



**DECISION ON ADMISSIBILITY AND MERITS**  
(delivered on 4 July 2003)

**Case no. CH/02/10046**

**Timotije BAVČIĆ and 285 Other JNA Pensioners**

**against**

**BOSNIA AND HERZEGOVINA**  
**and**  
**THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 7 June 2003 with the following members present:

Ms. Michèle PICARD, President  
Mr. Mato TADIĆ, Vice-President  
Mr. Dietrich RAUSCHNING  
Mr. Hasan BALIĆ  
Mr. Želimir JUKA  
Mr. Jakob MÖLLER  
Mr. Mehmed DEKOVIĆ  
Mr. Miodrag PAJIĆ  
Mr. Vitomir POPOVIĆ  
Mr. Andrew GROTRIAN

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

Having considered the aforementioned 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 Article VIII(2) and Article XI of the Agreement and Rules 52, 57 and 58 of the Chamber's Rules of Procedure:

## **I. INTRODUCTION**

1. The applicants are citizens of Bosnia and Herzegovina living in the territory of the Federation of Bosnia and Herzegovina. They are former officers of the Yugoslav National Army (“JNA”) who retired before 1992. Until the outbreak of the war in Bosnia and Herzegovina, they received their pensions from the Institute for Social Insurance of Army Insurees in Belgrade (hereinafter “the JNA Pension Fund”), to which they had paid contributions during their life as active soldiers. At the beginning of 1992 the applicants ceased to receive payments from the JNA Pension Fund. In September 1992 the Republic of Bosnia and Herzegovina issued a decree to the effect that pensioners of the JNA would be paid a pension amounting to 50 percent of their previous pension. This decision was confirmed by a law of the Republic of Bosnia and Herzegovina passed in June 1994 and by Article 139 of the Law on Pensions and Disability Insurance of the Federation of Bosnia and Herzegovina, which entered into force on 31 July 1998.

2. On 29 June 2001 Bosnia and Herzegovina, the Republic of Croatia, the Former Yugoslav Republic of Macedonia, the Republic of Slovenia and the former Federal Republic of Yugoslavia (currently Serbia and Montenegro) signed the Agreement on the Issues of Succession between the Successor States of the former Socialist Federal Republic of Yugoslavia. On 28 November 2001 the Presidency of Bosnia and Herzegovina issued the Decision on Ratification of this Agreement. The Decision entered into force on 31 December 2001. Annex E of this Agreement provides that each of the successor States shall assume responsibility for and regularly pay pensions which are due to its citizens who were civil or military servants of the former Socialist Federal Republic of Yugoslavia (hereinafter: “SFRY”), irrespective of where they are resident or domiciled.

3. The application raises issues in relation to the right to property under Article 1 of Protocol No. 1 to the European Convention on Human Rights, and of discrimination in the enjoyment of the right to social security guaranteed by Article 9 of the International Covenant on Economic, Social and Cultural Rights (“ICESCR”).

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

4. The application was introduced on 26 April 2002. Mr. Timotije Bavčić introduced the application on his own behalf and on behalf of 285 other citizens, former JNA officers, who have duly authorised him to represent them in this case before the Chamber.

5. On 11 July 2002 the Chamber transmitted the case to the respondent Parties for their observations on the admissibility and the merits of the application under Article 1 of Protocol No. 1 to the Convention and Article 9 of the International Covenant on Economic, Social and Cultural Rights in conjunction with Article II(2)(b) of the Agreement.

6. On 13 September 2002, the Federation of Bosnia and Herzegovina submitted its observations on the admissibility and merits of the application. On 18 September 2002 the Chamber requested additional observations from the Federation of Bosnia and Herzegovina. The Federation of Bosnia and Herzegovina submitted its additional observations on 9 October 2002 and 20 March 2003, respectively.

7. The applicants submitted their reply to the written observations on 5 November 2002 and 16 January 2003.

8. The respondent Party Bosnia and Herzegovina has not submitted any written observations in this case.

9. The Chamber deliberated on the case on 5 July 2002, and 7 March and 7 June 2003. On the latter date it adopted the present decision.

### III. ESTABLISHMENT OF THE FACTS

10. As stated in the introduction the applicants are citizens of Bosnia and Herzegovina living in the Federation of Bosnia and Herzegovina. They are former officers of the JNA who retired before 1992. Until the outbreak of the war in Bosnia and Herzegovina, they received their pensions from the JNA Pension Fund, to which they had paid contributions during their life as active soldiers. At the beginning of 1992 the applicants ceased to receive payments from the JNA Pension Fund. In September 1992 the Republic of Bosnia and Herzegovina issued a decree to the effect that pensioners of the JNA would be paid a pension amounting to 50 percent of their previous pension (see paragraph 22 below). This decision was confirmed by a law of the Republic of Bosnia and Herzegovina passed in June 1994 and by Article 139 of the Law on Pensions and Disability Insurance of the Federation of Bosnia and Herzegovina, which entered into force on 31 July 1998 (see paragraph 26 below).

11. On 29 June 2001 Bosnia and Herzegovina and the other successor States of the SFRY signed a Succession Agreement (see paragraphs 34-43 below). Annex E of this Agreement provides that each of the successor States shall assume responsibility for and regularly pay pensions which are due to its citizens who were civil or military servants of the former SFRY, irrespective of where they are resident or domiciled

12. On 2 November 2001 the applicants submitted a petition to the Government of the Federation of Bosnia and Herzegovina requesting the repeal of the disputed Article 139 of the Law on Pension and Disability Insurance. In addition, the applicants requested that the Government, pursuant to Article 148 of the same Law, propose to the Parliament of the Federation of BiH to decide on the way they will be paid the difference between the amount of pension they were entitled to under the Law in force until 1 April 1992 and the actually paid pension amounts.

13. In its reply of 20 November 2001 the Government of the Federation stated that even under Article 139 of the Law on Pension and Disability Insurance the average pensions of the JNA pensioners in 2000 were higher of 34,7% than the average pension paid by the Social Fund PIO BiH (Social Fund of the Pension and Disability Insurance of BiH). In its reply the Federation noted that the pensions are not paid from the budget of the Federation. Pensions are paid by the PIO BiH (as of 20 November 2000: by the Federation Pension and Disability Institute – PIO FBiH, see paragraph 32 below), which in fact means that they are paid by the contributors to the Fund. Any additional payments made to one category of pensioners will burden the other beneficiaries of the Fund. Moreover, the Government noted that the international financial institutions supporting BiH and its Entities have requested that the payment of pensions to any group of pensioners may not burden the Federation Budget. As for the Agreement on Succession, the Government emphasises that the Agreement provides the opportunity for signing bilateral agreements to ensure payment of pensions. Such payment of pensions is only acceptable on the condition that the PIO BiH receives adequate funds for the payment of military pensions. As for Article 148, which refers to the payment of unpaid pension amounts, the Government replies that pension beneficiaries receive certificates that may be used in the privatisation process for any unpaid amounts of pension. However, the government is of the opinion that the 50% difference between the original JNA pension and the pension paid by the PIO BiH under Article 139 of the Law does not represent an unpaid pension debt within the meaning of Article 148 of the Law. The Government notes that the pension and disability insurance system reform will be continued and that the position of all beneficiaries will be reconsidered. The results of this process will certainly depend on the overall social and economic situation.

14. The applicants have not pursued any other domestic remedy.

**IV. Relevant domestic legislation**

**A. Legislation concerning the pension system, in particular JNA pensions**

**1. Legislation of the Socialist Federal Republic of Yugoslavia and of the Socialist Republic of Bosnia and Herzegovina**

*(a) Civilian pensions*

15. According to Article 281 paragraph 3 of the 1974 Constitution of the Socialist Federal Republic of Yugoslavia ("SFRY"), the SFRY established the fundamental rights of the workers with regard to pensions and social security. This constitutional provision was implemented through the Law on Fundamental Rights of Pension and Disability Insurance (Official Gazette of the SFRY – hereinafter "OG SFRY" – nos. 23/82, 77/82, 75/85, 8/87, 65/87, 44/90 and 84/90).

16. The regulation of the pension system beyond the principles established in the SFRY law was within the competence of the republics of the SFRY, so that each Republic had its own pension legislation and its own (public) pension fund. In the Socialist Republic of Bosnia and Herzegovina ("SRBiH") pensions were governed by the Law on Pension and Disability Insurance (Official Gazette of the SRBiH nos. 38/90 and 22/91).

17. All employees, except for the military personnel of the JNA, paid into the pension fund of their republic of residence. This applied also to the employees of the ministries and agencies of the Federal Government. The pension funds in the republics worked together closely. If an individual worked and contributed into a pension fund in one republic, he or she could choose to retire in a second republic and still receive his or her pension from the first republic's pension fund through the distribution system of the second republic. If an individual lived and worked and therefore paid his contributions in more than one republic throughout his working life, upon retirement he would be entitled to receive his pension from the fund to which he had contributed most.

*(b) Military pensions*

18. According to Article 281 paragraph 6 of the 1974 Constitution of the SFRY, the SFRY regulated and secured through the federal authorities the pension rights of the military staff of the JNA and of the members of their families.

19. The specific aspects of military pensions were regulated by the Law on Pensions and Disability Insurance of Insured Military Personnel (OG SFRY nos. 7/85, 74/87 and 20/89). This law provided for several mechanisms which rendered the pension treatment of former JNA military personnel more favourable than that of other categories. For the purpose of their pension treatment JNA pensioners were generally credited 15 months of service for every year of actual service. Moreover, the determination of the salary relevant to the calculation of the amount of the pension was more favourable than for the other categories of pensioners (in the case of the JNA pension the basis for calculation was the salary of the last December in active service, while for the other categories the basis was the average of the ten consecutive years with the highest income, now raised to the consecutive fifteen years with the highest income by the 1998 Federation Law on Pension and Disability Insurance).

20. The JNA military employees paid their contributions to and received their pensions from the JNA Pension Fund. This was the only pension fund existing at the Federal level.

**2. Legislation of the Republic of Bosnia and Herzegovina**

21. The SFRY Law on Pensions and Disability Insurance of Insured Military Personnel was taken over as a law of the Republic of Bosnia and Herzegovina by the Decree with force of law on the Adoption and the Application of Federal Laws applicable in Bosnia and Herzegovina as Republic Laws (Official Gazette of the Republic of Bosnia and Herzegovina – hereinafter "OG RBiH" – no. 2/92).

22. Article 5 of the Decree with Force of Law on Pension and Disability Insurance During the State of War or Immediate Threat of War (OG RBiH nos. 16/92 and 8/93) of 18 September 1992, however, provided:

“(1) The Fund decides on the right to pension and disability insurance of the military insurees who are citizens of the Republic of Bosnia and Herzegovina and who reside within the territory of the Republic of Bosnia and Herzegovina.

(2) The pensions of military insurees are paid in the amount of 50 percent of the pension as determined in accordance with the Law on Pensions and Disability Insurance of Insured Military Personnel and are adjusted to the amount and in the way established by the Law on Fundamental Rights of Pension and Disability Insurance and the Law on Pension and Disability Insurance.

(3) The pensions of military insurees are paid in the amount and in the way determined in paragraph 2 of this Article, starting with April 1992.”

23. This provision was amended by the Law on the Amendments and Changes to the Decree with Force of Law on Pensions and Disability Insurance During the State of War or Immediate Threat of War (OG RBiH no. 13/94) which entered into force on 9 June 1994. Article 2 of this Law reads:

“Article 5 is amended as follows:

‘Pensions of Insured Military Personnel of the former JNA who are citizens of the Republic and who reside within the territory of the Republic (hereinafter “Insured Military Personnel”) will be paid 50 percent of the pension established under the Law on Pensions and Disability Insurance of Insured Military Personnel.

Where the pension of Insured Military Personnel established under the Law on Pensions and Disability Insurance of Insured Military Personnel is lower than the guaranteed pension established under the Law on Pensions and Disability Insurance (hereinafter “guaranteed pension”), pensions will be paid in the amount established under the Law on Pensions and Disability Insurance of Insured Military Personnel.

Where the pension established under the Law on Pensions and Disability Insurance of Insured Military Personnel is higher than the guaranteed pension, and by the application of paragraph 1 of this Article is an amount lower than the guaranteed pension, the amount of the guaranteed pension will be paid.’”

### **3. Legislation of the Federation of Bosnia and Herzegovina**

24. Article III(1) of the Constitution of Bosnia and Herzegovina (Annex 4 to the General Framework Agreement) establishes the matters that are the responsibility of the institutions of (the State of) Bosnia and Herzegovina. Article III(3)(a) provides that all governmental functions and powers not expressly assigned in the Constitution to the institutions of Bosnia and Herzegovina shall be those of the Entities, i.e. the Federation of Bosnia and Herzegovina and the Republika Srpska. The pension system is not among the matters listed in Article III(1).

25. On 31 July 1998 the Law on Pensions and Disability Insurance of the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of Bosnia and Herzegovina – hereinafter “OG FBiH” – no. 29/98,49/00 and 32/01) came into force. Article 4 establishes:

“Pension and disability insurance shall be funded, in accordance with this law, from contributions and other resources”.

26. Article 139 is the provision concerning JNA pensioners. It reads:

“To the military insured members of the former JNA, who are citizens of Bosnia and Herzegovina residing within the territory of the Federation, the pension will be paid in the

amount of 50 percent of the amount of the pension determined in accordance with the rules on pension and disability insurance of the military insured in force until the day of coming into force of this law”.

27. Article 140 provides for the cases in which the pension as determined under the preceding Article is below the guaranteed minimum pension. It reads:

“If the pension of the military insured of former JNA, determined in accordance with the military insured rules, is below the minimum guaranteed pension determined in the Article 72 of this law, the pension will be paid in the amount defined in accordance with the military insured rules.

If the pension determined in accordance to the military insured rules amounts to more than the minimum pension guaranteed by this law, but is below the guaranteed minimum pension after application of paragraph 1 of Article 139 of this law, the pension will be paid in the amount of guaranteed minimum pension determined by this law.”

28. Article 141 provides:

“If the holder of the insurance, e.g. the insured, does not have at his disposal the records on his salary in order to determine the pension basis of the military insured of the former JNA, the pension will be determined on the basis of the average pension of the pensioners holding the same rank as the insured pension being determined.”

29. Article 148 of the law envisages that separate legislation shall provide for compensation for the difference between the amounts pensioners were entitled to and the amounts actually paid from 1992 to the entry into force of the law, i.e. the arrears accumulated within the pension system in that period. On 23 October 1998 the Law on Claims in the Process of Privatisation on the Ground of Difference in Payment to the Holders of Pension and Disability Insurance Rights (OG FBiH no. 41/98) entered into force. This law entitles pensioners to receive certificates to be used in the privatisation process for the part of their pension that has remained unpaid. At the public hearing in the *Šečerbegović, Biočić & Oroz* case (see paragraphs 41 and ff. below) the Federation clarified that the 50 percent of the original pension that was not paid out to the JNA pensioners since June 1992 does not constitute arrears owed to them for the purposes of this law. The applicants are therefore not entitled to certificates to use in the privatisation process on account of the 50 percent of their JNA pension that was not paid out to them.

30. As to the pension treatment of those employees of the JNA who subsequently served in the Army of the Republic of Bosnia and Herzegovina or in the Army of the Federation, and who have retired or will retire after 30 July 1998, the Federation submits that their pension is determined in full accordance with the Federation Law on Pension and Disability Insurance. For these pensioners, the length of the service in the JNA before 6 April 1992 is taken into account in order to determine whether they fulfil the conditions to be entitled to a pension, but not for the purposes of calculating the amount to which they are entitled.

31. Those former JNA employees who subsequently served in the Army of the Republic of Bosnia and Herzegovina or in the Army of the Federation, and who retired before 30 July 1998, receive credit for the time served in the JNA also for the purposes of calculating the amount to which they are entitled.

32. On 12 November 2000 the High Representative issued the Decision on the Law on Pension and Disability Insurance Organisation of the Federation of Bosnia and Herzegovina (OG FBiH 49/00). This decision imposes a re-organisation of the Social Fund of the Pension and Disability Insurance of BiH into the Federation Pension and Disability Institute (hereinafter the PIO FBiH). As a result, the applicants' pensions are currently paid by the PIO FBiH.

#### 4. Decision of the High Representative

33. On 12 November 2000, the High Representative imposed a Decision Amending the Federation Law on Pension and Disability Insurance (OG FBiH no. 49/00), which is intended to provide for the financial feasibility and independence of the PIO FBiH. Article 3 of the Decision amends paragraph 1 of Article 51 of the Law on Pension and Disability Insurance to read as follows:

“Pensions established pursuant to the provisions of this Law shall be adjusted monthly, as necessary, based on the funds allocated for pension payments.”

#### B. Succession Agreement (Signed on 29 June 2001, ratified by the Presidency of Bosnia and Herzegovina on 28 November 2001, Official Gazette of Bosnia and Herzegovina no. 10/01)

34. The Preamble of the Agreement reads as follows:

“Bosnia and Herzegovina, the Republic of Croatia, the Republic of Macedonia, the Republic of Slovenia and the Federal Republic of Yugoslavia, being in sovereign equality the five successor States to the former Socialist Federal Republic of Yugoslavia .....

Demonstrating their readiness to co-operate in resolving outstanding succession issues in accordance with international law,  
Have agreed as follows:”

35. Article 3 provides:

“The Annexes listed below set out the terms on which the subject matter of each Annex is settled:

Annex A: Movable and immovable property;  
Annex B: Diplomatic and consular properties;  
Annex C: Financial assets and liabilities (other than those dealt with in the Appendix to this Agreement);  
Annex D: Archives;  
Annex E: Pensions;  
Annex F: Other rights, interests, and liabilities;  
Annex G: Private property and acquired rights.”

36. Article 6 provides:

“The Annexes to this Agreement and the Appendices to the Agreement and Annexes are an integral part of the Agreement.”

37. Article 8 provides:

“Each successor State, on the basis of reciprocity, shall take the necessary measures in accordance with its internal law to ensure that the provisions of this Agreement are recognized and effective in its courts, administrative tribunals and agencies, and that the other successor States and their nationals have access to those courts, tribunals and agencies to secure the implementation of this Agreement.”

38. Article 9 provides:

“This Agreement shall be implemented by the successor States in good faith in conformity with the Charter of the United Nations and in accordance with international law.”

39. Article 11 provides:

“(1) This Agreement shall be subject to ratification.

(2) Instruments of ratification shall be lodged as soon as possible with the Depositary identified in Article 13 of this Agreement. The Depositary shall inform the successor States and the Office of the High Representative of the date of deposit of each instrument of ratification.”

40. Article 12 provides:

“(1) This Agreement shall enter into force thirty days after the deposit of the fifth instrument of ratification. The Depositary shall notify the successor States, and the Office of the High Representative, of the date of entry into force.

(2) Notwithstanding paragraph (1) of this Article, Article 4 (3) of this Agreement, Article 5 of Annex A, Articles 1 and 5-6 of Annex B, and Article 6 of, and the Appendix to, Annex C, shall be provisionally applied after the date of signature of this Agreement, in accordance with their terms.”

41. ANNEX E to the Succession Agreement, entitled “Pensions” contains 3 Articles. Article 1 provides:

“Each State shall assume responsibility for and regularly pay legally grounded pensions funded by that State in its former capacity as a constituent Republic of the SFRY, irrespective of the nationality, citizenship, residence or domicile of the beneficiary.”

42. Article 2 provides:

“Each State shall assume responsibility for and regularly pay pensions which are due to its citizens who were civil or military servants of the SFRY irrespective of where they are resident or domiciled, if those pensions were funded from the federal budget or other federal resources of the SFRY; provided that in the case of a person who is a citizen of more than one State –

(i) if that person is domiciled in one of those States, payment of the pension shall be made by that State, and

(ii) if that person is not domiciled in any State of which such person is a citizen, payment of the pension shall be made by the State in the territory of which that person was resident on 1 June 1991.”

43. Article 3 provides:

“The States shall, if necessary, conclude bilateral arrangements for ensuring the payment of pensions pursuant to Articles 1 and 2 above to persons located in a State other than that which is paying the pensions of those persons, for transferring the necessary funds to ensure payment of those pensions, and for the payment of pensions proportionally to the payment of contributions. Where appropriate, the conclusion of such definitive bilateral arrangements may be preceded by the conclusion of interim arrangements for ensuring the payment of pensions pursuant to Article 2. Any bilateral agreements concluded between any two of the States shall prevail over the provisions of this Annex and shall resolve the issue of mutual claims between the pension funds of the States relating to payments of pensions made before such agreements entered into force.”

## **V. CHAMBER CASE-LAW CONCERNING THE PAYMENT OF JNA PENSIONS BY THE FEDERATION OF BIH**

44. The Chamber has in several previous decisions examined complaints brought by JNA pensioners living in the Federation of BiH in relation to the fact that the Federation Pension Fund pays them a pension in the amount of only 50 percent of the pension previously received from the JNA Pension Fund. As the parties to the present case refer to this case-law in their submissions, the Chamber finds it useful to summarise this case-law, in particular the lead decision in *Šećerbegović, Biočić and Oroz*, at this juncture of the present decision.



45. The Chamber has in three previous decisions on admissibility and merits considered applications filed by JNA pensioners who receive pensions from the PIO BiH (at the time of those decisions, still the PIO BiH). In these cases, the applicants raised claims under Article 1 of Protocol No. 1 to the Convention, Articles 6 and 13 of the Convention, and discrimination in the enjoyment of their rights protected by Article 9 of the ICESCR. In each case, as described more fully below, the Chamber concluded that the so-called “JNA pension cases” do not disclose any violation of the rights protected by the Human Rights Agreement.

46. The Chamber recalls that on 9 March 2000 it adopted for the first time a decision on the admissibility and merits of three applications concerning the issue of the pensions paid by the Pension and Disability Insurance Fund of Bosnia and Herzegovina to JNA pensioners (cases nos. CH/98/706, 740 and 776, *Šećerbegović, Biočić and Oroz*, decision on admissibility and merits of 9 March 2000, Decisions January-June 2000). In that decision the Chamber noted that pensions are not among the matters within the responsibilities of the institutions of the State of Bosnia and Herzegovina listed in Article III of the Constitution of Bosnia and Herzegovina (Annex 4 to the General Framework Agreement) and that the State institutions did not take any action in this matter. The Chamber concluded that no responsibility for the matter complained of can attach to the State of Bosnia and Herzegovina, and therefore it declared the applications inadmissible insofar as they were directed against the State (*id.* at paragraphs 69-71).

47. As to the merits in *Šećerbegović, Biočić and Oroz*, the Chamber considered the applications under Article 1 of Protocol No. 1 to the Convention, which guarantees the right to peaceful enjoyment of possessions. The Chamber also considered possible discrimination toward the applicants in the enjoyment of their right to social security protected by Article 9 of the ICESCR.

48. With regard to the peaceful enjoyment of possessions, the Chamber noted that the European Court and Commission on Human Rights had considered that the right to a pension could, under certain limited circumstances, amount to a possession protected by Article 1 of Protocol No. 1 to the Convention (*id.* at paragraph 82). However, the applicants in *Šećerbegović, Biočić and Oroz* had not paid any contributions to the Pension Fund of Bosnia and Herzegovina, so they had no legal relationship to that fund before the enactment of the 1992 decree with force of law on pension and disability insurance. The Chamber therefore concluded that the applicants did not have a claim for interference with their possessions, within the meaning of Article 1 of Protocol No. 1, against the PIO BiH to receive their full JNA pensions. Accordingly, the Chamber found no violation of that provision (*id.* at paragraphs 88-89).

49. Regarding the issue of discrimination in the enjoyment of the right to social security, the Chamber first compared the position of the applicants in *Šećerbegović, Biočić and Oroz* to that of the civil pensioners insured with the PIO BiH. The Chamber noted that the civil pensioners had paid contributions to the PIO BiH, while the applicants had paid their contributions to the JNA Pension Fund in Belgrade. In addition, the JNA pension scheme was very favourable toward its pensioners as a result of unique mechanisms for calculations upon which pension amounts were based. The Chamber therefore concluded that the civil pensioners were not in a relevantly comparable situation to that of the applicants. It also considered that, although the applicants received only an amount equivalent to 50 percent of their original pension, they still received payments higher than the average pension of the insurees of the PIO BiH (*id.* at paragraphs 94-95).

50. The Chamber then compared the situation of the applicants to that of the former members of the JNA who subsequently served in the Army of the Republic of Bosnia and Herzegovina or in the Army of the Federation of Bosnia and Herzegovina and retired as members of these armed forces. The Chamber noted that these persons received credit for the time served in the JNA for the purpose of their pension treatment. It also noted that the average pension of this group was considerably higher than the average pension received by the JNA pensioners and the civil pensioners. The Chamber found, however, that the difference in treatment between, on the one hand, the pensioners of the Army of the Republic of Bosnia and Herzegovina and the Army of the Federation of Bosnia and Herzegovina, and, on the other hand, the JNA pensioners, was justifiable considering that the former had served in the armed forces of the country whose pension fund paid their pensions. It added that the favourable treatment of veterans was not a feature peculiar to the society of the post-war Federation of Bosnia and Herzegovina, and that the JNA pensioners still received a higher pension

than the average pensioners. The Chamber therefore concluded that the applicants had not been discriminated against in their right to social security (*id.* at paragraphs 96-99).

51. On 4 April 2000 the Chamber adopted its second decision concerning the issue of pensions paid by the PIO BiH to JNA pensioners living in the Federation of Bosnia and Herzegovina (cases nos. CH/98/875, 939 and 951, *Živković, Sarić and Jovanović*, decision on admissibility and merits of 4 April 2000, Decisions January-June 2000). In this decision the Chamber fully confirmed its findings in the *Šećerbegović, Biočić and Oroz* decision. It added that the cases before it did not reveal a violation of the applicants' right to access to a tribunal for the determination of their civil rights, as protected by Article 6 of the Convention, nor of their right to have an effective remedy before a national authority for violations of their rights under the Convention, as protected by Article 13 of the Convention (*id.* at paragraphs 74 and 76).

52. On 5 June 2001 the Chamber adopted a third decision in two further cases concerning the issue of the pensions paid by the PIO BiH to JNA pensioners living in the Federation of Bosnia and Herzegovina (cases nos. CH/98/232 and 480, *Banjac and M.M.*, decision on admissibility and merits of 5 June 2001, Decisions July-December 2001). Again the Chamber confirmed its findings in the *Šećerbegović, Biočić and Oroz* decision. It added that the applicants' complaints of discrimination compared with pensioners living in other successor states of the former Socialist Federal Republic of Yugoslavia were ill-founded (*id.* at paragraphs 52 and 62).

## **VI. COMPLAINTS**

53. The applicants allege a violation of their right to receive the full pension in accordance with the procedural decision issued by the JNA Pension Fund at the time of their retirement. They also complain that they are being discriminated against on political grounds as they served in the JNA, which makes them the "second class citizens".

## **VII. SUBMISSIONS OF THE PARTIES**

### **A. Bosnia and Herzegovina**

54. Bosnia and Herzegovina has not submitted any written observations.

### **B. The Federation of Bosnia and Herzegovina**

55. The Federation of Bosnia and Herzegovina reminds the Chamber that it already considered applications submitted by JNA pensioners and issued the decision on admissibility and merits in the cases *Šećerbegović, Biočić and Oroz versus Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina*, cases no. CH/98/706, 740 and 776, delivered on 7 April 2000. In this decision the Chamber established that there has neither been a violation of the applicants' right under Article 1 of Protocol No. 1 to the European Convention on Human Rights, nor have the applicants been discriminated against in the enjoyment of their right to social security. The Federation considers that the present case presents no essential difference in the facts and claims as compared to other cases related to the "JNA pensions" in which the Chamber has not established any violation of the rights protected by the Agreement. It therefore proposes that the Chamber take the same position in this case.

56. The Federation argues that the Republic of Bosnia and Herzegovina took over the payment of pensions of the JNA pensioners who are citizens of the Republic of Bosnia and Herzegovina and who remained domiciled in BiH. This pension was paid in the amount of 50% of the pension determined according to the Law on Pension and Disability Insurance of Insured Military Personnel. The decision to pay these beneficiaries' pensions in the amount of 50% of the military pensions was made because the average pensions of the members of the former JNA, reduced to a half, were still higher on average by 81% than the average pension in Federation.

57. The Federation points out that the financial means for the pensions of the retired members of the former JNA are not ensured through the Federation Budget, but from the contributions to the PIO FBiH, as it is for the other pension beneficiaries. The Federation adds that the elaboration of the Law on Pension and Disability Insurance in the Federation was done in full collaboration with the World Bank, which insisted that the pensions for any insured persons' category cannot burden the Budget of Federation. This in turn means that the payment of those pensions burdens the other beneficiaries, i.e. it diminishes the mass of resources for payment of pensions in general, which is ensured exclusively through contributions for pension and disability insurance.

58. Considering the above stated, the Federation is of the opinion that in this case there is no violation of applicants' rights to peaceful enjoyment of their property according to the Article 1 of Protocol No. 1 to the Convention. Moreover, there is no discrimination in the enjoyment of the right to social security guaranteed by Article 9 of the International Agreement on Economic, Social and Cultural Rights.

59. Upon request of the Chamber, the Federation submitted additional observations in this case addressing the question whether the conclusion of the Succession Agreement should move the Chamber to reach different conclusions than it has done in the *Šećerbegović, Biočić and Oroz* case, as argued by the applicants. The Federation states that Article 3 of Annex E to the Agreement stipulates that each State-Party, if necessary, may conclude bilateral agreements in order to secure the payment of pensions in accordance with Articles 1 and 2 of Annex E for the persons who reside in a country other than the one which pays their pension. Further, the Federation has learnt that negotiations among the successor States of the SFRY aimed at concluding such bilateral agreements are in course. The Federation is of the opinion that the conclusion of such bilateral agreements is necessary to render operative the obligations Bosnia and Herzegovina may have assumed in Article 2 of the Succession Agreement with regard to the applicants' case. The Federation moreover states that the obligations relating to pensions undertaken by Bosnia and Herzegovina in ratifying the Agreement would be carried out by the Entities, as soon as the bilateral agreements for securing the payment of pensions in accordance with Articles 1 and 2 of Annex E with the other successor States of the former SFRY have been concluded.

60. Finally, in its observations submitted on 20 March 2003 the Federation stated that the Agreement was ratified by all the successor States of the SFRY, except for the Republic of Croatia. Because of that, the Agreement has not yet entered into force.

### **C. The applicants**

61. The applicants are informed about and acknowledge the Chamber's decision in cases *Šećerbegović, Biočić and Oroz*. However, they allege that developments subsequent to the delivery of this decision would justify the Chamber in taking a new and different stance on the matter. These new facts are primarily that Bosnia and Herzegovina has signed the above mentioned Agreement on Succession, according to which Bosnia and Herzegovina will undertake the responsibility to regularly pay the legally acquired pensions to its citizens who were the military officers of the former SFRY.

62. The applicants agree that Article 3 of Annex E provides that, if necessary, the Parties shall conclude bilateral agreements which would regulate the payment of the pensions to persons who reside in a State other than the one which pays their pension. However, **this is not relevant** to the JNA pensioners because they did not acquire their pension in one country and then continued to live in an other country. The applicants consider that this provision refers only to civilians who acquired their right to pension in one country and live in another one. The applicants further allege that the succession issues have been substantively, financially and legally solved among the successor States, the assets of the JNA Pension Fund divided, and if there is some technical issue unsolved, that should not have an impact on their right to receive their pension in the full amount. They also state that the Federation Government's statement that the signing of bilateral agreements may be expected soon, as well as the pension fund reform, means nothing to them, as the majority of them is in their eighth or ninth decade of life.

63. The applicants further point out that all successor States of the former SFRY have recognised JNA pensioners the right to a full pension. Only in the Federation this right has not been recognised.

64. Finally, the applicants point out that in the course of 2001 the High Representative issued a Decision ordering that the pensions would be paid depending on available funds. They argue that this decision further reinforces their claim that they are entitled to the entire amount of their JNA pension.

## VIII. OPINION OF THE CHAMBER

### A. Admissibility

65. Before considering the case on its merits the Chamber must decide whether to accept it, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement. Under Article VIII(2)(c) the Chamber shall dismiss any application which it considers incompatible with the Agreement.

66. The applicants have directed their application against Bosnia and Herzegovina and the Federation. The Chamber transmitted the case to both respondent Parties. Bosnia and Herzegovina has not made any submissions as to the admissibility of the application. The Federation has asked the Chamber to confirm its decision *Šećerbegović, Biočić and Oroz*.

67. The Chamber recalls that in *Šećerbegović, Biočić and Oroz* it declared the applications inadmissible *ratione personae* against Bosnia and Herzegovina. The Chamber noted that until 31 July 1998, when the Federation Law on Pensions and Disability Insurance entered into force, the payment to the applicants of 50 percent of their JNA pension was due to legislation enacted by organs of the Republic of Bosnia and Herzegovina, which, according to Article I paragraph 1 of the Constitution, is to “continue its legal existence under international law as a state”, henceforth named “Bosnia and Herzegovina”. However, pensions are not among the matters within the responsibilities of the Institutions of the State of Bosnia and Herzegovina listed in Article III of the Constitution of Bosnia and Herzegovina (Annex 4 to the General Framework Agreement). The Chamber further noted that the State of Bosnia and Herzegovina had not taken any legislative or administrative action affecting the applicants, nor had institutions of the Republic of Bosnia and Herzegovina done so since the entry into force of **Annex 6 to the Agreement**. The Chamber therefore concluded that no responsibility for the matters complained of could attach to Bosnia and Herzegovina and that it had no competence *ratione personae* to continue consideration of the applications insofar as they are directed against Bosnia and Herzegovina (*Šećerbegović, Biočić and Oroz*, paragraph 71).

68. The Chamber observes, however, that, since it delivered its decision in *Šećerbegović, Biočić and Oroz*, the State of Bosnia and Herzegovina has signed and on 28 November 2001 ratified the Succession Agreement. In Article 2 of Annex E to the Succession Agreement Bosnia and Herzegovina has taken over the responsibility to regularly pay pensions which are due to its citizens who were civil or military servants of the former SFRY. Furthermore, Article 8 of the Succession Agreement provides that “each successor State, on the basis of reciprocity, shall take the necessary measures in accordance with its internal law to ensure that the provisions of this Agreement are recognised and effective in its courts, administrative tribunals and agencies, and that the other successor States and their nationals have access to those courts, tribunals and agencies to secure the implementation of this Agreement”.

69. The Chamber is of the opinion that Bosnia and Herzegovina has thereby agreed in an international agreement to ensure that the applicants receive payment of their pensions. Bosnia and Herzegovina has not explained in the proceedings before the Chamber why this action should not give rise to responsibility towards the applicants under **Annex 6 to the Agreement**. The Chamber, therefore, concludes that responsibility for the matters complained of can attach to Bosnia and Herzegovina and that it has competence *ratione personae* to continue consideration of the application in relation to both respondent Parties.

70. No other objections to the admissibility of the application having been raised, the Chamber concludes that the application is admissible in its entirety against both parties.

## **B. Merits**

71. Under Article XI of the Agreement the Chamber must next address the question whether the facts established above indicate a breach by the Federation of its obligations under the Agreement. In terms of Article I of the Agreement the Parties are obliged to “secure to all persons within their jurisdiction the highest level of internationally recognised human rights and fundamental freedoms”, including the rights and freedoms provided for in the Convention and the other instruments listed in the Appendix to the Agreement.

72. Under Article II of the Agreement, the Chamber has competence to consider (a) alleged or apparent violations of human rights as provided in the Convention and its Protocols and (b) alleged or apparent discrimination arising in the enjoyment of the rights and freedoms provided for in the international agreements listed in the Appendix to the Agreement (including the Convention).

73. The applicants complain that the respondent Parties violate their rights guaranteed under the Agreement by the failure to pay them their JNA pension in the full amount. The Chamber shall first consider this complaint under Article II(2)(a) of the Agreement and Article 1 of Protocol No. 1 to the Convention, protecting the right to property. The Chamber shall secondly consider the complaint as a complaint of discrimination in the enjoyment of the right to social security, under Article II(2)(b) of the Agreement and Article 9 of the ICESCR.

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

74. The applicants complain that the fact that they receive only 50 percent of their original JNA pension constitutes a violation of Article 1 of Protocol No. 1 to the Convention, which reads:

“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.”

75. The applicants argue that they are entitled to receive from the PIO FBiH the full amount of their JNA pension, particularly after the respondent Party Bosnia and Herzegovina signed and ratified the Succession Agreement in which all five successor States to the former SFRY obliged themselves to regularly pay pensions which are due to its citizens who were civil or military servants of the former SFRY, irrespective of where they are resident or domiciled.

#### **(a) The case-law of the European Commission and Court of Human Rights on pension rights**

76. The Chamber notes that the European Commission of Human Rights has held that where a person has contributed to an old age pension fund, this may give rise to a property right in a portion of such a fund, and a modification of the pension rights under such a system could in principle raise an issue under Article 1 of Protocol No. 1 to the Convention. The Commission has, however, also held that the Convention does not guarantee a right to a specific social welfare benefit (see, e.g., *Müller v. Austria*, decision of 1 October 1975, application no. 5849/72, D.R. 3, p. 31; and *Tricković v. Slovenia*, application no. 39914/98, decision of 27 May 1998). In particular, the Commission has stressed that there is no right to receive social welfare benefits in a specific amount. The European Court of Human Rights has stated that the right to a certain social security benefit – in so far as it is provided for in the applicable legislation – is a pecuniary right for the purposes of Article 1 of Protocol No. 1 (Eur. Court H.R., *Gaygusuz v. Austria*, judgment of 31 August 1996, Reports of Judgments and Decisions 1996-IV, paragraph 41).

**(b) The Chamber's decision in *Šećerbegović, Biočić and Oroz***

77. As the Chamber noted in cases *Šećerbegović, Biočić and Oroz*, the language both of Article 5 of the 1992 Decree, as amended by Article 2 of the 1994 Law, and of Article 139 of the 1998 Law might be interpreted in the sense that the Republic of Bosnia and Herzegovina first, and then the Federation, took over the obligation of the JNA Pension Fund to pay the applicants' JNA pensions and then decided to pay only 50 percent of the amount due. The amended Article 5 of the 1992 Decree (see paragraph 23 above) provided:

"Pensions of Insured Military Personnel of the former JNA who are citizens of the Republic and who reside within the territory of the Republic (...) will be paid 50 percent of the pension established under the Law on Pensions and Disability Insurance of Insured Military Personnel".

Article 139 of the 1998 Law (see paragraph 26 above) reads:

"To the military insured members of the former JNA, who are citizens of Bosnia and Herzegovina residing within the territory of the Federation, the pension will be paid in the amount of 50 percent of the amount of the pension in accordance to the rules on pension and disability insurance of the military insured being in force until the day of coming into force of this Law".

78. At the public hearing in cases *Šećerbegović, Biočić and Oroz*, the representative of Bosnia and Herzegovina explained that the decision to pay JNA pensioners a pension in the amount of 50 percent of the pension they were entitled to under the Law on Pensions and Disability Insurance of Insured Military Personnel was taken in order to ensure that these persons, who at the outbreak of the war had ceased to receive their pension payments, had the means to survive. The Federation has repeatedly argued that Article 5 of the 1992 Decree and Article 139 of the 1998 Law were enacted for "humanitarian reasons", and not because the Republic of Bosnia and Herzegovina or the Federation were under an obligation to pay the JNA pensions to their citizens or residents.

79. In *Šećerbegović, Biočić and Oroz* the Chamber substantially agreed with the submissions of the respondent Parties in this respect. The Chamber noted that the applicants had not paid any contributions to the PIO BiH in Sarajevo, nor to any other pension fund in the Republic of Bosnia and Herzegovina or in the Federation. They had no legal relation to the PIO BiH before the issuing of the 1992 Decree with Force of Law on Pension and Disability Insurance During the State of War or Immediate Threat of War (*Šećerbegović, Biočić and Oroz*, paragraph 88). The Chamber concluded that the applicants have no claims against the PIO BiH or against the Federation beyond those attributed to them by the 1992 Decree and 1998 Law, which could be regarded as a possession under Article 1 of Protocol No. 1 to the Convention. The Chamber also noted that the applicants' claim towards the JNA Pension Fund appeared to remain untouched by the mentioned legislation. Accordingly, the Chamber concluded that the applications did not reveal any interference with the applicants' possessions by the Federation and, accordingly, no violation of Article 1 of Protocol No. 1 to the Convention (*Šećerbegović, Biočić and Oroz*, paragraph 89).

**(c) The Decision of the High Representative of 12 November 2000**

80. The applicants submit, as a development subsequent to the Chamber's decision in *Šećerbegović, Biočić and Oroz*, that in the course of 2001 the High Representative issued a Decision ordering that the pensions would be paid depending on available funds. The Chamber notes that the applicants refer to the Decision of the High Representative of 12 November 2000 (see paragraph 33 above), by which Article 51 of the Law was amended so as to provide that the pensions established pursuant to the provisions of the Law shall be adjusted on a monthly basis depending on the funds available. The Chamber does not consider that this amendment in any way affects the question whether the applicants enjoy a protected possession for the purposes of Article 1 of protocol No. 1 to the Convention. The new paragraph 1 of Article 51 just means that their pension, as determined under Article 139 of the Law, will be adjusted in the same way as all other pensions will be adjusted depending on the available funds.

**(d) The signing of the Succession Agreement and its ratification by Bosnia and Herzegovina**

81. The Chamber recalls that in the course of the proceedings in the *Šećerbegović, Biočić and Oroz* cases both respondent Parties have stressed “that the assets of the Belgrade JNA Pension Fund are among the subjects of the succession negotiations, and that until the issue of succession to those assets is solved, the applicants maintain a claim for their pensions towards the JNA Pension Fund” (*Šećerbegović, Biočić and Oroz*, paragraph 87). These negotiations have in the meantime been concluded and the Succession Agreement has been signed and ratified by Bosnia and Herzegovina. Indeed, in Article 2 of Annex E, Bosnia and Herzegovina has agreed, as the other successor States of the SFRY, to “assume responsibility for and regularly pay pensions which are due to its citizens who were civil or military servants of the SFRY irrespective of where they are resident or domiciled, if those pensions were funded from the federal budget or other federal resources of the SFRY”. It is undisputed that the applicants are citizens of Bosnia and Herzegovina, that they were in the military service of the SFRY and that their pensions were funded from federal resources of the SFRY. Plainly, Bosnia and Herzegovina has assumed responsibility to “regularly pay” their pensions. Moreover, it can no longer be said that “the applicants’ claim towards the JNA Pension Fund appears to remain untouched”. On the contrary, the effect of Article 2 of Annex E to the Succession Agreement is that the applicants’ pension claim against the JNA Pension Fund is substituted by a pension claim against Bosnia and Herzegovina.

82. The Federation argues that the obligation to pay the applicants’ pensions resulting from Article 2 of Annex E is subject to the adoption of bilateral agreements between the successor States. The applicants contest this reading of Annex E. The Chamber finds that the Federation’s interpretation of Articles 2 and 3 of Annex E is untenable. Article 3 of Annex E provides that “the States shall, if necessary, conclude bilateral arrangements for ensuring the payment of pensions pursuant to Articles 1 and 2 above to persons located in a State other than that which is paying the pensions of those persons, for transferring the necessary funds to ensure payment of those pensions, and for the payment of pensions proportionally to the payment of contributions”. Since Bosnia and Herzegovina has assumed the obligation to pay the applicants’ pensions and the applicants are resident in Bosnia and Herzegovina, it cannot be said that the applicants are located in a State other than that which is paying their pensions. Moreover, since the applicants have paid all their contributions into a federal fund of the SFRY and not into funds of more than one Republic of the SFRY (as did civilian employees of federal bodies of the SFRY, see paragraph 16 above), also the provision referring to “the payment of pensions proportionally to the payment of contributions” cannot apply to them. The Chamber concludes that no bilateral agreement between Bosnia and Herzegovina and other successor States of the SFRY is necessary to implement the obligation to pay the applicants’ pensions.

83. The Chamber notes, however, that this is not sufficient to establish that the applicants presently have a claim against one or both of the respondent Parties that would constitute a protected possession for the purposes of Article 1 of Protocol No. 1 to the Convention. The Succession Agreement is an international treaty between Bosnia and Herzegovina, the Republic of Croatia, the Former Yugoslav Republic of Macedonia, the Republic of Slovenia and the former Federal Republic of Yugoslavia. It was signed by the five parties on 29 June 2001 and ratified by the Presidency of Bosnia and Herzegovina on 31 December 2001. Article 12(1) of the Agreement provides that “the Agreement shall enter into force thirty days after the deposit of the fifth instrument of ratification. The Depository shall notify the successor States, and the Office of the High Representative, of the date of entry into force.” As the Republic of Croatia has not yet ratified the Agreement, the Agreement has been ratified only by four Parties and has accordingly not entered into force yet.

84. In this respect, the Chamber also notes that in Annex E of the Succession Agreement Bosnia and Herzegovina has assumed the obligation to pay the applicants’ pensions as an obligation towards the other successor States. In order to render this obligation operative and enforceable with regard to its beneficiaries, i.e. the applicants and all other JNA pensioners who are citizens and residents of Bosnia and Herzegovina, Bosnia and Herzegovina and/or the Federation will probably have to enact legislation to render the applicants’ rights under Annex E of the Agreement enforceable in the domestic laws. Bosnia and Herzegovina has explicitly accepted this obligation in Article 8 of

the Succession Agreement, which provides that each State, on the basis of reciprocity, shall take the necessary measures to ensure that the provisions of the Succession Agreement are recognised and effective in its courts, administrative tribunals and agencies (see paragraph 37 above) when the Agreement enters into force.

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

85. The Chamber concludes that, as of the date of this decision, the applicants do not have a claim against Bosnia and Herzegovina or the Federation of Bosnia and Herzegovina for the payment of the full amount of their JNA pension that would constitute a protected possession under Article 1 of Protocol No. 1 to the Convention. The applicants still have no enforceable claims against the PIO FBiH or against Bosnia and Herzegovina and the Federation beyond those attributed to them by the 1992 Decree and 1998 Law. Accordingly, the Chamber concludes that the applications do not reveal any interference with the applicants' possessions by either respondent Party and, accordingly, no violation of Article 1 of Protocol No. 1 to the Convention.

**2. Discrimination in the enjoyment of the right to social security guaranteed by Article 9 of the ICESCR**

86. As in cases *Šećerbegović, Biočić and Oroz* the applicants complain that they are the only category of pensioners who suffers a 50 percent reduction of the pension and that this difference in treatment was not based on an objective and reasonable justification and accordingly, that they are being discriminated against on the ground of their status as JNA pensioners.

87. The Chamber has considered the applicants' complaints as allegations of discrimination in the enjoyment of the right guaranteed by Article 9 of the ICESCR, which reads:

"The States Parties to the present Covenant recognise the right of everyone to social security, including social insurance."

88. The Chamber notes that in relation to the question whether the payment of only 50 percent of the JNA pension to the applicants by the PIO FBiH constitutes discrimination in the enjoyment of the right to social security, the present application contains no elements of novelty as compared to the cases of *Šećerbegović, Biočić and Oroz*. Neither the applicants, nor the respondent Parties have made any submissions that would affect the Chamber's previous factual and legal findings. The Chamber therefore sees no reason to differ from its previous analysis summarised in this decision at paragraphs 49 and 50. The Chamber accordingly finds that the civil pensioners who receive pension payments from the PIO FBiH are not in a relevantly comparable situation to that of the applicants. The Chamber also finds that there is a difference in treatment between, on the one hand, the pensioners of the Army of the Republic of Bosnia and Herzegovina and the Army of the Federation of Bosnia and Herzegovina, and, on the other hand, the JNA pensioners. However, this differential treatment is justifiable for the reasons explained in paragraph 50 above and in paragraphs 94-99 of the *Šećerbegović, Biočić and Oroz* decision.

89. To sum up, the Chamber concludes that the application does not disclose discrimination against the applicants.

**IX. CONCLUSIONS**

90. For the above reasons the Chamber decides,

1. unanimously, to declare the application admissible insofar as it is directed against Bosnia and Herzegovina;
2. unanimously, to declare the application admissible insofar as it is directed against the Federation of Bosnia and Herzegovina;



3. unanimously, that there has been no violation of the applicants' right to peacefully enjoy their possessions under Article 1 of Protocol No. 1 to the European Convention on Human Rights;

4. unanimously, that the applicants have not been discriminated against in the enjoyment of their right to social security under Article 9 of the International Covenant on Economic, Social and Cultural Rights.

(signed)  
Ulrich GARMS  
Registrar of the Chamber

(signed)  
Michèle PICARD  
President of the Chamber