



**DECISION ON ADMISSIBILITY AND MERITS**  
(delivered on 5 December 2003)

**Case no. CH/03/14055**

**Verica GAJIĆ**

**against**

**THE FEDERATION OF BOSNIA AND HERZEGOVINA**

**and**

**THE REPUBLIKA SRPSKA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the plenary Chamber on 6 November 2003 with the following members present:

Ms. Michèle PICARD, President  
Mr. Mato TADIĆ, Vice-President  
Mr. Dietrich RAUSCHNING  
Mr. Hasan BALIĆ  
Mr. Rona AYBAY  
Mr. Želimir JUKA  
Mr. Jakob MÖLLER  
Mr. Mehmed DEKOVIĆ  
Mr. Giovanni GRASSO  
Mr. Miodrag PAJIĆ  
Mr. Manfred NOWAK  
Mr. Vitomir POPOVIĆ  
Mr. Viktor MASENKO-MAVI  
Mr. Andrew GROTRIAN

Mr. Ulrich GARMS, Registrar  
Ms. Olga KAPIĆ, Deputy Registrar  
Ms. Antonia DE MEO, 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) and XI of the Agreement and Rules 52 and 66 of the Chamber's Rules of Procedure:

## **I. INTRODUCTION**

1. The case concerns the applicant's attempt to obtain custody of her under-age son in divorce proceedings initiated before the First Instance Court in Gradiška.
2. The applicant complains of the violation of Articles 6(1) and 6(3)(c) of the Convention due to the inefficiency and lack of impartiality of the Court and the Social Work Centre.

## **II. PROCEEDINGS BEFORE THE CHAMBER**

3. On 28 April 2003 the application was introduced before the Chamber. The applicant is represented by Stoja Nikšić, a lawyer. The applicant requested the Chamber, as a provisional measure, to order that she be given custody of her under-age children until the completion of the proceedings before the First Instance Court in Gradiška. The applicant requests the Chamber to compensate her for not having contact with her under-age son for more than two years and to compensate her for her expenses in trying to prevent the violation of her rights before domestic organs.
4. On 2 June 2003 the First Panel considered the case and decided to transmit the case to the Republika Srpska (hereinafter "the respondent Party") in connection with Articles 6, 8 and 13 of the Convention and also requested the respondent Party to express itself regarding the request for a provisional measure within two weeks.
5. On 12 June 2003, the case was transmitted to the respondent Party. The respondent Party was given a one month time limit to submit its written observations on the admissibility and merits, and also requested to submit, within 15 days, information as to whether the Social Work Centre's procedural decision had been enforced, i.e. whether the children had been given into the custody of the mother.
6. On 19 June 2003 the applicant submitted new documents. She also asked the Chamber to issue the order for a provisional measure.
7. On 14 July 2003, the respondent Party submitted its written observations which were sent to the applicant. No reply has been received from the applicant.
8. The First Panel deliberated on the admissibility and merits of the application on 2 June 2003, 7 October 2003 and 3 November 2003. On the latter date, it decided to refer the case to the plenary Chamber in accordance with Rule 29(2) of the Chamber's Rules of Procedure. The plenary Chamber considered the case on 6 November 2003 and adopted the present decision.

## **III. FACTS**

9. The applicant and her husband have two under-age children, a son 9 years old and a daughter 11 years old. The parties separated officially in early 2001. At that time the applicant's (former) husband and father of the children forcibly took away the applicant's son from school. Since then the son has been living with his father in Gradiška.

### **A. Proceedings before the Court in connection with divorce**

10. On 17 May 2001, the applicant's husband initiated proceedings before the First Instance Court in Gradiška seeking a divorce from the applicant.
11. The applicant requested the Court, as a provisional measure, to award her custody of the children until the completion of the proceedings. On 18 April 2002, the First Instance Court in Gradiška issued a procedural decision rejecting the applicant's request for a provisional measure. As reason for rejecting the request for a provisional measure, it is stated that the children are living

separately, son with the father and daughter with the applicant, and that in this phase of the proceedings, according to the opinion of the Centre for the Social Work, it is best to leave it that way.

12. On 21 May 2002 the applicant's husband informed the Court that he withdrew the law-suit. On 31 May 2002, the First Instance Court issued a procedural decision establishing that the applicant's husband had withdrawn his claim for a divorce.

13. On 30 May 2002 the applicant initiated proceedings before the First Instance Court in Gradiška seeking a divorce from her husband. On 23 December 2002 the applicant asked the court to issue a provisional measure regarding the custody of the children. From the documents presented to the Chamber it seems that the court has never decided on the request.

14. On 19 February 2003, by judgement of the First Instance Court, upon the applicant's action, the marriage of the applicant and her husband was dissolved. The mother was awarded custody of the under-age children, a son and a daughter.

15. On 27 March 2003, the applicant's husband filed an appeal against the judgment.

16. The appeal proceedings are pending.

17. On 17 June 2003 the applicant requested the District Court in Banja Luka to decide upon the appeal as soon as possible.

#### **B. Proceedings before the Social Work Centre**

18. On 15 May 2001 the applicant addressed the Social Work Centre in Gradiška with a "proposition" (request) that the minor children be given into the custody of the mother until the completion of the proceedings.

19. The Social Work Centre replied that it was not in the child's interest to decide on that request. On 5 July 2001 the applicant filed an appeal with the Ministry of Health and Social Welfare of the Republika Srpska.

20. As there was no response upon the appeal, the applicant initiated an administrative dispute on 1 February 2002 before the Supreme Court of the Republika Srpska.

21. On 30 October 2002, the Supreme Court issued a judgment accepting the claim and ordering the Ministry of Health and Social Welfare as well as the Social Work Centre to issue a decision upon the request and the appeal within 30 days time limit.

22. On 10 January 2003, the Ministry of Health and Social Welfare issued a procedural decision accepting the appeal and ordering the Social Work Centre to issue a procedural decision upon the request.

23. The Social Work Centre, complying with the instructions of the Ministry of Health and Social Welfare, issued on 28 February 2003 a procedural decision temporarily placing the children in custody of their mother, until the completion of the proceedings before the Court. The procedural decision refers to Article 91 of the Family Law, which was applicable at the time when the applicant requested the provisional measure. The procedural decision states that an appeal has no suspensive effect and it becomes effective immediately.

24. The applicant initiated proceedings for the enforcement of the procedural decision on 12 March 2003.

25. The Social Work Centre forwarded the procedural decision to the Gradiška Municipality Department for General Administration for the enforcement.

26. The applicant filed an appeal with the Ministry of Health and Social Welfare on 27 March 2003 because of erroneously applied substantive law, as the Social Work Centre is obliged to carry out the enforcement by itself.

27. On 5 May 2003, the Gradiška Municipality Department for General Administration informed the Social Work Centre by a procedural decision that the procedural decision was not in accordance with the Law. The procedural decision of the Municipality Gradiška of 5 May 2003 states: "The procedural decision is not in accordance with the General Administrative Procedure or the Family Law. Article 197 of the Law on Administrative Procedure provides that if an appeal has no suspensive effect, the reasoning contains the provisions which shall regulate it".

28. On 3 June 2003, the Social Work Centre in Gradiška sent a letter to the Municipal Administration of the Gradiška Municipality pointing out its position that the procedural decision was lawful and that the municipal authority should enforce it.

29. On an unknown date, the Department for General Administration of the Gradiška Municipality issued a conclusion rejecting the Social Work Centre's proposal for the enforcement of the procedural decision on giving the applicant temporary custody of the children.

30. On 17 June 2003, the applicant filed an appeal against the conclusion of the Department for General Administration in Gradiška.

#### **IV. RELEVANT DOMESTIC LEGISLATION**

**Relevant parts of the Family Law (Official Gazette of the Republika Srpska no 54/02) read as follows:**

##### **31. Article 13**

(1) Tasks of protection and legal aid to the family or its members in the manner and according to the procedure prescribed by the law shall be performed by the Municipal administrative organ competent for social protection (welfare) if these tasks are not given to some other organ or institution (hereinafter: the "guardianship body") by the decision of the competent organ of the local self-government.

(2) Family and its members shall enjoy judicial protection.

(3) All organs, institutions and natural persons are obliged to inform with no delay the guardianship body of the rights of child, especially violence, maltreatment, sexual misuses and maltreatment of child.

##### **32. Article 72**

In the judgement annulling, cancelling or divorcing the marriage, the Court, by its official duty, decides on protection, education and support of the children from the marriage, as well as on support of the spouse, if requested.

##### **33. Article 73**

(1) If the issue of protection, education and support of children is decided in the course of the marital dispute, a guardianship body participates in the proceedings for the protection of children interests.

(2) In the proceedings under the previous paragraph, the guardianship body proposes protection, education and support of children, and it is authorized to present facts, within the limits of that proposal, that the parties have not stated, and proposals that require evidence are presented, to use legal means and take other civil actions.

(3) The Court deciding in the marital dispute shall inform the guardianship body on the proceedings for protection, education and support of children and invite it to all hearings, and deliver to it all decisions issued in the proceedings.

**34. Article 74**

(1) During the proceedings in marital disputes, the Court may, by its official duty, issue a procedural decision determining provisional measures with regard to protection, education and support of the mutual minor children, as well as to their accommodation.

(2) The Court may determine provisional measures under the previous paragraph for the benefit of a spouse upon his/her proposal.

(3) An appeal against procedural decision under paragraph 1 and 2 of this Article does not have suspensive effect.

**35. Article 88**

When a Court issues a decision in a marital dispute that the marriage is annulled or divorced, it shall decide in the same judgement on custody of the children.

**36. Article 89**

(1) A competent court shall issue a new judgement on awarding custody over the children if it is required by changed circumstances, regardless of which court has issued the previous decision on the matter.

(2) In the proceedings under the previous paragraph, the custody organ has all powers under Article 73 of this Law.

**37. Article 90**

(1) The court, or the custody organ that issues a decision on awarding custody over children shall decide, having examined all decisive facts, whether these children will be with one parent, or some will be with the mother, and some with the father.

**38. Article 91 of the previous Family Law (Official Gazette of the SRBiH nos. 21/79 and 44/84) read as follows:**

(1) If parents live separately, they will agree on under whose custody the child shall stay, and if they cannot agree on that or if their agreement is not in accordance with the child's interests, a decision on that shall be issued by a custody body.

(2) The custody body shall, upon request of one parent or by its official duty, issue a new decision granting the custody over the child if changed circumstances require so.

**V. COMPLAINTS**

39. The applicant complains that she has been separated from her minor son, who was forcibly taken away from school by his father. The applicant complains that she has been trying for two years to get custody of her son, but she is prevented from achieving the custody over her son. She claims that this was in particular due to the Social Work Centre in Gradiška. Firstly, in the proceedings before the Court upon the action of the applicant's ex-husband the Social Work Centre gave the opinion that the children should live separately, one with the father and one with the mother. After the psychologist's opinion was obtained, and after talking with the parents, the Social Work Centre reached the opinion that the father was an emotionally unstable person with paranoid behaviour,

and that the children should live together, with their mother. The applicant complains that the judgments and procedural decisions, by which it is ordered that the children should be with their mother, are not enforced, because “nobody is willing to stop the local oppressor”. The applicant complains that notwithstanding her being in possession of a legal title (the procedural decision awarding her custody of the children until the completion of the proceedings, which is enforceable immediately) the proceedings have been delayed, while she, for the time being, has almost no contact with her son. The applicant requested the Chamber, as a provisional measure, to order that she be given custody of her under age children until the completion of the proceedings before the First Instance Court in Gradiška.

## **VI. SUBMISSIONS OF THE PARTIES**

### **A. The respondent Party**

#### **1. As to the admissibility**

40. The respondent Party considers the application to be inadmissible as proceedings are pending before the District Court in Banja Luka upon the appeal against the judgment by which the marriage has been dissolved.

#### **2. As to the merits**

41. With regard to the merits, the respondent Party points out that there has been no violation of Article 6, as proceedings were ended within a reasonable time. The respondent Party states that the proceedings upon the claim of the applicant’s ex-husband lasted two years and were ended by the withdrawal of the complaint. The applicant’s divorce proceedings resulted in the first instance judgment after eight months, by which the marriage was dissolved.

42. In relation to Article 8, the respondent Party points out that there has been no interference with the applicant’s rights protected under Article 8 of the Convention. Moreover, the respondent Party considers that by the issuance of the judgment on divorce, which has not become effective yet, the applicant’s rights have been safeguarded.

43. In relation to the applicant’s allegation that her child was “abducted”, the respondent Party argues that she had the possibility to initiate criminal proceedings, which she failed to do.

44. In relation to Article 13 of the Convention, the respondent Party points out that it is open to question whether Article 13 has been violated. The respondent Party states that the Social Work Centre decided on the proposal for a provisional measure by its procedural decision. The respondent Party admits that the enforcement of the procedural decision did not occur because of the illegal action of the municipal administration of the Gradiška Municipality - Department for the General Administration. The respondent Party adds that this illegal action will be corrected by the decision of the Administrative Inspection.

#### **3. As to the compensation claim**

45. The respondent Party considers the applicant’s compensation claim to be ill-founded.

### **B. The applicant**

46. The respondent Party’s observations were communicated to the applicant’s lawyer on 23 July 2003. The Chamber has received no response by the applicant.

## VII. OPINION OF THE CHAMBER

47. Before considering the merits of the case the Chamber must first decide whether to accept it, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement. According to Article VIII(2)(a), the Chamber shall consider whether effective remedies exist and whether the applicant has demonstrated that they have been exhausted and whether the application has been filed within six months from such date on which the final decision was taken. Article VIII(2)(c) states that the Chamber shall dismiss any application it considers incompatible with the Agreement, manifestly ill-founded or an abuse of the right to petition.

### 1. Competence *ratione personae*

48. The applicant directs her application against the Federation of Bosnia and Herzegovina. In the present case, the Federation of Bosnia and Herzegovina has not taken any legislative, judicial or administrative action affecting the applicant's rights. It follows that the application, in so far as directed against the Federation of Bosnia and Herzegovina, is incompatible *ratione personae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare the application inadmissible insofar as it is directed against the Federation of Bosnia and Herzegovina.

49. The Chamber notes that the courts in Gradiska and Banja Luka and the Social Work Centre in Gradiska are authorities of the Republika Srpska, whose conduct involves the responsibility of the Republika Srpska under the Agreement. The Chamber has consistently considered that it is not restricted by the applicant's choice of respondent Party (see, e.g., *Zahirović v. Bosnia and Herzegovina and The Federation of Bosnia and Herzegovina*, Case No. CH/97/67, decision of 8 July 1999, Decisions July-December 1999, paragraph 94). In its case law the Chamber has repeatedly found violations of the Agreement to have been committed by a respondent Party designated by the Chamber itself (see, e.g., *Turčinović v. Bosnia and Herzegovina and The Federation of Bosnia and Herzegovina*, Case No. CH/96/31, decision of 9 May 1997, Decisions 1996-97, paragraph 11). On the basis of its competence under the Agreement the Chamber has further provided, in Rule 33(1) of its Rules of Procedure, that it may, *proprio motu*, take any action which it considers expedient or necessary for the proper performance of its duties under the Agreement. On these grounds, the Chamber has decided to transmit the application to the Republika Srpska and will now consider the admissibility of the application against that respondent Party.

### 2. Non-exhaustion of domestic remedies

50. The respondent Party submits that the application is inadmissible for non-exhaustion of domestic remedies on the ground that proceedings are still pending before the court on the appeal in the applicant's divorce case. Furthermore it submits that the applicant could have instituted criminal proceedings against her husband in respect of the alleged abduction of her son.

51. The Chamber notes that the applicant's complaint relates primarily to the question of the custody of her son whilst the divorce proceedings are pending and the delay involved in obtaining an effective decision on that matter. In both sets of divorce proceedings the applicant applied to the court for a provisional order giving her custody of her children whilst the proceedings were pending. The first of three requests was refused. The second was officially not dealt with. The applicant also applied to the Social Work Centre, which, after initially refusing to decide the matter, issued a decision placing the children in her custody whilst the proceedings were pending. However, the applicant has not been able to enforce this decision because of a dispute between the domestic authorities (the Social Work Centre and the Gradiska Municipality Department for General Administration) as to which of them is responsible for such enforcement. The applicant has lodged administrative appeals against the decision of the Social Work Centre forwarding the custody decision to the Municipality for enforcement and against the Conclusion of the Municipality Department rejecting the Social Work Centre's proposal for enforcement. No decision has been given in either of these appeals, in so far as the Chamber is aware.

52. In these circumstances, the Chamber finds that the applicant has done all that can reasonably be expected of her to exhaust the available remedies. Neither of the courses of action suggested by the respondent Party, namely awaiting the outcome of the husband's appeal in the divorce action or instituting criminal proceedings, could provide an effective remedy in relation to her complaints about the delay and ineffectiveness of the procedures. Nor can further pursuit of the administrative procedures remedy the delay which has already occurred.

53. The Chamber therefore rejects the respondent Party's argument that the application should be rejected for non-exhaustion of remedies. Since no other ground of inadmissibility appears, the Chamber will declare the case admissible in so far as it is directed against the Republika Srpska.

### **3. Conclusion as to admissibility**

54. To sum up, the Chamber finds that the application is admissible insofar as it directed against the Republika Srpska and inadmissible in so far as it is directed against the Federation of Bosnia and Herzegovina.

### **B. Merits**

55. 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 recognised human rights and fundamental freedoms", including the rights and freedoms provided for in the Convention.

#### **Article 8 of the Convention**

56. Article 8 of the Convention provides the following:

"1. Everyone has the right to respect for his private and family life, his home and his correspondence.

"2. There shall be no interference by a public authority with the exercise of this right except such as is 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."

57. With regard to Article 8 the Chamber will examine the guarantees implied in the obligation to respect the family life.

58. The applicant complains that she has had almost no contact with her son for more than two years after his father has forcibly taken him. She states that she is only able to see her son briefly in the school backyard shortly after he finishes school. She has tried to get custody over the son in the court proceedings asking for a provisional measure and in the administrative proceedings before the Social Work Centre. The applicant complains that when she finally obtained the administrative decision giving her custody, the Municipality Gradiška obstructed the execution of the decision.

59. The Chamber notes that the domestic law provides that, even if a parent is separated from the child, it is the parent's duty and right to have contact with the child. Article 8 of the Convention does not contain any specific rule concerning the question which parent should be awarded the custody of the children if the family unit is disrupted by divorce. In principle this is left to the national authorities, on the basis of the relevant national law. However, Article 8 of the Convention is applicable in relation to proceedings concerning custody and access to the children in divorce cases (see e.g. Eur. Ct. HR, *Hoffmann v. Austria* judgement of 23 June 1993, Series A No. 255-C, paragraph 29). National law and the decisions of the national authorities must therefore respect the "family life" of all those concerned. Furthermore, the procedures of the national authorities in child custody matters, including in particular their length, may be relevant in deciding whether their actions



have complied with Article 8 (see e.g. Eur. Ct. HR, *W v. United Kingdom* judgement of 8 July 1987, Series A No. 121).

60. The Chamber notes that in the present case the Social Work Centre has played a central role in the decisions taken. It appears that the decisions of the Court of First Instance refusing the applicant's first request for provisional custody of the child was based on the Centre's views as was the decision to award the applicant custody of the two children in the decision on the merits of the case. This decision, which is not yet final, is based on the view of the Social Work Centre that it is in the best interests of the children that they should be in the custody of the applicant. The Social Work Centre itself issued a decision on 28 February 2003, shortly after the first instance judgement, awarding the applicant temporary custody whilst the court proceedings were pending, but this has not been enforced.

61. The Chamber notes that both the Social Work Centre, as well as the court, is competent for deciding about the custody over the children in the case of disagreement between the parents. Although not explicitly stated in the law, the Chamber understands the custody organ to be the Social Work Centre in the present case (see paragraph 31).

62. The Chamber notes that the parties already lived separately at the time when the court proceedings were initiated. According to the relevant provision of the Family Law, Article 91 (see paragraph 38 above), the applicant requested the Social Work Centre to decide on the custody over the children. When she applied, the relevant provisions of the Law on Family explicitly stated that if the parents live separately, the competent custody organ shall decide on the request of one of the parents. The applicant filed the request on 17 May 2001 before the Social Work Centre, as the competent body, one day before the court proceedings were initiated.

63. The proceedings before the Social Work Centre in relation to the applicant's attempts to obtain temporary custody of her son have lasted some two years and five months in all. They appear to have been characterised by delay and by a certain degree of confusion or uncertainty as to the relevant law. Initially, the Social Work Centre refused to decide the matter although it is obliged to do so. The applicant appealed in accordance with Law on Administrative Proceeding. The competent Ministry failed to respond to the applicant's appeal for some six months, so that the applicant had to institute an administrative dispute before the Supreme Court, which lasted some eight months, in order to obtain a decision. The Supreme Court, on 30 October 2002, ordered the administrative authorities to decide on the applicant's request for custody and on the appeal within thirty days. This was not done and only on 28 February 2003, some four months after the Supreme Court's decision, did the applicant obtain a decision on her request for provisional custody. Although the procedural decision issued by the Social Work Centre, during the administrative proceedings, ordering the applicant custody over the children is enforceable, the applicant has been unable to enforce the decision due to the inability or unwillingness of the relevant authorities to agree on which body is responsible for enforcement.

64. The Chamber finds in these circumstances that the proceedings failed to meet the standard of speed and efficiency required under Article 8 of the Convention in order to secure the applicant's right to respect for her family life. The Chamber emphasises that it is essential in this field, if the family life of parents and children is to be respected, that the remedies available and the system for enforcing them should be clearly established by law, that the authorities involved should be properly aware of the law and that they should avoid undue delay and in particular deal promptly with appeals and other requests which come before them and respect applicable time limits. It is particularly unacceptable that family life should be jeopardised by interdepartmental disputes over administrative responsibilities, as has occurred here.

65. There has therefore been a violation of Article 8 of the Convention by the respondent Party.

#### **As to Article 6 and Article 13**

66. In view of its findings that there has been a violation of Article 8 of the Convention, the Chamber does not consider it necessary to examine the case separately under Article 6 and Article 13 of the Convention.

## **VIII. REMEDIES**

67. Under Article XI(1)(b) of the Agreement, the Chamber must address the question of what steps shall be taken by the Republika Srpska to remedy the established breaches of the Agreement. In this regard, the Chamber shall consider issuing orders to cease and desist and for monetary relief.

68. The applicant requests custody over her son.

69. The Chamber notes that it has found a violation of the applicant's right protected by Article 8 of the Convention. Since the applicant's rights have been violated by *inter alia* the fact that the decision of the Social Work Centre granting her provisional custody of the children has not been enforced yet, the Chamber considers it appropriate to order the respondent Party to take all necessary steps to execute the decision of the Social Work Centre, as soon as possible but in no case later than 5 January 2004.

70. Furthermore, the Chamber considers it appropriate to award a sum to the applicant in recognition of the sense of injustice she suffered as a result of her inability to have contact with her son.

71. Accordingly, the Chamber will order the respondent Party to pay to the applicant by 5 January 2004 the sum of 2500 Convertible Marks (*Konvertibilnih Maraka*) on account of non-pecuniary damages in recognition of her suffering as a result of her inability to have contact with her son.

72. Additionally, the Chamber will further award simple interest at an annual rate of 10% on the sum awarded to the applicant in the preceding paragraph. The interest shall be paid on the sum awarded or any unpaid portion thereof from 5 January 2004 until the date of settlement in full.

73. Moreover, the Chamber will order the Republika Srpska to report, by 5 January 2004, to the Human Rights Commission within the Constitutional Court on the steps taken by it to comply with the above orders.

## **IX. CONCLUSIONS**

74. For these reasons, the Chamber decides,

1. unanimously, to declare the application inadmissible insofar as it is directed against the Federation of Bosnia and Herzegovina;

2. unanimously, to declare the application admissible insofar as it is directed against the Republika Srpska;

3. unanimously, that there has been a violation of the applicant's rights under Article 8 of the European Convention on Human Rights, the Republika Srpska thereby being in breach of Article I of the Human Rights Agreement;

4. unanimously, that it is not necessary to examine the application separately under Articles 6 and 13 of the Convention;

5. unanimously, to order the Republika Srpska to take all necessary steps through its authorities, to promptly execute the decision of the Social Work Centre, in any event no later than 5 January 2004;

6. unanimously, to order the Republika Srpska to pay to the applicant, by 5 January 2004, 2500 Convertible Marks ("*Konvertibilnih Maraka*") by way of compensation for non-pecuniary damages;

7. unanimously, to order the Republika Srpska to pay simple interest at the rate of 10 (ten) per cent per annum on the sum awarded in conclusion no. 6 or any unpaid portion thereof from 5 January

2004 until the date of settlement in full; and

8. unanimously, to order the Republika Srpska to report to Human Rights Commission within the Constitutional Court no later than 5 January 2004 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 Chamber