



DECISION ON ADMISSIBILITY AND MERITS
(delivered on 5 December 2003)

Case no. CH/02/8770

Dobojuptevi d.d.

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 6 November 2003 with the following members present:

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

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

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

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

I. INTRODUCTION

1. In 1999 the Republika Srpska Government issued a decision to expropriate land for the benefit of the Municipality of Doboj so that it could construct a refugee settlement. The decision included land used by the ODP Dobojuptevi. The applicant, the joint stock company Dobojuptevi d.d., is the legal successor of ODP Dobojuptevi, which was privatised in full on 13 June 2001¹. The inventory list of all company assets for the purpose of the privatisation process included the land subject to the expropriation.

2. In late 1999 the ODP Dobojuptevi rejected a request to consent to the expropriation of its land for the purpose of building a refugee settlement. Nonetheless, on 1 March 2000, a procedural decision on expropriation of the disputed land was issued. ODP Dobojuptevi's appeal against this decision was rejected. On 25 May 2000 ODP Dobojuptevi initiated an administrative dispute before the Supreme Court of the Republika Srpska ("the Supreme Court"). The applicant legally succeeded the ODP Dobojuptevi as the plaintiff in these proceedings. It appears that up to date the Supreme Court has neither held any hearings in the case nor issued a decision. Proceedings are still pending. In July 2003 the applicant addressed the Chamber claiming that facilities for refugees have already been built on the land.

3. The case mainly raises issues under Article 6 paragraph 1 of the European Convention on Human Rights ("the Convention"), the right to "a fair and public hearing within reasonable time". It further raises issues under Article 1 of Protocol No. 1 to the Convention.

II. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced to the Chamber on 26 January 2002 and registered on 31 January 2002. The applicant, the joined stock company Dobojuptevi d.d., is represented by Zijad Mehmedagić, a lawyer practising in Doboj.

5. The applicant requested the Chamber to order the respondent Party, as a provisional measure, not to dispose over land in Doboj in possession of the applicant which the respondent Party intended to expropriate and to prevent any construction on the land. On 31 March 2003, the Chamber rejected the request for provisional measure.

6. On the same day, 31 March 2003, the applicant submitted additional information to the Chamber regarding the state of proceedings before the domestic courts.

7. On 10 April 2003, the case was transmitted to the respondent Party for its observations on admissibility and merits under Articles 6, 13 and 17 of the Convention and Article 1 of Protocol No. 1 to the Convention.

8. On 10 June 2003, the respondent Party submitted its written observations on admissibility and merits to the Chamber which were transmitted to the applicant for its comment. On 8 July 2003, the applicant submitted its reply. These comments were transmitted to the respondent Party for information and possible further comments.

9. The Second Panel deliberated on the admissibility and merits of the application on 31 March 2003, 10 October 2003, and 3 November 2003. On 3 November 2003 the Second Panel referred the case to the Plenary Chamber pursuant to Rule 29 (2) of the Chamber's Rules of Procedure. The plenary Chamber discussed the case on 6 November 2003 and adopted the present decision on admissibility and merits.

¹ "ODP" is a state owned company, "d.d." is a joint stock company

III. ESTABLISHMENT OF THE FACTS

10. The applicant, the joint stock company Dobojsputevi d.d., is the legal successor of ODP Dobojsputevi, which was privatised in full on 13 June 2001.

11. On an unspecified date, probably in 1998, the Executive Board of the Municipality Assembly Dobojsputevi issued a conclusion that a survey and an on-site situation expertise shall be prepared in order to build a settlement for refugees and displaced persons in the area of Usora.

12. On 23 October 1998, the Municipal Secretariat for Urbanism, Housing and Utility Activities, Construction and Ecology Dobojsputevi wrote to the ODP Dobojsputevi in order to give force to the conclusion of the Executive Council of the Municipality Assembly Dobojsputevi (mentioned in paragraph 11 above). The ODP Dobojsputevi was requested to allow on its land a survey and situation expertise through the Republic Administration for Geodetic and Property Legal Affairs, branch office Dobojsputevi.

13. On 27 May 1999 the Government of the Republika Srpska issued a decision on expropriation allowing the Municipality Assembly Dobojsputevi to extend an already existing expropriation project to also include the "Novo usorsko naselje" (the new Usora settlement), including the land over which the ODP Dobojsputevi had the right to use. The decision was published in the Official Gazette of the Republika Srpska ("OG RS") number 15/99. It establishes that the investor of the project will be the Municipality Assembly Dobojsputevi. The decision further states that the Government of the Republika Srpska would regulate the relations with the investor in accordance with Article 7 of the Law on Expropriation.

14. On 9 November 1999 the JODP Dobojsinvest Dobojsputevi requested the ODP Dobojsputevi to consent to the construction of the refugee settlement on the site Makljenovac in the Usora area. According to the deed of title, the ODP Dobojsputevi enjoys the right to use this land. The ODP Dobojsputevi refused to consent. It referred to a Decree of the Government of the Republika Srpska (OG RS no. 13/99) which prohibits the disposal of real estates on the territory of the Republika Srpska.

15. On 12 January 2000, the Municipal Secretariat for Urbanism, Housing and Utility Activities, Construction and Ecology gave the urban approval to go ahead with the expropriation for the benefit of the Municipality Dobojsputevi. On 17 February 2000, the ODP Dobojsputevi, although it had refused to consent to the expropriation, was invited to participate in the public hearing as possessor of the disputed real estate. On 29 February 2000, the public hearing on the expropriation of disputed real estates was held, notwithstanding further objections of the ODP Dobojsputevi.

16. After the hearing, on 1 March 2000, the Republic Administration for Geodetic and Property Legal Affairs, branch office Dobojsputevi, issued a procedural decision on expropriation. It adopted the proposal of the ODP Dobojsinvest to finalise the expropriation in favour of the Municipality Dobojsputevi. The procedural decision is based upon the decision of the Government of the Republika Srpska of 27 May 1999 (see para. 13 above). It orders the beneficiary of the expropriation, the Municipality Dobojsputevi, to submit a written offer on the form and amount of compensation within 15 days from the date the procedural decision becomes valid. It further states that the Republic Administration for Geodetic and Property Legal Affairs and the Land Book Registry Dobojsputevi would, upon request of one of the parties, register the Municipality Dobojsputevi as the holder of the right to dispose over the real estate in question. The Municipality Dobojsputevi as the beneficiary of the expropriation should enter into possession of the real estate on the date of validity of the procedural decision on compensation.

17. On 22 March 2000, the ODP Dobojsputevi appealed to the second instance organ against the procedural decision of 1 March 2000. On 13 April 2000, this appeal was rejected by the Republic Administration for Geodetic and Property Legal Affairs.

18. On 25 May 2000 the ODP Dobojsputevi initiated an administrative dispute before the Supreme Court of the Republika Srpska. It appears that up to date the Supreme Court has neither held any hearings in the case nor issued a decision. The proceedings are still pending.

19. On 13 June 2001 ODP Dobojsputevi was privatised and transformed into the joint stock company Dobojsputevi d.d., the applicant. The inventory of all assets of the company for the purpose

of the privatisation process included the land subject to the expropriation. The applicant then legally succeeded the ODP Dobojuptevevi as the plaintiff in the proceedings before the Supreme Court

20. On 10 July 2001 the applicant also submitted an action to the First Instance Court Doboj for interference with possessions. On 24 July 2001 the First Instance Court ordered the applicant as the plaintiff to properly organise its law suit within 15 days from receipt of the order. On 28 September 2001, the First Instance Court in Doboj issued a procedural decision considering the applicant's complaint of 10 July 2001 as withdrawn because the applicant failed to file a properly substantiated law suit within the time limit the court had set for it in July 2001.

21. The applicant also addressed the Office of the High Representative ("OHR") in Doboj and Tuzla, the Mayor of the Municipality Doboj and the Construction Inspection of the Municipality Doboj with regard to the expropriation, however, with no effect.

22. The applicant claims that the land in question was used to store machines, inflammable liquids and explosive materials and that the expropriation process severely interferes with its business operations. On 8 July 2003, the applicant informed the Chamber that facilities for accommodation of refugees and displaced persons have already been constructed on the site in question. The applicant has not submitted any evidence to prove this allegation.

IV. RELEVANT LEGAL PROVISIONS

A. The Law on Expropriation of the Republika Srpska

23. The Law on Expropriation (published in OG RS nos. 8/96, 9/96, 15/96), as amended, establishes the legal framework for expropriation.

24. Article 1 reads as follows:

"A real estate may be expropriated or the use of property may be restricted if that is necessary because of the general interest established by the law only if equitable compensation is paid. The compensation cannot be lower than the market value of the real estate".

25. Article 2 reads as follows:

"The general interest for expropriation shall be established by the law or the decision of the Government of the Republika Srpska in accordance with the law."

26. Article 4, paragraph 1, reads as follows:

"With the date on which the procedural decision on expropriation becomes valid the owner of the expropriated property shall be changed (complete expropriation)."

27. Article 7 reads as follows:

"The expropriation shall be performed in favour of the Republika Srpska.

The Republika Srpska shall allocate the expropriated real estates to the investors for construction of facilities for which the general interest has been established, and a contract shall regulate mutual rights and obligations of the contracting parties arising from the expropriation of real estates and the construction of facilities."

28. Article 10 reads as follows:

“The compensation for the expropriated real estate shall be determined in money, except where prescribed otherwise by the Law.”

29. Article 19, paragraph 1, reads, in relevant parts, as follows:

“The Government of the Republika Srpska may establish the general interest for expropriation if the expropriation of real estate is necessary for construction of facilities in the field of: (...) as well as construction of apartments solving accommodation of refugees, displaced persons and other socially endangered categories of population.”

30. Article 19, paragraph 7, reads as follows:

“Against the act of the Government on the establishment of the general interest the administrative dispute may be initiated before the Supreme Court of the Republika Srpska.”

31. Article 33 reads as follows:

“The beneficiary of the expropriation shall obtain the right to enter into possession of the expropriated real estate with the date the decision on the compensation becomes valid, or with the date of conclusion of the agreement on compensation for expropriated real estate, unless provided otherwise by this Law.”

32. Article 34, paragraph 1, reads as follows:

“Upon the request of the beneficiary of the expropriation, the Government may decide that the beneficiary of the expropriation shall be handed over the real estate before validity of the decision on compensation for expropriated real estate, or before the date of conclusion of the agreement on compensation for expropriated real estate, but not before issuance of the second instance procedural decision on any appeal against the procedural decision on expropriation, if the Government decides that such action is necessary because of the urgency of construction of a certain facility or performance of the construction works.”

B. High Representative’s Decision on re-allocation of socially owned land of 27 April 2000, superseding the 26 May 1999 and 30 December 1999 Decisions (Official Gazette of Bosnia and Herzegovina No. 13/00, Official Gazette of the Federation of Bosnia and Herzegovina No. 17/00, Official Gazette of the Republika Srpska No. 12/00²)

33. On 27 April 2000 the High Representative Wolfgang Petritsch issued a decision to regulate the re-allocation of socially owned land introducing the necessity of obtaining a waiver if a municipality wants to dispose of socially owned land.

34. The decision states as follows:

“In accordance with my authority under Annex 10 of the General Framework Agreement for Peace in Bosnia and Herzegovina, and Article XI of the Conclusions of the Peace Implementation Conference held in Bonn on 10 December 1997, I hereby

DECIDE

Notwithstanding the provision of any other law, state-owned real property, including former socially-owned property, but excluding socially owned apartments, may not be disposed of, allotted, transferred, sold, or given for use or rent, by the authorities of either Entity or Bosnia and Herzegovina.

² The decision of the High Representative and its subsequent amendments remained in force until 15 May 2003, when the High Representative issued the new Law on Construction Land. The Law on Construction Land entered into force on 16 May 2003 and was published in the Official Gazette of the Republika Srpska no. 41/03 on 10 June 2003.

Any decision referred to in the previous paragraph made by the authorities of the Entities after 6 April 1992 which affects the rights of refugees and displaced persons shall be null and void, unless a third party has undertaken lawful construction work.

This Decision does not apply to transactions for the purposes of restitution to pre-nationalisation owners, or for the purposes of privatisation, in accordance with Entity laws specifically regulating these subjects.

This Decision does not apply to the territory of the District of Brčko.

Any decision, agreement or transaction in violation of this Decision is null and void. The Office of the High Representative may, upon a clear showing by the competent authorities of an Entity or Bosnia and Herzegovina that a proposed transfer of state-owned real property is non-discriminatory and in the best interests of the public, grant a written exemption to this Decision. The burden of clearly showing that a proposed transfer of state-owned real property is non-discriminatory and in the best interests of the public rests with the competent authority requesting a written exemption to this Decision.

This Decision shall enter into force as law on 27 April 2000 and shall remain in force until 31 December 2000. This Decision may be extended.

My Decision of 31 December 1999 extending my Decision of 26 May 1999 on the suspension of the transfer of certain categories of socially owned property is hereby revoked and superseded by this Decision.”

V. COMPLAINTS

35. The applicant alleges that the procedural decision on expropriation of 1 March 2000 violates its rights under Articles 6, 13 and 17 of the Convention and Article 1 of Protocol No. 1 to the Convention. The applicant claims that the respondent Party carried out the expropriation in an unlawful manner. It argues that the actions of the respondent Party violate the provisions of the Law on Expropriation of the Republika Srpska and the Decision of the High Representative of 27 April 2000. The applicant argues that the respondent Party has not requested a waiver exempting it from the ban on re-allocation of state-owned land in the present case.

36. With regard to the proceeding before the First Instance Court in Doboj, the applicant claims a violation of the right to a fair hearing, within a reasonable time on the ground that the procedure has not even started yet and that the preliminary hearing has not been scheduled. With regard to the administrative dispute before the Supreme Court, the applicant claims that despite the fact that the applicant numerous times orally addressed the court to stress the urgency of its case the court has not started dealing with the law suit and has not issued a decision.

VI. SUBMISSIONS OF THE PARTIES

A. The respondent Party

37. The respondent Party disputes in parts the facts as submitted by the applicant. With regard to the applicant's claim that there has not been any hearing before the First Instance Court in Doboj, the respondent Party submits a procedural decision of the 28 September 2001. In this decision the court declares that it considered the applicant's complaint of 10 July 2001 to be withdrawn because the applicant failed to file a properly substantiated law suit within the time limit the court had set for it in July 2001.

38. Also, the respondent Party disputes the applicant's statement that “the beneficiary of expropriation got the disputed real estate with no payment or establishment of the appropriate compensation”. The respondent Party claims that the beneficiary of expropriation has not been put into possession of the real estate. It argues that the payment was not performed because the

procedural decision on expropriation has not become enforceable under Article 55 paragraph 1 of the Law on Expropriation. This provision states: "After the procedural decision on expropriation becomes valid the Branch Office of the administration shall be obliged to schedule and hold a hearing for disputed determination of compensation for expropriated real estate immediately".

39. The respondent Party recalls that the administrative dispute before the Supreme Court of the Republika Srpska is still pending. It proposes to declare the application inadmissible as premature.

40. The respondent Party proposes to reject the application on the merits as ill-founded because there has been no violation. The respondent Party claims that the administrative dispute before the Supreme Court will be decided within a "reasonable time" without any violation of Article 6 of the Convention. With regard to a possible violation of Article 1 of Protocol No. 1 to the Convention the respondent Party considers that it acted with a legitimate aim and in accordance with the law. It further considers that there was no violation of Articles 13 and 17 of the Convention.

B. The applicant

41. The applicant maintains its complaints. In particular, it claims that residential facilities have already been built on the disputed site in an unlawful manner with the consent of the respondent Party. It further argues that the administrative dispute before the Supreme Court of the Republika Srpska is pending since 25 May 2000 without any progress.

VII. OPINION OF THE CHAMBER

A. Admissibility

42. Before considering the case on the merits the Chamber must decide whether to accept it, taking into account the admissibility criteria set out in Article VIII of the Agreement.

43. In accordance with Article VIII(2) of the Agreement, "the Chamber shall decide which applications to accept.... In so doing, the Chamber shall take into account the following criteria: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted..." and..."(c) The Chamber shall also dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or an abuse of the right of petition."

1. Complaint regarding the length of proceedings

44. The Chamber notes that the applicant complains about the length of proceedings with regard to two separate court proceedings, the proceedings before the First Instance Court in Dobož for interference with possessions and the administrative dispute before the Supreme Court.

45. With regard to the applicant's complaint that the First Instance Court in Dobož has not held a preliminary hearing in the applicant's civil action seeking protection against interference with its possessions, the Chamber recalls the decision of the First Instance Court in Dobož of 28 September 2001. In this decision the court considered the applicant's complaint of 10 July 2001 to be withdrawn because the applicant failed to file a proper law suit within the time limit the court had set for it in July 2001. The Chamber finds that it was the applicant's responsibility to comply with the court order to properly file its law suit in time. The applicant must therefore bear the consequence that the court considered the law suit to be withdrawn, issued a procedural decision to that effect, and did not schedule any hearings. Accordingly, the Chamber finds that the applicant has not, as required by Article VIII(2)(a) of the Agreement, exhausted the effective remedies in this regard. The Chamber therefore decides to declare inadmissible the complaint that the First Instance Court in Dobož has not held a "fair and public hearing within reasonable time" under Article 6 of the Convention.

46. With regard to the applicant's second complaint, the Chamber notes that the applicant's administrative dispute initiated in May 2000 is still pending before the Supreme Court. As the Chamber has repeatedly held, the fact that proceedings are still pending will not prevent the Chamber

from examining the applicant's complaint in relation to length of the proceedings (see e.g. case nos. CH/02/11108 and CH/02/11326, *Bašić and Ćosić*, decision on admissibility and merits of 9 May 2003, paragraph 113). The Chamber therefore decides not to declare the applicant's complaint under Article 6, paragraph 1 concerning the length of proceedings with regard to the administrative dispute before the Supreme Court inadmissible on the ground that the applicant has not exhausted the effective domestic remedies.

2. Complaint regarding the right to peaceful enjoyment of possessions

47. With regard to the applicant's complaint under Article 1 of Protocol No. 1 to the Convention regarding the expropriation the Chamber notes that proceedings are currently pending before the Supreme Court. The pending proceedings might in principle qualify as effective ones within the meaning of Article VIII(2)(a) of the Agreement.

48. However, considering that the proceedings in the present case are already pending before the domestic courts for more than three years the Chamber must ascertain whether, in the case now before it, this remedy can also be considered effective in practice. (For the requirement of "effectiveness" of legal remedies see case no. CH/96/17, *Blentić*, decision on admissibility and merits delivered on 3 December 1997, paragraphs 19-21, Decisions on Admissibility and Merits 1996–1997, with further references).

49. The Chamber notes that the applicant complains that residential buildings have been constructed on its land already, in spite of the fact that the proceedings to establish the validity of the expropriation are pending before the Supreme Court. The Chamber also notes that the respondent Party disputes this allegation and that the applicant has failed to substantiate its claim, e.g. by providing photographs of the construction. The Chamber can therefore not assume that the applicant's claims are correct.

50. The Chamber finds that the proceedings before the First Instance Court in Doboj regarding the applicant's complaint about interference with possessions could have provided an effective remedy against a violation of Article 1 of Protocol No. 1 of the Convention. The Chamber recalls the decision of the First Instance Court in Doboj of 28 September 2001. In this decision, the court considered the applicant's complaint of 10 July 2001 to be withdrawn because the applicant failed to file a proper law suit within the time limit the court had set for it in July 2001. The Chamber therefore finds that it is to be imputed to the applicant that these proceedings did not successfully protect its rights under Article 1 of Protocol No. 1 to the Convention. The Chamber notes that it is up to the applicant to properly file a law suit for interference with possession.

51. In sum, the Chamber cannot find that the domestic remedies available to the applicant offer no prospect of success. Consequently the Chamber finds that the applicant has failed to exhaust domestic remedies with regard to its claim under Article 1 of Protocol No. 1 of the Convention within the meaning of Article VIII(2)(a) of the Agreement. This part of the application is therefore inadmissible.

3. Complaint under Article 13 of the Convention

52. The Chamber interprets the applicant's complaint under Article 13, which protects the right to an effective remedy, to be related to the complaints raised under Article 1 of Protocol No. 1 to the Convention. It therefore decides to declare the complaint under Article 13 of the Convention inadmissible on the grounds explained in paragraphs 47 to 51 above.

4. Complaint under Article 17 of the Convention

53. Article 17 of the Convention does not contain a specific substantive right but generally prohibits the abuse of rights. The applicant mentions Article 17 of the Convention in his application without further substantiating how it is affected by any alleged violation of Article 17 of the Convention. The Chamber therefore finds the complaint under Article 17 of the Convention inadmissible as manifestly ill-founded.

5. Conclusion as to admissibility

54. In sum, the Chamber declares admissible the applicant's complaint under Article 6 paragraph 1 of the Convention regarding the length of proceedings in the administrative dispute pending before the Supreme Court since May 2000. The Chamber declares inadmissible the remainder of the application.

B. Merits

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

56. The applicant complains about the length of the proceedings initiated before the Supreme Court of the Republika Srpska on 25 May 2000. The Chamber declared this complaint admissible under Article 6, paragraph 1 of the Convention.

57. Article 6 of the Convention, insofar as relevant to the present case, reads as follows:

"1. 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...."

58. With regard to the administrative dispute pending before the Supreme Court since 25 May 2000 the Chamber notes that the proceedings concern the applicant's right to use land that the respondent Party intends to expropriate. The Chamber finds that these proceedings relate to the determination of the applicant's "civil rights and obligations", within the meaning of Article 6 paragraph 1 of the Convention. Accordingly, Article 6 paragraph 1 of the Convention is applicable to the proceedings in the present case.

59. The Chamber recalls that the preliminary expropriation proceedings affecting the applicant began already in October 1998, more than five years ago, when the ODP Dobojuptevi was requested to allow a survey on its land. The Chamber notes further that from the date of the initiation of the proceedings before the Supreme Court on 25 May 2000 more than three years and five months passed.

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

61. It appears that since the initiation of proceedings before the Supreme Court in May 2000 there have been no developments in this case. In particular, it appears that the court failed to hold any hearings in the case or to issue any decision. The Chamber finds this conduct of the court is even more unreasonable in light of the applicant's plausible claim that the expropriation process severely interferes with its business operations. The failure of the Supreme Court to act in the proceedings causes an intolerable state of legal uncertainty for the applicant.

62. In view of the above, the Chamber finds a violation of Article 6 paragraph 1 of the Convention in that the applicant, in the determination of its civil rights, did not have a public hearing within a reasonable time.

VIII. REMEDIES

63. Under Article XI(1)(b) of the Agreement, the Chamber must address the question of what steps shall be taken by the Republika Srpska to remedy the established breaches of the Agreement. In this regard, the Chamber shall consider issuing orders to cease and desist and for monetary relief.

64. The Chamber notes that it has found a violation of the applicant's right protected by Article 6 paragraph 1 of the Convention with regard to the length of proceedings. Therefore, the Chamber considers it appropriate to order the Republika Srpska to take all necessary steps to promptly conclude the pending administrative dispute before the Supreme Court.

65. The applicant has not made any specific compensation claim. The Chamber considers that the present decision constitutes sufficient satisfaction for the applicant.

66. In addition, the Chamber will order the Republika Srpska to report to the Human Rights Commission within the Constitutional Court no later than 5 March 2004 on the steps taken to implement the order described in paragraph 64 above.

IX. CONCLUSIONS

67. For these reasons, the Chamber decides,

1. unanimously, to declare the application admissible under Article 6 of the European Convention on Human Rights insofar as the applicant complains of a violation of his right to have a fair and public hearing within a reasonable time in the administrative dispute before the Supreme Court of the Republika Srpska;

2. by 13 votes to 1, to declare inadmissible the remainder of the application;

3. unanimously, that the Republika Srpska has violated the applicant's rights under Article 6 paragraph 1 of the European Convention on Human Rights with regard to the right to a hearing within a reasonable time in the administrative dispute pending before the Supreme Court of the Republika Srpska since 25 May 2000, the Republika Srpska thereby being in breach of Article I of the Human Rights Agreement;

4. unanimously, to order the Republika Srpska to take all necessary steps to promptly conclude the pending administrative dispute before the Supreme Court of the Republika Srpska; and

5. unanimously, to order the Republika Srpska to report to the Human Rights Commission within the Constitutional Court no later than 5 March 2004 on the steps taken to comply with this decision.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the Chamber