



## **DECISION ON ADMISSIBILITY AND MERITS**

**Case no. CH/00/5964**

**Zlata LOŠIĆ and 5 others**

**against**

**THE REPUBLIKA SRPSKA**

The Human Rights Commission within the Constitutional Court of Bosnia and Herzegovina, sitting in plenary session on 10 September 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) and XI 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 applicant, who is of Bosniak origin, lives in Srpski Brod<sup>1</sup>. She complains that the Municipality Srpski Brod, by the issuance of procedural decisions, ordered the demolition of certain houses, and that in fact 18 houses located at the very centre of the city, including houses of her family, were demolished on the basis of their uninhabitability. The houses were owned by Bosniaks and Croats, and the Islamic Community owned one house. According to the applicant's allegations, the Municipality Srpski Brod intends to start construction where the houses used to stand because the location has a very valuable position in the city centre.

2. The case raises issues of discrimination in relation to Article 6 of the European Convention on Human Rights ("the Convention") and Article 1 of Protocol No. 1 to the Convention.

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

3. On 23 October 2000 the application was submitted to the Chamber. Ms. Zlata Lošić ("the applicant") is named as the applicant, but she submitted the application on her own behalf and on behalf of Amir Lošić (her son), Muho Ćosić (her brother), Salihudin Ćosić (her brother), Sanela Antolović (her daughter), and Nevzeta Omerović (her sister) (collectively "the applicants"). On 22 January 2004, Zlata Lošić submitted an authorization letter from these persons, allowing her to represent them before the Chamber (and now the Commission).

4. On 21 October 2002 the applicant asked the Chamber to issue a provisional measure ordering the respondent Party to forbid construction on the land where their houses used to stand. On 27 October 2002, the applicant submitted a compensation claim for her inability to use her house and movable property.

5. On 8 November 2002 the Chamber considered the case and decided to reject the applicant's request for issuance of a provisional measure.

6. On 26 November 2002 the Chamber transmitted the case to the respondent Party for its observations on the admissibility and merits in relation to Articles 8 and 13 of the Convention and Article 1 of Protocol No. 1 to the Convention.

7. On 28 January 2003 the respondent Party submitted its written observations on the admissibility and merits.

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<sup>1</sup> The applicant uses the names "Bosanski Brod", "Srpski Brod" and "Brod", while the respondent Party uses the name "Srpski Brod", all referring to the same town. Bosanski Brod was the pre-war name of the town. During the armed conflict, Bosanski Brod was under Serb control. The Law on Territorial Organization and Local Self-Government of Republika Srpska, Article 11, issued in the Official Gazette of the Republika Srpska no. 11/94 established the municipalities in the Republika Srpska. One of those municipalities was the Municipality "Brod", the pre-war Bosanski Brod. Amending Article 11 of the of the Law on Territorial Organization and Local Self-Government, the Assembly of the Republika Srpska changed the name of town to "Srpski Brod". This decision was published in the Official Gazette of the Republika Srpska no. 6/95. In March 2004, the Constitutional Court of Bosnia and Herzegovina held that the part of Article 11 of the Law on Territorial Organization and Local Self-Government, and Articles 1 and 2 of the Law on the Town of Srpsko Sarajevo, in regard to certain municipality names (e.g., Srpsko Sarajevo, Srpski Drvar, Srpski Sanski Most, Srpski Mostar, Srpsko Goražde, Srbinje, Srpski Ključ, Srpska Kostajnica, Srpski Brod, Srpska Ilidža, Srpsko Novo Sarajevo, Srpski Stari Grad, and Srpsko Orašje), are not in conformity with Article II.4 of the Constitution of Bosnia and Herzegovina, in conjunction with Articles II.3 and II.5. The Constitutional Court of Bosnia and Herzegovina ordered the National Assembly of the Republika Srpska to harmonize these laws with the Constitution of Bosnia and Herzegovina within three months from the date of publication of its decision in the Official Gazette of Bosnia and Herzegovina.

8. Although the case was not transmitted under Article 6 or in relation to possible discrimination, the respondent Party in its observations addresses both Article 6 and alleged discrimination. The respondent Party's observations were transmitted to the applicant on 21 March 2003.
9. On 15 April 2003 the applicant submitted her reply to the observations of the respondent Party. This reply was transmitted to the respondent Party for its comments on 25 April 2003.
10. On 18 December 2003 the Chamber wrote to the respondent Party requesting its answer to the following questions: (1) Does the Centre Regulatory Plan cover the real estate and land of the applicant's father and other persons?; (2) Have the houses *de facto* been destroyed?; (3) Was a procedural decision on destruction of the houses issued?; (4) Have proceedings been conducted before the national organs?; and (5) Have the applicant and the persons she represents participated in those proceedings?
11. On 31 December 2003 and 22 January 2004 the respondent Party replied to the Chamber's letter and submitted additional information about the proceedings before the domestic organs.
12. The applicant submitted letters to the Commission on 22 January 2004, 3 February 2004, 4 March 2004, 9 March 2004, and 29 March 2004. These letters were transmitted to the respondent Party for possible comments.
13. On 7 May 2004 the Commission explicitly asked the respondent Party to comment on the statement of the residents of Srpski Brod that the houses were habitable prior to their demolition. On 26 May 2004 the respondent Party replied, however, without submitting any comments on the statements of the residents of Srpski Brod.
14. On 14 July 2004 the Commission invited the respondent Party to submit all relevant documents relating to the value of the demolished houses. On 22 July 2004 the respondent Party submitted some documents, which have been transmitted to the applicant. On 12 August 2004 the applicant replied.
15. On 8 November 2002 the Chamber discussed the admissibility and merits of the application, and on 11 March 2004, 5 May 2004, 9 July 2004, 8 September 2004 and 10 September 2004 the Commission discussed the admissibility and merits of the application. On the latter date it adopted the present decision.

### III. FACTS

16. The applicant's father, Husein Ćosić, was the owner of a house located at Trg Slobode no. 30 in Srpski Brod. The house was built on k.č. 1/376, 1/883, and 1/884, and registered in the land registry entry no. 554 Cadaster Municipality Srpski Brod. In the cadastral plan, the house appears on parcel no. k.č. 654/1 and is marked as no. 20. Husein Ćosić died in 1996, and inheritance proceedings have not yet been carried out.
17. Amir Lošić and Sanela Antolović are the co-owners of a house built on parcel no. k.č. 655/3, registered as the deed of title (*posjedni list*) no. 2900 Cadaster Municipality Srpski Brod. In the cadastral plan, the house is marked as no. 15.
18. Nevzeta Omerović is the owner of a house built on parcel no. k.č. 654/2, registered as the deed of title no. 3229 Cadaster Municipality Srpski Brod. In the cadastral plan, the house is marked as no. 17.

19. The applicants lived in Bosanski Brod until 1992. The applicant Zlata Lošić returned to her pre-war apartment in Srpski Brod on an unknown date. According to the applicant's allegations, the others are still living abroad.

#### **A. Administrative proceedings**

20. On 26 February 1998 a commission for the assessment of the category and level of damages caused during the war of the Municipal Secretariat for Physical Planning, Urbanism and Housing-Utility Affairs of Srpski Brod ("Municipal Secretariat") assessed the properties marked as nos. 17 and 20 in the cadastral plan, owned by Husein Ćosić.<sup>2</sup> The house marked as no. 17 was valued at 6,450.00 Deutsche Marks ("DEM"). The value of the house newly rebuilt from the same materials would amount to 22,400.00 DEM. The value of the house marked as no. 20 before demolition was 5,120.00 DEM. The value of this house newly rebuilt from the same materials would amount to 51,200.00 DEM. The respondent Party did not submit any evidence concerning the value of house marked as no. 15, owned by Amir Lošić and Sanela Antolović.

21. On 18 May 1998 the Municipal Secretariat, by its procedural decision, ordered the demolition of the war-damaged house located at Cara Dušana Street, parcel no. k.č. 654/1, owned by Husein Ćosić. The decision was based on Article 117 of the Law on Physical Planning of the Republika Srpska (see paragraph 39 below).

22. On 18 May 1998 the Municipal Secretariat, by its procedural decision, ordered the demolition of the war-damaged house located at Cara Dušana Street, parcel no. k.č. 654/2, owned by Husein Ćosić. The decision was based on Article 117 of the Law on Physical Planning of the Republika Srpska (see paragraph 39 below).

23. On 18 May 1998 the Municipal Secretariat, by its procedural decision, ordered the demolition of the war-damaged house located at Cara Dušana Street, parcel no. k.č. 655/3, owned by Amir Lošić and Sanela Antolović. The order was based on Article 117 of the Law on Physical Planning of the Republika Srpska (see paragraph 39 below).

24. On an unknown date the houses were destroyed.

25. On 25 June 2002 the Republic Administration for Geodetic and Property-Legal Affairs in Banja Luka issued a procedural decision changing information in the cadastral registry entry for the real estate owned by Husein Ćosić such that the house and buildings were removed from the land registry.

26. On 25 June 2002 the Republic Administration for Geodetic and Property-Legal Affairs in Banja Luka issued a procedural decision changing information in the cadastral registry entry for the real estate owned by Amir Lošić and Sanela Antolović such that the house and buildings were removed from the land registry.

27. On 13 January 2004 the 18 May 1998 procedural decisions ordering the destruction of the houses owned by Husein Ćosić (see paragraphs 21 and 22 above) were delivered to Zlata Lošić. On 26 January 2004 the 18 May 1998 procedural decision ordering the destruction of the house owned by Amir Lošić and Sanela Antolović (see paragraph 23 above) was delivered to Zlata Lošić.

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<sup>2</sup> The respondent Party identifies the property marked as no. 17 in the cadastral plan as owned by Husein Ćosić because it disputes that this property is owned by Nevzeta Omerović

## **B. Proceedings before the Commission for Real Property Claims**

28. On 8 June 1999 the Commission for Real Property Claims of Displaced Persons and Refugees ("CRPC") issued decisions (nos. 602-996-1/1 and 602-996-1/2) confirming that on 1 April 1992 Amir Lošić and Sanela Antolović were the *bona fide* co-possessors of 1/2 of the property marked as parcel no. k.č. 655/3, deed of title no. 2900 Cadaster Municipality Bosanski Brod, as well as a house built on that parcel.

29. On 5 August 1999 the CRPC issued its decision no. 602-347-2/1, confirming that on 1 April 1992 Husein Ćosić was the *bona fide* possessor of the property marked as k.č. 1/376, 1/883, and 1/884, registered in the land registry entry no. 554 Cadaster Municipality Bosanski Brod. He was also the owner of a house built on parcel no. k.č. no. 1/376.

30. On 7 June 2000 the applicant submitted a request for enforcement of the CRPC decisions issued for the property owned by Amir Lošić and Sanela Antolović.

## **C. Proceedings before the courts**

31. In proceedings initiated before the First Instance Court in Derventa (*Osnovni sud*), a group of people, including the applicants, requested the court, as a provisional measure, to order the Municipality Srpski Brod not to make any changes to the land where their houses used to be.

32. On 8 September 2000 the First Instance Court in Derventa issued a procedural decision forbidding the Srpski Brod Municipality from constructing or erecting provisional facilities on real estate possessed or owned by the persons who had initiated court proceedings. The procedural decision refers to property owned by Nevzeta (Omerović) Vrbanjac, Sanela Antolović, Amir Lošić, and Husein Ćosić.

33. The First Instance Court ordered that the provisional measure stay in force until these persons achieve the rights to which they are entitled to under the law, but only on the condition that those persons submit evidence within 60 days that they had initiated proceedings to realize their rights before the competent organs.

34. The procedural decision rejected the request for issuance of a provisional measure submitted by the applicant Zlata Lošić. The reasoning part of the procedural decision states that the court rejected some of the proposals, including the applicant's, because they did not specify their claims before the completion of the court hearing, and therefore the bases for their requests could not be assessed.

35. On 3 November 2000 the District Court in Doboj (*Okružni sud*) issued a procedural decision rejecting the appeal of the Municipality Srpski Brod against the procedural decision of 8 September 2000 ordering a provisional measure.

36. On 11 April 2001 the First Instance Court in Derventa issued a procedural decision rejecting the proposal to extend the duration of the provisional measure issued by it on 8 September 2000. The reasoning states that the request was rejected because the provisional measure had been issued for an indefinite period of time, and therefore there was no need for an extension. It appears that the provisional measure order, therefore, remains in force.

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

##### **A. The Law on Physical Planning of the Republika Srpska**

37. The Law on Physical Planning of the Republika Srpska (Official Gazette of the Republika Srpska ("OG RS"), nos. 19/96, 25/96, 25/97, 3/98 and 10/98, as well as consolidated text no. 84/02) entered into force on 25 September 1996. It replaced the previous law of the Socialist Republic of Bosnia and Herzegovina.

38. According to Article 32, the organization, physical planning and use of an area and the construction of a settlement are governed by the adoption and the carrying out of plans. Plans within the sense of this law are physical plans (physical plan of the Republic, physical plan of an area, physical plan of a municipality), urban development plans, regulatory plans, and urban projects. Regulatory plans and urban projects are technical regulatory planning documents that determine and define the conditions for the design and construction of a facility.

39. The administrative organ competent for building affairs may, either *ex officio* or at the request of an interested party, order the demolition of a building, or part thereof, if it has been established that due to its worn-out state, *vis major*, war activities or large-scale damage the object can no longer serve its purpose or is dangerous to the life or health of people, surrounding objects or traffic. The administrative organ may impose conditions and measures for the demolition. An appeal against a demolition order has no suspensive effect (Article 117). The Municipality of Srpski Brod issued the above-mentioned procedural decisions on demolition of the houses on the basis of Article 117 (see paragraphs 21-23 above).

40. Article 118 provides:

"If during the proceedings to issue a procedural decision on demolition of a building or part of the building it is established that danger for the life and well-being of people, surrounding buildings and traffic may be removed also by reconstructing the building or its part, at the owner's request, in accordance with the provisions of this law, the reconstruction of the building may be allowed provided that it is completed by the time line determined by the administrative authority competent for construction affairs."

##### **B. The Law on General Administrative Procedure**

41. The Law on General Administrative Procedure of the Socialist Federal Republic of Yugoslavia (Official Gazette of the Socialist Federal Republic of Yugoslavia no. 47/86) was in force during periods relevant to this case. On 26 March 2002, the Republika Srpska Law on General Administrative Procedure entered into force (OG RS no. 13/02). The provisions of the former Law on General Administrative Proceedings relevant to the present case are as follows:

###### Article 8

"(1) Before making a decision, a party has to be given opportunity to express his or her opinion on all facts and circumstances that have importance for making the decision.

"(2) A decision may be made without obtaining an opinion by the party only in cases when it is allowed by the law."

###### Article 55

"(1) If a party who is not competent to personally deal with all actions in the procedure has no legal representative or some action should be taken against a person whose whereabouts are not known and who is not represented, the organ proceeding in the case shall appoint a temporary representative to the party if that

is required by the urgency of the case and the procedure has to be conducted. This organ shall immediately inform the trustee organ, and if a temporary representative is appointed to the person of unknown whereabouts, it shall perform its conclusion in the usual manner.

...

"(4) The appointed person is obliged to accept representation, and he can only reject representation for reasons prescribed by separate provisions. The temporary representative shall participate only in the procedure for which he is explicitly appointed and until the legal representative or the party itself or its authorised agent appear."

### **C. The Law on Inheritance**

42. The Law on Inheritance of the Socialist Republic of Bosnia and Herzegovina (Official Gazette of the Socialist Republic of Bosnia and Herzegovina nos. 7/80 and 15/80) regulates inheritance proceedings in the Republika Srpska. The relevant provisions are below.

#### Article 126

"An inheritance shall be opened upon the death of a person. The same effect shall be created if a person is declared deceased."

#### Article 133

"The inheritance of a deceased person shall be transferred by force of law to his or her inheritors at the moment of his or her death."

#### Article 145

"Any inheritor can request the distribution of the estate.

"The right to distribution is not subject to a statute of limitations.

"A contract by which an inheritor renounces his right to request distribution shall be null and void, as well as any provision in the will prohibiting or limiting distribution."

#### Article 146

"Inheritors shall together manage and dispose of the estate prior to distribution.

"If there is no executor of the will and the inheritors do not agree about the management of the estate, upon the request of one of the inheritors the court shall appoint a manager to manage the estate or assign to each inheritor the part of the estate which he or she should manage.

"The court may appoint one of the inheritors to be the manager as well.

"The manager may, with the court's approval, dispose of things in the estate if he or she is authorized by testamentary provisions to do so, or if it is necessary to pay expenses or remedy damage caused by the estate."

### **V. COMPLAINTS**

43. The applicants complain that the respondent Party destroyed their houses only to prevent them from repossessing the property. The applicants also maintain that the houses were not badly damaged during the armed conflict. The applicants complain that their rights guaranteed under

Articles 6, 8, and 13 of the Convention and Article 1 of Protocol No. 1 to the Convention have been violated, and that the respondent Party has discriminated against them.

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

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

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

44. The respondent Party considers the application inadmissible.

45. The respondent Party argues that Zlata Lošić does not have a valid authorization to represent others before the Chamber and Commission, and that it is unclear from the application whom she represents. Moreover, the respondent Party finds the application inadmissible *ratione personae* because the inheritance proceedings before the domestic courts have not been initiated and it is unclear who are the heirs of Husein Ćosić.

46. The respondent Party is further of the opinion that the application is inadmissible for non-exhaustion of domestic legal remedies in relation to the parties to the administrative proceedings (although not with regard to Zlata Lošić, who is not a party to those proceedings) because the remedy of filing a complaint against silence of the administration has not yet been exhausted.

47. The respondent Party suggests striking out the application in the parts related to Sanela Antolović and Amir Lošić because the matter has been resolved and their property “returned”.

#### **2. As to the facts**

48. The respondent Party contests the facts alleged by the applicants. The respondent Party, in its written observations of 28 January 2003, disputes the fact that the 18 May 1998 procedural decisions on demolition were related to the applicant's father's property or to the real estate of Sanela Antolović and Amir Lošić.

49. The respondent Party asserts that the procedural decisions on demolition did not concern the applicant's house, but rather a structure belonging to the Islamic Community and a house owned by R.O. This statement of the respondent Party reflects the fact that the applicant, at the time the application was submitted and transmitted to the respondent Party, did not have any documents relating to the property of her father or the property of her children and sister.

50. The respondent Party denies the fact that the decision ordering demolition was issued for the property of the applicant's father or for the houses owned by Amir Lošić and Sanela Antolović and Nevzeta Omerović.

51. The respondent Party also states that the Municipality Srpski Brod does not dispose of its land books. The respondent Party submitted a deed from the 1992 cadastral registry according to which Husein Ćosić was registered as the possessor of the property located on parcel no. k.č. 654/2. According to the document, the respondent Party asserts that Nevzeta Omerović has never been registered as an owner of property in Srpski Brod.

52. The respondent Party also asserts that the Derventa First Instance Court's 8 September 2000 order for a provisional measure doesn't concern the applicant Zlata Lošić because her particular request was rejected for lack of standing.

### **3. As to the merits**

53. As to the alleged violation of Article 6 of the Convention, the respondent Party asserts that Article 6 has not been violated. The applicants did not participate in the proceedings related to the demolition of the houses because they were not parties to those proceedings. The respondent Party also states that the competent organ did not have the applicants' addresses.

54. The respondent Party asserts that Article 8 has not been violated because the property of Sanela Antolović and Amir Lošić was returned to them.

55. As to the alleged violation of Article 1 of Protocol No. 1, the respondent Party asserts that this Article has not been violated, and it instructed the parties to pursue their rights before the domestic organs in accordance with the Law on Construction Land and the Law on Physical Planning with regard to the "pre-emptive right to construct".

56. In order to support its statement, the respondent Party enclosed a statement of the Head of the Municipality of Srpski Brod with its written observations. The Commission notes that this statement, however, relates to the property of the Islamic Community and O.B. and that these properties are not the subjects of the present application. The Head of the Municipality states that the proceedings were carried out in accordance with Article 117 of the Law on Physical Planning which states that a municipal organ, by the issuance of a procedural decision, can order the demolition of damaged houses that endanger peoples' lives and health, including those damaged during the war, or houses that do not serve their purpose. Article 118 of the same Law provides that reconstruction proceedings may be carried out upon the owner's request, if all of the conditions are fulfilled. The procedural decision on demolition was placed on a bulletin board of the Municipality according to the Law on General Administrative Proceedings. All natural and physical persons whose houses were demolished are entitled to the right to carry out construction on their parcels in accordance with the regulatory plan.

57. In relation to the applicant's allegations of discrimination, the respondent Party listed other names of persons whose houses also were demolished, but it did not mention their nationality. However, according to the names, it appears they are persons of Bosniak or Croat origin.

### **4. As to compensation**

58. The respondent Party asserts that it did not give a statement on the request for compensation because the applicant submitted the request on behalf of the citizen's association "Brod", without having a verified authorization letter.

59. On 26 May 2004 the respondent Party provided comments on the applicants' compensation claims. The respondent Party states that the Commission for assessment of the category and level of damages caused during the war estimated the value of the real estate prior to demolition (see paragraph 20 above). These established amounts are not disputable and they can be taken as the basis for a compensation claim. However, the respondent Party maintains certain claims against these amounts, such as taxes and the costs of obtaining building permits.

### **B. The applicant**

60. In her reply to the observations of the respondent Party, the applicant points out that this case is about her family's houses. Her father was the owner of a house built on k.č. 1/376, 1/883, and 1/884 registered in the land registry entry no. 554 Cadaster Municipality Bosanski Brod. After his name, the names of his children, Nevzeta Omerović, Zlata Lošić, Salihudin Ćosić, and Muho Ćosić appear. The co-owners of the house built on k.č. 655/3, registered in the deed of title no. 2900 Cadaster Municipality Bosanski Brod, are Amir Lošić and Sanela Antolović, the applicant's children. Nevzeta Omerović is the owner of the house built on k.č. 654/2 registered in the deed of title no. 3229 Cadaster Municipality Bosanski Brod. The applicant Zlata Lošić states that she

represents all of them, and the application concerns all of their houses, which were demolished together with 15 other houses.

61. According to the applicant's reply, the respondent Party intentionally involves the Islamic Community and O.B. in this case, although they are not the subjects of this application.

62. The applicant further points out that the First Instance Court in Derventa issued a procedural decision ordering a provisional measure forbidding any change of the factual situation, thus forbidding construction or erection of any structures on the location where the applicants' houses used to stand. This order concerns the applicant's father and three other persons she represents; thus it also applies to the houses owned by Amir Lošić, Sanela Antolović, and Nevzeta Omerović. Despite this ban, the Cadastral Office of the Municipality of Srpski Brod deleted their houses from the Land Registry books (see paragraphs 25 and 26 above).

63. The applicant further claims that the houses were pulled down, that the procedural decision on demolition was issued on the basis on the owners' nationality, and that the houses were not in an inhabitable condition. To support this, the applicant alleges that one Mr. J.B. received permission from the competent organ to run a catering business in one of the houses and he ran such business until that house was demolished. Furthermore, the applicant states that the Head of the Municipality (see paragraph 56 above) was the President of the Municipality Srpski Brod at the time the houses were demolished and he was directly involved in the proceedings. Also, Mr. P.T. was one of the members of the commission for assessing the category and level of damages caused during the war and he is now the Director of Cadastral Records in Srpski Brod. For that reason, the applicant claims that she has been prevented from obtaining all relevant documents.

64. The applicant maintains her allegations concerning violations of Articles 8 and 13 of the Convention and Article 1 of Protocol No. 1 to the Convention. She also maintains her compensation claim. The applicant states that the respondent Party is offering her and the other applicants new parcels of land for building new houses.

65. The applicant in January 2004 submitted the procedural decisions on demolition regarding her children's and father's real estate, as well as a procedural decision issued in her father's name, which the applicant claims applies to her sister's real estate. The applicant points out that these procedural decisions were delivered to her only on 13 January 2004 and 26 January 2004.

## **VII. OPINION OF THE COMMISSION**

### **A. Admissibility**

66. 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.

67. 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. Admissibility *ratione personae***

68. The respondent Party asserts that the applicant does not have standing to submit an application because probate proceedings were never initiated in order to establish the heirs of Husein Ćosić. The Commission notes that the legal heirs of Husein Ćosić jointly submitted the application: his daughter Zlata Lošić, and his sons Muho Ćosić and Salihudin Ćosić. Domestic law prescribes that the heirs dispose of the inheritance in common until the distribution of the estate (see paragraph 42 above). This means that each of them can request that any action be taken in order to protect their legal interest. Sanela Antolović, Amir Lošić, and Nevzeta Omerović are registered as the owners or possessors of the houses. Having regard to the above, the Commission concludes that Zlata Lošić, as well as the other persons she represents, do not lack standing before the Commission.

### **2. Non-exhaustion of domestic remedies**

69. The respondent Party asserts that the application is inadmissible for non-exhaustion of domestic remedies. The respondent Party points out that some of the applicants could have participated in the proceedings before the competent administrative authorities and filed an appeal for the “silence of the administration”. The Commission notes, however, that the respondent Party first stated that the proceedings did not concern the applicants at all but were initiated by the Islamic Community and R.O. The applicant complains that her family's houses were demolished, while they were unable to participate in the proceedings. Furthermore, the Commission notes that the applicant submitted a request for issuance of a provisional measure before the domestic court in order to prevent the construction on the land where the houses used to stand. Thus, the Commission finds that the admissibility requirements regarding exhaustion of domestic remedies have been met.

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

70. The Commission finds no other grounds for declaring the application inadmissible. Accordingly, the application is declared admissible in its entirety.

## **B. Merits**

71. Under Article XI of the Agreement, the Commission must next address the question of 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 and the other international agreements listed in the Appendix to the Agreement.

### **1. Article 6 of the Convention (right to access to court)**

72. Article 6 of the Convention 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....”

73. The European Court has held the first paragraph of Article 6 applicable to the following proceedings determining civil rights or obligations: Those stages in expropriation, consolidation and planning proceedings, and proceedings concerning building permits and other real estate permits that have direct consequences for ownership rights in the property involved. In general, this provision also applies to proceedings the outcome of which will have an impact on the use or enjoyment of property.

74. In *Golder v. United Kingdom*, the European Court recognised that “the right of access constitutes an element which is inherent in the right stated by Article 6 § 1” (Eur. Court HR, judgment of 21 February 1975, Series A no. 18, page 18, paragraph 36). The European Court elaborated as follows:

“It would be inconceivable, in the opinion of the Court, that Article 6 § 1 should describe in detail the procedural guarantees afforded to parties in a pending lawsuit and should not first protect that which alone makes it in fact possible to benefit from such guarantees, that is, access to a court. The fair, public and expeditious characteristics of judicial proceedings are of no value at all if there are no judicial proceedings. ...

“This Article embodies the ‘right to a court’, of which the right of access, that is the right to institute proceedings before courts in civil matters, constitutes one aspect only. To this are added the guarantees laid down by Article 6 § 1 as regards both the organisation and composition of the court, and the conduct of the proceedings. In sum, the whole makes up the right to a fair hearing”

(*id.* at page 18, paragraphs 35-36).

75. The right of access to a court enshrined in Article 6 is not absolute, however; it may be subject to certain limitations because the right “by its very nature calls for regulation by the State, regulation which may vary in time and in place according to the needs and resources of the community and of individuals” (Eur. Court HR, *Ashingdane v. United Kingdom*, Series A no. 93, page 24, paragraph 57). Nonetheless, the limitations “must not restrict or reduce the access left to the individual in such a way or to such an extent that the very essence of the right is impaired” (*id.*). “Furthermore, a limitation will not be compatible with Article 6 § 1 if it does not pursue a legitimate aim and if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be achieved” (*id.*).

76. In the present case, the Commission observes that the Municipality of Srpski Brod conducted the proceedings leading up to the demolition of the applicants’ real property without the applicants being present. In accordance with domestic law, the Municipality of Srpski Brod was obliged to appoint a temporary representative to represent the interests of the applicants in those proceedings because it claimed their whereabouts were unknown. The Commission recognises that in certain circumstances it may be reasonable and necessary for the domestic authorities to conduct proceedings *in absentia* of an interested party. In such circumstances, Article 55(1) of the Law on Administrative Procedure provides for the appointment of a temporary representative of an interested party whose place of residence is unknown (see paragraph 41 above). As the European Court held in *Colozza v. Italy*, however, when domestic law provides that proceedings may be conducted *in absentia* of an interested party, “that person should, once he becomes aware of the proceedings, be able to obtain, from a court which has heard him, a fresh determination of the merits of the charge” (Eur. Court HR, judgment of 12 February 1985, Series A no. 89, page 15, paragraph 29). In the present case, the applicants have been given no actual opportunity to participate in the proceedings that deprived them of their property rights, and they have been unable to adequately protect their interests.

77. Furthermore, the Commission notes that the respondent Party first denied the fact that any procedural decisions were issued concerning the applicants’ property. The respondent Party asserted that the procedural decisions issued on demolition of houses did not concern the property of Zlata Lošić or the persons she represented. Only in January 2004 did the respondent Party recognise that the houses that are the subject matter of this application were included in the regulatory plan “Centar”, that they were *de facto* demolished, and that the procedural decisions authorising their demolition were issued by the competent organ of the Municipality Srpski Brod. These procedural decisions were delivered to Zlata Lošić, the representative of the persons whose houses were demolished, only in January 2004.

78. In these circumstances, the Commission considers that the respondent Party has failed to

provide the applicants with access to a court for the determination of their property rights. Therefore, the Commission finds that the respondent Party has violated the applicants' rights as guaranteed by paragraph 1 of Article 6 of the Convention.

## 2. Article 1 Protocol No. 1 to the Convention

79. Article 1 of Protocol No. 1 to the Convention provides:

“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.”

80. Article 1 of Protocol No. 1 comprises three distinct rules. The first rule, which is of a general nature, enshrines the principle of peaceful enjoyment of property. It is set out in the first sentence of the first paragraph. The second rule covers deprivation of possessions and subjects it to the condition that the deprivation must be in the public interest and subject to conditions provided for by law and by the general principles of international law. It appears in the second sentence of the same paragraph. The third rule recognises that States are entitled, among other things, to control the use of property in accordance with the general interest, by enforcing such laws as they deem necessary for that purpose. It is contained in the second paragraph (*see, e.g.*, case no. CH/96/29, *Islamic Community*, decision on admissibility and merits of 11 June 1999, paragraph 190, Decisions January-July 1999).

### a. Existence of a “possession”

81. The European Court has stated repeatedly that “the concept of ‘possessions’ in Article 1 of Protocol No. 1 has an autonomous meaning which is certainly not limited to ownership of physical goods: certain other rights and interests constituting assets can also be regarded as ‘property rights’, and thus as ‘possessions’ for the purposes of this provision” (Eur. Court HR, *Iatridis v. Greece*, judgment of 25 March 1999, Reports of Judgments and Decisions 1999-II, page 96, paragraph 54).

82. In its observations, the respondent Party states that the owner of real estate registered as cadastre lot nos. 651/1 and 654/2 is Husein Ćosić. After the death of Husein Ćosić, probate proceedings have not been conducted. Sanela Antolović and Amir Lošić are the co-owners of the real estate built on parcel no. k.č. 655/3. With regard to Nevzeta Omerović, the respondent Party declares that it does not have the land registry books at its disposal but that Nevzeta Omerović was not registered as the owner of the house located on parcel no. 654/2; according to the respondent Party's records, the owner of that real estate is Husein Ćosić.

83. Zlata Lošić submitted the cadastral excerpt for Nevzeta Omerović and a copy of the cadastral plan. There is also the procedural decision of the First Instance Court in Derventa determining an order for a provisional measure regarding the property owned by Nevzeta Omerović. With regard to Zlata Lošić, Muho Ćosić, and Salihudin Ćosić, excerpts from their birth records were submitted, as well as an excerpt from the death record of Husein Ćosić; these records show beyond dispute that the named persons are the children of the deceased owner of the demolished house. Domestic law provides that at the moment of the testator's death the estate is transferred, by force of law, to his heirs (*see* paragraph 42 above). All the heirs administer and dispose of the property together until the issuance of a procedural decision on succession. The respondent Party does not deny the fact that Husein Ćosić was the owner of the house or that the applicants are his legal heirs. The Commission concludes, therefore, that the applicants have a “possession” guaranteed by Article 1 of Protocol No. 1 to the Convention.

**b. Deprivation of property**

84. The Commission finds that the applicants have been deprived of their property rights by the procedural decisions ordering the demolition of the houses of Husein Ćosić and Sanela Antolović and Amir Lošić.

**c. Lawfulness of the interference**

85. Regardless of which of the three rules set forth in Article 1 of Protocol No. 1 is applied in a given case (*i.e.*, interference with possessions, deprivation of possessions, or control of use of property), the challenged action by the respondent Party must have been lawful in order to comply with the requirements of Article 1 of Protocol No. 1. The European Court has explained as follows:

“The Court reiterates that the first and most important requirement of Article 1 of Protocol No. 1 is that any interference by a public authority with the peaceful enjoyment of possession should be lawful: the second sentence of the first paragraph authorises a deprivation of possessions only ‘subject to the conditions provided for by law’ and the second paragraph recognises that the States have the right to control the use of property by enforcing ‘laws’. Moreover, the rule of law, one of the fundamental principles of a democratic society, is inherent in all the Articles of the Convention and entails a duty on the part of the State or other public authority to comply with judicial orders or decisions against it. It follows that the issue of whether a fair balance has been struck between the demands of the general interest of the community and the requirements of the protection of the individual’s fundamental rights becomes relevant only once it has been established that the interference in question satisfied the requirement of lawfulness and was not arbitrary”

(Eur. Court HR, *Iatridis v. Greece*, judgment of 25 March 1999, Reports of Judgments and Decisions 1999-II, page 97, paragraph 58).

86. The respondent Party asserts there was a valid basis in domestic law for the procedural decisions ordering demolition issued by the Municipal Secretariat on 18 May 1998 because the houses of the applicants were damaged and did not serve their purpose. The Municipality, however, failed to provide the applicants with an opportunity to exercise their rights and eventually to obtain a procedural decision ordering reconstruction of the destroyed houses, in accordance with Article 118 of the Law on Physical Planning (see paragraph 40 above). In this case, there was no actual opportunity for the applicants to exercise such a right because the Municipality of Srpski Brod issued the decisions *in absentia* of the applicants. Furthermore, the Municipality of Srpski Brod did not appoint a temporary representative to the applicant to protect her (and others’) rights in those proceedings. The Commission notes that the manner in which those proceedings were conducted calls into question the lawfulness of the procedural decisions of 18 May 1998 under the Law on Administrative Procedures.

87. The Commission recalls that, in the 8 September 2000 decision issued by the First Instance Court in Derventa, the Court established some irregularities in the proceedings before the administrative organ. The Court ordered the Municipality to refrain from taking any steps to change the factual situation. The reasoning part of this decision states:

“The court derived such a conclusion on the basis of the evidence presented because the attached substantive evidence shows that, since 1988, the plaintiffs have tried to acquire their rights regarding the disputed real estate in accordance with the provisions of Annex 7 to the Dayton Peace Agreement, and that, according to the evidence, they requested protection of their rights even before 13 July 1998. However, the competent organ of the defendant, by its procedural decision of 18 May 1998, ordered the pulling down of buildings without conducting the prescribed administrative proceedings, and the Ministry for Urbanism, as the second instance organ, by its procedural decision of 4 June 1999, annulled the procedural decision in question. In any case, the disputed facilities were subsequently pulled down and removed, and by examining the deed of title no. 869, Cadastral Municipality of Srpski Brod, it was established that the parcel formerly marked as

“religious school” [*mejtef*] is now marked as “building-lot” [*gradilište*]<sup>3</sup>. The fact that the Commission for Real Property Claims of Displaced Persons and Refugees in Bosnia and Herzegovina, by its decisions, intervened in favour of the plaintiffs Lošić Amir and Antolović nee Lošić Sanela shows that it was made more difficult for the plaintiffs to acquire their legal rights. In addition, there are certain circumstances of an objective nature that show the danger of causing irreparable harm and that the acquiring of the plaintiffs’ rights could be made more difficult because of a notorious fact that Land Registry books, as well as pre-war cadaster records for the Municipality of Srpski Brod are unavailable because they were taken to the Republic of Croatia after the liberation of Srpski Brod, and it is not known where are they now.”

88. Having regard to the above, the Commission finds that the respondent Party has failed to satisfy the principle of lawfulness contained within Article 1 of Protocol No. 1. In these circumstances, it is unnecessary for the Commission to further consider the remaining requirements of this Article.

#### **d. Conclusion as to Article 1 of Protocol No. 1 to the Convention**

89. The Commission concludes that the applicant and others have protected “possessions” within the meaning of the Article 1 Protocol No. 1 to the Convention, but by the actions of the respondent Party, they have been deprived of the right to protect their property in proceedings before the Municipality of Srpski Brod. Accordingly, the Commission concludes that the respondent Party has violated the applicant's and others' rights as guaranteed by Article 1 of Protocol No. 1 to the Convention.

### **3. Discrimination**

90. In connection with Article II(2)(b) of the Agreement, the Commission finds it appropriate in this case to consider whether the respondent Party has discriminated against the applicant and others with respect to their property rights. The Commission has already established that the respondent Party has violated the rights of the applicant and others protected by Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention.

91. Article II(2)(b) of the Agreement provides as follows:

“The Human Rights Chamber shall consider ... alleged or apparent discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status arising in the enjoyment of any of the rights and freedoms provided for in the international agreements listed in the Appendix to this Annex, where such violation is alleged or appears to have been committed by the Parties, including any official or organ of the Parties, Cantons, Municipalities, or any individual acting under the authority or such official or organ.”

92. The applicant alleges that she and others have been discriminated against in the enjoyment of their human rights due to their Bosniak origin.

93. In examining whether there has been discrimination contrary to the Agreement, the Commission recalls the jurisprudence of the Chamber. As the Chamber noted in its decision in *Đ.M. v. the Federation of Bosnia and Herzegovina* (case no. CH/98/756, decision on admissibility and merits of 13 April 1999, paragraph 72, Decisions January-July 1999), it is necessary first to determine whether the applicant was treated differently from others in the same or relevantly similar situations. Any differential treatment shall be deemed discriminatory if it has no reasonable and objective justification, that is, if it does not pursue a legitimate aim or if there is no reasonable relationship of proportionality between the means employed and the aim sought to be realised. There is a particular onus on the respondent Party to justify differential treatment which is based

<sup>3</sup> *Mejtef* refers to a religious school for elementary age children within the Islamic faith.

on any of the grounds explicitly enumerated in the relevant provisions, including religion or national origin (*see Jusufović*, case no. CH/98/698, decision on admissibility and merits of 10 May 2000, paragraph 115, Decisions January-June 2000).

94. The Commission recalls that the obligation of the Parties to the Agreement to “secure” the rights and freedoms mentioned in the Agreement to all persons within their jurisdictions not only obliges a Party to refrain from violating those rights and freedoms, but also imposes on that Party a positive obligation to protect those rights (*see the aforementioned Đ.M. decision at paragraph 75*).

95. With respect to their discrimination claim, the applicant stresses that the Municipality of Srpski Brod issued procedural decisions to demolish her family's houses. The applicant complains that 18 houses have been demolished by the decision of the Municipality, and that those houses were owned by Bosniaks, including one property owned by the Islamic Community, and one house was owned by a family of Croat origin. According to the applicant, the Municipality issued these procedural decisions to prevent the implementation of Annex 7 to the Dayton Agreement and to prevent her and the others from repossessing their houses. To support her discrimination allegations, the applicant states that Mr. J.B., who is of Serb origin, received permission to run a catering business in one of the houses, and that premises must meet specific conditions in order to be used for carrying out any such activity. The fact that Mr. J.B. was granted a license for running a catering facility in one of the houses after the war confirms that these facilities were fit for living and business purposes. The catering facility was operational until the issuance of the decision ordering demolition. Moreover, the applicant submitted a statement from people living in Srpski Brod, confirming that the demolished houses were fit for living. The statements were given by E.H., M.T., S.C., and O.B. It seems to the Commission that the persons who gave these statements, except for E.H., are not of Bosniak origin, and that they lived in Srpski Brod at the time the respondent Party issued the procedural decisions ordering the demolition of the houses.

96. The Commission invited the respondent Party to comment on these statements. The respondent Party disputes the applicants' allegations and states that the proceedings were conducted in accordance with the law. In support of this, the respondent Party refers to the fact that a commission was formed to inspect the damage to the houses, and official records were made of this. In addition to the documentation in the case file before the competent authority, the respondent Party invokes the fact that all members of the commission are ready to confirm that the houses were unfit for living. Although invited to do so, the respondent Party did not specifically comment on the statements of witnesses, residents of Srpski Brod, who said that the houses were intact before the demolition, possibly with minor damage, but still fit for living.

97. In the Commission's view, the Municipality of Srpski Brod has failed to respect or uphold the rule of law, and in so doing, it has prevented the applicants, who are displaced persons of Bosniak origin and the former owners, from returning to and using their property.

98. The Commission finds that the applicants have been deprived of their possessions, within the meaning of Article 1 of Protocol No. 1 to the Convention, on the ground that they are persons of Bosniak origin in a predominantly Serb municipality. Furthermore, the respondent Party took advantage of the applicant's and others' absence from administrative proceedings and completed those proceedings before the Municipality unlawfully. The respondent Party has provided no reasonable or objective justification for this treatment, and the Commission can find no such justification on its own. Therefore, the Commission concludes that the applicants have been discriminated against in the enjoyment of their rights protected by Article 1 of Protocol No. 1 to the Convention.

#### 4. Articles 8 and 13 of the Convention

99. In view of its finding of a violation of Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention, the Commission does not consider it necessary to examine the application separately under Articles 8 and 13 of the Convention.

#### 5. Conclusion as to the merits

100. In summary, the Commission finds that the respondent Party has violated the human rights of the applicants protected by Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention. The Commission further finds that the respondent Party has discriminated against the applicants with respect to their property rights protected by Article 1 of Protocol No. 1 to the Convention. Lastly, the Commission has not considered it necessary to examine the application separately under Articles 8 and 13 of the Convention.

### VIII. REMEDIES

101. 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.

102. The applicant has requested that the Chamber (now the Commission) order the respondent Party to reconstruct the houses of her family members. If that is not possible, the applicant requests the Commission to order the respondent Party to pay compensation for the lost property of all the applicants in the total amount of 340,000 Convertible Marks ("KM", *konvertibilnih Maraka*). The applicant also requests compensation for non-pecuniary damages of 10,000 KM for herself and each of the persons she represents.

103. The Commission notes that it has found a violation of the applicants' rights protected by Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention, and it has also found that the respondent Party discriminated against the applicants with respect to their property rights. The Commission considers it appropriate to award pecuniary compensation to the applicants for the demolition of their properties. Accordingly, the Commission will order the respondent Party to pay to the applicant Zlata Lošić, for her own benefit and the benefit of the applicants she represents, the sum of 10,000 KM for the demolition of the house marked as no. 15 in the cadastral plan (owned by Amir Lošić and Sanela Antolović, see paragraph 17 above), 10,000 KM for the demolition of the house marked as no. 17 in the cadastral plan (owned by Nevzeta Omerović, see paragraph 18 above), and 10,000 KM for the demolition of the house marked as no. 20 in the cadastral plan (owned by the late Husein Ćosić, see paragraph 16 above). These payments shall be made at the latest within one month from the date of receipt of this decision.

104. Furthermore, the Commission considers it appropriate to order the respondent Party to pay to the applicant and the persons she represents, on an equitable basis, the lump sum of 18,000 KM (3,000 KM for each applicant) as compensation for the loss of the use of their property and for non-pecuniary damages suffered by them as a result of the violations of their human rights, including their inability to take part and protect their rights in the proceedings before the domestic organs. The lump sum payment ordered in this paragraph shall be paid to the applicant Zlata Lošić, for her benefit and for the benefit of the applicants she represents, within one month from the date of receipt of this decision.

105. The Commission will further award ten percent interest per annum on the sums awarded in paragraphs 103 and 104 above. The interest shall be paid from the due date of each payment until the date of settlement in full.

106. The Commission will also order the respondent Party to report to it, or its successor institution, within three months from the date of receipt of this decision on the steps taken by it to comply with the above orders.

## **IX. CONCLUSIONS**

107. For the above reasons, the Commission decides,

1. unanimously, that the application is admissible against the Republika Srpska in connection with Article 6 of the European Convention on Human Rights and Article 1 of Protocol No. 1 to the European Convention on Human Rights;

2. unanimously, that the application is admissible against the Republika Srpska insofar as the applicants complain of discrimination under Article II(2)(b) of the Human Rights Agreement;

3. unanimously, that the Republika Srpska has violated the rights of the applicant and the persons she represents to access to court as guaranteed by paragraph 1 of Article 6 of the European Convention on Human Rights, the Republika Srpska thereby being in breach of Article I of the Human Rights Agreement;

4. unanimously, that, with respect to the demolition of the real property by the procedural decisions of 18 May 1998, the Republika Srpska has violated the rights of the applicant and the persons she represents to peaceful enjoyment of their possessions within the meaning of Article 1 of Protocol No. 1 to the European Convention on Human Rights, the Republika Srpska thereby being in breach of Article I of the Human Rights Agreement;

5. unanimously, that the applicants have been discriminated against in the enjoyment of their property rights as protected by Article 1 of Protocol No. 1 to the European Convention on Human Rights, the Republika Srpska thereby being in breach of Article I of the Human Rights Agreement;

6. unanimously, that it is not necessary to consider the application under Article 8 of the European Convention on Human Rights;

7. unanimously, that it is not necessary to consider the application under Article 13 of the European Convention on Human Rights;

8. unanimously, to order the Republika Srpska to pay the applicant Zlata Lošić, for her benefit and for the benefit of the applicants she represents, the sum of 10,000 KM (ten thousand Convertible Marks) for the demolition of the house marked as no. 15 in the cadastral plan (owned by Amir Lošić and Sanela Antolović, see paragraph 17 above), 10,000 KM (ten thousand Convertible Marks) for the demolition of the house marked as no. 17 in the cadastral plan (owned by Nevzeta Omerović, see paragraph 18 above), and 10,000 KM (ten thousand Convertible Marks) for the demolition of the house marked as no. 20 in the cadastral plan (owned by the late Husein Ćosić, see paragraph 16 above), at the latest within one month from the date of receipt of this decision;

9. unanimously, to order the Republika Srpska to pay the applicant Zlata Lošić, for her benefit and for the benefit of the applicants she represents, 18,000 KM (eighteen thousand Convertible Marks) (3,000 KM for each applicant) as compensation for the loss of the use of their property and for non-pecuniary damages suffered by them as a result of the violations of their human rights, including their inability to take part and protect their rights in the proceedings before the domestic organs, at the latest within one month from the date of receipt of this decision;

10. unanimously, to order the Republika Srpska to pay simple interest at the rate of 10 (ten) per cent per annum over the sums awarded in conclusions 8 and 9 above or any unpaid portion thereof from the due date until the date of settlement in full;
11. unanimously, to order the Republika Srpska to report to it, or its successor institution, within three months of the date of receipt of the present decision, on the steps taken by it to comply with the above orders; and,
12. unanimously, to reserve the right to order further remedies in this matter if it deems it warranted.

(signed)  
J. David YEAGER  
Registrar of the Commission

(signed)  
Jakob MÖLLER  
President of the Commission