



**DECISION ON ADMISSIBILITY AND MERITS**  
(delivered on 7 November 2003)

Case nos. CH/01/8112, CH/02/8159, CH/02/8160,  
CH/02/8218, CH/02/8223,  
CH/02/8238, CH/02/9065, CH/02/9192, CH/02/9234, CH/02/10669,  
CH/02/10679, CH/03/13511,  
CH/03/13518, CH/03/13531, CH/03/13553, CH/03/13564,  
CH/03/13704, CH/03/13705,  
CH/03/13706, CH/03/13707,  
CH/03/13708, CH/03/13709,  
CH/03/13710, CH/03/13711, CH/03/13712,  
CH/03/13713, CH/03/13714,  
CH/03/14264 and CH/03/14273

**N.V., Milan, Mira and Siniša MAJSTOROVIĆ, Tomislav, Draginja and Dražen MALKIĆ,  
Radoslav GAŠIĆ, Kristina, Mišo, Mila and Marina TODOROVIĆ,  
Nebojša KOZIĆ, Čedo PREDOJEVIĆ, I.K., M.K., G.K. and M.J., G.M.,  
Mara and Miladin MIHAJLOVIĆ, Ivka ERIĆ and Milena TRIŠIĆ, Zoran VUČANOVIĆ,  
Goran SIMOVIĆ, Slobodan MARJANOVIĆ, Nikola ŠAVIJA, Vojislav STAKIĆ,  
Krstan and Mileva VUKOVIĆ, Petar and Sekula TOPIĆ,  
Draginja, Aleksandra and Tanja BABIĆ, Dobrila, Duško and Dragica PILIPOVIĆ,  
Vojka NARANČIĆ, Veljko and Vinka ĐEKIĆ and Gordana POPOVIĆ, Lazo ZVONAR,  
Janja JERKOVIĆ, Milan and Mileva PUZIĆ, Mira and Brane MARJANOVIĆ,  
Vladan, Vesna and Jovanka MILOVANOVIĆ, Drinka and Dragana KOVAČEVIĆ,  
Radomir, Jelena and Milan STANIVUKOVIĆ and Svetozar VANOVAĆ**

**against**

**THE REPUBLIKA SRPSKA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 3 November 2003 with the following members present:

Mr. Mato TADIĆ, President  
Mr. Jakob MÖLLER, Vice-President  
Mr. Mehmed DEKOVIĆ  
Mr. Giovanni GRASSO  
Mr. Vitomir POPOVIĆ  
Mr. Viktor MASENKO-MAVI

Mr. Ulrich GARMS, Registrar  
Ms. Olga KAPIĆ, Deputy Registrar  
Ms. Antonia DE MEO, Deputy Registrar

CH/01/8112 *et al.*

Having considered the aforementioned applications 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 34, 52, 57, and 58 of the Chamber's Rules of Procedure:

## I. INTRODUCTION

1. These applications concern the applicants' attempts to obtain compensation from the Republika Srpska granted to them by different courts of the Republika Srpska in final and binding judgments issued in the period of 1998 to 2003. All the applicants possess final and binding permissions on enforcement of those judgments. However, the Republika Srpska has never paid the compensation awarded to the applicants.

2. Moreover, on 28 May 2002, the "Law on Postponement of Enforcement of Court Decisions on Payment of Compensation for Pecuniary and Non-Pecuniary Damages resulting from War Activities and Non-Payment of Old Foreign Currency Savings Deposits, Payable from the Republika Srpska Budget" (the "Law on Postponement") entered into force (see paragraph 110 below). By this Law on Postponement, the Republika Srpska has postponed indefinitely the enforcement of court decisions on the payment of compensation for pecuniary and non-pecuniary damages due to war activities, like the judgments obtained by the applicants. On 7 March 2003, the plenary Chamber delivered its decision in *D.R. v. Bosnia and Herzegovina and the Republika Srpska* (case no. CH/01/8110, decision on admissibility and merits of 7 February 2003), in which it, *inter alia*, ordered the Republika Srpska to enact, by 7 September 2003, a law which will regulate the manner of settling obligations payable from the budget of the Republika Srpska incurred on the basis of court decisions on the payment of compensation sustained due to war activities. On 9 July 2003, the "Law on Amendments to the Law on Postponement of Enforcement of Court Decisions on Payment of Compensation for Pecuniary and Non-Pecuniary Damages resulting from War Activities and Non-Payment of Old Foreign Currency Savings Deposits, Payable from the Republika Srpska Budget" came into force. Contrary to the Chamber's final and binding decision in the *D.R.* case, this amended Law provides for the indefinite postponement of the enforcement of "other court judgments, out-of-court settlements and other administrative documents on claims dating from the period of war activities" (see paragraph 112 below). Thus, the Amended Law on Postponement is now applicable to an even wider number of situations where the national judiciary has ordered payments from the budget of the Republika Srpska.

3. The applications raise issues under Article 1 of Protocol No. 1 (right to peaceful enjoyment of possessions) to the European Convention on Human Rights (the "Convention"); Article 6 of the Convention (right to a court); and Article 13 of the Convention (right to an effective remedy).

## II. PROCEEDINGS BEFORE THE CHAMBER

4. The applications were introduced to the Chamber and registered within the period of 6 December 2001 to 22 July 2003.

5. On 11 July 2003 and 1 August 2003, the Chamber transmitted the applications to the Republika Srpska for its observations on the admissibility and merits under Articles 6(1) and 13 of the Convention and Article 1 of Protocol No. 1 to the Convention<sup>1</sup>.

6. On 27 August 2003, the Republika Srpska submitted its written observations on the admissibility and merits of all the applications.

7. On 10 and 15 September 2003, the Chamber transmitted the respondent Party's observations to the applicants for their comments. The applicants in case nos. CH/02/9065, CH/02/9192, CH/02/10679, CH/03/13531, CH/03/13704, CH/03/13705, CH/03/13706, CH/03/13707, CH/03/13708, CH/03/13709, CH/03/13710, CH/03/13711, CH/03/13712, CH/03/13713, CH/03/13714, CH/03/14264 and CH/03/14273 submitted their observations in reply during the period of 16 September to 6 October 2003. On 17 October 2003, the Chamber requested additional authorisation letters from the applicants' representative in case nos. CH/02/8159, CH/02/8160, and CH/02/8223. On 31 October 2003, the representative submitted the requested authorisation letters.

<sup>1</sup> It appears that some of the applications were mistakenly transmitted also under Article 8 of the Convention, but the Chamber does not consider the applications to raise issues under Article 8 of the Convention.

8. The Chamber deliberated on the admissibility and merits of the applications on 3 and 4 July, 7 October, and 3 November 2003. On the latter date it adopted the present decision on admissibility and merits.

9. Considering the similarity between the facts of the cases and the complaints of the applicants, the Chamber decided to join the present applications in accordance with Rule 34 of the Chamber's Rules of Procedure on the same day it adopted the present decision.

### **III. STATEMENT OF THE FACTS**

10. The facts presented are not disputed between the parties.

#### **1. CH/01/8112, N.V.**

11. On 4 December 2000, the First Instance Court in Bijeljina in judgment no. P-1238/99 awarded the applicant compensation for non-pecuniary damage, in the amount of 5,000 Convertible Marks (*Konvertibilnih Maraka*, "KM"), with corresponding interest, for health problems he suffered after being wounded as a soldier of the Army of the Republika Srpska (the "RS Army"). This judgment became final and binding on 3 February 2001.

12. On 6 September 2001, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgment of 4 December 2000. The mentioned payment has never occurred.

#### **2. CH/02/8159, Milan, Mira and Siniša MAJSTOROVIĆ**

13. On 15 February 1999, the First Instance Court in Banja Luka decided in judgment no. P-533/98 to award compensation for pecuniary and non-pecuniary damages in the amount of 17,241.42 KM (comprised of 2,241.42 KM as compensation for pecuniary damage and 15,000 KM as compensation for non-pecuniary damage) and 1,132.85 KM for court expenses, with corresponding interest, to the family of a soldier (the applicant's son) killed in 1995 while he was serving in the RS Army.

14. On 3 October 2001, the Second Instance Court in Banja Luka in judgment no. Gž-141/00, while deciding upon the appeal of the Republika Srpska Army (the "defendant"), partially recognised the appeal and changed the period relevant for the calculation of interest.

15. On 29 August 2001, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgments of 15 February 1999 and 3 October 2001. However, the judgments have never been enforced.

#### **3. CH/02/8160, Tomislav, Draginja and Dražen MALKIĆ**

16. On 12 May 1999, the First Instance Court in Banja Luka in judgment no. P-2496/97 decided to award compensation for pecuniary and non-pecuniary damages in the amount of 17,026 KM, with corresponding interest, to the family of a soldier (the applicant's son) killed in 1995 while he was serving in the RS Army.

17. On 5 January 2001, the Second Instance Court in Banja Luka in judgment no. Gž-1649/00, while deciding upon the appeal of the defendant, partially recognised the appeal and reduced the compensation awarded for pecuniary damage, resulting in an award of 16,953.33 KM (comprised of 15,000 KM as compensation for non-pecuniary damage and 1,953.33 KM as compensation for pecuniary damage) and 3,000 KM for court expenses, with corresponding interest.

18. On 6 July 2001, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgments of 12 May 1999 and 5 January 2001. The judgments have not

been enforced to date.

#### **4. CH/02/8218, Radoslav GAŠIĆ**

19. On 10 July 1998, the First Instance Court in Mrkonjić Grad in judgment no. P-46/97 awarded the applicant compensation in the amount of 350,000 YUD (*Yugoslav Dinars*) (to be paid in the equivalent amount of Convertible Marks in accordance with the relevant exchange rate of YUD to KM on the date when the judgment became final and binding) as compensation for non-pecuniary damage for health problems he suffered after being wounded as a soldier of the RS Army, as well as 200 DEM (*Deutsche Marks*) for court expenses, with corresponding interest.

20. On 8 November 1999, the Second Instance Court in Banja Luka in judgment no. Gž-976/98, while deciding upon the appeal of the defendant, partially recognised the appeal and changed the period relevant for the calculation of interest.

21. On 20 June 2000, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgments of 10 July 1998 and 8 November 1999. On 29 August 2000, the Court rejected the defendant's complaint against the procedural decision on enforcement. However, the judgments have never been enforced.

#### **5. CH/02/8223, Kristina, Mišo, Mila and Marina TODORVIĆ**

22. On 1 October 1999, the First Instance Court in Banja Luka decided in judgment no. P-2221/98 to award compensation for pecuniary and non-pecuniary damages in the amount of 20,600 KM, with corresponding interest, to the family of a soldier (the applicant's husband) killed in 1995 while he was serving in the RS Army. The applicant was awarded 5,000 KM for non-pecuniary damages, which was a part of the total non-pecuniary award, and in addition 600 KM as compensation for pecuniary damage and court expenses of 1,500 KM, with corresponding interest.

23. On 9 March 2001, the Second Instance Court in Banja Luka in judgment no. Gž-54/00, while deciding upon the appeal of the defendant against the first instance decision regarding the payment of court expenses, rejected it and, thus, confirmed the first instance decision.

24. On 4 April 2002, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgment of 1 October 1999. The judgment has not yet been enforced.

#### **6. CH/02/8238, Nebojša KOZIĆ**

25. On 10 September 1999, the First Instance Court in Mrkonjić Grad in judgment no. P-119/96 awarded the applicant the amount of 20,000 KM as compensation for non-pecuniary damage due to health problems he suffered after being wounded as a soldier of the RS Army and 2,145.31 KM for court expenses, with corresponding interest.

26. On 3 April 2000, the Second Instance Court in Banja Luka in judgment no. Gž-172/2000, while deciding upon both the applicant's and the defendant's appeals against the judgment of 10 September 1999, rejected them, and, thus, upheld the first instance judgment.

27. On 18 May 2000, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgment of 10 September 1999. However, the judgment has never been enforced.

#### **7. CH/02/9065, Čedo PREDJEVIĆ**

28. On 29 June 2000, the First Instance Court in Banja Luka in judgment no. P-1207/98 awarded the applicant the amount of 13,500 KM as compensation for non-pecuniary damage due to health problems he suffered after being wounded as a soldier of the RS Army and 2,158 KM for court expenses, with corresponding interest. As neither party appealed, the judgment became final and binding.

29. On 6 July 2001, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgment of 29 June 2000. However, the judgment has never been enforced.

**8. CH/02/9192, I.K.**

30. On 3 July 2000, the First Instance Court in Banja Luka in judgment no. P-3947/99 awarded the applicant the amount of 24,000 KM as compensation for non-pecuniary damage due to health problems he suffered after being wounded as a soldier of the RS Army, with corresponding interest.

31. On 14 December 2000, the Second Instance Court in Banja Luka in judgment no. Gž-1121/00, while deciding upon the defendant's appeal, upheld the first instance decision.

32. On 26 January 2001, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgment of 3 July 2000. However, the judgment has never been enforced.

**9. CH/02/9234, M.K., G.K. and M.J.**

33. On 3 June 1999, the First Instance Court in Bijeljina in judgment no. P-442/98 decided to award compensation for non-pecuniary damage in the amount of 6,000 KM, with corresponding interest, to the family (including the applicant) of a soldier killed in 1995 while he was serving in the RS Army.

34. On 29 December 1999, the Second Instance Court in Banja Luka in judgment no. Gž-666/99, while deciding upon the applicant's appeal, partially recognised the appeal and increased the amount of compensation awarded for non-pecuniary damage to the total amount of 9,600 KM and court expenses of 600 KM, with corresponding interest.

35. On 26 July 2000, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgments of 3 June 1999 and 29 December 1999. However, the judgments have never been enforced.

**10. CH/02/10669, G.M.**

36. On 1 February 2000, the First Instance Court in Banja Luka decided in judgment no. P-6103/99 to award compensation for non-pecuniary damage in the amount of 21,000 KM to the applicant due to health problems he suffered after being wounded as a soldier of the RS Army and 320 KM for court expenses, with corresponding interest.

37. On 7 May 2002, the Second Instance Court in judgment no. Gž-1677/00, while deciding upon the defendant's appeal against the first instance judgment, rejected the appeal and, thus, upheld the judgment.

38. On 12 June 2002, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgment of 1 February 2000. The judgment, however, has never been enforced.

**11. CH/02/10679, Mara and Miladin MIHAJLOVIĆ, Ivka ERIĆ and Milena TRIŠIĆ**

39. On 8 December 2000, the First Instance Court in Vlasenica decided in judgment no. P-797/99 to award compensation for pecuniary and non-pecuniary damages in the amount of 21,500 KM (comprised of 1,500 KM as compensation for pecuniary damage and 20,000 KM as compensation for non-pecuniary damage), with corresponding interest, to the family, the applicants, of a soldier killed in 1993 while he was serving in the RS Army. As neither party appealed, the judgment became final and binding.

40. On 15 August 2001, the First Instance Court in Banja Luka issued a procedural decision

ordering the enforcement of the judgment of 8 December 2000. The judgment has never been enforced.

## **12. CH/03/13511, Zoran VUČANOVIĆ**

41. On 8 September 2000, the First Instance Court in Banja Luka decided in judgment no. P-7844/99 to award compensation for non-pecuniary damage in the amount of 22,000 KM, with corresponding interest, to the applicant due to health problems he suffered after being wounded as a soldier of the RS Army.

42. On 7 October 2002, the Second Instance Court in Banja Luka in judgment no. Gž-469/01, while deciding upon the appeal of the defendant, partially recognised the appeal and reduced the compensation awarded, resulting in 13,000 KM as compensation for non-pecuniary damage and 1,196 KM for court expenses, with corresponding interest.

43. On 17 February 2003, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgments of 8 September 2000 and 7 October 2002. The judgments have never been enforced.

## **13. CH/03/13518, Goran SIMOVIĆ**

44. On 21 December 1999, the First Instance Court in Banja Luka in judgment no. P-1206/98 decided to award compensation for non-pecuniary damage in the amount of 20,200 KM, with corresponding interest, to the applicant due to health problems he suffered after being wounded as a soldier of the RS Army.

45. On 10 July 2001, the Second Instance Court in Banja Luka in judgment no. Gž-579/00, while deciding upon the defendant's appeal against the first instance judgment, upheld the judgment.

46. On 1 November 2001, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgment of 21 December 1999.

47. On 1 April 2002, the First Instance Court in Banja Luka rejected the defendant's complaint against the procedural decision on enforcement of 1 November 2001.

48. On 23 August 2002, the Supreme Court of the Republika Srpska in judgment no. Rev-331/2001, while deciding upon the defendant's request for review, decided to accept the request partially and to reduce the compensation awarded to 15,200 KM and 1,567.50 KM for court expenses, with corresponding interest. The mentioned judgment of 21 December 1999, as revised by the Supreme Court, has not been enforced to date.

## **14. CH/03/13531, Slobodan MARJANOVIĆ**

49. The military troops of the RS Army used the applicant's property for the period of January 1993 to February 1995, and afterwards, from September 1995 to December 1996. During this time the property was damaged and the applicant was prevented from using it in order to obtain income.

50. On 27 July 2000, the applicant concluded a contract on extra-judicial settlement with the Republika Srpska - Ministry of Defence. With this settlement, the Ministry of Defence obliged itself to pay the applicant the amount of 97,623 KM within a time-period of 45 days from the date on which the contract was concluded. The settlement, further, provided that the applicant gave up his claim for payment of corresponding interest. The applicant retained his right to request the remainder of the military debt before the competent court, in regular civil proceedings.

51. On an unknown date in 2000, the First Instance Court in Banja Luka permitted the enforcement of the contract on extra-judicial settlement. On 26 December 2001, the Bank (where the Ministry of Defence had its account) received, for the first time, the mentioned permission on enforcement. The Court periodically contacted the Bank through written submissions, each time

reminding the Bank that a permission on enforcement was received by it and at the same time submitting updated calculations on the amount of interest to be paid to the applicant. The settlement has not been enforced to date.

52. On 7 November 2002, the First Instance Court in Banja Luka issued a partial judgment (*i.e.*, the Court did not decide upon the interest and payment of court fees but postponed its decision upon these issues) awarding the applicant compensation for lost income in the amount of 1,086,907 KM, with corresponding interest. This judgment is still not final and binding, since the defendant appealed against it and the appeal is still pending.

53. On 27 March 2003, the Ministry of Finance of the Republika Srpska (Commission for Permission of Payments on the Basis of Enforceable Procedural Decisions of the Court) informed the applicant that, although his case does not concern war damages but rather business relations between the debtor and creditor, it is still to be considered under the Law on Postponement.

#### **15. CH/03/13553, Nikola ŠAVIJA**

54. On 21 December 1999, the First Instance Court in Banja Luka decided in judgment no. P-1013/99 to award compensation for non-pecuniary damage in the amount of 16,200 KM, with corresponding interest, to the applicant due to health problems he suffered after being wounded as a soldier of the RS Army.

55. On 14 December 2000, the Second Instance Court in Banja Luka in judgment no. Gž-961/00, while deciding upon the defendant's appeal, partially recognised the appeal and returned the case to the First Instance Court for reconsideration regarding the award of compensation in the amount of 9,000 KM for mental suffering due to reduced general-life capacity. The remainder of the first instance judgment, awarding the applicant 7,200 KM as compensation for non-pecuniary damage, with corresponding interest, was upheld.

56. On 15 March 2001, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgment of 21 December 1999, as confirmed by the Second Instance Court. The judgment has not been enforced to date.

#### **16. CH/03/13564, Vojislav STAKIĆ**

57. On 12 June 2001, the First Instance Court in Banja Luka issued judgment no. P-9155/99 awarding the applicant compensation for non-pecuniary damage in the amount of 15,000 KM and 1,060 KM for court expenses, with corresponding interest. The applicant was wounded in 1993 as a member of the RS Army.

58. On 7 March 2003, while deciding upon the defendant's appeal, the Second Instance Court in Banja Luka in judgment no. Gž-2222/01 upheld the first instance judgment.

59. The Court issued a procedural decision ordering the enforcement of the judgment on 12 June 2001. No enforcement has occurred to date.

#### **17. CH/03/13704, Krstan and Mileva VUKOVIĆ**

60. On 27 September 1999, the First Instance Court in Banja Luka in judgment no. P-2241/99 decided to award compensation for non-pecuniary damage in the amount of 6,000 KM per applicant, with corresponding interest. The applicants are the parents of a soldier killed in 1995 while he was serving in the RS Army. Mr. Krstan Vuković was further, by the same judgment, awarded compensation for pecuniary damage in the amount of 2,963.50 KM.

61. On 18 October 2001, the Second Instance Court in Banja Luka in judgment no. Gž-7/00, while deciding upon the appeals of the applicant and the defendant, partially recognised the appeals and changed the period relevant for calculation of interest, as well as increased the amount of compensation awarded for non-pecuniary damage to 7,000 KM per applicant, resulting in a total

compensation award of 16,963.50 KM (comprised of 2,963.50 KM as compensation for pecuniary damage and 14,000 KM as compensation for non-pecuniary damage) and 2,315 KM for court expenses, with corresponding interest.

62. On 19 March 2001, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgments of 27 September 1999 and 18 October 2001. However, the judgments have never been enforced.

**18. CH/03/13705, Petar and Sekula TOPIĆ**

63. On 3 February 2000, the First Instance Court in Banja Luka decided in judgment no. P-3988/98 to award compensation for non-pecuniary damage in the amount of 5,000 KM per applicant, with corresponding interest, to the applicants, the family of a soldier killed in 1994 while he was serving in the RS Army.

64. On 2 March 2001, the Second Instance Court in Banja Luka in judgment no. Gž-608/00, while deciding upon the appeals of the family and the defendant, partially recognised the appeals. The first instance judgment was returned for reconsideration in its operative part related to a family member who is not an applicant before the Chamber and in the part related to court expenses. The appeal of Mr. Petar Topić was adopted; thus, the first instance judgment was changed by increasing the amount of compensation awarded to him to 7,000 KM. Ms. Sekula Topić's appeal was rejected. Therefore, the corrected version of the first instance judgment became final and binding and the applicants were awarded in total 12,000 KM, with corresponding interest.

65. On 17 May 2001, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgments of 3 February 2000 and 2 March 2001. The judgments have never been enforced.

**19. CH/03/13706, Draginja, Aleksandra and Tanja BABIĆ**

66. On 31 August 2000, the First Instance Court in Banja Luka decided in judgment no. P-3742/99 to award compensation for non-pecuniary damage in the amount of 10,000 KM per applicant, with corresponding interest, to the applicants, the family of a soldier killed in 1995 while he was serving in the RS Army. Mrs. Draginja Babić was, by the same judgment, awarded compensation for pecuniary damage in the amount of 2,000 KM, with corresponding interest.

67. On 12 December 2001, the Second Instance Court in Banja Luka in judgment no. Gž-434/01, while deciding upon the defendant's appeal, partially recognised it. The first instance judgment was, in its operative part related to the award of pecuniary damage, partially annulled and returned for reconsideration to the First Instance Court. The judgment of 31 August 2000 was changed in that the amount awarded to Mrs. Draginja Babić for non-pecuniary damage was decreased to 8,000 KM. The remainder of the first instance judgment was confirmed (*i.e.* 30,000 KM comprised of 28,000 KM as compensation for non-pecuniary damage and 2,000 KM as compensation for pecuniary damage, with corresponding interest).

68. On 19 July 2002, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgments of 31 August 2000 and 12 December 2001. The judgments have never been enforced.

**20. CH/03/13707, Dobrila, Duško and Dragica PILIPOVIĆ**

69. On 10 May 1999, the First Instance Court in Banja Luka decided in judgment no. P-286/99 to award the applicants, who are the family of a soldier killed in 1995 while serving in the RS Army, compensation for non-pecuniary damage in the amount of 18,000 KM, with corresponding interest. By the same judgment, Mrs. Dragica Pilipović was awarded compensation for pecuniary damage in the amount of 3,945.55 KM, with corresponding interest.

70. On 21 February 2001, the Second Instance Court in Banja Luka in judgment no. Gž-10/2000,

while deciding upon the defendant's and the applicants' appeals, changed the judgment of 10 May 1999 by increasing the amount awarded for non-pecuniary damage to 21,000 KM in total. The amount awarded for pecuniary damage was decreased to 2,855,55KM. In addition, the relevant period for the calculation of interest on the award of pecuniary damage was changed, and the court expenses were decreased to 1,366 KM.

71. On 17 August 2001, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgments of 10 May 1999 and 21 February 2001. The judgments have never been never enforced.

**21. CH/03/13708, Vojka NARANČIĆ, Veljko and Vinka ĐEKIĆ and Gordana POPOVIĆ**

72. On 1 July 1999, the First Instance Court in Banja Luka decided in judgment no. P-3116/98 to award compensation for non-pecuniary damage in the amount of 16,000 KM, with corresponding interest, to Mrs. and Mr. Đekić, the parents of a soldier killed in 1993 while he was serving in the RS Army. Mss. Vinka Đekić, Vojka Narančić, and Gordana Popović were, by the same judgment, awarded compensation for pecuniary damage in the total amount of 2,201 KM, with corresponding interest.

73. On 12 September 2000, the Second Instance Court in Banja Luka in judgment no. Gž-191/2000, while deciding upon the defendant's appeal, partially annulled the first instance judgment regarding a particular part of the award of compensation for pecuniary damage and returned the case for renewed proceedings regarding this part. The remainder of the first instance judgment was confirmed (*i.e.* 16,774 KM comprised of 16,000 KM as compensation for non-pecuniary damage and 774 KM as compensation for pecuniary damage, with corresponding interest).

74. On 22 November 2000, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgment of 1 July 1999, as confirmed by the Second Instance Court. The judgment has never been enforced.

**22. CH/03/13709, Lazo ZVONAR**

75. On 25 January 2000, the First Instance Court in Banja Luka decided in judgment no. P-1809/99 to award the applicant, who is the father of a soldier killed in 1993 while he was serving in the RS Army, compensation for non-pecuniary damage in the amount of 10,000 KM, with corresponding interest. The applicant was, by the same judgment, awarded compensation for pecuniary damage in the amount of 2,000 KM, with corresponding interest.

76. On 3 December 2001, the Second Instance Court in Banja Luka in judgment no. Gž-573/00, while deciding upon the defendant's appeal, partially annulled the first instance judgment and returned the case for renewed proceedings regarding the issue of pecuniary damage. The remainder of the first instance judgment was confirmed (*i.e.* 10,000 KM as compensation for non-pecuniary damage, with corresponding interest).

77. On 11 April 2002, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgment of 25 January 2000, as confirmed by the Second Instance Court. The judgment has never been enforced.

**23. CH/03/13710, Janja JERKOVIĆ**

78. On 12 April 1999, the First Instance Court in Banja Luka decided in judgment no. P-3153/98 to award the applicant, who is the mother of a soldier killed in 1992 while serving in the RS Army, compensation for non-pecuniary damage in the amount of 7,000 KM, with corresponding interest.

79. On 4 May 2000, the Second Instance Court in Banja Luka in judgment no. Gž-752/99, while deciding upon the defendant's appeal, changed the first instance judgment by decreasing the court expenses to 918 KM. The remainder of the first instance judgment was confirmed (*i.e.* 7,000 KM as compensation for non-pecuniary damage and 918 KM for court expenses, with corresponding interest).

80. On 13 July 2000, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgment of 12 April 1999, as confirmed by the Second Instance Court. The judgment has never been enforced.

**24. CH/03/13711, Milan and Mileva PUZIĆ**

81. On 4 September 2000, the First Instance Court in Banja Luka decided in judgment no. P-4172/99 to award the applicants, who are the family of a soldier killed in 1994 while serving in the RS Army, compensation for non-pecuniary damage in the amount of 10,000 KM per applicant, with corresponding interest. The applicants were awarded compensation for pecuniary damage in the amount of 3,051.76 KM.

82. On 12 March 2001, the Second Instance Court in Banja Luka in judgment no. Gž-1849/2000, while deciding upon the defendant's appeal, partially annulled the first instance judgment and returned the case for renewed proceedings regarding court expenses. The remainder of the first instance judgment was confirmed (*i.e.* 23,051.76 KM, comprised of 20,000 KM as compensation for non-pecuniary damage and 3,051.76 KM as compensation for pecuniary damage, with corresponding interest).

83. On 17 May 2001, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgment of 4 September 2000, as confirmed by the Second Instance Court. The judgment has never been enforced.

**25. CH/03/13712, Mira and Brane MARJANOVIĆ**

84. On 1 March 1999, the First Instance Court in Banja Luka decided in judgment no. P-3122/98 to award the applicants, who are the family of a soldier killed in 1995 while serving in the RS Army, compensation for non-pecuniary damage in the total amount of 25,000 KM, with corresponding interest. By the same judgment, Mrs. Mira Marjanović was awarded compensation for pecuniary damage in the amount of 4,963.69 KM, with corresponding interest.

85. On 4 May 2000, the Second Instance Court in Banja Luka in judgment no. Gž-728/99, while deciding upon the defendant's appeal, partially annulled the first instance judgment and returned the case for renewed proceedings regarding pecuniary damage and court expenses. The remainder of the judgment of 1 March 1999 was changed by decreasing the total amount awarded for non-pecuniary damage to 15,000 KM, with corresponding interest.

86. On 13 July 2000, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgments of 1 March 1999 and 4 May 2000. The judgments have never been enforced.

**26. CH/03/13713, Vladan, Vesna and Jovanka MILOVANOVIĆ**

87. On 10 June 1999, the First Instance Court in Banja Luka decided in judgment no. P-3136/98 to award the applicants, who are the family of a soldier killed in 1994 while serving in the RS Army, compensation for non-pecuniary damage in the amount of 5,000 KM per applicant, with corresponding interest. By the same judgment, Mrs. Jovanka Milovanović was awarded compensation for pecuniary damage in the amount of 3,038.25 KM, with corresponding interest.

88. On 26 October 2000, the Second Instance Court in Banja Luka in judgment no. Gž-1116/99, while deciding upon the defendant's and the applicants' appeals, partially annulled the first instance judgment and returned the case for renewed proceedings regarding pecuniary damage and court expenses. The remainder of the judgment of 10 June 1999 was changed by increasing the amount awarded for non-pecuniary damage to 6,000 KM per applicant, *i.e.* the applicants were awarded the amount of 18 000 KM in total, with corresponding interest.

89. On 27 December 2000, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgments of 10 June 1999 and 26 October 2000. The judgments

have never been enforced.

**27. CH/03/13714, Darinka and Dragana KOVAČEVIĆ**

90. On 6 July 2000, the First Instance Court in Banja Luka decided in judgment no. P-2803/99 to award the applicants, who are the family of a soldier killed in 1995 while serving in the RS Army, compensation for non-pecuniary damage in the total amount of 20,000 KM, with corresponding interest. By the same judgment, the applicants were awarded compensation for pecuniary damage in the amount of 2,000 KM, with corresponding interest.

91. On 7 May 2002, the Second Instance Court in Banja Luka in judgment no. Gž-1695/00, while deciding upon the defendant's appeal, changed the judgment of 6 July 2000 by decreasing the amount awarded for non-pecuniary damage to 13,000 KM in total, resulting in a total compensation award of 15,000 KM and 766 KM for court expenses, with corresponding interest.

92. On 22 July 2002, the First Instance Court in Banja Luka issued a procedural decision ordering the enforcement of the judgments of 6 July 2000 and 7 May 2002. The judgments have never been enforced.

**28. CH/03/14264, Radomir, Jelena and Milan STANIVUKOVIĆ**

93. On 29 January 2001, the First Instance Court in Banja Luka issued judgment no. P-2724/99 ordering the Republika Srpska to pay the applicants, who are the family of a soldier killed in 1993 while serving in the RS Army, the amount of 30,500 KM (*i.e.* 28,000 KM as compensation for non-pecuniary damage and 2,500 as compensation for pecuniary damage), and 3,419.72 KM for court expenses, with corresponding interest. The parties to the proceedings did not appeal and the judgment became final and binding.

94. On 23 May 2001, the First Instance Court issued a procedural decision ordering the enforcement of the judgment and ordering the bank to pay the applicants the amounts awarded by the judgment from the bank accounts of the Republika Srpska. It appears that this procedural decision became final and binding, but the judgment has not been enforced.

**29. CH/03/14273, Svetozar VANOVAČ**

95. On 27 October 2000, the First Instance Court in Doboj issued judgment no. P-204/95 ordering the defendant to pay the applicant compensation in the amount of 2,586.80 KM for pecuniary damage for a vehicle confiscated from the applicant, apparently in the course of war activities, and 730 KM for court expenses, with corresponding interest.

96. On 2 February 2001, the Second Instance Court in Doboj in judgment no. Gž-37/01 upheld the judgment of 27 October 2000.

97. On 2 May 2001, the First Instance Court in Doboj issued a procedural decision ordering the enforcement of the judgment and ordering the bank to pay the applicant the awarded sum from the bank account of the Republika Srpska. It appears that this procedural decision became final and binding, but the judgment has not been enforced.

**IV. RELEVANT LEGAL PROVISIONS**

**A. Law on Enforcement Procedure of the former Socialist Federal Republic of Yugoslavia**

98. The Law on Enforcement Procedure of the former Socialist Federal Republic of Yugoslavia (Official Gazette of the Socialist Federal Republic of Yugoslavia nos. 20/78-673, 6/82-149, 74/87-1742, 57/89-1440, 20/90-820, 35/91-589, Constitutional Court of Yugoslavia II N. 109/91 – OG SFRY no. 63/91-1030; amended by Official Gazette of the Republika Srpska nos. 17/93-670 and 14/94-534), as amended, was in force in the Republika Srpska until 1 August 2003, when the new

Law on Enforcement Procedure of the Republika Srpska entered into force (see paragraph 102 below). The former Law set out a detailed regime for the enforcement of court decisions, as follows.

99. Article 2 of the former Law on Enforcement Procedure stated that enforcement is initiated at the request of the person in whose favour a court decision is issued. Article 3, with respect to “competencies”, provided that the regular court shall carry out an enforcement, and Article 7 stated that the competent court shall issue a decision on enforcement. More specifically, Article 4 provided as follows:

“The enforcement intended for the realisation of a pecuniary claim and for the assurance of such a claim shall be determined and carried out in the scope required for the payment in full, *i.e.* assurance of that claim.”

100. With respect to enforceability of a decision, Article 18 paragraph 1 provided as follows:

“A court decision or a decision issued in petty offence proceedings shall be enforceable if it is final and binding and if the time limit for voluntary fulfilment of the debtor’s obligation has expired.”

101. Article 10 of the former Law on Enforcement Procedure stated that “in enforcement proceedings, the court is obliged to act urgently”.

## **B. Law on Enforcement Procedure of the Republika Srpska**

102. The new Law on Enforcement Procedure of the Republika Srpska (Official Gazette of the Republika Srpska no. 59/03), which entered into force on 1 August 2003, sets out a detailed regime for the enforcement of court decisions. Its Article 232 provides that the old Law is no longer applicable in the Republika Srpska.

103. Article 229 of the new Law on Enforcement Procedure provides as follows:

“The enforcement procedure that commenced up to the date of entry into force of this law shall be finalised according to the provisions of this Law.”

104. Article 3 states that the enforcement procedure shall be initiated on the claimant’s proposal. Article 4, with respect to “competencies”, provides that the court, as defined by the law, shall order and conduct the enforcement.

105. Article 136 paragraph 1 provides as follows:

“The court in which territory the enforcee has his residence shall have territorial jurisdiction to decide on the proposal for the enforcement of a monetary claim and to implement the enforcement. If the enforcee does not have residence in the Republika Srpska, then the court where the enforcee lives temporarily shall have jurisdiction.

106. Article 8 states that “the court shall order the enforcement by the means and on the subject matters stated in the enforcement proposal.”

107. With respect to enforceability of a decision, Article 25 paragraph 1 provides as follows:

“A court decision ordering the implementation of a claim by handing over an object or taking certain action is enforceable if it has become final and binding and if the deadline for voluntary implementation has expired. The deadline for voluntary implementation starts on the date when the decision is delivered to the enforcee, and ends on the last day determined by the court decision, if not provided for otherwise by law.”

108. More specifically, Article 65 provides as follows:

“Enforcement with a view to realising a monetary claim shall be determined and implemented

in the scope necessary for the settlement of this claim.”

109. Article 5 paragraph 1 of the new Law on Enforcement Procedure states that “in enforcement proceedings, the court is obliged to act urgently”.

### **C. Law on Postponement of the Republika Srpska**

110. The Law on Postponement of Enforcement of Court Decisions on Payment of Compensation for Pecuniary and Non-Pecuniary Damages resulting from War Activities and Non-Payment of Old Foreign Currency Savings Deposits, Payable from the Republika Srpska Budget (Official Gazette of the Republika Srpska no. 25/02 of 20 May 2002) (the “Law on Postponement”) entered into force on 28 May 2002. It was amended by the Law on Amendments to the Law on Postponement of Enforcement of Court Decisions on Payment of Compensation for Pecuniary and Non-Pecuniary Damages resulting from War Activities and Non-Payment of Old Foreign Currency Savings Deposits, Payable from the Republika Srpska Budget (Official Gazette of the Republika Srpska no. 51/03 of 1 July 2003) (the “Amended Law on Postponement”), which entered into force on 9 July 2003. The consolidated text, with the amendments underlined, is quoted below.

111. The basic provision of the Amended Law on Postponement is provided in Article 1, as follows:

“This Law shall postpone the enforcement of court decisions on the payment of compensation for pecuniary and non-pecuniary damages sustained due to war activities and due to the payment of old foreign currency savings deposits, as well as to other court judgments, out-of-court settlements and other administrative documents on claims dating from the period of war activities payable from the budget of the Republika Srpska and made prior to the day this Law entered into force.”

112. Amended Article 2 contains definitions, as follows:

“The pecuniary and non-pecuniary damages sustained due to war activities refers to the damage that occurred due to the war activities on the territory of the Republika Srpska from 20 May 1992 through 19 June 1996.

“The old foreign currency savings deposits refers to savings deposits of physical and legal persons at banks having their seat on the territory of the Republika Srpska that had been deposited in those banks by 31 December 1991.

“Other court decisions, out-of-court settlements and other administrative documents refer to claims of natural and legal persons payable from the budget of the Republika Srpska arising in the territory of the Republika Srpska during the war activities between 20 May 1992 and 19 June 1996”.

113. Article 3 sets forth the deadline for the validity of the Law on Postponement, as follows:

“This Law will be applied up to the adoption of a law regulating the manner of settling obligations incurred on the basis of court decisions referred to in Article 1 of this Law.”

114. Article 4 provides as follows:

“This Law shall also pertain to the court decisions referred to in Article 1 of this Law issued during the moratorium, within the meaning of Article 3 of this Law.”

### **V. COMPLAINTS**

115. The applicants in general allege violations of their rights as protected by Articles 6(1) and 13 of the Convention and Article 1 Protocol No. 1 to the Convention. They complain that the organs of the respondent Party have failed to comply with final and binding court decisions ordering the

Republika Srpska to pay compensation to them for “war-damages” and other damages sustained by them during the period of the war. The applicants ask the Chamber to order the respondent Party immediately to enforce the final and binding decisions in their favour.

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

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

116. On 27 August 2003, the Republika Srpska submitted its observations on the admissibility and merits of the applications. It considers the facts presented in the applications “irrefutable”. It further considers the applications admissible.

117. With respect to the merits, the respondent Party submits that it did not violate the applicants’ rights protected by Article 6 of the Convention, since they were enabled access to a court and their hearings were held in a reasonable time.

118. With respect to Article 1 of Protocol No. 1 to the Convention, the respondent Party explains that “enormous financial claims have been referred to the budget of the respondent Party on the grounds of ‘foreign currency savings’ and payment of ‘war damages’”. “In order to secure normal financial stability, the respondent Party issued a moratorium on the mentioned claims” via the Law on Postponement. Consequently, the respondent Party opines that the exceptions contained in paragraph 2 of Article 1 of Protocol No. 1 have been met, because it “momentarily had to restrict the applicants’ right to property in the public, that is the general, interest”. Therefore, the respondent Party suggests that the applications are ill-founded on their merits.

### **B. The applicants**

119. In their reply observations (see paragraph 7 above), the applicants in general allege violations of their rights due to their inability to obtain enforcement of the final and binding court judgments in their favour. They argue that in most of the cases, the courts’ procedural decisions ordering enforcement on the basis of final and binding judgments were issued before the moratorium in the Law on Postponement came into force. Consequently, the applicants opine that the Republika Srpska is avoiding its obligation to pay the compensation awarded in those judgements by finding an excuse in the international financial restrictions imposed upon its budget by the International Monetary Fund.

## **VII. OPINION OF THE CHAMBER**

### **A. Admissibility**

120. Before considering the merits of the applications, the Chamber must decide whether to accept them, taking into account the admissibility criteria set forth in Article VIII(2) of the Agreement. The Chamber notes that in its observations of 27 August 2003, the Republika Srpska admits that the applications are admissible, and it raised no objections to the admissibility of the applications. As no grounds for declaring the applications inadmissible have been raised or are apparent, the Chamber declares the applications admissible in their entirety.

### **B. Merits**

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

**1. Article 1 of Protocol No. 1 to the Convention**

122. Article 1 of Protocol No. 1 to the Convention states 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.”

123. 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 the 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, amongst 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/97/48 et al., Poropat and Others*, decision on admissibility and merits of 10 May 2000, paragraph 162, Decisions January–June 2000).

**a. Existence of a “possession”**

124. The applicants complain about their inability to obtain the compensation awarded to them by the domestic courts of the Republika Srpska in their respective final and binding judgments, upon which the First Instance Courts have issued final and binding permissions on enforcement. The Chamber has previously held that an enforceable claim constitutes a “possession”, within the meaning of Article 1 of Protocol No. 1 to the Convention (case no. CH/98/1019, *Sp.L., J.L., Sv.L. and A.L.*, decision on admissibility and merits of 3 April 2001, paragraph 37, Decisions January–June 2001; case no. CH/97/104 *et al., Todorović and others*, decision on admissibility and merits of 7 October 2002, paragraph 151, Decisions July–December 2002; *see also Eur. Court HR, Stran Greek Refineries and Stratis Andreadis v. Greece*, judgment of 9 December 1994, Series A no. 301-B, paragraphs 61-62 (recognising a final and binding and enforceable arbitration award as a “possession”)).

125. Therefore, the Chamber finds that the applicants’ claims against the Republika Srpska to obtain the compensation awarded to them constitute possessions within the meaning of Article 1 of Protocol No. 1 to the Convention.

**b. Interference with a protected possession**

126. As the Chamber has previously held, Article 1 of Protocol No. 1 to the Convention imposes positive obligations on the Parties to provide effective protection for the rights of individuals. Such positive obligations extend to the enforcement of court decisions (case no. CH/99/1859, *Jeličić*, decision on admissibility and merits of 12 January 2000, paragraph 31, Decisions January–June 2000; *Todorović and others* at paragraph 152), such as those at issue in the present cases. It is indisputable and uncontested that the Republika Srpska has not paid the compensation awarded to the applicants and has not otherwise sought enforcement of the final and binding court judgments ordering such payment of compensation to the applicants.

127. The Republika Srpska argues that it has not enforced the judgments in the applicants’ favour due to the Law on Postponement, including the amendments thereto. However, the Chamber recalls that in *Stran Greek Refineries and Stratis Andreadis v. Greece*, the European Court of Human Rights (the “European Court”) found an interference with the applicants’ protected possession when Greece enacted a law declaring arbitration awards against it invalid and unenforceable, thereby rendering a

final and binding arbitration award in the applicants' favour null and void. The European Court explained that as a result of the law, "it was impossible for the applicants to secure enforcement of an arbitration award having final effect and under which the State was required to pay them specified sums ... or even for them to take further action to recover the sums in question through the courts". This constituted an interference with the applicants' protected possession (Eur. Court HR, judgment of 9 December 1994, Series A no. 301-B, paragraph 67).

128. Likewise, the Chamber finds that both the failure of the authorities of the Republika Srpska to take any steps to enforce the final and binding judgments, pursuant to the final and binding permissions on enforcement, and the enactment of the Law on Postponement which made such enforcement impossible after 28 May 2002, as further confirmed by the amendments of 9 July 2003, constitute interferences with the applicants' right to peaceful enjoyment of their possessions.

### **c. Principle of lawfulness**

129. 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 possessions 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).

130. The Republika Srpska contends that it cannot enforce the permissions on enforcement due to the Law on Postponement, which postpones the enforcement of court decisions ordering the payment of compensation for damages from the Republika Srpska budget until the adoption of a law regulating the manner in which such obligations shall be executed.

### **i. Lack of enforcement before 28 May 2002 and 9 July 2003**

131. The Chamber recalls that the Law on Postponement entered into force on 28 May 2002. The Republika Srpska has offered no explanation for how its failure to execute the final and binding judgments in the applicants' favour between the dates when the permissions on enforcement became final and binding (for those applicants where the permissions on enforcement were issued prior to 28 May 2002) and 28 May 2002, the date when the Law on Postponement entered into force, could be "subject to the conditions provided for by law" or otherwise lawful. To the contrary, the Chamber notes that the former Law on Enforcement Procedure applicable during this time period provided that the competent court shall carry out an enforcement and that the enforcement of a pecuniary claim required the payment in full of the claim (see paragraph 99 above).

132. The Chamber further recalls that the Amended Law on Postponement entered into force on 9 July 2003. As of the entry into force of these amendments, the scope of the Law on Postponement was extended, thus affecting the applicant in case no. CH/03/13531, *Slobodan Majanović* (see paragraphs 49-53 above). The Chamber notes that on 27 March 2003, the Ministry of Finance of the Republika Srpska (Commission for Permission of Payments on the Basis of Enforceable Procedural Decisions of the Court) held that the although the applicant's claim did not concern the payment of compensation for war damages, but rather business relations between the

debtor and creditor, it was still to be considered under the Law on Postponement (see paragraph 53 above). Although the Amended Law on Postponement extends the prohibition of enforcement of final and binding decisions to this type of case as well (see Article 2 paragraph 3 of the Amended Law on Postponement, paragraph 112 above), the Ministry of Finance took its decision concerning Slobodan Marjanović's claim before the Amended Law on Postponement entered into force. Once again, the respondent Party has offered no explanation for how its failure to execute the final and binding decision in favour of the applicant Marjanović could be "subject to the conditions provided by law" prior to 9 July 2003.

133. The Chamber recalls the persuasive reasoning set forth by the Constitutional Court of the Republika Srpska in its decision nos. U-36/96 and 49/96 of 30 March 1999 concerning the suspension of payment of "frozen" bank accounts. In that decision, the Constitutional Court considered whether the Decision of the Government of the Republika Srpska on the suspension of payment of "frozen" bank accounts of 3 May 1996 (OG RS no. 10/96 of 27 May 1996) was compatible with the Constitution of the Republika Srpska. The Constitutional Court decided that it was not, reasoning as follows:

"The Constitution of the Republika Srpska established that the constitutional regime of the Republika Srpska is based on the separation of powers (Article 5), *i.e.*, the executive power is exercised by the Government, while the courts exercise the judicial power (Article 69). ... Article 121 of the Constitution confirms the independence and self-reliance of the courts which adjudicate on the basis of the Constitution and laws.

"In the Court's opinion, the contested decision of the Government ignores the independence and self-reliance of the courts, and consequently, the principle of separation of powers established by Articles 5 and 69 of the Constitution, because it prevents the execution of legally valid and enforceable decisions by the regular courts; thus, the Government went beyond the scope of its competence. The executive power had no, and cannot have any, influence upon the judicial power."

134. Thus, in the case of the suspension of payment of "frozen" bank accounts, the Constitutional Court of the Republika Srpska found the interference by the executive power with the enforcement of final and binding judicial decisions to be unconstitutional and thus unlawful, even though it was based on a formal decision by the Government of the Republika Srpska (decision nos. U-36/96 and 49/96 of 30 March 1999). In the present cases before the Chamber, there appears to have been simply a *de facto* decision by the Government not to pay sums due to citizens under final and binding court judgments. The Chamber finds that such a *de facto* suspension of payment pursuant to permissions on enforcement of final and binding court judgments must be all the more unlawful under the Constitution and the laws of the Republika Srpska.

135. Therefore, the Chamber concludes that the failure of the authorities of the Republika Srpska to execute the final and binding court judgments in the applicants' favour prior to 28 May 2002 and 9 July 2003, respectively, was not lawful.

## **ii. Lack of enforcement after 28 May 2002 and 9 July 2003**

136. With respect to the Republika Srpska's lack of enforcement of the final and binding judgments in the applicants' favour after 28 May 2002 and 9 July 2003, respectively, it is indisputable that the Law on Postponement prevents such enforcement until "the adoption of a law regulating the manner of settling obligations incurred on the basis of court decisions referred to in Article 1 of this Law" (see paragraph 113 above). Article 1 of the Law on Postponement expressly pertains to "the enforcement of court decisions on the payment of compensation for pecuniary and non-pecuniary damages sustained due to war activities ... payable from the budget of the Republika Srpska" (see paragraph 111 above). Amended Article 2 paragraph 2 further extends the Law on Postponement to "other court decisions, out-of-court settlements and other administrative documents ... payable from the budget of the Republika Srpska" (see paragraph 112 above). The judgments of the courts in present cases, which are in the applicants' favour, are precisely such court decisions.

137. Therefore, the Chamber concludes that the failure of the authorities of the Republika Srpska to enforce the final and binding court judgments in the applicants' favour after 28 May 2002 and 9 July 2003, respectively, was "subject to the conditions provided for by law" and lawful.

**d. In the public interest**

138. The notion of "public interest" within the meaning of Article 1 of Protocol No. 1 is "necessarily extensive" (Eur. Court HR, *James v. United Kingdom*, judgment of 21 February 1986, Series A no. 98-B, paragraph 46). In determining the existence of such a "public interest", the national authorities enjoy a certain margin of appreciation. "Because of their direct knowledge of their society and its needs, the national authorities are in principle better placed than the international judge to appreciate what is 'in the public interest'". Therefore, the European Court "will respect the legislature's judgment as to what is 'in the public interest' unless that judgment is manifestly without reasonable foundation" (*id.*).

139. In its observations of 27 August 2003, the Republika Srpska explains that the adoption of the Law on Postponement, and thereby its failure to pay the final and binding court judgments in the applicants' favour, was conditioned upon significant budgetary obligations. "In order to secure normal financial stability, the respondent Party issued a moratorium on the mentioned claims" via the Law on Postponement. In a previous similar case decided by the Chamber, the Republika Srpska further explained that the Law on Postponement suspended its financial obligations in order to avoid "jeopardising the financing of the public sector". It explained that "the budget was structured in this way upon the demand of the International Monetary Fund" (case no. CH/01/8110, *D.R. v. Bosnia and Herzegovina and the Republika Srpska*, decision on admissibility and merits of 7 February 2003, paragraph 33).

140. Taking into account the prevailing circumstances in the country and the demands purportedly placed upon the Republika Srpska by the International Monetary Fund, the Chamber accepts that the justification set forth by the Republika Srpska falls within its margin of appreciation and satisfies the requirement that the interference at issue has occurred "in the public interest".

**e. Fair balance test**

141. In order for an interference with a protected possession to be permissible, it must not only serve a legitimate aim in the public interest, but there must also be a reasonable relationship of proportionality between the means employed and the aim sought to be realised (Eur. Court HR, *James v. United Kingdom*, judgment of 21 February 1986, Series A no. 98-B, paragraph 50). Thus, the European Court has recognised that running through the three distinct rules in Article 1 of Protocol No. 1 to the Convention is a "fair balance" test; that is, "the Court must determine whether a fair balance was struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights. The search for this balance is inherent in the whole of the Convention and is also reflected in the structure of Article 1" (Eur. Court HR, *Sporrong and Lönnroth v. Sweden*, judgment of 23 September 1982, Series A no. 52, paragraph 69 (citation omitted)).

142. In preparing to apply the fair balance test in the present applications, the Chamber finds it useful to recall the European Court's reasoning in the analogous case of *Stran Greek Refineries and Stratis Andreadis v. Greece*. In that case, as explained above, Greece enacted a law that rendered invalid and unenforceable a final and binding arbitration award in the applicants' favour against the State for the payment of compensation. In justifying the new law, the State argued that it was enacted to eliminate the economic consequences of the previous dictatorship and that the applicants' rights derived from a preferential contract concluded with that previous dictatorship which prejudiced the national economy. The applicants replied that it would be unjust if every legal relationship entered into with the previous dictatorship was regarded as invalid after it ceased to be in power. In applying the fair balance test, the European Court noted that the State had opted for the arbitration procedure, the result of which it later sought to avoid. The State was under a duty to pay the applicants the sum awarded upon the conclusion of the arbitration proceedings. However, after the issuance of the final and binding arbitration award against the State, the legislature enacted the

law that terminated the contract containing the arbitration clause, declared the arbitration clause void, and annulled the arbitration award in the applicants' favour. In so doing, "the legislature upset, to the detriment of the applicants, the balance that must be struck between the protection of the right of property and the requirements of the public interest". Accordingly, the European Court found a violation of Article 1 of Protocol No. 1 (judgment of 9 December 1994, Series A no. 301-B, paragraphs 73-75).

143. Similarly, in *Pressos Compania Naviera S.A. v. Belgium*, the European Court also found that the State exceeded its margin of appreciation (Eur. Court HR, judgment of 20 November 1995, Series A no. 332-B). In that case, the applicants, who were ship owners, sued the State for damages when their ships were involved in collisions due to the negligence of pilots under the State's responsibility. After they sustained their damage, the State passed legislation to remove the right to compensation under such circumstances. Although the applicants' claims for damages had not yet been recognised in a final and binding judicial decision, the European Court found that the claims constituted assets and therefore amounted to protected possessions (*id.* at paragraph 31). The legislation exempting the State from liability for the negligent acts within its responsibility interfered with those protected possessions (*id.* at paragraph 34). The State argued that the legislation was necessary in order to protect its financial interests. The applicants replied that they were forced to bear an excessive burden. In applying the fair balance test, the European Court noted that the legislation at issue retroactively extinguished, without providing any compensation, very high claims for damages that victims of negligence could have pursued against the State, some of which were pending at the time. Such retrospective effect constituted "a fundamental interference with the applicants' rights" and was "inconsistent with preserving a fair balance between the interests at stake". Consequently, to the extent the legislation concerned events prior to its entry into force, the European Court found that it breached Article 1 of Protocol No. 1 (*id.* at paragraphs 43-44).

144. The Chamber notes that the Law on Postponement and the Amended Law on Postponement contain no deadline for the duration of the postponement of enforcement of court decisions from the budget of the Republika Srpska, as well as no deadline for the adoption of a new law regulating compliance with such obligations. The Law on Postponement, as amended, also contains no provision guaranteeing future payment of postponed court decisions and no provision compensating individuals for delays in enforcement of postponed court decisions or otherwise compensating them for the interference with their valuable material assets. The Law on Postponement thus, in effect, legislates a blanket suspension on the enforcement of court decisions from the budget of the Republika Srpska, thereby allowing the Republika Srpska to avoid indefinitely the consequences of its actions, which gave rise to the subject court decisions. Moreover, the Republika Srpska's obligation to pay the compensation for pecuniary and non-pecuniary damages in the present cases was established in final and binding court judgments, and the Republika Srpska failed to pay these enforceable obligations prior to the date the Law on Postponement entered into force on 28 May 2002 or was amended and extended on 9 July 2003, respectively (see paragraphs 131-132 above). These facts make the blanket suspension on the enforcement of court decisions even more serious as applied to the present cases. Therefore, in the Chamber's view, the Law on Postponement, as amended, does not strike a fair balance between the general interests of the community to finance the public sector and the applicants' fundamental human rights.

145. Finally, the Chamber notes with serious concern that the Republika Srpska has failed to implement the final and binding decision of the plenary Chamber in the *D.R.* case, delivered on 7 March 2003 (case no. CH/01/8110, decision on admissibility and merits of 7 February 2003). That case also involved the failure of the Republika Srpska to enforce a final and binding court judgment in the applicant's favour and the Republika Srpska attempted to excuse its failure by referring to the Law on Postponement. In that decision, the Chamber found that the Republika Srpska had violated the applicant's human rights and it ordered the Republika Srpska to enact, by 7 September 2003, "a law which will regulate the manner of settling obligations payable from the budget of the Republika Srpska and incurred on the basis of court decisions on the payment of compensation sustained due to war activities" (*id.* at paragraph 79). Rather than complying with the Chamber's order, instead, the Republika Srpska enacted the Amended Law on Postponement, which further extended the scope of the Law on Postponement. Had the Republika Srpska complied with the Chamber's decision, the complaints of the applicants in the present cases might have been resolved. In the present situation, however, the Chamber can only consider such blatant disregard

for its order to constitute an aggravated breach by the respondent Party of its obligations due under the Agreement.

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

146. As explained above, the Chamber finds that the Republika Srpska's failure to take any steps to enforce the final and binding judgments and to pay the applicants the compensation awarded to them therein prior to 28 May 2002 and 9 July 2003, respectively, constitutes an unlawful interference with their protected possessions. Moreover, the Law on Postponement, which entered into force on 28 May 2002, and its amendments of 9 July 2003, further interfere in a disproportionate manner with the applicants' protected possessions. For these reasons, the Chamber concludes that the Republika Srpska has violated the applicants' rights protected by Article 1 of Protocol No. 1 to the Convention, both before and after the Law on Postponement entered into force and was amended.

**2. Article 6 of the Convention**

147. Most of the applicants specifically alleged a violation of their rights as guaranteed by Article 6 paragraph 1 of the Convention. Where not, the Chamber raised this issue on its own motion when transmitting the applications to the Republika Srpska.

148. Article 6 paragraph 1 of the Convention states 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. ...”

149. The applicants' rights under the final and binding court judgments ordering the payment of compensation to them is pecuniary in nature and therefore constitutes a “civil right” within the meaning of Article 6 paragraph 1 of the Convention (Eur. Court HR, *Stran Greek Refineries and Stratis Andreadis v. Greece*, judgment of 9 December 1994, Series A no. 301-B, paragraph 40). Moreover, the Chamber has previously held that Article 6 paragraph 1 applies to enforcement proceedings following from a tribunal which is within its scope (case no. CH/99/1859, *Jeličić*, decision on admissibility and merits of 12 January 2000, paragraph 23, Decisions January–June 2000).

**a. Lack of enforcement before 28 May 2002 and 9 July 2003**

150. In considering whether the Republika Srpska violated the applicants' rights to a court by failing to enforce the final and binding judgments in their favour prior to 28 May 2002 or 9 July 2003, respectively, the Chamber recalls the European Court's decision in *Hornsby v. Greece*, in which it explained as follows:

“[A]ccording to its established case-law, Article 6 paragraph 1 secures to everyone the right to have any claim relating to his civil rights and obligations brought before a court or tribunal; in this way it 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. However, that right would be illusory if a Contracting State's domestic legal system allowed a final, binding judicial decision to remain inoperative to the detriment of one party. It would be inconceivable that Article 6 paragraph 1 should describe in detail procedural guarantees afforded to litigants — proceedings that are fair, public and expeditious — without protecting the implementation of judicial decisions; to construe Article 6 as being concerned exclusively with access to a court and the conduct of proceedings would be likely to lead to situations incompatible with the principle of the rule of law which the Contracting States undertook to respect when they ratified the Convention. Execution of a judgment given by any court must therefore be regarded as an integral part of the 'trial' for the purposes of Article 6 (Eur. Court HR, judgment of 19 March 1997, Reports of Judgments and Decisions 1997-II, paragraph 40 (citations omitted)).”

151. Similarly, the Chamber has held that when the competent authorities take no action to enforce a final and binding court decision, particularly when the applicable law provides for such action, the authorities deprive Article 6 paragraph 1 “of all useful effect”, thereby resulting in a violation of that Article (case no. CH/96/17, *Blentić*, decision on admissibility and merits of 5 November 1997, paragraph 35, Decisions March 1996–December 1997; case no. CH/97/28, *M.J.*, decision on admissibility and merits of 7 November 1997, paragraph 36, Decisions March 1996–December 1997; case no. CH/96/27, *Bejdić*, decision on admissibility and merits of 2 December 1997, paragraph 42, Decisions 1998; case no. CH/99/1859, *Jeličić*, decision on admissibility and merits of 12 January 2000, paragraphs 25-27, Decisions January–June 2000; case no. CH/97/104 *et al.*, *Todorović and others*, decision on admissibility and merits of 7 October 2002, paragraphs 156-158, Decisions July–December 2002).

152. There is no dispute that the final and binding judgments of the Republika Srpska regarding the present cases are fully binding and enforceable, pursuant to the final and binding permissions on enforcement. There is also no dispute that the Republika Srpska has not enforced those judgments or otherwise compensated the applicants, as it has been obliged to do since the dates of the permissions on enforcement. The Republika Srpska has offered no explanation for its failure to secure the respective rights of the applicants’ prior to 28 May 2002, when the Law on Postponement initially entered into force, or *mutatis mutandis* prior to 9 July 2003, when the Amended Law on Postponement entered into force, thereby suspending its power to enforce the mentioned decisions. Accordingly, with respect to the time period prior to 28 May 2002 or 9 July 2003, respectively, the Republika Srpska violated the applicants’ right to a court as guaranteed by Article 6 paragraph 1 of the Convention.

**b. Lack of enforcement after 28 May 2002 and 9 July 2003**

153. The Chamber is aware that after the entry into force of the Law on Postponement on 28 May 2002, and its amendments of 9 July 2003, the enforcement of the final and binding decisions at issues in the present cases became legally impossible until “the adoption of a law regulating the manner of settling obligations incurred on the basis of court decisions” for the payment of compensation for war damages and war activities from the Republika Srpska budget (see paragraph 113 above). The question for the Chamber is whether, despite the enactment of the Law on Postponement, as amended, the Republika Srpska has violated the applicants’ rights to a court after 28 May 2002 or *mutatis mutandis* after 9 July 2003, by failing to execute the final and binding judgments in the applicants’ favour.

154. In *Stran Greek Refineries and Stratis Andreadis v. Greece*, the European Court considered whether the legislature’s intervention into pending judicial proceedings in which the State was a party by the enactment of a law that terminated the disputed contract and annulled the arbitration award in the applicants’ favour (see paragraph 142 above) complied with the requirements of Article 6 paragraph 1 of the Convention. The European Court found that it did not, explaining as follows:

“The principle of the rule of law and the notion of fair trial enshrined in Article 6 preclude any interference by the legislature with the administration of justice designed to influence the judicial determination of the dispute. ... In conclusion, the State infringed upon the applicants’ rights under Article 6 § 1 by intervening in a manner which was decisive to ensure that the — imminent — outcome of the proceedings in which it was a party was favourable to it” (judgment of 9 December 1994, Series A no. 301-B, paragraphs 49-50).

155. Similarly, the Chamber finds that by enacting the Law on Postponement, the National Assembly of the Republika Srpska impermissibly interfered with the administration of justice in cases in which the Republika Srpska is or has been a party. The Law on Postponement, as amended, in effect, postpones indefinitely the enforcement of court decisions from the budget of the Republika Srpska since it contains no deadline for the duration of the postponement of enforcement of court decisions, as well as no deadline for the adoption of a new law regulating compliance with such obligations. In this manner, the Law on Postponement, as amended, infringes upon the application of the rule of law because the Republika Srpska is permitted to avoid the consequences of its actions, which gave rise to the subject court decisions. In addition, the damaged individuals, in whose favour the court decisions have been issued, are provided no right to a court for the

enforcement of their legally recognised rights.

**c. Conclusion as to Article 6 of the Convention**

156. For these reasons, the Chamber concludes that the Republika Srpska has violated the applicants' rights to a court as guaranteed by paragraph 1 of Article 6 of the Convention, both before and after the Law on Postponement and the Amended Law on Postponement entered into force.

**3. Article 13 of the Convention**

157. Article 13 of the Convention provides as follows:

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

158. Taking into consideration its conclusion that the Republika Srpska has violated the applicants' rights protected by Article 6 of the Convention, the Chamber decides that it is not necessary separately to examine the applications under Article 13 of the Convention.

**VIII. REMEDIES**

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

160. In their applications and later submissions, the applicants ask the Chamber to order the respondent Party immediately to satisfy its financial obligations to them.

161. The Chamber recalls that the Republika Srpska has failed to comply with the Chamber's orders in the *D.R.* case (see paragraph 145 above), in particular, the order to enact a new law to regulate the manner of settling obligations payable from the budget of the Republika Srpska in accordance with the Convention. Instead of remedying the situation, the Republika Srpska enacted the Amended Law on Postponement, which further extends the field of application of the Law on Postponement. In so doing, the respondent Party has created an aggravated breach of its obligations due under the Agreement.

162. The Chamber takes into account its findings that the Law on Postponement, as amended, violates the applicants' rights to peaceful enjoyment of their possessions, guaranteed by Article 1 of Protocol No. 1 to the Convention, and rights to a court, guaranteed by Article 6 of the Convention. It further recalls Article 3 of the Law on Postponement, which provides that the Law shall be applied until “the adoption of a law regulating the manner of settling obligations incurred on the basis of court decisions” (see paragraph 113 above). The Chamber further takes into account the priority of the Convention over the domestic laws, as set forth in Article II(2) of the Constitution of Bosnia and Herzegovina. Therefore, the Chamber orders the Republika Srpska to enact, within six months from the date the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure, such law, which will regulate the manner of settling obligations payable from the budget of the Republika Srpska and subject to the Amended Law on Postponement. The new law must clearly address the manner of settling such obligations in a manner compatible with the Convention, in particular Article 1 of Protocol No. 1 to the Convention and Article 6 of the Convention, but the precise manner of settling such obligations shall be determined by the Republika Srpska in the new law.

163. The Chamber notes that according to the final and binding judgments, the Republika Srpska is obliged to pay compensation to the applicants in different amounts in each case for non-pecuniary and/or pecuniary damages, plus legal interest and court fees, as specified in the respective court judgments. The permissions on enforcement of these judgments are also final and binding.

164. The applicants request that their final and binding court judgments, ordering the payment of compensation to them, be enforced, that is, that they be paid the compensation due to them, without further delay. The Chamber has found that the Republika Srpska's failure to enforce such judgments gives rise to a breach of the applicants' rights as protected by Article 1 of Protocol No. 1 to the Convention and Article 6 of the Convention. Considering the Republika Srpska's earlier failure to remedy this situation, as ordered in the *D.R.* case, which might have resolved the claims at issue in the present cases, the Chamber now finds it appropriate to order the Republika Srpska, as a remedy for the established human rights violations, to pay to each applicant the compensation awarded to them in full in the specific court judgments in their favour (as itemised in the statement of facts, see paragraphs 11-97 above) as soon as possible and at the latest within 3 months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure.

165. Furthermore, considering that the Republika Srpska failed to pay the enforceable obligations in the applicants' favour as it was legally obliged to do and prior to the date the Law on Postponement or the Amended Law on Postponement entered into force, the Chamber finds 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 obtain enforcement of the final and binding judgments in their favour prior to 28 May 2002 or 9 July 2003. Accordingly, the Chamber orders the Republika Srpska to pay to each of the applicants the sum of 1000 Convertible Marks (*Konvertibilnih Maraka*) as compensation for non-pecuniary damages, such sums to be paid within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure.

166. Additionally, the Chamber awards simple interest at an annual rate of 10% on the sums awarded to be paid to the applicants in the preceding paragraphs. Interest shall be paid as of three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure on the sums awarded or any unpaid portion thereof until the date of settlement in full.

167. The Republika Srpska shall report to the Chamber or its successor institution on the steps taken by it to comply with the present decision within six months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure.

## **IX. CONCLUSIONS**

168. For the above reasons, the Chamber decides,

1. unanimously, that the applications are admissible against the Republika Srpska;
2. unanimously, that the Republika Srpska has violated the rights of the applicants to peaceful enjoyment of 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;
3. unanimously, that the Republika Srpska has violated the applicants' rights to a court as guaranteed by paragraph 1 of Article 6 of the Convention, the Republika Srpska thereby being in breach of Article I of the Agreement;
4. unanimously, that it is unnecessary for the Chamber separately to examine the applications under Article 13 of the Convention;
5. unanimously, to order the Republika Srpska to enact, within six months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure, a law which will regulate, in a manner compatible with the Convention, the manner of settling obligations payable from the budget of the Republika Srpska and incurred on the basis of court decisions on the payment of compensation sustained due to war activities and as well as other

court judgments, out-of-court settlements and other administrative documents on claims dating from the period of war activities, as mentioned in Article 3 of the “Law on Amendments to the Law on Postponement of Enforcement of Court Decisions on Payment of Compensation for Pecuniary and Non-Pecuniary Damages resulting from War Activities and Non-Payment of Old Foreign Currency Savings Deposits, Payable from the Republika Srpska Budget”, in order to avoid further violations of human rights similar to those found in the present cases;

6. unanimously, to order the Republika Srpska to pay to the applicant N.V. in case no. CH /01/8112 the compensation awarded to him in the final and binding court judgment no. P-1238/99 dated 4 December 2000 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber’s Rules of Procedure;

7. unanimously, to order the Republika Srpska to pay to the applicants Milan, Mira and Siniša MAJSTOROVIĆ in case no. CH/02/8159 the compensation awarded to them in the final and binding court judgments nos. P-533/98 and Gž-141/00 dated 15 February 1999 and 3 October 2001 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber’s Rules of Procedure;

8. unanimously, to order the Republika Srpska to pay to the applicants Tomislav, Draginja and Dražen MALKIĆ in case no. CH/02/8160 the compensation awarded to them in the final and binding court judgments nos. P-2496/97 and Gž-1649/00 dated 12 May 1999 and 5 January 2001 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber’s Rules of Procedure;

9. unanimously, to order the Republika Srpska to pay to the applicant Radoslav GAŠIĆ in case no. CH/02/8218 the compensation awarded to them in the final and binding court judgments nos. P-46/97 and Gž-976/98 dated 10 July 1998 and 8 November 1999 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber’s Rules of Procedure;

10. unanimously, to order the Republika Srpska to pay to the applicants Kristina, Mišo, Mila and Marina TODOROVIĆ in case no. CH/02/8223 the compensation awarded to her in the final and binding court judgments nos. P-2221/98 and Gž-54/00 dated 1 October 1999 and 9 March 2001 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber’s Rules of Procedure;

11. unanimously, to order the Republika Srpska to pay to the applicant Nebojša KOZIĆ in case no. CH/02/8238 the compensation awarded to him in the final and binding court judgments nos. P-119/96 and Gž-172/2000 dated 10 September 1999 and 3 April 2000 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber’s Rules of Procedure;

12. unanimously, to order the Republika Srpska to pay to the applicant Čedo PREDOJEVIĆ in case no. CH/02/9065 the compensation awarded to him in the final and binding court judgment no. P-1207/98 dated 29 June 2000 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber’s Rules of Procedure;

13. unanimously, to order the Republika Srpska to pay to the applicant I.K. in case no. CH/02/9192 the compensation awarded to him in the final and binding court judgments nos. P-3947/99 and Gž-1121/00 dated 3 July 2000 and 14 December 2000 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber’s Rules of Procedure;

14. unanimously, to order the Republika Srpska to pay to the applicants M.K., G.K. and M.J. in case no. CH/02/9234 the compensation awarded to them in the final and binding court judgments nos. P-442/98 and Gž-666/99 dated 3 June 1999 and 29 December 1999 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber’s Rules of Procedure;

15. unanimously, to order the Republika Srpska to pay to the applicant G.M. in case no. CH/02/10669 the compensation awarded to him in the final and binding court judgments nos. P-6103/99 and Gž-1677/00 dated 1 February 2000 and 7 May 2002 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure;

16. unanimously, to order the Republika Srpska to pay to the applicants Mara and Miladin MIHAJLOVIĆ, Ivka ERIĆ and Milena TRIŠIĆ in case no. CH/02/10679 the compensation awarded to them in the final and binding court judgment no. P-797/99 dated 8 December 2000 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure;

17. unanimously, to order the Republika Srpska to pay to the applicant Zoran VUČANOVIĆ in case no. CH/03/13511 the compensation awarded to him in the final and binding court judgments nos. P-7844/99 and Gž-469/01 dated 8 September 2000 and 7 October 2002 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure;

18. unanimously, to order the Republika Srpska to pay to the applicant Goran SIMOVIĆ in case no. CH/03/13518 the compensation awarded to him in the final and binding court judgments nos. P-1206/98, Gž-579/00 and Rev-331/2001 dated 21 December 1999, 10 July 2001 and 23 August 2002 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure;

19. unanimously, to order the Republika Srpska to pay to the applicant Slobodan MARJANOVIĆ in case no. CH/03/13531 the compensation as agreed by the extra-judicial settlement with the Republika Srpska - Ministry of Defence of 27 July 2000 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure;

20. unanimously, to order the Republika Srpska to pay to the applicant Nikola ŠAVIJA in case no. CH/03/13553 the compensation awarded to him in the final and binding court judgments nos. P-1013/99 and Gž-961/00 dated 21 December 1999 and 14 December 2000 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure;

21. unanimously, to order the Republika Srpska to pay to the applicant Vojislav STAKIĆ in case no. CH/03/13564 the compensation awarded to him in the final and binding court judgments nos. P-9155/99 and Gž-2222/01 dated 12 June 2001 and 7 March 2003 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure;

22. unanimously, to order the Republika Srpska to pay to the applicants Krstan and Milena VUKOVIĆ in case no. CH/03/13704 the compensation awarded to them in the final and binding court judgments nos. P-2241/99 and Gž-7/00 dated 27 September 1999 and 18 October 2001 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure;

23. unanimously, to order the Republika Srpska to pay to the applicants Petar and Sekula TOPIĆ in case no. CH/03/13705 the compensation awarded to them in the final and binding court judgments nos. P-3988/98 and Gž-608/00 dated 3 February 2000 and 2 March 2001 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure;

24. unanimously, to order the Republika Srpska to pay to the applicants Draginja, Aleksandra and Tanja BABIĆ in case no. CH/03/13706 the compensation awarded to them in the final and binding court judgments nos. P-3742/99 and Gž-434/01 dated 31 August 2000 and 12 December 2001 within three months after the present decision becomes final and binding in

accordance with Rule 66 of the Chamber's Rules of Procedure;

25. unanimously, to order the Republika Srpska to pay to the applicants Dobrila, Duško, and Dragica PILIPOVIĆ in case no. CH/03/13707 the compensation awarded to them in the final and binding court judgments nos. P-286/99 and Gž-10/2000 dated 10 May 1999 and 21 February 2001 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure;

26. unanimously, to order the Republika Srpska to pay to the applicants Vojka NARANČIĆ, Veljko and Vinka ĐEKIĆ, and Gordana POPOVIĆ in case no. CH/03/13708 the compensation awarded to them in the final and binding court judgments nos. P-3116/98 and Gž-191/2000 dated 1 July 1999 and 12 September 2000 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure;

27. unanimously, to order the Republika Srpska to pay to the applicant Lazo ZVONAR in case no. CH/03/13709 the compensation awarded to him in the final and binding court judgments nos. P-1809/99 and Gž-573/00 dated 25 January 2000 and 3 December 2001 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure;

28. unanimously, to order the Republika Srpska to pay to the applicant Janja JERKOVIĆ in case no. CH/03/13710 the compensation awarded to her in the final and binding court judgments nos. P-3153/98 and Gž-752/99 dated 14 April 1999 and 4 May 2000 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure, including half the award of court expenses in the amount of 459 KM;

29. unanimously, to order the Republika Srpska to pay to the applicants Milan and Mileva PUZIĆ in case no. CH/03/13711 the compensation awarded to them in the final and binding court judgments nos. P-4172/99 and Gž-1849/2000 dated 4 September 2000 and 12 April 2001 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure;

30. unanimously, to order the Republika Srpska to pay to the applicants Mira and Brane MARJANOVIĆ in case no. CH/03/13712 the compensation awarded to them in the final and binding court judgments nos. P-3122/98 and Gž-728/99 dated 1 March 1999 and 4 May 2000 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure;

31. unanimously, to order the Republika Srpska to pay to the applicants Vladan, Vesna and Jovanka MILOVANOVIĆ in case no. CH/03/13713 the compensation awarded to them in the final and binding court judgments nos. P-3136/98 and Gž-1116/99 dated 10 June 1999 and 26 October 2000 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure;

32. unanimously, to order the Republika Srpska to pay to the applicants Darinka and Dragana KOVAČEVIĆ in case no. CH/03/13714 the compensation awarded to them in the final and binding court judgments nos. P-2803/99 and Gž-1695/00 dated 6 July 2000 and 7 May 2002 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure;

33. unanimously, to order the Republika Srpska to pay to the applicants Radomir, Jelena and Milan STANIVUKOVIĆ in case no. CH/03/14264 the compensation awarded to them in the final and binding court judgment no. P-2724/99 dated 29 January 2001 within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure;

34. unanimously, to order the Republika Srpska to pay to the applicant Svetozar VANOVAČ in case no. CH/03/14273 the compensation awarded to him in the final and binding court judgments nos. P-204/95 and Gž-37/01 dated 27 October 2000 and 2 February 2001 within three

months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure;

35. unanimously, to order the Republika Srpska to pay to each of the applicants, within three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure, 1000 Convertible Marks as compensation for non-pecuniary damage in recognition of the sense of injustice they have suffered as a result of their inability to obtain enforcement of the final and binding judgments in their favour;

36. unanimously, to order the Republika Srpska to pay simple interest at an annual rate of 10% on the sums awarded to be paid to the applicants in the preceding conclusions as of three months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure on the sums awarded or any unpaid portion thereof until the date of settlement in full; and

37. unanimously, to order the Republika Srpska to report to the Chamber or its successor institution on the steps taken by it to comply with the present decision within six months after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure.

Remedy: in accordance with Rule 63 of the Chamber's Rules of Procedure, as amended on 1 September 2003 and entered into force on 7 October 2003, a request for review against this decision to the plenary Chamber can be filed within fifteen days starting on the working day following that on which the Panel's reasoned decision was publicly delivered.

(signed)  
Ulrich GARMS  
Registrar of the Chamber

(signed)  
Mato TADIĆ  
President of the Second Panel