



DECISION ON ADMISSIBILITY AND MERITS

Case no. CH/00/3857

Milidrag OBRAD

against

THE REPUBLIKA SRPSKA

The Human Rights Commission within the Constitutional Court of Bosnia and Herzegovina, sitting in plenary session on 5 July 2004 with the following members present:

Mr. Jakob MÖLLER, President
Mr. Miodrag PAJIĆ, Vice-President
Mr. Želimir JUKA
Mr. Mehmed DEKOVIĆ
Mr. Andrew GROTRIAN

Mr. J. David YEAGER, Registrar
Ms. Olga KAPIĆ, Deputy Registrar
Ms. Meagan HRLE, Deputy Registrar

Having considered the aforementioned application introduced to the Human Rights Chamber for Bosnia and Herzegovina 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;

Noting that the Human Rights Chamber for Bosnia and Herzegovina ("the Chamber") ceased to exist on 31 December 2003 and that the Human Rights Commission within the Constitutional Court of Bosnia and Herzegovina ("the Commission") has been mandated under the Agreement Pursuant to Article XIV of Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina entered into on 22 and 25 September 2003 ("the 2003 Agreement") to decide on cases received by the Chamber through 31 December 2003;

Adopts the following decision pursuant to Article VIII(2)(a) and Article VIII(2)(c) of the Agreement, Articles 5 and 9 of the 2003 Agreement and Rules 50, 54, 56 and 57 of the Commission's Rules of Procedure:

I. INTRODUCTION

1. The application concerns criminal proceedings initiated by the applicant against a private person for criminal libel, an offence under the Criminal Code of the Republika Srpska. The applicant complains that the judgment was not issued within a reasonable time and that, consequently, criminal proceedings were abandoned because the criminal act in question became time-barred.

2. The application raises issues regarding the applicant's right to a fair trial under Article 6 of the European Convention on Human Rights ("the Convention").

II. PROCEEDINGS BEFORE THE CHAMBER AND COMMISSION

3. On 8 June 2000 the application was submitted to the Chamber. The applicant is represented by Mr. Igor Sjerikov, a lawyer practicing in Banja Luka, the Republika Srpska.

4. On 15 August 2000 the Chamber received a letter from the applicant with additional documents attached.

5. On 5 September 2000 the Chamber considered the application and decided to transmit it to the Republika Srpska for its observations on the admissibility and merits under Article 6 of the Convention. On 27 September 2000 the application was transmitted.

6. On 15 November 2000 the Chamber received a letter from the applicant with additional documents attached.

7. The Chamber received the Republika Srpska's observations on 27 November 2000.

8. On 19 December 2000 the Chamber received the applicant's response to the respondent Party's observations of 27 November 2000.

9. On 18 January 2001 the Chamber received a letter from the respondent Party regarding the applicant's compensation claim.

10. On 29 March 2001 the Chamber received a letter from the applicant, informing the Chamber that he wished to maintain his compensation claim.

11. On 12 May 2004 the Commission received, in response to its request, a letter from the applicant clarifying certain facts.

12. The Commission deliberated on the admissibility and merits of the application on 6 May 2004 and 5 July 2004. On the latter date it adopted the present decision.

III. STATEMENT OF FACTS

13. The applicant has been a Sociology professor at the Construction School (secondary school) in Banja Luka since 1974.

14. On 3 June 1991 the applicant initiated a private prosecution against his colleague, M.K., because M.K. had made untrue statements about the applicant's behaviour and his capabilities as a professor. On 30 October 1991 the Basic Court in Banja Luka issued a judgment finding M.K. guilty of criminal libel and imposing a fine of 3,000.00 dinars.

15. The applicant again initiated a private prosecution against M.K. on 8 October 1996. M.K. was then an employee of the Faculty of Philosophy in Banja Luka. The applicant claimed that M.K. had committed the offence of criminal libel by making untrue statements about him that could damage his honour and reputation. M.K. stated, *inter alia*, that the applicant had treated her badly when she was a trainee, that he had given bad grades to students in order to cover up his games and his failure to work and that he is incapable of teaching classes. The applicant asserted that his rights protected by articles 80 and 81 of the Republika Srpska Criminal Code ("the Criminal Code") (see paragraphs 20 and 21 below) had been violated.

16. On 16 June 2000 the Basic Court in Banja Luka issued a judgment finding M.K. guilty of one of the charges presented by the applicant, specifically the charge under article 80(1) of the Criminal Code (see paragraph 20 below). The Basic Court noted that, in the evidentiary proceedings, it had reviewed the Basic Court judgment of 30 October 1991, the applicant's appeal of 20 July 1996 against that judgment, and the Report of the Inter-municipal Pedagogic Office. The latter had investigated the applicant's diplomas, his teaching skills, and the matters that he discusses in his classes, and it concluded that the applicant is a professional with sufficient skills. Therefore the Basic Court concluded that M.K.'s statements were untrue, and it sentenced her to two months' imprisonment, which could be suspended on the condition that she not commit another criminal offence within one year and six months. The judgment did not limit the condition to any particular variety of criminal offence.

17. On 10 August 2000 the applicant appealed against the 16 June 2000 judgment of the Basic Court, stating that the Basic Court wrongly applied the material law and thereby violated the rules of criminal procedure, particularly Article 14 of the Law on Criminal Procedure (see paragraph 24 below), relating to the length of the proceedings. In his appeal, the applicant claimed that his case was a simple one, yet it took the Basic Court four years to decide it. Moreover, the applicant asserted that M.K. had already been sentenced for a similar criminal offence in 1991. The applicant also complained about the fact that M.K. was sentenced for the criminal offence defined by article 80(1) of the Criminal Code (see paragraph 20 below), although a wide range of persons were exposed to the libel and therefore article 80(2) of the Criminal Code (see paragraph 20 below) was the applicable rule. The applicant further claimed that the sentence was inappropriately lenient, taking into account the severity of the offence and the consequences it had for him. In his opinion, a violation of article 80(3) of the Criminal Code (see paragraph 20 below) should also have been found.

18. On 24 October 2000 the District Court in Banja Luka issued a judgment, modifying the 16 June 2000 judgment of the Basic Court and rejecting the private prosecution initiated by the applicant, on the basis of Article 349(1)(6) of the Law on Criminal Procedure (see paragraph 25 below). The District Court stated that, according to Article 111(1)(7) of the new Criminal Code of the Republika Srpska (see paragraph 22 below), the applicant cannot pursue criminal proceedings more than two years after the actual commission of the criminal offence. This applies only to criminal offences punishable by imprisonment for less than one year. The District Court declared the case obsolete on the basis of Article 112(6) of the Criminal Code (see paragraph 23 below) and Article 381(1) of the Law on Criminal Proceedings (see paragraph 26 below).

19. In its judgment, the District Court also established that the Basic Court correctly applied the law. The District Court confirmed that Article 80(1) of the Criminal Code was the applicable provision in the case and not Article 80(3) of the Criminal Code (see paragraph 20 below), as proposed by the applicant in his appeal.

IV. RELEVANT LEGAL FRAMEWORK

A. Criminal Code of the Republika Srpska (OG RS 15/92, 4/93, 17/93, 26/93, 14/94, 3/96)

20. Article 80 (Defamation) of the Criminal Code provides as follows:

- "(1) Whoever asserts or circulates something false concerning another person, which might damage his honour and reputation, shall be fined or punished by imprisonment for a term not exceeding six months.
- "(2) If the act referred to in paragraph 1 of this article has been committed through the medium of the press, or by other means of public information and communication or at a public assembly, the offender shall be punished by imprisonment for a term not exceeding one year.
- "(3) In the case that the substance of what is falsely being asserted or circulated is of such significance that it has led or might have led to grave consequences to the victim, the offender shall be punished by imprisonment exceeding three months but not exceeding three years.
- "(4) If the defendant succeeds in proving the authenticity of his statement, or if he proves that he has had a well-founded reason to believe the authenticity of what he asserted or circulated, he shall not be punishable for defamation, but he may be punished for insult (Article 81) or for disparaging through reproach of commission of a criminal act (Article 83).
- "(5) Whoever falsely asserts or circulates that another has committed a criminal act subject to public prosecution, shall be punished for defamation even though he has had a well-founded reason to believe in the veracity of the matter asserted or circulated, unless the assertion or circulation of rumour have been in accordance with provisions under Article 84, paragraph 2 of this law. The veracity of the fact that someone has committed a criminal act subject to public prosecution may only be proved through a legally effective conviction or through other evidence only when the prosecution or trial could not be held or was not allowed.
- "(6) The court may administer judicial admonition to the person committing the act defined under paragraph 3 of this article in case the offender was provoked by indecent and rude behaviour of the victim, if he expressed before the court his readiness to apologize to the victim and if he withdrew before the court what he had asserted or circulated."

21. Article 81 (Insult) provides as follows:

- "(1) Whoever insults another person shall be fined or punished by imprisonment for a term not exceeding three months.
- "(2) If the act under paragraph 1 of this article has been committed through the medium of press or by other means of public information and communication or at a public assembly, the offender shall be fined or punished by imprisonment for a term not exceeding six months.
- "(3) If the insulted person has returned the insult, the court may punish or relieve from punishment one or both parties."

B. New Criminal Code of the Republika Srpska (OG RS nos. 22/00 and 37/01)

22. Article 111 provides, in relevant part:

"(1) Unless it is stipulated otherwise in this Code, criminal prosecution is barred after the lapse of:

...

"(7) two years from the commission of criminal offence for which the law provides imprisonment for a term not exceeding one year or a fine.

23. Article 112 provides, in relevant part:

"(6) There shall be an absolute bar to prosecution when twice as much time lapses as required, by provisions of the law, for the bar to prosecution."

C. Republika Srpska Law on Criminal Procedure (OG SFRJ 26/86, 74/87, 57/89, 3/90)

24. Article 14 provides:

"The Court shall be obliged to ensure the conduct of the proceedings without stalling, and to prevent any abuse of the rights of persons participating in the proceedings."

25. Article 349(1) provides:

"The court shall issue a judgment rejecting the lawsuit:

...

"(6) if, by an act of amnesty or pardon, the accused is acquitted or if a criminal prosecution cannot be initiated due to statute of limitation, or if there are other circumstances excluding criminal prosecution."

26. Article 381 provides:

"(1) The second instance court shall, in a panel session or based on a hearing held, reject the appeal as out-of-time or unlawful, or reject the appeal as ill founded and confirm the first instance court judgment, or quash this judgment and transmit the case to the first instance court for a re-trial and decision, or modify the first instance judgment."

D. Law on Contractual Obligations (OG SFRY 29/78-1181, 39/85-1129)

27. Article 377 provides:

"(1) When the damage is caused in a criminal offence, and a longer statute of limitation is prescribed for prosecution for criminal offence, the request for compensation of damage addressed to the competent person expires with the end of time period determined for limitation period of prosecution for criminal offence.

"(2) The interruption of prosecution for criminal offence also implies the suspension of the statute of limitation of the request for compensation of damage.

"(3) The same rule applies to the suspension of statute of limitation."

V. COMPLAINTS

28. The applicant complains that his right to a prompt and fair resolution of the case in the criminal proceedings has been violated, as well as his right to obtain a satisfactory judgment in the sentencing of M.K. The applicant also complains about the eventual termination of the criminal proceedings as a consequence of the criminal act being time barred.

VI. SUBMISSIONS OF THE PARTIES

A. The Republika Srpska

1. As to the facts

29. The Republika Srpska does not dispute the fact that the applicant initiated proceedings against M.K. on 8 October 1996. However, the respondent Party disputes all the remaining facts set out by the applicant.

2. As to the admissibility

30. The respondent Party regards the application inadmissible because the applicant submitted his application to the Chamber while the criminal proceedings before the Basic Court in Banja Luka were still pending. The respondent Party notes that eight days after the applicant submitted his application to the Chamber, the Basic Court issued a judgment finding M.K. guilty. The respondent Party also notes that the final decision was issued on 24 October 2000, which again was after the applicant had submitted his application to the Chamber. Therefore, according to the respondent Party, the applicant neither exhausted all available domestic remedies nor respected the rule that the application should be submitted within six months after the final decision was issued in his case.

31. The respondent Party asserts that both courts applied the law correctly.

32. The respondent Party regards the part of the application concerning the criminal proceedings initiated by the applicant manifestly ill-founded pursuant to Article VIII(2)(c) of the Agreement.

3. As to the compensation claim

33. The Republika Srpska responded to the applicant's letter of 19 December 2000, in which the applicant set out an unspecified compensation claim for 50,000 KM. The respondent Party asserts that the applicant cannot file a claim for compensation on the basis of the court proceedings because both the Basic Court and the District Court correctly applied the law. Moreover, the respondent Party points out that the Basic Court judgment of 16 June 2000 was in the applicant's favour, and the Basic Court correctly affirmed the facts put forward by the applicant. The respondent Party also points out that the applicant himself prolonged the proceedings by appealing against a judgment that was in his favour. The respondent Party further notes that the District Court affirmed that the Basic Court had applied the correct legal provision, Article 80(1) of the Criminal Code, to the case and affirmed that Article 80(3) of the Criminal Code was not the applicable provision. The respondent Party therefore asserts that no damages occurred for which the respondent Party should compensate the applicant.

B. The applicant

34. In response to the respondent Party's observations, the applicant states that the respondent Party has intentionally avoided addressing the applicant's main complaint. As stated in his application, the applicant again states that his right to a judgment within a reasonable time, embodied in Article 6 of the Convention, has been violated by the respondent Party. The applicant asserts that the Basic Court took an unreasonably long time to issue a judgment, since he initiated the private prosecution on 8 October 1996 and the Basic Court issued its judgment four years later, on 16 June 2000. The applicant therefore considers the respondent Party's observations irrelevant because they provide no explanation or reason for the delay in the proceedings.

35. The applicant also notes that he lost his right to continue with the proceedings because the Basic Court failed to timely issue a judgment. The applicant asserts that the Basic Court intentionally issued its judgment four years later, knowing that the case would be time barred. Although the applicant has clearly made this point in his application, he stresses that the respondent Party has not addressed this allegation.

36. The applicant states that he wishes to maintain his 50,000 KM compensation claim.

37. In response to the respondent Party's second letter regarding the applicant's compensation claim, the applicant states that the Republika Srpska is purposely avoiding discussion of his main complaint, the length of the proceedings before the Basic Court.

38. In response to a request from the Commission, the applicant sent a letter concerning his reasons for not initiating civil proceedings or raising a civil claim in the criminal proceedings in order to obtain compensation. The applicant believes raising a civil claim within the criminal proceedings would only have caused more delay in the criminal proceedings because it would have been seen by the Basic Court as another reason to prolong the proceedings without a judgment. The applicant further states that he did not initiate separate civil proceedings against M.K. to obtain compensation because the standard procedure is to initiate such proceedings only after the issuance of a judgment in the criminal proceedings. The applicant points out that the parties received the 16 June 2000 Basic Court judgment on 7 August 2000, while the case became time-barred on 20 July 2000. Moreover, due to Article 377 of the Law on Contractual Obligations (see paragraph 27 above), the applicant was unable to initiate proceedings against M.K. in order to obtain compensation because the case was time barred.

39. The applicant also alleges that in 1995 he initiated costly civil proceedings after the 30 October 1991 Basic Court judgment and that he still has not received a final decision in that case. The applicant therefore considers it futile to initiate civil proceedings anew.

VII. OPINION OF THE COMMISSION

A. Admissibility

40. The Commission recalls that the application was introduced to the Human Rights Chamber under the Agreement. As the Chamber had not decided the application by 31 December 2003, in accordance with Article 5 of the 2003 Agreement, the Commission is now competent to decide on the application. In doing so, the Commission shall apply the admissibility requirements set forth in Article VIII(2) of the Agreement. Moreover, the Commission notes that the Rules of Procedure governing its proceedings do not differ, insofar as relevant for the applicant's case, from those of the Chamber, except for the composition of the Commission.

41. In accordance with Article VIII(2) of the Agreement, "the [Commission] shall decide which applications to accept.... In so doing, the [Commission] shall take into account the following criteria: (a) Whether effective remedies exist, and the applicant has demonstrated that they have

been exhausted” and “(c) The [Commission] shall also dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or an abuse of the right of petition.”

1. Requirement to exhaust effective domestic remedies

42. According to Article VIII(2)(a) of the Agreement, the Commission must consider whether effective remedies exist and whether the applicant has demonstrated that they have been exhausted.

43. The respondent Party objects to the admissibility of the application on the ground that the proceedings in the domestic courts were still pending at the time of the application. It therefore argues that domestic remedies had not yet been exhausted.

44. As the Chamber did in its *Cipot-Stojanović* decision (case no. CH/99/2239, decision on admissibility and merits of 9 June 2000, paragraph 34, Decisions January-June 2000), the Commission takes the view, in regard to the applicant's complaints relating to the length of the criminal proceedings before the domestic courts, that there are no domestic remedies at the applicant's disposal which he could have been required to exhaust. Thus, the respondent Party's non-exhaustion argument must be rejected, and the Commission will not declare the application inadmissible on this basis.

2. Complaint in relation to Article 6 of the Convention

45. Article 6 paragraph 1 of the Convention provides, in relevant part as follows:

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

46. In order for Article 6 of the Convention to be applicable, the proceedings complained of must either concern the determination of a civil right or obligation, or the determination of a criminal charge.

(a) Existence of a “criminal charge” or “civil right”

47. This case concerns the length of proceedings in a criminal case. The Commission notes that Article 6 of the Convention does not indicate that the applicant, as a crime victim, has a viable claim under that Article in relation to the criminal proceedings (see case no. CH/99/2150, *Unković*, decision on admissibility and merits of 9 November 2001, paragraph 87, Decisions July-December 2001). Further, the applicant himself has not been “charged” with an offence within the meaning of Article 6 of the Convention.

48. The Commission notes, however, that this case involves criminal proceedings concerning an individual's right to respect for his reputation. The Commission recalls that the European Court on Human Rights (“the European Court”) has held that the requirements of Article 6 do apply in the case of a private prosecution instituted for the protection of one's reputation. The European Court stated that “the 'civil' character of the right to enjoy a good reputation was not disputed before the Court and follows also from established case-law” (Eur. Court HR, *Helmers v. Sweden*, judgment of 29/10/1991, A212-A, par. 27). The European Court went on to state that:

“As to the effect of the symbolic nature of the claim for damages, the existence of a dispute ('contestation') concerning a 'civil right' does not necessarily depend on whether or not monetary damages are claimed; what is important is whether the outcome of the proceedings is decisive for the "civil right" at issue.... This was certainly so in the present case as the outcome of both the private prosecution and the claim for damages depended

on an assessment of the merits of Mr Helmers' complaint that the accused had unjustifiably attacked and harmed his good reputation."

(*Helmers*, par. 29).

49. In the present case, the applicant initiated private criminal law proceedings against M.K. because she had damaged the applicant's good name and reputation as a professor at the Construction School in Banja Luka. In these circumstances, the Commission will follow the approach of the European Court in *Helmers* in deciding that the criminal proceedings initiated by the applicant concerned the determination of a "civil right" and therefore fall within the scope of Article 6 of the Convention.

(b) As to the length of the proceedings

50. Having determined that Article 6 of the Convention is applicable, the Commission finds that the complaint concerning the duration of the criminal proceedings cannot be regarded as manifestly ill-founded, as the respondent Party suggests. The applicant has sufficiently substantiated his claim regarding the length of proceedings.

3. Conclusion as to admissibility

51. The Commission finds that, in respect of the length of proceedings, no other grounds for declaring the application inadmissible exist. It therefore concludes that the application should be declared admissible and examined on its merits insofar as it concerns the applicant's complaint of a violation of his human rights from the allegedly unreasonable length of the criminal proceedings.

B. Merits

52. Under Article XI of the Agreement, the Commission must next address the question of whether the facts established above disclose a breach by the 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 recognised human rights and fundamental freedoms," including the rights and freedoms provided for in the Convention and the other international agreements listed in the Appendix to the Agreement.

1. Article 6, paragraph 1 of the Convention (length of proceedings)

53. The Commission has declared the application admissible under Article 6, paragraph 1 of the Convention concerning the length of the criminal proceedings, which commenced before the Basic Court in Banja Luka on 8 October 1996. The proceedings were pending for three years and eight months before the Basic Court in Banja Luka issued its first judgment on 16 June 2000. After the applicant appealed on 24 October 2000, the District Court in Banja Luka informed him that the case was time barred and that he could not pursue criminal proceedings more than two years after the commission of the criminal offence.

54. The reasonableness of the length of proceedings is to be assessed having regard to the criteria laid down by the Chamber, namely the complexity of the case, the conduct of the applicant and of the relevant authorities, and the other circumstances of the case (see, e.g., case no. CH/97/54, *Mitrović*, decision on admissibility of 10 June 1998, paragraph 10, Decisions and Reports 1998, with references to the corresponding case law of the European Court).

a. The complexity of the case

55. The Commission considers that the criminal prosecution against M.K. was a relatively simple one. In this regard, the Commission notes that the criminal proceedings were conducted against only one defendant on one criminal offence, libel. Moreover, the Commission regards the general claim in this case as a fairly simple one, noting that in the previous proceedings it took the Basic Court in Banja Luka less than five months to issue a judgment relating to a similar criminal offence. The Commission is therefore of the opinion that the latter case was, similarly, not a complex one. All that remained to be ascertained was whether M.K. had again committed libel as she had years before. In the circumstances, the Commission concludes that there was no justification for a delay in the proceedings of three years and eight months.

b. The applicant's conduct

56. On the basis of the information before the Commission, there does not appear to be any conduct on the applicant's part that can be considered to have contributed to the delay in the proceedings. Although the respondent Party argues that the applicant prolonged the proceedings by appealing against a favourable judgement, this occurred after the initial delay of three years and eight months and is not relevant to the length of proceedings before the Basic Court.

c. The conduct of the national authorities

57. The European Court has pointed out that "only delays attributable to the State may justify a finding of a failure to comply with the reasonable time requirement" (Eur. Court HR, *Vernillo v. France*, judgment of 20 February 1991, Series A no. 198, paragraph 34). The Commission, like the European Court, is aware of the difficulties, caused by a variety of factors, that sometimes cause delays in proceedings before the national courts (*id.* at paragraph 38). In this case, however, the Commission sees no irregularities or unusual circumstances that caused the delay that occurred during the proceedings. The Commission notes that the Basic Court, in the evidentiary proceedings, took note of the Basic Court judgment of 30 October 1991, the applicant's appeal of 20 July 1996 against this judgment, and the Report of the Inter-municipal Pedagogic Office. The Commission notes that the judgment of 30 October 1991 and the applicant's 20 July 1996 appeal were both at the Basic Court's disposal on the day the applicant initiated the proceedings in October 1996. And the respondent Party does not claim that it was difficult to obtain the Report of the Inter-municipal Pedagogic Office or that this caused delay in the proceedings. Nor does it appear so to the Commission.

2. Conclusion

58. Having regard to the above, the Commission considers that the delay in the criminal proceedings was entirely due to the conduct of the Basic Court in Banja Luka, for which the respondent Party is to be held responsible.

59. The Commission therefore finds that the length of time that the applicant's proceedings have been pending before the courts of the respondent Party is unreasonable and that the applicant's right to a fair trial within a reasonable time as guaranteed by Article 6, paragraph 1 of the Convention has been violated as a result.

VIII. REMEDIES

60. Under Article XI(1)(b) of the Agreement, the Commission must next 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 Commission shall consider issuing orders to cease and desist, monetary relief (including pecuniary and non-pecuniary damages), as well as provisional measures.

61. The applicant requested a fair trial and a "fair judgment". In fashioning a remedy for the established breaches of the Agreement, Article XI(1)(b) provides the Commission with broad remedial powers, and the Commission is not limited to the requests of the applicant.

62. The Commission notes that it has found a violation of the applicant's right protected by Article 6, paragraph 1 of the Convention with regard to the length of proceedings. The Commission considers it appropriate to award monetary compensation to the applicant in recognition of the sense of injustice he has suffered as a result of his inability to have his case decided within a reasonable time and also in respect of the lost opportunity to obtain a remedy vindicating his reputation in the criminal proceedings. Accordingly, the Commission will order the respondent Party to pay the applicant the sum of 3,000 Convertible Marks (*Konvertibilnih Maraka*) for these non-pecuniary damages within one month of its receipt of this decision.

63. The Commission will further order the Republika Srpska to pay the applicant simple interest at a rate of 10 (ten) per cent per annum over the sum stated above or any unpaid portion thereof from the due date until the date of settlement in full.

64. The Commission will further order the Republika Srpska to report to it no later than 15 December 2004 on the steps taken by it to comply with the above orders.

IX. CONCLUSIONS

65. For the above reasons, the Commission decides,

1. unanimously, to declare the application admissible in relation to the length of the criminal proceedings;

2. unanimously, that there has been a violation of the applicant's rights under Article 6 paragraph 1 of the European Convention on Human Rights with regard to the length of the criminal proceedings and with regard to the applicant's lost opportunity to obtain a decision vindicating his reputation in the criminal proceedings, the Republika Srpska thereby being in breach of Article I of the Human Rights Agreement;

3. unanimously, to order the Republika Srpska to pay the applicant, within one month of its receipt of this decision, 3,000 Convertible Marks ("*Konvertibilnih Maraka*") by way of compensation for non-pecuniary damages;

4. unanimously, to order the Republika Srpska to pay the applicant simple interest at a rate of 10 (ten) per cent per annum over the sum stated in conclusion no. 3 or any unpaid portion thereof from the due date until the date of settlement in full; and

5. unanimously, to order the Republika Srpska to report to it no later than 31 December 2004 on the steps taken by it to comply with the above orders.

(signed)
J. David YEAGER
Registrar of the Commission

(signed)
Jakob MÖLLER
President of the Commission