



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

Case no. CH/00/6304

Ljubica KOVAČEVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary Chamber on 2 December 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. Miodrag PAJIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
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 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 applicant is a citizen of Bosnia and Herzegovina of Serb origin. She is the pre-war occupancy right holder of an apartment at ulica Albin Herljević 14/6 in Lukavac, the Federation of Bosnia and Herzegovina. The case concerns the applicant's attempt to regain possession of her pre-war apartment.
2. The case raises issues in relation to Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") and Article 1 of Protocol No. 1 to the Convention.

II. PROCEEDINGS BEFORE THE CHAMBER

3. The application was introduced to the Chamber on 1 November 2000 and registered on the same day. The applicant is represented by Mr. Mirza Šabić, a lawyer practicing in Lukavac.
4. At its 5 May 2003 session, the Chamber decided to refuse the applicant's request for a provisional measure and to transmit the application to the respondent Party for its observations on the admissibility and merits under Articles 6 and 8 of the Convention and Article 1 of Protocol No. 1 to the Convention.
5. On 19 June 2003, the respondent Party submitted its observations on the admissibility and merits of the application.
6. On 8 July 2003 and 24 September 2003, the applicant informed the Chamber that she has not yet been reinstated into possession of her pre-war apartment.
7. The Second Panel of the Chamber considered the admissibility and merits of the application on 7 November 2003 and 1 December 2003. On the latter date it decided to refer the case to the plenary Chamber pursuant to Rule 29(2) of the Rules of Procedure. The Plenary Chamber considered the admissibility and merits of the application on 2 December 2003 and adopted the present decision.

III. FACTS

8. The applicant is the pre-war occupancy right holder over an apartment located at Albin Herljević street no. 14/6, in Lukavac, the Federation of Bosnia and Herzegovina, which she abandoned during the armed conflict. On 14 March 1996, the applicant submitted a request for repossession of the apartment to the Service for Work, Social Policies and Refugees of Lukavac Municipality, but soon afterwards she was informed by the Service that there were no legal provisions in place to regulate those issues.
9. On 28 January 2000, the Service for Utility and Housing Affairs and Local Community Affairs of Municipality Lukavac (hereinafter "the Service") issued a procedural decision terminating the applicant's occupancy right over the apartment Albin Herljević street no. 14/6, because she did not submit a request for repossession within the time limit established by law. The same procedural decision established that G.S., who was the temporary occupant of the apartment in question under a 27 December 1999 contract on use, became the occupancy right holder over this apartment.
10. On 8 February 2000, the applicant again submitted a request for repossession of the apartment to the Service, which on 23 March 2000 rejected her request as untimely. The applicant appealed against the conclusion to the Ministry of Urbanism, Physical Planning, and Environment Protection of Tuzla Canton (hereinafter the "Ministry"). On 23 May 2000, the Ministry annulled the conclusion and returned the case to the first instance organ for reconsideration and to establish the facts related to the 1996 request.

11. In the renewed proceedings, the first instance organ issued a conclusion on 13 March 2001, again rejecting the applicant's request for repossession as untimely.

12. The applicant duly filed an appeal on 15 March 2001 against this conclusion, again stating that she submitted her request for repossession of the apartment in 1996 and that it should be considered as being within the legal time limit under paragraph 14 of the Instruction on Application of the Law on Cessation of Application of the Law on Abandoned Apartments. Under Article 5 of this Law, the occupancy right holder shall be considered to have submitted a request for repossession of an apartment within the allotted time, even if the request was submitted before the entry into force of the Law.

13. On 26 January 2001, the applicant filed a lawsuit before the First Instance Court in Lukavac, requesting annulment of the contracts on use and purchase of the apartment concluded between G.S. and Komunalno preduzeće "Rad" (hereinafter "Utility company"), the owner of the apartment. She also asked the court to order removal of the purchase contract from the book of registered contracts in the Lukavac Municipal Court. The Lukavac Municipal Court issued a procedural decision on 22 March 2001 suspending the proceedings in this lawsuit until the completion of the related administrative proceedings pending before the Service.

14. On 9 April 2001, the Ministry issued a procedural decision annulling the 28 January 2000 procedural decision of the Service, as well as the Service's 13 March 2001 conclusion. The Ministry declared the aforementioned procedural decisions completely illegal, and returned the case for reconsideration.

15. On 18 June 2001, the Service, in renewed proceedings, issued a procedural decision establishing that the applicant was the occupancy right holder over the disputed apartment and that she had the right to repossess the apartment. The same procedural decision terminated the temporary occupant G.S.'s right to use the apartment, and he was ordered to vacate the apartment voluntarily within fifteen days. On 16 July 2001, the applicant submitted a request for enforcement of this procedural decision.

16. At the applicant's proposal, the Lukavac Municipal Court scheduled a hearing after which it issued a procedural decision postponing the hearing until the termination of the contract revalidation proceedings started by the applicant on 18 June 2002 before the Commission for Control of Concluded and Revalidated Contracts on Use of Apartments for Lukavac Municipality (hereinafter the "Commission"). On 3 October 2002, the Commission issued a procedural decision establishing that the 27 December 1999 Contract on Use of the Apartment was contrary to the Law on Cessation of Application of the Law on Abandoned Apartments. Based on the Commission's procedural decision, the Service for Utility, Housing, and Local Communities' Affairs of Lukavac Municipality issued a procedural decision on 18 December 2002, by which it nullified the contract and the procedural decision establishing that G.S. was the occupancy right holder of the apartment.

17. G.S., the occupant of the apartment appealed against this procedural decision, asserting that he was the owner of the apartment and not merely the occupant, as stated in the procedural decision, and therefore the Commission is not competent to decide the case. The Utility company also appealed against this decision. On 17 March 2003, the Ministry issued a procedural decision rejecting the appeals and confirming the first instance procedural decisions. Subsequently, G.S. initiated an administrative dispute against the 17 March 2003 decision before the Cantonal Court in Tuzla. These proceedings are still pending.

18. On several occasions the applicant addressed the Tuzla Municipal Court and the Service, urging them to close her case and enforce the existing procedural decisions. Also, in an attempt to exercise her right to repossess her apartment, the applicant also sent submissions to the Tuzla Office of the Ombudsman of the Federation of Bosnia and Herzegovina, which, on 17 July 2000, issued a Decision on Violation of Human Rights.

19. On 12 June 2003, the Service issued a conclusion permitting the enforcement of the 18 June 2001 procedural decision, ordering the occupant, G.S., to vacate the premises upon receipt of the

conclusion. According to the applicant's letter of 24 September 2003, G.S. has not yet moved out of the apartment.

IV. RELEVANT LEGAL PROVISIONS

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

20. Article I paragraph 1 of Annex 7 to the General Framework Agreement for Peace in Bosnia and Herzegovina, entitled "Agreement on Refugees and Displaced Persons", provides that:

"All refugees and displaced persons have the right freely to return to their homes of origin. They shall have the right to have restored to them property of which they were deprived in the course of the hostilities since 1991 and to be compensated for any property that cannot be restored to them. The early return of refugees and displaced persons is an important objective of the settlement of the conflict in Bosnia and Herzegovina. ..."

B. The Law on the Cessation of the Application of the Law on Abandoned Apartments

21. The Law on the Cessation of the Application of the Law on Abandoned Apartments (the "new law") entered into force on 4 April 1998 and has been amended on several occasions thereafter (OG FBiH nos. 11/98, 38/98, 12/99, 18/99, 27/99, 43/99, 56/01, 15/02, 29/03). It provides, in relevant part, as follows:

Article 3

"The occupancy right holder of an apartment declared abandoned or a member of his/her household as defined in Article 6 of the ZOSO (hereinafter the "occupancy right holder") shall have the right to return in accordance with Annex 7 of the General Framework Agreement for Peace in Bosnia and Herzegovina.

... ."

Article 4

"The occupancy right holder as defined in Article 3, Paragraph 1 of this Law shall be entitled to claim the repossession of an apartment

... ."

Article 5

"A claim for repossession of the apartment must be filed within fifteen months from the date of the entry into force of this Law.

... ."

Article 10

"Proceedings in the cases initiated by the claims referred to in Article 4 of this Law shall be considered urgent."

Article 18

"The procedure for the return of apartments to the possession of the occupancy right holders determined by this law shall be carried out in accordance with the Law on General Administrative Procedure ("Official Gazette of FBiH" No. 2/98), unless otherwise stipulated by this law."

C. Decision on the Instruction on Application of the Law on Cessation of Application of the Law on Abandoned Apartments, as amended

22. The Decision on the Instruction on Application of the Law on Cessation of Application of the Law on Abandoned Apartments, in its amended form, as it was published in the "Official Gazette of the Federation of Bosnia and Herzegovina" nos. 11/98, 38/98, 12/99, 18/99, 27/99 i 73/99 43/99 (hereinafter: "the Instructions") entered into force on 28 October 1999 (OF FBiH nos. 43/99 and 56/01). Paragraph 14 provides:

"Under Article 5 of the Law, an occupancy right holder shall be considered to have made a claim for repossession of the apartment in accordance with the applicable deadline if the occupancy right holder has taken any of the following steps to reclaim his apartment:

- i. submitted a claim to the responsible administrative authority, including a claim made prior to the entry into force of the Law on Cessation of Application of the Law on Abandoned Apartments, and claim which was rejected by the responsible administrative authority for lack of competence prior to the entry into force of the Law on Amendments to the Law on Cessation of Application of the Law on Abandoned Apartments on 4 July 1999;
- ii. submitted a claim for repossession of the apartment to the competent court;
- iii. submitted a claim to the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) in accordance with its rules and regulations, namely by 2 September 1999; or exceptionally, for claims referred to in Article 5, paragraph 2 of the Law, by 3 December 1999."

D. The Law on Administrative Proceedings

23. Under Article 275 of the Law on Administrative Procedure of the Federation of Bosnia and Herzegovina (OG FBiH nos. 2/98 and 48/99), the competent administrative organ must issue a decision to execute an administrative decision within 30 days, upon receipt of a request to do so. Article 216 paragraph 3 provides for an appeal against "silence of the administration" to the administrative appellate body if a decision is not issued within this time limit.

V. COMPLAINTS

24. The applicant alleges a violation of her right to return to her pre-conflict home, and she states that her rights guaranteed under Article 8 of the Convention and Article 1 of Protocol No. 1 to the Convention have been infringed. She further complains, under Article 6 of the Convention, of the unreasonable length of the administrative and judicial proceedings she has initiated in pursuit of her rights.

VI. SUBMISSIONS OF THE PARTIES

A. The Federation of Bosnia and Herzegovina

1. As to admissibility

25. The respondent Party considers the application inadmissible as premature because the administrative dispute initiated upon G.S.'s lawsuit is still pending before the Cantonal Court in Tuzla. The respondent Party further states that its organs took all necessary steps to reinstate the applicant into possession of her apartment, and it suggests that the parties pursue a friendly settlement based on respect for human rights.

2. As to the merits

26. The respondent Party asserts that Article 6 of the Convention has not been violated because the administrative organ's decision complied with the applicant's request for repossession of the apartment, and it is unquestionable that the applicant will be reinstated into possession of the apartment over which she is the occupancy right holder. As for the court proceedings, initiated by the applicant, the respondent Party states that the Municipal Court in Lukavac held several hearings, which, at the applicant's request, were interrupted and postponed for various reasons. The last hearing, which was scheduled for 23 May 2003, was postponed by the Municipal Court until the issuance of a decision by the Tuzla Cantonal Court in G.S.'s lawsuit. The proceedings are still pending.

27. Regarding the complaint under Article 8 of the Convention, the respondent Party repeats that, by the procedural decision of the administrative organ of 18 June 2001, the applicant's occupancy right and her right to repossess the apartment were confirmed, and that the procedure to enforce this procedural decision is pending. So, the respondent Party considers that, in this case, the applicant's right to home has not been violated.

28. Regarding the complaint under Article 1 of Protocol No.1 to the Convention, the respondent Party considers that the applicant, as the occupancy right holder over the apartment, was not deprived of her right to repossess the apartment, nor has she been interfered with in her exercise of this right.

29. Regarding the applicant's request for compensation of pecuniary and non-pecuniary damages, the respondent Party asserts that the requests are entirely ill founded because the applicant submitted no evidence to the Chamber proving how she suffered any such damages. Nor did she specify the criteria she used to calculate the requested compensation amounts.

B. The applicant

30. In her response to the respondent Party's observations, the applicant repeats that she has not yet repossessed her apartment, while the respondent Party, by prolonging enforcement of the 18 June 2001 procedural decision, violated her right under the aforementioned Articles of the Convention. Regarding the respondent Party's position on her request for compensation, the applicant states that she has had to pay rent while living as a subtenant at several different addresses.

VII. OPINION OF THE CHAMBER

A. Admissibility

31. 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

32. 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) the Chamber considered this admissibility criterion in light of the corresponding requirement to exhaust domestic remedies in the former Article 26 of the Convention (now Article 35(1)). 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.

33. In the present case, the respondent Party considers the application premature because the administrative dispute initiated upon G.S.'s lawsuit is still pending before the Cantonal Court in Tuzla. The Chamber notes that G.S. initiated an administrative dispute against the Ministry's decision of 17 March 2003. By that procedural decision, G.S.'s appeal was rejected, and the 3 October 2002 first instance procedural decision of the Commission was confirmed. The Commission put the contract on use and the procedural decision on G.S.'s occupancy right out of force (see paragraph 16 and 17, above).

34. The Chamber notes that G.S. initiated the administrative dispute against the Ministry before the Cantonal Court in Tuzla and that the applicant is not a party to these proceedings. Moreover, these proceedings cannot influence the applicant's right to repossession of the apartment.

35. In these circumstances, the Chamber finds that the applicant has exhausted available effective domestic remedies, within the meaning of Article VIII(2)(a) of the Agreement.

2. Conclusion as to admissibility

36. Having no other ground for declaring the case inadmissible, the Chamber declares the application admissible in its entirety.

B. Merits

37. 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.

1. Article 8 of the Convention

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."

38. The Chamber notes that the applicant resided in the apartment as her home until she was forced to leave. The Chamber has previously held that similar connections held by persons to their dwellings were sufficient for them to be considered "homes" within the meaning of Article 8 of the Convention (see case no. CH/97/58, *Onić*, decision on 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).

39. The applicant's apartment will therefore be considered her home for purposes of Article 8 of the Convention.

40. The respondent Party asserts that it did not issue any decision depriving the applicant of her right to respect for her home.

41. The Chamber notes that the case file contains considerable evidence indicating that, in 2000 and 2001, Federation authorities took certain steps to deprive the applicant of her right to repossess her home (see paragraphs 9-15 above). The Chamber also notes, however, that on 18 June 2001, in renewed proceedings, the competent organ issued a procedural decision establishing that the applicant was the occupancy right holder over the apartment and had the right to repossess it. Both the Chamber and the European Court of Human Rights have held that, although the object of Article 8

is essentially to protect 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 on Admissibility and Merits, March 1996-December 1997). The Chamber therefore considers that the Federation of Bosnia and Herzegovina is under a positive obligation to implement the legislation under which the applicant has attempted to reclaim her apartment.

42. In the present case, the Chamber recalls that the respondent Party has issued a decision confirming the applicant's right to repossess her apartment. The applicant has been unable to regain possession of her apartment due to the failure of the respondent Party's authorities to deal effectively, in accordance with Federation law, with her request for enforcement of the 18 June 2001 decision of confirming her right to repossess the apartment. As a result of the respondent Party's inaction, the applicant has still not entered into possession of her home, and there is an ongoing interference with her right to respect for her home.

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

44. According to Article 275 of Law on Administrative Procedure, the competent administrative organ must issue a decision to enforce an administrative decision within 30 days of receiving a request to do so. The respondent Party issued such a decision on 12 June 2003, 23 months after the applicant requested enforcement. Despite the fact that the competent organ recognized her right to repossession, the applicant has still not entered into possession of her apartment.

45. Because the interference with the applicant's right to respect for her home is not "in accordance with the law", it is not necessary for the Chamber to examine whether it pursued a "legitimate aim" or was "necessary in a democratic society".

46. In conclusion, there has been a violation of the applicant's right to respect for her home as guaranteed by Article 8 of the Convention.

2. Article 1 of Protocol No. 1

47. The applicant complains that her right to peaceful enjoyment of her possessions has been violated as a result of her inability to regain possession of her apartment. Article 1 of Protocol No. 1 provides 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."

48. The respondent Party asserts that it did not issue any decision depriving the applicant of her property rights.

49. The Chamber notes that the applicant holds an occupancy right over the apartment. Regarding such occupancy rights, the Chamber has previously held that:

"[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]."

(case no. CH/96/28, *M.J.*, decision on admissibility and merits of 3 December 1997, paragraph 32, Decisions on Admissibility and Merits 1996-1997).

50. Accordingly, the Chamber considers that the applicant's right in respect of the apartment constitutes a "possession" for purposes of Article 1 of Protocol No. 1 to the Convention.

51. The Chamber considers the failure of the respondent Party's authorities to allow the applicant to enjoy possession of her apartment constitutes an "interference" with her right to peaceful enjoyment of that possession. This interference is ongoing, since the applicant still does not have possession of the apartment.

52. The Chamber must next examine whether the 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 law and that the law must be accessible and sufficiently precise.

53. As the Chamber noted in examining the case under Article 8 of the Convention, according to Article 275 of Law on Administrative Procedure, the competent administrative organ must issue a decision to enforce an administrative decision within 30 days of receipt of a request. Article 10 of the new Law provides that repossession proceedings in cases involving pre-war apartments shall be considered as a matter of urgency.

54. It follows that the failure of the competent administrative organ to enforce its decisions is contrary to the law. This alone justifies a finding of a violation of the applicant's right to peaceful enjoyment of her possessions. Thus, the Federation has violated the applicant's rights guaranteed by Article 1 of Protocol No. 1.

3. Articles 6 of the Convention

55. The applicant also alleges a violation of her rights guaranteed by Article 6 of the Convention. That Article provides in relevant part 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..."

56. Having found violations of the applicant's rights protected by Article 8 of the Convention and Article 1 of Protocol No. 1 to the Convention, the Chamber finds that it is not necessary to examine the application under Article 6 of the Convention.

VIII. REMEDIES

57. 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.

58. The applicant seeks to regain possession of her apartment. In addition, she requests compensation for pecuniary damages she has suffered from the length of administrative proceedings and her inability to use the apartment, in the amount of 2,000.00 Convertible Marks (*Konvertibilnih Maraka*, "KM"). The applicant further requests compensation of KM 200.00 per month from August 2001 until she enters into possession of the apartment. She further requests compensation for mental suffering in the amount of KM 3,000.00.

59. Regarding compensation, the respondent Party argues that the request is entirely ill-founded because the applicant did not submit evidence to the Chamber proving how she had suffered any damages.

60. The Chamber considers it appropriate to order the respondent Party to take all necessary steps to enforce the decision of 18 June 2001 issued by the Service for Utility and Housing Affairs of the Local Community Lukavac without further delay, in any events no later than 5 January 2004.

61. With regard to compensation, the Chamber considers it appropriate to award a sum to the applicant in recognition of the sense of injustice she has suffered as a result of her inability to regain possession of her apartment, especially in view of the fact that she has taken all necessary steps to have the decision of 18 June 2001 enforced.

62. Accordingly, the Chamber will order the respondent Party to pay the applicant the sum of KM 1,200.00 in recognition of her suffering as a result of her inability to regain possession of her apartment.

63. In accordance with its decision in *Turundžić and Frančić* (case nos. CH/00/6143 and CH/00/6150, decision on admissibility and merits of 5 February 2001, paragraph 70, decisions January-June 2001), the Chamber considers it appropriate to order the respondent Party to compensate the applicant for the loss of the use of her home. The Chamber considers that 200 KM per month is an appropriate amount in this respect. The Chamber notes that on 16 July 2001 the applicant lodged the request for enforcement of the 18 June 2001 decision. The Chamber considers it appropriate that 200 KM per month should be payable from 16 August 2001, the date the time-limit for the competent municipal organ to issue a conclusion on the permission of enforcement of 18 June 2001 decision expired, i.e. 30 days after the applicant lodged her complete request, up to and including December 2003, amounting to a total of 5,600.00 KM. The Federation shall continue to pay this sum monthly until the end of the month in which the applicant regains possession of her apartment.

64. The Chamber will further order the respondent Party to pay the applicant simple interest at a rate of 10 (ten) percent per annum on the sums to be paid under paragraphs 62 and 63 or on any unpaid portion thereof from the expiry of the period set for such payments until the date of final settlement of all sums due to the applicant under those paragraphs.

IX. CONCLUSIONS

65. For the above reasons, the Chamber decides,

1. unanimously, to declare the application admissible in its entirety;
2. unanimously, that the prolonged failure to enforce the decision of the Service for Utility and Housing Affairs of the Municipality Lukavac violates the applicant's right to respect for her home guaranteed by Article 8 of the European Convention on Human Rights, the Federation of Bosnia and Herzegovina thereby being in breach of Article I of the Agreement;
3. unanimously, that the prolonged failure to enforce the decision of Service for Utility and Housing Affairs of the Municipality Lukavac violates the applicant's right to peaceful enjoyment of her possessions guaranteed by Article 1 of Protocol No. 1 to the Convention, the Federation of Bosnia and Herzegovina thereby being in breach of Article I of the Agreement;
4. unanimously, that it is not necessary to examine the application under Article 6 of the Convention;
5. unanimously, to order the Federation of Bosnia and Herzegovina to take all necessary steps to enforce the decision of 18 June 2001 issued by the Service for Utility and Housing Affairs of the Local Community Lukavac, and thus to enable the applicant to regain possession of her apartment, without further delay, and at the latest by 5 January 2004;
6. unanimously, to order the Federation of Bosnia and Herzegovina to pay to the applicant by 5 January 2004, KM 1,200.00, in recognition of her suffering as a result of her inability to regain possession her apartment;

7. unanimously, to order the Federation of Bosnia and Herzegovina to pay to the applicant by 5 January 2004, for the loss of the use of her home from August 2001 to December 2003, KM 5,600.00;
8. unanimously, to order the Federation of Bosnia and Herzegovina to pay KM 200.00 to the applicant on the first day of each month, starting on 1 January 2004, until she regains possession of her apartment;
9. unanimously, to order the Federation to pay the applicant simple interest at a rate of 10 (ten) percent per annum on the sums to be paid under conclusions 6, 7, and 8 above or on any unpaid portion thereof from the expiry of the period set for such payments until the date of final settlement of all sums due to the applicant under those conclusions;
10. unanimously, to dismiss the remainder of the applicant' s compensation claims; and
11. unanimously, to order the Federation to report to the 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