



DECISION ON ADMISSIBILITY AND MERITS
(delivered on 22 December 2003)

Case no. CH/01/7967

Jusuf SEJDINOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA
and
THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in Plenary session on 3 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. Giovanni GRASSO
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. He is the owner of a house in Janja, Municipality Bijeljina, in the Republika Srpska. The applicant presently lives in Sarajevo as a tenant. The case concerns the applicant's attempts to prevent his forcible eviction from the house in Sarajevo and to regain possession of his house in Janja. The applicant has lodged an application to the Commission for Real Property Claims of Displaced Persons and Refugees (hereinafter: the "CRPC"), which has issued a decision confirming his ownership. However, the competent authorities of the Republika Srpska have failed to execute this decision.
2. This case raises 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 application was submitted to the Chamber on 9 October 2001 and registered on the same day.
4. The Chamber transmitted the case to the Republika Srpska, as the respondent Party, on 14 November 2001 for observations on admissibility and merits.
5. On 8 February 2002 Republika Srpska submitted its observations to the Chamber.
6. On 20 March and 16 September 2002, as well as 23 June, 4 August and 7 October 2003, the Chamber received additional observations from the applicant.
7. The respondent Party's additional observations were received on 13 October 2003.
8. The First Panel of the Chamber considered the admissibility and merits of the application on 9 October and 7 November 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 3 December 2003 and adopted the present decision.

III. FACTS

9. The applicant is the owner of a house located in XVI Vojvođanska bb. street in Janja, Municipality Bijeljina. He left his house during the armed conflict 1992-1995. The applicant lives presently in a house in Sarajevo in Radava street no. 5 as a tenant. He had been squatting in this house, and after the issuance of a decision reinstating the former owner into the possession of the house, since 25 October 2001 the applicant has been using the house as a tenant, paying the owner a monthly rent in the amount of KM 150.00.
10. On a date unknown to the Chamber the applicant submitted a request to the CRPC for reinstatement into possession of his property.
11. The CRPC issued a decision on 12 November 1998 (Decision no. 602-404-1/1) confirming that on 1 April 1992 the applicant was a *bona fide* possessor of the property in Janja.
12. On 14 September 2001 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 (hereinafter: the "Ministry"). However, as of the date of this decision, the applicant has not yet received a conclusion permitting the enforcement of the CRPC decision. After that, the applicant lodged an urgency on 12 June 2002 requesting the immediate enforcement of the CRPC decision, but to no avail. The respondent Party disputes that the applicant submitted the request for enforcement of the decision.

13. On 12 October 1999 the applicant, separate from those for the enforcement of the CRPC decision, initiated proceedings before the Ministry for the repossession of his house. The Chamber has no information whether the Ministry has issued a decision on the applicant's request.

IV. RELEVANT LEGISLATION

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

14. 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.

15. The CRPC shall receive and decide on 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 also the occupancy right holders - according to Article XII(1). The CRPC decisions are final and any title, deed, mortgage, or other legal instrument created or awarded by the CRPC shall be recognized as lawful throughout Bosnia and Herzegovina (Article XII(7)).

16. The Parties shall cooperate with the work of the CRPC, and comply with 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.

17. 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 nos. 31/99, 39/00, 65/01, 13/02 and 39/03 – 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 of 27 October 1999 and amended on 28 October 2000, 12 December 2001 and 15 May 2003. It sets out a regime for the enforcement of the CRPC decisions.

18. 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 apartments with the 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 competent body. 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 apartments with 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 operative section 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).

19. 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).

20. The request for enforcement of a CRPC decision shall include two photocopies of the CRPC decision (Article 6). The administrative body responsible for the enforcement of a CRPC decision is obliged to issue a conclusion authorizing enforcement, within 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 authorized to return into possession.

21. 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, 41/98, 12/99, 31/99, 38/99, 65/01, 13/02, 64/02 and 39/03). No extension of this time limit shall be permitted.

22. If the requestor for enforcement has submitted a claim for repossession to the competent administrative body 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 competent administrative body shall join the proceedings for enforcement of both decisions and issue a conclusion authorizing enforcement in accordance with this Article (Article 7 paragraph 6).

23. Article 9 states that a CRPC decision 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

24. The Law on General Administrative Proceedings (Official Gazette of the Republika Srpska no. 13/02). Article 262 stipulates that the competent administrative body has to issue a conclusion authorizing the enforcement of an administrative decision within 30 days upon the receipt of a request to this effect.

4. The Law on Administrative Disputes

25. 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.

26. Article 25 paragraph 3 provides that a party may institute an administrative dispute if the administrative second instance body fails to render a decision within the prescribed time limit, regardless of the appeal being filed against decisions or against the first instance body's silence of administration.

V. COMPLAINTS

27. The applicant claims that the failure of the Republika Srpska authorities to reinstate him into possession of his house in Janja constitutes a violation of his right to respect for his 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, and the right to a fair hearing within reasonable time as guaranteed by Article 6 of the Convention.

28. The applicant also claims that the proceedings to forcibly evict him from the house in which he lives in Sarajevo constitute a violation of his right to home by the Federation of BiH.

VI. SUBMISSIONS OF THE PARTIES

A. The respondent Party

29. The Republika Srpska, in its observations received on 8 February 2002, contests the admissibility of the application, considering that the domestic legal remedies have not been exhausted, as, according to the respondent Party's allegations, the applicant did not address the domestic authorities with the request for enforcement of the CRPC decision. The Republika Srpska submits a notice from the Ministry for Refugees and Displaced Persons of the Republika Srpska, Department Bijeljina, stating that the applicant did not submit any request for enforcement of the CRPC decision.

30. As for the merits of the application in relation to the applicant's right to respect for his home, guaranteed under Article 8 of the Convention, and to peaceful enjoyment of possessions, guaranteed under Article 1 of Protocol No. 1 to the Convention, the respondent Party considers that there was no violation because the respondent Party Republika Srpska did not issue any decision contesting the applicant's right to home or property.

31. The Chamber did not transmit the application to the Federation of BiH for observations on admissibility and merits.

B. The applicant

32. The applicant disputes the allegations of the respondent Party with regard to the exhaustion of domestic remedies and states that he did submit a request for enforcement of the CRPC decision. This request was received by an official of the Ministry, but he still has not received any reply nor has he managed to enter into possession of his property. The applicant submits a copy of postal delivery receipt addressed to the Ministry of 10 September 2001, which was received by the Ministry on 14 September 2001. The applicant also submits a copy of the request for search of 26 February 2002, whereby he requires the said authority to send him a copy of the request for enforcement of the CRPC decision. The applicant states that the above-mentioned documents clearly show that he exhausted the domestic remedies, but because of the passivity of the Republika Srpska bodies he did not manage to repossess his property.

33. The applicant further states that on 18 June 2002 he addressed a request to the Ministry for the issuance of a conclusion authorizing enforcement of the CRPC decision, and he submits a copy of the delivery receipt whereby he confirms that the said body received his request.

34. With regard to the merits of the application, the applicant maintains his complaint in its entirety.

VII. OPINION OF THE CHAMBER

A. Admissibility

35. 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. Insofar as directed against the Federation of Bosnia and Herzegovina

36. Insofar as the application is directed against the Federation of Bosnia and Herzegovina, the applicant is complaining of the proceedings of forcible eviction from the house he has been using, which is located in Sarajevo in Radava street no. 5.

37. The Chamber notes that the decision on the eviction of the applicant was issued in order to enable the pre-war owner of the house to repossess his property. In these circumstances, the Chamber finds that this part of the application does not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. It follows that this part of the application is manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement. The Chamber

therefore decides to declare the application inadmissible in relation to the Federation of Bosnia and Herzegovina.

2. Insofar as directed against the Republika Srpska

a. Exhaustion of effective domestic remedies

38. According to Article VIII(2)(a) of the Agreement, the Chamber must consider whether effective remedies exist and whether the applicant has 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 the existence of such remedies must be sufficiently certain not only in theory but also 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 signatory Party concerned but also of the general legal and political context in which they operate as well as of personal circumstances of the applicants.

39. In the present case the respondent Party Republika Srpska objects to the admissibility of the application 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 applicant is seeking to repossess his house and is faced with the authorities' inaction, the Chamber must ascertain whether, in the case presently before it, these remedies may also be considered effective in practice.

40. The Chamber notes that the applicant filed a request to the CRPC with a view to repossess his house. The CRPC issued a decision confirming his ownership, from which it follows that the applicant is entitled to seek the removal of the temporary occupants from the house. However, this decision has not been enforced despite the applicant's enforcement request to the competent administrative body, which has been pending for 26 months already.

41. The Chamber further notes that the respondent Party Republika Srpska disputes the applicant's statement that he addressed the competent body with the request for enforcement of the CRPC decision. However, the applicant submitted evidence which shows that the competent body received on several occasions the applicant's submissions, while the respondent Party Republika Srpska did not give any explanation, nor did it submit any evidence to support its claim. In these circumstances the Chamber finds that the applicant proved that he addressed the competent body and that this body had knowledge of the applicant's request for enforcement of the CRPC decision.

42. The Chamber further notes that, according to Article 7 of the Implementation Law, the competent administrative body is obliged to issue a conclusion authorizing enforcement within 30 days from the date when the request for enforcement has been submitted.

43. The Chamber also notes that it is still open to the applicant to make further attempts to have his CRPC decision enforced. However, the applicant has already made repeated attempts to remedy his situation without success. Use of other remedies, even if successful, would not remedy the applicant's complaints either insofar as they relate to the failure of the authorities to enforce the decisions of the CRPC within the prescribed time-limit. Furthermore, there is no reason to presume that the competent authorities, which have for a long period disregarded their legal obligations to enforce the decisions of the CRPC, will treat the decisions of the courts with any greater respect.

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

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

B. Merits

46. 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 Republika Srpska 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

47. Article 8 of the Convention, in its relevant part, 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 if it 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.”

48. The Chamber notes that the applicant used to live in his house and used it as his home until such time when he was forced to leave. The Chamber has previously held that links that persons in similar situations as the applicant in the present case 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 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).

49. Therefore, the applicant’s house is to be considered as his home for the purposes of Article 8 of the Convention.

50. The respondent Party claims that it did not issue any decision depriving the applicant of his right to respect for home.

51. 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 applicant of his home. In fact, the applicant had already previously been forced to leave his home. However, both the Chamber and the European Court of Human Rights have held that, although the objective 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 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 applicant has claimed repossession of his house.

52. In the present case the Chamber recalls that the CRPC has issued a decision confirming the applicant’s right to repossess his house. The applicant has been unable to regain possession of his house due to the failure of the respondent Party’s authorities to deal effectively with his requests for the enforcement of the CRPC decision in accordance with the Republika Srpska law. It follows that the result of the inaction of the respondent Party is that the applicant cannot return to his home and that there is an ongoing interference with the applicant’s right to respect for his home.

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

54. According to Article 7 of the Implementation Law, the competent administrative body is obliged to issue a conclusion authorizing the execution of the decision within 30 days from the date of the request for such enforcement. The applicant has still not received a decision upon his request

to have the decision of the CRPC enforced, despite the time-limit for this having expired 25/26 months ago. Accordingly, the failure of the competent administrative body to decide upon the applicant's request is not "in accordance with the law".

55. As the interference with the applicant's right to respect for his home referred to above 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".

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

2. Article 1 of Protocol No. 1

57. The applicant complains that his right to peaceful enjoyment of his possessions has been violated as a result of his inability to regain possession of his house. 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."

58. The respondent Party Republika Srpska asserts that it did not issue any decision depriving the applicant of his right to property.

59. The Chamber notes that the applicant is the owner of the house. The Chamber finds that the house at issue constitutes the applicant's "possessions" within the meaning of Article 1 of Protocol No. 1 to the Convention.

60. The Chamber considers that the failure of the respondent Party's authorities to allow the applicant to regain possession of the house constitutes an "interference" with the right to peaceful enjoyment of that possession. This interference is ongoing as the applicant still does not enjoy possession of his house.

61. 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.

62. 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 body is obliged to issue a conclusion authorizing the execution of the decision within 30 days from the date of a request for such enforcement. It follows that the failure of the competent administrative body to decide upon the applicant's request is contrary to the law. This is in itself sufficient to justify a finding of a violation of the applicant's right to peaceful enjoyment of his possessions as guaranteed by Article 1 of Protocol No. 1. Accordingly, the applicant's right under this provision has been violated.

3. Article 6 of the Convention

63. 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..."

64. The applicant also alleges a violation of his rights as guaranteed by this provision.

65. Considering that it has found violations of the applicant's right protected by Article 8 of the Convention and Article 1 of Protocol No. 1 to the Convention, the Chamber does not consider it necessary to examine the case under Article 6 of the Convention.

VIII. REMEDIES

66. 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 applicant's claims.

67. In his submissions the applicant requests to be enabled to regain possession of his house. Besides, the applicant requests compensation for the injustice he claims to have suffered because he has been forced to rent a house in Sarajevo pending his return to his house in Janja.

68. The respondent Party did not submit its observations on the compensation claim.

69. The Chamber considers it appropriate to order the respondent Party to take all necessary steps to enforce the decision of the CRPC without further delay, in any events no later than 22 January 2004.

70. With regard to possible compensatory award the Chamber considers it appropriate to award a sum to the applicant in recognition of the sense of injustice he has suffered as a result of his inability to regain possession of his house, especially in view of the fact that he has taken all necessary steps to have the CRPC decision enforced.

71. Accordingly, the Chamber will order the respondent Party to pay to the applicant the amount of KM 1,200.00 Convertible Marks (*Konvertibilnih Maraka*, "KM") in recognition of his suffering as a result of his inability to regain possession of his houses, although the applicant did not request it. 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 the applicant.

72. In accordance with its decision in cases *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 applicant for the loss of use of his home. The Chamber considers it appropriate that this sum should be KM 150.00 per month and payable from the date of expiry of the time-limit for the competent administrative body to issue a conclusion on the enforcement of the CRPC decision, i.e. 30 days after the applicant lodged his request, taking into account that the respondent Party received the request on 14 September 2001, until December 2003 included. This sum should continue to be paid at the same rate until the end of the month in which the applicant regains possession of his house.

73. The Chamber will further award simple interest at an annual rate of 10% as of the date of expiry of the one-month period set in paragraph 69 for the implementation of the present decision, and on each of the sums awarded in paragraphs 71 and 72 or any unpaid portion thereof until the date of settlement in full.

IX. CONCLUSION

74. For the above reasons, the Chamber decides,

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

2. unanimously, to declare the application admissible under Articles 6 and 8 of the European Convention on Human Rights and Article 1 of Protocol No. 1 thereto against the Republika Srpska;

3. unanimously, that the non-enforcement of the decisions of the Commission for Real Property Claims of Displaced Persons and Refugees constitutes a violation of the applicant's right to respect for his home within the meaning of Article 8 of the Convention, the Republika Srpska thereby being in breach of Article I of the Human Rights Agreement;
4. unanimously, that the non-enforcement of the decisions of the CRPC constitutes a violation of the applicant's right to peaceful enjoyment of his possessions within the meaning of Article 1 of Protocol No. 1 to the Convention, the Republika Srpska thereby being in breach of Article I of the Agreement;
5. unanimously, that it is not necessary to rule on the complaints under Article 6 of the Convention;
6. unanimously, to order the Republika Srpska to enable the applicant to regain possession of his house without further delay and no later than by 22 January 2004;
7. unanimously, to order the Republika Srpska to pay to the applicant by 22 January 2004, the amount of KM 1,200.00 by way of compensation for non-pecuniary damage;
8. unanimously, to order the Republika Srpska to pay to the applicant by 22 January 2004, the amount of KM 3,900.00 by way of compensation for the loss of use of his home;
9. unanimously, to order the Republika Srpska to pay to the applicant KM 150.00 for each further month that he remains excluded from his house as from December 2003 until the end of the month in which he is reinstated, each of these monthly payments to be made within 30 days from the end of the month to which they relate;
10. unanimously, to order the Republika Srpska 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 period until the date of settlement in full; and
11. unanimously, to order the Republika Srpska to report to the Human Rights Commission within the Constitutional Court, no later than 22 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