administrative organ to issue a conclusion at the latest 30 days after the date on which that law entered into force, i.e. 30 days after 28 October 1999. The applicants have still not received a decision on their requests to have the CRPC decisions enforced, despite the time-limit for this having expired between 23 and 30 months ago. Accordingly, the failure of the competent administrative organ to decide upon the applicants’ requests is not “in accordance with the law”.

69. As the interference with the applicants’ right to respect for their home referred to above is not “in accordance with the law”, it is not necessary for the Chamber to examine whether they pursued a “legitimate aim” or were “necessary in a democratic society”.

70. In conclusion, there has been a violation of the rights of the applicants’ to respect for their home as guaranteed by Article 8 of the Convention.

2. Article 1 of Protocol No. 1

71. The applicants complain that their rights to peaceful enjoyment of their possessions have been violated as a result of their inability to regain possession of their apartments or houses. Article 1 of Protocol No. 1 reads as follows:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

72. It is the respondent Party assertion that it did not issue any decision depriving the applicants of their property rights.

73. The Chamber notes that the applicants are the owners of houses or the holders of occupancy rights over apartments. The Chamber finds that the houses concerned constitute the applicants’ “possessions” within the meaning of Article 1 of Protocol No. 1 to the Convention. Regarding the occupancy rights over apartments, the Chamber has previously held as follows (case no. CH/96/28, *M.J.*, decision on admissibility and merits delivered on 3 December 1997, paragraph 32, Decisions on Admissibility and Merits 1996-1997):

“...[A]n occupancy right is a valuable asset giving the holder the right, subject to the conditions prescribed by law, to occupy the property in question indefinitely. ... In the Chamber’s opinion it is an asset which constitutes a “possession” within the meaning of Article 1 [of Protocol No. 1]...”

74. Accordingly, the Chamber considers that the applicants’ rights in respect of the apartments also constitute “possessions” for the purposes of Article 1 of Protocol No. 1 to the Convention.

75. The Chamber considers the failure of the authorities of the respondent Party to allow the applicants to regain possession of the apartments or houses constitutes an “interference” with the right to peaceful enjoyment of that possession. This interference is ongoing as the applicants still do not enjoy possession of the apartments or houses.

76. The Chamber must therefore examine whether this interference can be justified. For this to be the case, it must be in the public interest and subject to conditions provided for by law. This means that the deprivation must have a basis in national law and that the law concerned must be both accessible and sufficiently precise.

77. As the Chamber noted in the context of its examination of the case under Article 8 of the Convention, Article 7 of the Implementation Law states that the competent administrative organ is obliged to issue a conclusion authorising the execution of the decision within 30 days from the date of a request for such enforcement. If the request for enforcement was filed before the Implementation Law entered into force, the Chamber interprets Article 7 of that Law to require the competent administrative organ to issue a conclusion at the latest 30 days after the date on which that Law entered into force, i.e. 30 days after 28 October 1999. It follows that the failure of the competent administrative organ to decide upon the applicants’ requests is contrary to the law. This is in itself sufficient to justify a finding of a violation of the applicants’ right to peaceful enjoyment of their possessions as guaranteed by Article 1 of Protocol No. 1. Accordingly, the right of the applicants under this provision has been violated.

3. Articles 6 and 13 of the Convention

78. Article 6 of the Convention, insofar as relevant, provides as follows:

“In the determination of his civil rights and obligations..., everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law...”

79. Article 13 of the Convention provides as follows:

“Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

80. Some of the applicants also allege violation of their rights as guaranteed by one or both of these provisions.

81. The Chamber, considering that it has found violations of the applicants' rights projected by Article 8 of the Convention and Article 1 of Protocol No. 1 to the Convention, does not consider it necessary to examine the cases under Articles 6 and 13 of the Convention.

VIII. REMEDIES

82. Under Article XI(1)(b) of the Agreement the Chamber must address the question of what steps shall be taken by the respondent Party to remedy the established breaches of the Agreement. In this connection the Chamber shall consider issuing orders to cease and desist, monetary relief as well as provisional measures. The Chamber is not necessarily bound by the claims of the applicants.

83. In their submissions the applicants request that they be enabled to regain possession of their apartments or houses. In addition, some of the applicants request compensation for the injustice they claim to have suffered and compensation for the rent they have been forced to pay for their accommodation pending their return to their apartments or houses.

84. The respondent Party did not submit its observations on the claims for compensation.

85. The Chamber considers it appropriate to order the respondent Party to take all necessary steps to enforce the CRPC decisions without further delay and at latest within one month from the date on which this decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure.

86. With regard to possible compensatory awards the Chamber considers it appropriate to award a sum to the applicants in recognition of the sense of injustice they have suffered as a result of their inability to regain possession of their apartments or houses, especially in view of the fact that they have taken all necessary steps to have the CRPC decisions enforced.

87. Accordingly, the Chamber will order the respondent Party to pay to each of the applicants the sum of KM 1200 Convertible Marks (*Konvertibilnih Maraka*, “KM”) in recognition of their suffering as a result of their inability to regain possession of their apartments or houses. In the particular circumstances at hand, the Chamber will also award the applicants who did not make specific claims for compensation the same sum. As the Chamber held in *Pletilić and others* (cases nos. CH/98/659 *et al.*, decision on admissibility and merits of 9 July 1999, paragraph 236, Decisions August-December), Article XI(1)(b) of the Agreement does not preclude the Chamber from ordering a remedy which has not been requested by an applicant.

88. In accordance with its decision in *Turundžić and Frančić* (cases nos. CH/00/6143 and CH/00/6150, decision on admissibility and merits of 5 February 2001, paragraph 70), the Chamber considers it appropriate to order the respondent Party to compensate the applicants for the loss of

use of their homes. The Chamber considers it appropriate that this sum should be KM 200 per month and payable from the date the time-limit for the competent administrative organ to issue a conclusion on the enforcement of the CRPC decision expired, i.e. 30 days after the applicant lodged his request up to and including May 2002. In the cases in which the applicants filed the request for enforcement before the Implementation Law entered into force, the Chamber considers it appropriate that this sum should be payable from 30 days after the Implementation Law entered into force, i.e. 30 days after 28 October 1999, up to and including May 2002. This sum should continue to be paid at the same rate until the end of the month in which the applicants regain possession of their apartments or houses.

89. The Chamber further awards simple interest at an annual rate of 10% as of the date of expiry of the one-month period set in paragraph 85 for the implementation of the present decision, and on each of the sums awarded in paragraphs 87 and 88 or any unpaid portion thereof until the date of settlement in full.

IX. CONCLUSION

90. For the above reasons, the Chamber decides,

1. unanimously, to declare the applications admissible under Articles 6, 8 and 13 of the European Convention on Human Rights and under Article 1 of Protocol No. 1 thereto;

2. unanimously, that the non-enforcement of the decisions of the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) constitutes a violation of the right of the applicants to respect for their homes within the meaning of Article 8 of the Convention, the respondent Party thereby being in breach of Article I of the Agreement;

3. unanimously, that the non-enforcement of the decisions of the CRPC constitutes a violation of the right of the applicants to peaceful enjoyment of their possessions within the meaning of Article 1 of Protocol No. 1 to the Convention, the respondent Party thereby being in breach of Article I of the Agreement;

4. unanimously, that it is not necessary to rule on the complaints under Article 6 and Article 13 of the Convention;

5. unanimously, to order the respondent Party to enable the applicants to regain possession of their apartments or houses without further delay and at the latest one month after the date on which this decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure;

6. unanimously, to order the respondent Party to pay to the applicants, no later than one month after the date on which this decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure:

to Mr. Bajazid Jusić the applicant in case CH/00/4566/: KM 7200 (seven thousand two hundred) Convertible Marks (*Konvertibilnih Maraka*, "KM"), composed of KM 1200 by way of compensation for non-pecuniary damage and KM 6000 by way of compensation for the loss of use of his home;

to Mr. Adem Šehović the applicant in case CH/00/4674: KM 6800 (six thousand eight hundred), composed of KM 1200 by way of compensation for non-pecuniary damage and KM 5600 by way of compensation for the loss of use of his home;

to Mr. Mustafa Šukilović the applicant in case CH/00/5180: KM 5800 (five thousand eight hundred), composed of KM 1200 by way of compensation for non-pecuniary damage and KM 4600 by way of compensation for the loss of use of his home;

to Mr. Mehmed Velagić the applicant in case CH/00/5213: KM 6200 (six thousand two hundred), composed of KM 1200 by way of compensation for non-pecuniary damage and KM 5000 by way of compensation for the loss of use of his home;

to Mr. Mehmedalija Redžić the applicant in case CH/00/5216: KM 6800 (six thousand eight hundred), composed of KM 1200 by way of compensation for non-pecuniary damage and KM 5600 by way of compensation for the loss of use of his home;

to Mr. Salih Ajdarević the applicant in case CH/00/5593: KM 6400 (six thousand four hundred), composed of KM 1200 by way of compensation for non-pecuniary damage and KM 5200 by way of compensation for the loss of use of his home;

7. unanimously, to order the respondent Party to pay to each of the applicants KM 200 for each further month that they remain excluded from their apartments or houses as from June 2002 until the end of the month in which they are reinstated, each of these monthly payments to be made within 30 days from the end of the month to which they relate;

8. unanimously, to order the respondent Party to pay simple interest at the rate of 10 (ten) per cent per annum over the above sums or any unpaid portion thereof from the date of expiry of the above one-month periods until the date of settlement in full;

9. unanimously, to order the respondent Party to report to it no later than one month after the date on which this decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure on the steps taken by it to comply with the above orders.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel