



DECISION ON ADMISSIBILITY AND MERITS
(delivered on 9 March 2001)

Case no. CH/00/6142

Dušan & Mila PETROVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 6 March 2001 with the following members present:

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

Mr. Peter KEMPEES, Registrar
Ms. Olga KAPIĆ, Deputy Registrar

Having considered the aforementioned application introduced pursuant to Article VIII(1) of the Human Rights Agreement (“the Agreement”) set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Adopts the following decision pursuant to Articles VIII(2) and XI of the Agreement and Rules 52, 57 and 58 of the Chamber’s Rules of Procedure:

I. INTRODUCTION

1. The applicants, who are husband and wife, are citizens of Bosnia and Herzegovina. Mr. Petrović is the owner of a house in Mostar. The applicants left the house due to the war hostilities. The case concerns their attempts to regain possession of the house. Mr. Petrović lodged an application to the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC), which has issued a decision recognising his ownership. However, this decision has not been executed. The facts of the case are set out in Section III below.

2. The case raises issues under Articles 6, 8, 13 of the European Convention on Human Rights and under Article 1 of Protocol No. 1 to the Convention.

II. PROCEEDINGS BEFORE THE CHAMBER

3. The application was introduced on 15 September 2000 and registered on 26 September 2000.

4. On 9 October 2000 the Chamber decided to transmit the application to the respondent Party for observations on the admissibility and merits thereof. The respondent Party submitted its observations on 6 November 2000.

5. The applicants' further observations, including claims for compensation, were received on 15 December 2000 and transmitted to the respondent Party. The respondent Party requested the Chamber for an extension of the time-limit to submit its further observations. The Chamber decided to extend the respondent Party's time-limit for submitting its further observations until 27 January 2001.

6. On 9 January 2001 the Chamber sent a letter to the applicants' representative asking him if the applicants had repossessed the house as stated in the respondent Party's observations. On 10 January 2001 the representative informed the Chamber that the applicants had only repossessed the ground floor of the house. On 17 January the Chamber sent a letter to the respondent Party asking it if this information was correct. On 24 January 2001 the respondent Party informed the Chamber that the information was correct and on 26 January 2001 the Chamber received the respondent Party's further observations.

7. On 5 December 2000 and 9 January 2001 the Chamber considered the admissibility and merits of the application. On 6 March 2001 the Chamber adopted the present decision.

III. FACTS

8. Dušan Petrović, who is of Serb descent, is the owner of a house located at Ulica Krpina 10 in Mostar Old Town. He used to live in the house together with his wife, Mila Petrović, who is of Croat descent, but they left the house due to the outbreak of the war and three different families moved into the house.

9. On 22 May 1997 Mr. Petrović requested the CRPC to issue a decision recognising his ownership.

10. On 3 April 1998 the CRPC issued a decision (Decision No. 104-240-1/1) naming Mr. Petrović as the rightful owner of the house in question.

11. On 21 July 1999 Mr. Petrović filed a request for the repossession on the basis of the CRPC decision to the Municipal Service for Housing Affairs, Reconstruction and Cadaster of Real Property (the competent municipal organ). On 23 July 1999 the competent municipal organ issued a conclusion rejecting the request for repossession on the ground that the request was incomplete.

12. On 3 August 1999 Mr. Petrović filed an appeal to the competent municipal organ. On 5 August 1999 the competent municipal organ informed him that it needed copies of relevant documents to be able to decide on the appeal. On 3 December 1999 he submitted a request for the execution of the CRPC decision together with copies of the decision. He did not receive any response.

13. On 6 April 2000 Mr. Petrović informed the Federal Ministry of Justice about the non-enforcement of the CRPC decision, requesting an administrative inspection. He has not received any response.

14. On 10 April 2000 the competent municipal organ issued a decision stating that one of the current occupants had to vacate the house within 30 days because Mr. Petrović was the rightful owner.

15. On 26 April 2000 the competent municipal organ issued a decision stating that another current occupant should vacate the house within 15 days.

16. On 4 May 2000 Mr. Petrović submitted a request for enforcement of the decision issued on 10 April 2000 by the competent municipal organ. On 10 May 2000 Mr. Petrović requested the competent municipal organ to send an expert to the house to make a list of his belongings and to estimate the damage to the house. He did not receive any response and on 15 May 2000 he requested the competent municipal organ to consider the case as urgent. Once again he did not receive any response.

17. On 22 May 2000 Mr. Petrović addressed himself to the Federation Ombudsmen. On 15 June 2000 the Federation Ombudsmen issued a report expressing the opinion that there had been a violation of Mr. Petrović human rights.

18. On 25 October 2000 the competent municipal organ issued a conclusion on permission of execution of the decision of 10 April 2000, scheduling the eviction of one of the illegal occupants for 14 November 2000. The eviction of the occupants from the ground floor was carried out on 18 November 2000. However, the applicants were unable to move into the vacated space because the occupants had allegedly looted it. Other persons are still occupying the rest of the house.

IV. RELEVANT LEGAL PROVISIONS

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

19. The General Framework Agreement for Peace in Bosnia and Herzegovina ("the General Framework Agreement") was signed by the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (the "Parties") in Paris on 14 December 1995. Annex 7 to the General Framework Agreement deals with refugees and displaced persons and in accordance with Article VII of Annex 7 an independent Commission for Displaced Persons and Refugees, later renamed Commission for Real Property Claims of Displaced Persons and Refugees (CRPC), was established.

20. The CRPC shall receive and decide any claims for real property in Bosnia and Herzegovina, where the property has not voluntarily been sold or otherwise transferred since 1 April 1992, and where the claimant does not enjoy possession of that property (Article XI). The CRPC shall determine the lawful owner of the property – a concept which the CRPC has construed to include an occupancy right holder - according to Article XII(1). According to Article XII(7) the decisions of the CRPC are final and any title, deed, mortgage, or other legal instrument created or awarded by the CRPC shall be recognised as lawful throughout Bosnia and Herzegovina.

21. The Parties shall cooperate with the work of the CRPC, and shall respect and implement its decisions expeditiously and in good faith (Article VIII).

2. The Law on Implementation of the Decisions of the Commission for Real Property Claims of Displaced Persons and Refugees.

22. The Law on Implementation of the Decisions of the Commission for Real Property Claims of Displaced Persons and Refugees (Official Gazette of the Federation of Bosnia and Herzegovina 43/99 – hereinafter “the Law on Implementation”) regulates the enforcement of decisions of the CRPC.

23. The administrative body responsible for property-related legal affairs in the municipality where the property is located shall enforce decisions of the CRPC relating to real property owned by citizens (Article 3 paragraph 2). Decisions of the CRPC relating to an apartment for which there is an occupancy right shall be enforced by the administrative body for housing affairs in the municipality where the apartment is located (Article 3 paragraph 3). The CRPC decisions shall be enforced if a request for the enforcement has been filed to the relevant organ. The following persons are entitled to file such a request: The right holder specified in the CRPC decision and his/her heirs relating to real property owned by citizens (Article 4 paragraph 1) and relating to apartments for which there is an occupancy right; the occupancy right holder referred to in a CRPC decision and the persons who, in compliance with the Law on Housing Relations, are considered to be members of the family household of the occupancy right holder (Article 4 paragraph 2).

24. The right to file a request for enforcement of a CRPC decision confirming a right to private property is not subject to any statute of limitation (Article 5 paragraph 1). The request for enforcement of a CRPC decision confirming occupancy right must be submitted within 18 months from the date when the CRPC decision was issued, or for decisions issued before this law entered into force, within 18 months from the entry into force of this law (Article 5 paragraph 2, as amended by the High Representative with effect from 28 October 2000. Before that the time limit was one year).

25. The request for enforcement of a CRPC decision shall include two photocopies of the CRPC decision, relating to real property owned by citizens, and three photocopies of the CRPC decision relating to occupancy right (Article 6). The administrative organ responsible for the enforcement of a CRPC decision is obliged to issue a conclusion on the permission of enforcement, within a period of 30 days from the date when the request for enforcement was submitted and shall not require any confirmation of the enforceability of the decision from CRPC or any other body (Article 7 paragraphs 1 and 2). The conclusion shall contain:

1. in case of property or apartments that have been declared abandoned, a decision terminating the municipal administration of the property;
2. a decision on repossession of the property or apartment by the right holder or other requestor for enforcement;
3. a decision terminating the right of the temporary user (where there is one) to use the property or apartment;
4. a time limit for the enforcer to vacate the property;
5. a decision on whether the enforcer is entitled to accommodation in accordance with applicable laws;
6. a requirement that the premises shall be vacated of all persons and possessions, other than those belonging to the person authorised to return into possession.

26. According to Article 7 paragraph 5, the time limit for vacating the house or apartment shall be the minimum time limit applicable under the Law on the Cessation of the Application of the Law on Abandoned Apartments (Official Gazette of the Federation of Bosnia and Herzegovina nos. 11/98, 38/98, 12/99, 18/99, 27/99 and 43/99) or the Law on the Cessation of the Application of the Law on Temporary Abandoned Real Property Owned by Citizens (Official Gazette of the Federation of Bosnia and Herzegovina 11/98, 29/98, 27/99 and 43/99).

27. Article 9 states that a decision of the CRPC is enforceable against the current occupants of the property concerned, regardless of the basis on which they occupy it.

3. The Law on Administrative Proceedings

28. Under Article 275 of the Law on Administrative Proceedings (Official Gazette of the Federation of Bosnia and Herzegovina no 2/98) the competent administrative organ has to issue a decision to execute an administrative decision within 30 days upon the receipt of a request to this effect. Article 216 paragraph 3 provides for an appeal to the administrative appellate body if a decision is not issued within this time limit (appeal against "silence of the administration").

4. The Law on Administrative Disputes

29. Article 1 of the Law on Administrative Disputes (Official Gazette of the Federation of Bosnia and Herzegovina no 2/98) provides that the courts shall decide in administrative disputes on the lawfulness of second instance administrative acts concerning rights and obligations of citizens and legal persons.

30. Article 22 paragraph 3 provides that an administrative dispute may be instituted also if the administrative second instance organ fails to render a decision within the prescribed time limit, whether the appeal to it was against a decision or against the first instance organ's silence.

V. COMPLAINTS

31. The applicants claim that their right to respect for their home as guaranteed by Article 8 of the European Convention, their right to peaceful enjoyment of possessions as guaranteed by Article 1 of Protocol No. 1 to the European Convention, their right to a hearing within reasonable time as guaranteed by Article 6 of the European Convention and their right to an effective remedy as guaranteed by Article 13 of the European Convention have been violated.

VI. SUBMISSIONS OF THE PARTIES

A. The respondent Party

32. The Federation objects, in their observations received on 6 November 2000, to the admissibility on the application on the ground that the domestic remedies provided by the Law on Administrative Proceedings and by the Law on Administrative Disputes have not been exhausted.

33. As to the merits of the complaint relating to the applicants' right to respect for their home as protected by Article 8 of the Convention and the applicants' property rights as protected by Article 1 of Protocol 1 to the Convention, the respondent Party is of the opinion that there has been no violation, because it has passed legislation which enables all persons to repossess their real property. The respondent Party further states that there has been no violation of Articles 6 and 13 in the applicants' case.

34. The respondent Party also stated that the applicants' real property was returned into the applicants' possession by decisions of the competent organ of the respondent Party. However, upon a direct question from the Chamber, the respondent Party withdrew this statement and stated that the applicants had regained possession of only one floor of the house.

B. The applicants

35. The applicants maintain their complaints and claim that the remedies available to them are ineffective. Further, they state that they have only repossessed the ground floor of the house and that the rest of the house is still occupied by other persons.

VII. OPINION OF THE CHAMBER

A. Admissibility

36. Before considering the merits of this case the Chamber must decide whether to accept it, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement.

37. According to Article VIII(2)(a) of the Agreement, the Chamber must consider whether effective remedies exist and whether the applicants have demonstrated that they have been exhausted. In the *Blentić* case (case no. CH/96/17, decision on admissibility and merits delivered on 3 December 1997, paragraphs 19-21, with further references, Decisions on Admissibility and Merits 1996-1997) the Chamber considered this admissibility criterion in the light of the corresponding requirement to exhaust domestic remedies in the former Article 26 of the Convention (now Article 35(1) of the Convention). The European Court of Human Rights has found that such remedies must be sufficiently certain not only in theory but in practice, failing which they will lack the requisite accessibility and effectiveness. The Court has, moreover, considered that in applying the rule on exhaustion it is necessary to take realistic account not only of the existence of formal remedies in the legal system of the Contracting Party concerned but also of the general legal and political context in which they operate as well as of personal circumstances of the applicants.

38. In the present case the Federation objects to the admissibility of the application on the ground that the domestic remedies provided by the Law on Administrative Proceedings and by the Law on Administrative Disputes have not been exhausted. Whilst these laws afford remedies which might qualify as effective ones within the meaning of Article VIII(2)(a) of the Agreement in so far as the applicants are seeking to return to the house in question and are faced with the authorities' inaction, the Chamber must ascertain whether, in the case now before it, these remedies can also be considered effective in practice.

39. The Chamber notes that Mr. Petrović filed a request to the CRPC with a view to being reinstated into the house. The CRPC issued a decision confirming Mr. Petrović's ownership from which it follows that he is entitled to seek the removal of the temporary occupants and to repossess the house. However, this decision has not been enforced despite Mr. Petrović's enforcement request to the competent administrative organ, which have been pending for over 15 months from the date on which the complete request for enforcement was introduced. According to Article 7 of the Law on Implementation the competent administrative organ is obliged to issue a conclusion on permission of enforcement within a period of 30 days from the date when the request for enforcement is submitted.

40. The Chamber notes that it is still open to the applicants to make further attempts to have the CRPC decision enforced. However the applicants have already made repeated attempts to remedy their situation and they have been unsuccessful. Use of the remedies provided by the Law on Administrative Proceedings and by the Law on Administrative Disputes even if successful, would also not remedy the applicants' complaints in so far as they relate to the failure of the authorities to enforce the CRPC decision within the time-limit prescribed by law. Furthermore, there is no reason to suppose that the responsible authorities, which have for a long period disregarded their legal obligations to enforce the CRPC decision, will treat the decisions of the courts with any greater respect.

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

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

B. Merits

43. Under Article XI of the Agreement the Chamber must next address the question whether the facts established above disclose a breach by the respondent Party of its obligations under the Agreement. Under Article I of the Agreement the parties are obliged to "secure to all persons within their jurisdiction the highest level of internationally recognised human rights and fundamental freedoms", including the rights and freedoms provided for in the Convention.

1. Article 8 of the Convention

44. Article 8 of the Convention reads, as far as relevant, as follows:

"1. Every one has the right to respect for...his home...

2. There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

45. The Chamber notes that the applicants have lived in the house and used it as their home until such time as they were forced to leave. The Chamber has previously held that links that persons in similar situations as the applicants in the present case retained to their dwellings were sufficient for them to be considered to be their "homes" within the meaning of Article 8 of the Convention (see case no. CH/97/58, *Onić*, Decision on the admissibility and merits delivered on 12 February 1999, paragraph 48 Decisions, January-July 1999; and case no. CH/97/46, *Kevešević*, decision on the merits delivered on 10 September 1998, paragraphs 39-42, Decisions and Reports 1998).

46. It is therefore clear that Mr. Petrović's house is to be considered as both applicants' home for the purposes of Article 8 of the Convention.

47. It is the Federation's assertion that it has passed legislation which enables all persons to repossess their real property and that therefore there has been no violation of Article 8 of the Convention

48. The Chamber notes that it is correct that legislation is in force in the Federation that in theory enables persons to repossess their houses. However, both the Chamber and the European Court of Human Rights have held that, although the object of Article 8 is essentially that of protecting the individual against arbitrary interference by the authorities, it may also give rise to positive obligations (see e.g. Case No. 96/17, *Blentić*, decisions on admissibility and merits delivered on 22 July 1998, paragraph 27, Decisions and Reports 1998, *Marckx v. Belgium*, 13 June 1979 Series A No. 31 para 31; *Airey v. Ireland*, 9 October 1979 Series A No. 32, para 32; *Velosa Barreto v. Portugal*, 21 November 1995 Series A No. 334, para 23). Therefore the Chamber considers that the Federation not only has to pass legislation but that the legislation also has to be implemented. Otherwise the legislation is not effective.

49. In the present case the Chamber recalls that the CRPC has issued a decision confirming Mr. Petrović's right to repossess the house. The applicants have been unable to regain possession of the house in full due to the failure of the authorities of the Federation to deal effectively, in accordance with Federation Law, with Mr. Petrović's request for the enforcement of the CRPC decision. The applicants have only repossessed one part of the house. However, according to the CRPC decision Mr. Petrović has the right to repossess the whole house. It follows that the result of the inaction of the Federation is that the applicants cannot regain possession of the whole house and that there is an ongoing interference with the applicants' right to respect for their home.

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

51. The Chamber notes that the Mr. Petrović filed a request to the CRPC with a view to being reinstated into the house. The CRPC issued a decision confirming Mr. Petrović's ownership, from which it follows that he is entitled to seek the removal of the temporary occupants and to repossess the house. According to Article 7 of the Law on Implementation the competent administrative organ is obliged to issue a conclusion on permission of enforcement within a period of 30 days from the date when the request for enforcement is submitted. The Chamber notes that Mr. Petrović's first enforcement request, filed on 21 July 1999, was not complete. The Chamber is of the opinion that the respondent Party cannot be blamed for not issuing a conclusion until an applicant has filed a complete request. Therefore the Chamber is of the opinion that the latest date on which the respondent Party should have issued a conclusion is 30 days after 3 December 1999, i.e on 3 January 2000. Mr. Petrović has still not received a decision on his request to have the CRPC decision enforced, despite the time-limit for this having expired over 14 months ago. Accordingly, the failure of the competent administrative organ to decide upon Mr. Petrović's request is not "in accordance with the law".

52. As the interference with the applicants' right to respect for their home referred to above is not "in accordance with the law", it is not necessary for the Chamber to examine whether it pursued a "legitimate aim" or was "necessary in a democratic society".

53. In conclusion, there has been a violation of the rights of the applicants to respect for their home as guaranteed by Article 8 of the Convention.

2. Article 1 of Protocol No. 1

54. The applicants complain that their right to peaceful enjoyment of their possession has been violated as a result of their inability to regain possession of their house. Article 1 of Protocol No. 1 reads as follows:

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

55. It is the Federation's assertion that it has passed such legislation, which enables all persons to repossess their real property and that the applicants' were not deprived of their rights to return into possession of the house.

56. The Chamber notes that Mr. Petrović is the sole owner of the house concerned and that the house constitutes his "possession" within the meaning of Article 1 of Protocol No. 1 to the Convention. In the present case the Chamber does not consider it necessary to examine the question whether Mrs. Petrović's rights as guaranteed under Article 1 of Protocol No. 1 to the Convention have been affected.

57. The Chamber considers that the failure of the authorities of the Federation to allow Mr. Petrović to regain possession of the whole house constitutes an "interference" with his right to peaceful enjoyment of that possession. This interference is ongoing, as he only has regained possession of one part of the house and still does not enjoy possession of the whole house.

58. The Chamber must therefore examine whether this interference can be justified. For this to be the case, it must be in the public interest and subject to conditions provided for by law. This means that the deprivation must have a basis in national law and that the law concerned must be both accessible and sufficiently precise.

59. As the Chamber noted, in the context of its examination of the case under Article 8 of the Convention, Article 7 of the Law on Implementation states that the competent administrative organ, is obliged to issue a conclusion authorising the execution of the decision within 30 days of the date

of a request for such enforcement. Accordingly, the failure of the competent administrative organ to decide upon Mr. Petrović's request is contrary to the law. This is in itself sufficient to justify a finding of a violation of his right to peaceful enjoyment of his possessions as guaranteed by Article 1 of Protocol No. 1. Accordingly, the rights of Mr. Petrović under this provision have been violated.

3. Articles 6 and 13 of the Convention

60. Article 6 of the Convention, insofar as relevant, provides as follows:

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

61. Article 13 of the Convention provides as follows:

“Everyone whose rights and freedoms as set forth in this Convention shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

62. The applicants allege violations of their rights as guaranteed by these provisions. The respondent Party states that there has been no violation of these Articles in the applicants' cases.

63. The Chamber, having regard to other violations of the applicants' rights it has found, does not consider it necessary to examine the case under these provisions.

VIII. REMEDIES

64. Under Article XI(1)(b) of the Agreement the Chamber must address the question of what steps shall be taken by the respondent Party to remedy the established breaches of the Agreement. In this connection the Chamber shall consider issuing orders to cease and desist, monetary relief as well as provisional measures. The Chamber is not necessarily bound by the claims of the applicants.

65. In their submission of 15 December 2000 the applicants requested that they be enabled to regain possession of the house. In addition, the applicants requested compensation in the amount of DEM 2000 for mental suffering and for the injustice they claim to have suffered. The applicants also claimed compensation for the rent they have been forced to pay for their accommodation pending their return to the house. The applicants did not specify any particular sum which they have had to pay. Further, the applicants, seek the application of the penalties under the Law on Cessation of the Application of the Law on Abandoned Apartments (Official Gazette of the Federation of Bosnia and Herzegovina nos. 11/98, 38/98, 12/99, 18/99, 27/99 and 43/99), for officials who have failed to carry out their legal duties. Under Article 18h of this law, responsible officers or persons in an administrative body who block returns may be fined up to KM 1000 for their actions.

66. The respondent Party in its observations, which were received by the Chamber on 26 January 2001, argued that the claims for compensation were unsubstantiated and excessive.

67. The Chamber considers it appropriate to order the respondent Party to take all necessary steps to enforce the CRPC decision in full and to enable the applicants to regain possession of the entire house, without further delay and at the latest within one month from the delivery of the present decision.

68. With regard to possible compensatory awards the Chamber considers it appropriate to award a sum to the applicants in recognition of the sense of injustice they have suffered as a result of their inability to regain possession of the entire house, especially in view of the fact that the applicants have taken all necessary steps to have the CRPC decision enforced.

69. Accordingly the Chamber will order the respondent Party to pay to the applicants jointly the sum of 2000 Convertible Marks (Konvertibilnih Maraka, "KM") in recognition of their suffering as a result of their inability to regain possession of their house;

70. In accordance with its decision in *Turundžić and Frančić* (cases nos. CH/00/6143 and CH/00/6150, decision on admissibility and merits delivered on 8 February 2001, paragraph 70, not yet published), the Chamber considers that the sum of KM 100 per month is appropriate to compensate for the loss of use of the house and any extra costs for each month the applicants have been and continue to be forced to live in alternative accommodation. The Chamber considers it appropriate that this sum should be payable from 3 January 2000, the date the time-limit for the competent municipal organ to issue a conclusion on the permission of enforcement of the CRPC decision expired, i.e. 30 days after Mr. Petrović lodged his complete request, up to and including March 2001, amounting to a total of KM 1500.. This sum should continue to be paid at the same rate until the end of the month in which the applicants regain possession of the entire house.

71. With regard to the applicants' suggestion of sanctions under Article 18h of the Law on Cessation of the Application of the Law on Abandoned Apartments, the Chamber considers that it is not opportune for it to order the domestic organs to apply such sanctions. Accordingly, this claim is rejected.

72. In its decision on the claim for compensation in the *Damjanović* case (CH/96/30, delivered on 16 March 1998, Decisions and Reports 1998), the Chamber ordered the payment of simple interest at an annual rate of 4% on compensation for damage paid after the expiry of the time-limit set for that purpose. The award compensation for damage was expressed in German currency and 4% was the legal rate of default interest in Germany at that time. The Chamber considers that it should now award such interest at an annual rate of 10%, which more closely reflects economic reality in Bosnia and Herzegovina. Interest at that rate should be paid as of the date of expiry of the one month period set in paragraph 67 for the implementation of the present decision, and on each sums awarded in paragraphs 69 and 70 or any unpaid portion thereof until the date of settlement in full.

IX. CONCLUSION

73. For the above reasons, the Chamber decides,

1. unanimously, to declare the application admissible;

2. unanimously, that the non-enforcement of the decision of the CRPC constitutes a violation of the rights of the applicants to respect for their home within the meaning of Article 8 of the Convention, the Federation thereby being in breach of Article 1 of the Agreement;

3. unanimously, that the non-enforcement of the decision of the CRPC constitutes a violation of the rights of Dušan Petrović to the peaceful enjoyment of his possessions within the meaning of Article 1 of Protocol No. 1 to the Convention, the Federation thereby being in breach of Article 1 of the Agreement;

4. unanimously, that it is not necessary to examine the question whether the rights of Mrs. Mila Petrović under Article 1 of Protocol No. 1 to the Convention have been affected;

5. unanimously, that it is not necessary to rule on the complaints under Article 6 and Article 13 of the Convention;

6. unanimously, to order the Federation to take all necessary steps to enforce the CRPC decision and to enable the applicants to regain possession of the entire house without any further delay, and at latest by 9 April 2001;

7. unanimously, to order the Federation to pay to the applicants jointly, no later than 9 April 2001 the sum of KM 2000 (two thousand Convertible Marks) in respect of non-pecuniary damage;

8. unanimously, to order the Federation to pay to the applicants jointly, no later than 9 April 2001, the sum of KM 1500 (one thousand five hundred Convertible Marks) as compensation for the loss of use of the apartment and for any extra costs during the time the applicants have been forced to live in alternative accommodation until the end of March;

9. unanimously, to order the Federation to pay to the applicants jointly KM 100 (one hundred Convertible Marks) for each further month that they continue to be forced to live in alternative accommodation as from 1 April 2001 until the end of the month in which they are reinstated, each of these monthly payments to be made within 30 days from the end of the month to which they relate;

10. unanimously, to order the Federation to pay simple interest at the rate of 10 (ten) per cent per annum over the above sums or any unpaid portion thereof from the date of expiry of the above one-month periods until the date of settlement in full;

11. unanimously, to dismiss the remainder of the applicants' claims for remedies;

12. unanimously, to order the Federation to report to it by 9 April 2001 on the steps taken by it to comply with the above orders.

(signed)
Peter KEMPEES
Registrar of the Chamber

(signed)
Michèle PICARD
President of the Chamber