HUMAN RIGHTS COMMISSION
WITHIN THE CONSTITUTIONAL COURT
OF BOSNIA AND HERZEGOVINA

KOMISIJA ZA LJUDSKA PRAVA
PRI USTAVNOM SUDU
BOSNE I HERCEGOVINE

DECISION ON ADMISSIBILITY AND MERITS

Case no. CH/03/14347

Gligor and Jovanka NOVAKOVIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Commission within the Constitutional Court of Bosnia and Herzegovina, sitting in plenary session on 5 July 2004 with the following members present:

Mr. Jakob MÖLLER, President
Mr. Miodrag PAJIĆ, Vice-President
Mr. Želimir JUKA
Mr. Mehmed DEKOVIĆ
Mr. Andrew GROTRIAN

Mr. J. David YEAGER, Registrar
Ms. Olga KAPIĆ, Deputy Registrar
Ms. Meagan HRLE, Deputy Registrar

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

Noting that the Human Rights Chamber for Bosnia and Herzegovina ("the Chamber") ceased to exist on 31 December 2003 and that the Human Rights Commission within the Constitutional Court of Bosnia and Herzegovina ("the Commission") has been mandated under the Agreement pursuant to Article XIV of Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina entered into on 22 and 25 September 2003 ("the 2003 Agreement") to decide on cases received by the Chamber through 31 December 2003;

Adopts the following decision pursuant to Article VIII(2) and XI of the Agreement, Articles 5 and 9 of the 2003 Agreement and Rules 50, 54, 56 and 57 of the Commission's Rules of Procedure:

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I. INTRODUCTION

1. The applicants are a married couple, and they submitted their application together. They are citizens of Bosnia and Herzegovina of Serb origin. Before the outbreak of the armed conflict they resided in the village of Kovačevo, near Tuzla, in the Federation of Bosnia and Herzegovina. During the armed conflict they were arrested by the military police of the Army of the Republic of Bosnia and Herzegovina (“the BiH Army”) and were detained in the District Military Prison in Tuzla from 27 June 1992 until 30 August 1992. Their family house in the village of Kovačevo was devastated in the armed conflict. On 4 June 1999 the applicants submitted a lawsuit to the Municipal Court in Tuzla against the Federation of Bosnia and Herzegovina for compensation of damages for their unlawful detention and destruction of their property. At the time of the submission of their application to the Chamber in July 2003, the applicants complained that the Municipal Court in Tuzla had not issued a decision in their lawsuit, although five years had passed since its submission. On 26 May 2004 the applicants received the judgement of the Municipal Court in Tuzla and submitted an appeal against it to the Cantonal Court in Tuzla.

2. The application raises issues under Article 6 of the European Convention on Human Rights ("the Convention”).

II. PROCEEDINGS BEFORE THE CHAMBER AND COMMISSION

3. The application was introduced on 3 July 2003 and registered on the same date. The applicants requested the Chamber to order the respondent Party, as provisional measure, to pay them 60,000 KM in pecuniary damages within 15 days.

4. The Chamber considered the case on 1 September 2003 and decided to reject the request for a provisional measure. At the same time, the Chamber decided to transmit the application to the respondent Party for its observations on the admissibility and merits under Article 6 of the Convention.

5. The respondent Party submitted its written observations on the admissibility and merits to the Chamber on 10 November 2003.

6. On 2 December 2003 the applicants submitted their reply to the observations of the respondent Party. On 1 June 2004 and 17 June 2004 the applicants submitted additional information to the Commission.

7. On 1 April 2004 and 11 May 2004 the respondent Party submitted additional information to the Commission. This information was subsequently transmitted to the applicants. On 9 June 2004 the respondent Party submitted additional information to the Commission.

8. The Commission deliberated on the admissibility and merits of the case on 9 May 2004 and 5 July 2004. On the latter date it adopted the present decision.

III. FACTS

9. The applicants currently reside as tenants in Bijeljina, in the Republika Srpska. They live on a very small pension. They previously resided in the village of Kovačevo, near Tuzla. The applicants allege that they were in their house in Kovačevo when, on 27 June 1992, the military police of the BiH Army arrested them and took them to the District Military Prison in Tuzla. The applicants allege that they were arrested as civilians, were unarmed, and did not possess any weapons.

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10. The applicants spent 65 days in the Tuzla prison in very bad conditions from 27 June 1992 until 30 August 1992.

11. The applicants allege that while they were in prison all their property was plundered and their house was burned down.

12. On 4 June 1999 the applicants submitted a lawsuit to the Municipal Court in Tuzla against the Federation of Bosnia and Herzegovina for compensation of damages. The applicants requested a judgment obligating the Federation to pay compensation for their unlawful detention in the amount of KM 240,000. The applicants broadened their compensation claims in subsequent submissions to the court to include payment for stolen goods and destroyed property.

13. By a procedural decision of 23 November 2001, the Municipal Court in Tuzla returned the complaint to the applicants for additions and corrections because, according to the Court, it was not complete.

14. On 13 December 2001 the applicants submitted a revised complaint, but according to the court it was still not complete and the acting judge, by a letter of 23 January 2003, again requested the applicants to complete their complaint. They did so on 19 February 2003.

15. On 30 April 2003 the Municipal Court in Tuzla scheduled the main hearing for 19 June 2003. The main hearing was held on 19 June 2003, and the representative of the Federation of Bosnia and Herzegovina requested the submission of certain documentation to which the applicants referred. Thus, the main hearing was postponed until 22 August 2003.

16. On 22 August 2003 the previously postponed main hearing was held. The parties proposed the presentation of evidence by hearing witnesses, and therefore the court again postponed the main hearing until 15 October 2003.

17. The main hearing scheduled for 15 October 2003 was not held because the acting judge had gone to another duty; on that occasion, the main hearing was postponed for an indefinite period of time. In the meantime, the case was assigned to another judge, and the new Law on Civil Procedure entered into force.

18. In accordance with the provisions of the new Law on Civil Procedure, the preliminary hearing on the applicants' complaint was held on 16 January 2004. During the hearing the Court informed the parties that the main hearing was scheduled for 17 February 2004.

19. On 17 February 2004 the main hearing was held, but the proposed witnesses were not heard, and the hearing was again rescheduled for 10 March 2004. The main hearing was subsequently postponed again until 26 April 2004.

20. The main hearing was commenced and completed on 26 April 2004. On 26 May 2004 the parties were informed that they could obtain the judgment at the court building.

21. On 26 May 2004 the applicants received the judgement in the building of the Municipal Court in Tuzla. By this judgement the Federation of Bosnia and Herzegovina is obliged to pay the applicants non-pecuniary compensation for their unlawful detention in the amount of KM 20,000. The remaining part of the applicants' complaint was rejected. The applicants submitted an appeal against this judgement to the Cantonal Court in Tuzla.

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IV. RELEVANT LEGAL PROVISIONS

[REMOVED HEADING "A."]

22. The Law on Civil Procedure (Official Gazette of the Federation of Bosnia and Herzegovina ("OG FBiH") nos. 42/98 and 3/99) entered into force on 11 November 1998. This Law provides as follows:

> Article 95
>
> "The statement of claims, response to the statement of claims, legal remedies, and other statements, proposals, and information issued from the court shall be submitted in writing. Submissions sent by telegram are also considered a written document. Such submissions are considered signed if the name of the sender is shown on them.
>
> "Submissions must be understandable and must contain all information necessary to take action upon them. They must especially contain the following: the name of the court; the name, occupation, and residence of the parties and of their legal representatives and agents, if they have them; the subject matter of the dispute; the content of the statement; and the signature of the applicant.
>
> "If the statement contains a claim, the party must state the facts on which the claim is grounded, and evidence when needed."
>
> Article 98
>
> "If the submission is not understandable or does not contain all that is necessary to act upon it, the court shall instruct the applicant and assist him in correcting or supplementing the application and for that purpose it can call the applicant to the court or return the submission to be completed.
>
> "When the court returns the submission to the applicant to complete it, the court shall determine the time limit for the repeated submission of the completed document.
>
> "If the time-limited submission does get completed and submitted to the court within the prescribed time, it shall be considered that the application was submitted on the date when it was submitted for the first time.
>
> "The application shall be considered withdrawn if it is not returned to the court within the prescribed time limit, and, if returned with no corrections or supplements made, it shall be dismissed.
>
> "If the submissions or attachments are not submitted in a sufficient number of copies, the court shall invite the applicant to supply additional copies within a certain period of time. If the applicant does not act as requested, the court may order copying of submissions and attachments at the applicant's expense."
>
> Article 179
>
> "The dispute begins to run from the moment the statement of claims is served on the defendant."

23. On 5 November 2003 the new Law on Civil Procedure (OG FBiH no. 53/03) entered into force. The new Law on Civil Procedure contains provisions designed to improve the efficiency of the courts. The new Law provides as follows:

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Article 11

"As a rule, the first instance proceedings shall consist of two court sittings – one for the preparatory hearing and one for the main hearing."

Article 111

"(1) The court may postpone a scheduled sitting for the main hearing prior to the scheduled date, if it finds that legal requirements for holding the hearing have not been met or that evidence that must be presented will not have been obtained by the main hearing date.

"(2) No later than eight days before holding a hearing, the court shall check if conditions from Paragraph 1 of this Article are met.

"(3) When it postpones a hearing, the court shall immediately notify all summoned parties of the date of the new hearing."

Article 112

"(1) On the motion of a party, the court may postpone an initiated hearing only due to the following reasons:

"(1) if at that court sitting, if by no fault of the party who proposes the postponement, it is not possible to present a piece of evidence that is important for reaching a correct decision and whose presentation was already decided by the court; or

"(2) if both parties propose the postponement in order to reach an amicable settlement or judicial settlement of the dispute.

"(2) A party may request the postponement for the same reason only once.

"(3) When a hearing is postponed, the court shall immediately notify the present parties about the place and time of the new hearing. The court shall not be obliged to notify a party who is not present at the postponed hearing although duly summoned, about the place and time of the new hearing."

Article 113

"If it is not possible, at the court sitting, to present a piece of evidence whose presentation was decided by the court, the court may decide to continue the hearing, and to have that piece of evidence and facts related to it presented subsequently, at a new court sitting."

Article 115

"(1) The main hearing cannot be either postponed or adjourned for an indefinite period.

"(2) The date for the main hearing cannot be postponed or delayed for a period of more than 30 days, except as provided for in Article 129 of this Law.

...

"(4) When it postpones or adjourns a hearing, as a rule, the court shall previously consult the parties when scheduling a new hearing.

"(5) When it postpones or adjourns a hearing, the court shall be obliged to use all means

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available in order to remove, until the next court sitting, the obstacles that led to the postponement or adjournment of the hearing, so that the hearing can be finalized at the new court sitting."

Article 217

"(1) The second instance court shall decide on the appeal in a panel session or on the basis of the hearing held.

"(2) The second instance court shall set a hearing when it assesses that, in order to properly determine the state of the facts, it is necessary to determine new facts or to hear new evidence or to re-hear already presented evidence before the second instance court, and when it assesses that a hearing needs to be held before the second-instance court due to the procedural errors in the first instance proceedings.

"(3) The second instance court shall be obliged to hold the panel session or hearing, which shall be held no later than forty-five days upon the receipt of files relating to the appeal from the first instance court.

"(4) The second instance court shall be obliged to issue the judgment within thirty days from the day of the panel session, or when the hearing was held within thirty days upon the finalization of the hearing."

Article 454

"(1) If the first instance proceedings have been initiated before the entry into force of this Law, further proceedings shall be conducted in accordance with the provisions of this Law."

"(2) In cases under Paragraph 1 of this Article, where the preparatory hearing or the main hearing has already been scheduled but have not yet been opened, the court shall revoke its decision on scheduling the hearing, notify the parties accordingly, and request the defendant to submit a response to the complaint in accordance with the provisions of this Law.

"(3) In cases under Paragraph 1 of this Article, where the main hearing has already been opened, the court shall, at the first following hearing, conduct all actions that, under this Law, should be conducted at the preparatory hearing. The holding of that hearing shall have the same legal effect, with regard to the rights and obligations of the parties, as the preparatory hearing has under the provisions of this Law.

"(4) The court shall warn the parties that, after the hearing referred to in Paragraph 3, they will no longer be able to take actions that, under the provisions of this Law, can only be taken before the conclusion of the preparatory hearing."

V. COMPLAINTS

24. The applicants allege violations of their rights to freedom and security of their person because of their unlawful arrest and detention. They also allege that the acts of the organs of the respondent Party violated their rights to property and to a fair trial within a reasonable time.

25. The applicants request the Commission to order the respondent Party to pay them compensation for pecuniary damages for destruction of their property and non-pecuniary damages for their unlawful detention.

VI. SUBMISSIONS OF THE PARTIES

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A. The respondent Party

1. As to admissibility

26. With regard to admissibility, the respondent Party, in its observations on admissibility and merits of 10 November 2003, asserted that the applicants had not exhausted available domestic remedies because the proceedings were pending in the applicants' lawsuit before the Municipal Court in Tuzla.

27. The respondent Party therefore proposed that the application be declared inadmissible for non-exhaustion of domestic remedies in accordance with Article VIII(2)(a) of the Agreement.

28. The respondent Party also points out that the disputed events on which the applicants base their compensation claim occurred before the entry into force of the Agreement and are therefore incompatible *ratione temporis* with the Agreement.

2. As to the merits

29. With respect to the merits, the respondent Party considers the application ill-founded. Regarding Article 6 of the Convention, relating to the length of proceedings before the Municipal Court in Tuzla, the respondent Party alleges that no action was taken in the applicants' case because the case did not need urgent consideration. The respondent Party states that, under the Law on Civil Procedure, the lawsuit starts to run from the moment of transmittal of the claim to the defendant for his reply. Because the applicants in the present case completed their lawsuit only recently, the case began to run in February 2003. According to the respondent Party, this has been a reasonable time, and the applicants themselves should be held responsible for the delay in the proceedings.

30. With respect to the compensation claim, the respondent Party states that the applicants did not submit any evidence that any organ or official acting on behalf of the respondent Party could be considered responsible for the damages caused to the applicants.

B. The applicants

31. The applicants dispute the statements of the respondent Party with regard to the admissibility and merits of the application, claiming that they timely completed their lawsuit and that they requested urgent action by the court. The applicants maintain their complaints in their entirety.

VII. OPINION OF THE COMMISSION

A. Admissibility

32. Before considering the merits of the case the Commission must decide whether to accept the case, taking into account the admissibility criteria set out in Article VIII of the Agreement. In accordance with Article VIII(2) of the Agreement, "the Commission shall decide which applications to accept […]. In so doing, the Commission shall take into account the following criteria: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted […]. (c) The Commission shall also dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or an abuse of the right of petition."

1. Competence *ratione temporis*

33. The Commission will first address the question of whether and to what extent it is competent *ratione temporis* to consider this case, bearing in mind that the respondent Party objects that the issues raised in the application are outside the competence *ratione temporis* of the

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Commission.

34. The Commission notes that some of the alleged violations occurred before the entry into force of the Agreement, i.e. before 14 December 1995. In accordance with generally accepted principles of international law, the Agreement cannot be applied retroactively. It is thus outside the competence of the Commission *ratione temporis* to decide whether events occurring before the entry into force of the Agreement gave rise to violations of human rights (see, e.g., case no. CH/96/1, *Matanović v. The Republika Srpska,* decision on the admissibility of 13 September 1996, Decisions 1996-1997).

35. The Commission notes that disputed events upon which the applicants base their compensation claims for pecuniary and non-pecuniary damages, and which relate to their unlawful arrest and detention and alleged violations of their right to peaceful enjoyment of property, occurred before the entry into force of the Agreement. The Commission, therefore, declares this part of the application, in accordance with Article VIII(2)(c) of the Agreement, inadmissible as incompatible *ratione temporis* with the Agreement.

36. The Commission notes, however, that the applicants submitted their lawsuit to the Municipal Court in Tuzla on 4 June 1999. On 26 May 2004, almost five years later, the applicants were informed that they could obtain the judgement at the court building. Therefore, the applicants' complaint in respect of their right to a fair trial within a reasonable time under Article 6(1) of the Convention relates to a situation that occurred after 14 December 1995, and this portion of the application falls within the Commission's competence *ratione temporis*.

2. Requirement to exhaust effective domestic remedies

37. The Commission notes that the respondent Party also objected to the admissibility of the application on the ground that the applicants have not exhausted domestic remedies because the proceedings before the Municipal Court in Tuzla remained pending.

38. In so far as this may be understood as an objection to the admissibility of the applicants' claim that the proceedings before the Municipal Court have been unreasonably prolonged, it cannot be argued that domestic remedies have not been exhausted because the proceedings continued to be pending. In this regard, the argument of the Federation must be rejected. The other ground offered by the Federation, i.e. that the applicants themselves are to blame for any delay because their lawsuit was incomplete, is an issue to be examined on the merits rather than at the admissibility stage.

3. Conclusion as to admissibility

39. The Commission concludes that the application is admissible with regard to the applicants' complains of violations of their right to a fair hearing within a reasonable time under Article 6(1) of the Convention. The Commission declares the remainder of the application inadmissible.

B. Merits

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

1. Article 6 of the Convention

41. The applicants complain against the length of proceedings before the domestic courts. The Commission will consider whether Article 6 paragraph 1 of the Convention has been violated with

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regard to the applicants' allegations that their case was not decided within reasonable time. Article 6(1) of the Convention provides, in relevant part, as follows:

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

42. The Commission must therefore decide whether Article 6(1) of the Convention is applicable in the present case and, if so, whether the "reasonable time" criterion was complied with in the proceedings before the Municipal Court in Tuzla.

a. The civil character of the proceedings

43. There is no dispute that the applicants' compensation claims concern "civil rights and obligations" and that Article 6(1) of the Convention is therefore applicable.

b. The length of the proceedings

44. The Commission notes that the applicants filed their action against the Federation of Bosnia and Herzegovina on 4 June 1999 before the Municipal Court in Tuzla. The Commission further notes that no final and binding decision was issued for almost five years after the submission of the lawsuit. It appears that the Court took no action whatsoever in the applicants' lawsuit until 23 November 2001 when it returned the lawsuit to the applicants to complete it. The applicants submitted a revised lawsuit on 13 December 2001. On 23 January 2003, the Municipal Court in Tuzla again returned the lawsuit to the applicants to complete it. After they did so again, on 19 July 2003, the Municipal Court in Tuzla scheduled a main hearing. After five postponements, the main hearing was concluded on 26 April 2004, and on 26 May 2004 the parties were informed that they could obtain the judgment in the court building.

45. When assessing the length of proceedings for the purposes of Article 6, paragraph 1 of the Convention, the Commission must take into account, *inter alia*, the complexity of the case, the conduct of the applicants and the respondent Party, and the matter at stake for the applicants (see, e.g., case no. CH/97/54, *Mitrović*, decision on admissibility of 10 June 1998, paragraph 10, Decisions and Reports 1998; and European Court of Human Rights (ECHR), *Rajčević v. Croatia*, judgment of 23 July 2002, paragraph 36).

46. The applicants' case relates to proceedings to obtain compensation for non-pecuniary damages for unlawful arrest and detention and pecuniary compensation for destruction of their property. It appears that both claims are covered by the same lawsuit. Although the respondent Party argues that the applicant's case does not require any urgent consideration and that it is very complex in respect of the facts to be established, the Commission finds that in this case the courts need only have established whether compensation was justified and, if necessary, to establish the amount of damages. The Commission therefore considers that the applicants' case was not so complex to justify a delay of five years during which a decision was not issued.

47. The Commission notes that the Municipal Court in Tuzla took almost two years to take its first step in the applicants' lawsuit, i.e. to return it to the applicants for correction and completion. The applicants acted in accordance with the court's order and resubmitted their completed lawsuit to the Court within the given time limit, but the court again took more than a year to determine that the lawsuit again had formal failures. The Municipal Court in Tuzla scheduled the first hearing in the case for 19 June 2003, more than four years after the date of submission of the lawsuit. The Commission cannot find any justification for more than three years of delay in formal consideration of the case and its transmittal to the defendant for a reply, and more than four years before the first hearing was scheduled in the case. It appears the delay can only be attributed to insufficient activity in the applicants' case on the part of the Municipal Court in Tuzla. The Commission can find no other reason for the delay.

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48. The Commission further recalls that the proceedings in the applicants' case were pending before the Municipal Court in Tuzla for almost five years. Further delays occurred after the first hearing was scheduled, due on one occasion to the behaviour of the parties and on three occasions because the acting judge was prevented from appearing due to his appointment to a new position. The respondent Party alleges that these delays occurred because of the change in the Law on Civil Procedure and the change of the acting judge in the case. The Commission recalls, however, that the Chamber consistently held that delays caused by lack of judicial or administrative staff, backlog of work, or additional judicial commitments are the responsibility of the respondent Party (see, e.g., case no. CH/00/3880 *Marjanović*, decision on admissibility and merits of 8 November 2002, paragraph 157, Decisions July-December 2002; see also ECHR, *Zimmerman and Steiner v. Switzerland*, judgment of 13 July 1983, Series A no. 66, paras. 27-32 and *Guincho v. Portugal*, judgment of 10 July 1984, Series A no. 81, paras. 40-41). Therefore, as to the administration of its judicial system, it is the duty of the respondent Party to organise its legal system so as to allow the courts to comply with the requirements of Article 6(1), including the reasonable time requirement (see ECHR, *Ziacik v. Slovakia*, decision on merits of 7 January 2003, paras. 44-45). Any delays caused by a failure to comply with this requirement will be directly attributable to the respondent Party (see, e.g., ECHR, *Ledonne (No. 3) v. Italy*, judgment on the merits of 12 May 1999, para. 23). Therefore, the Commission considers that the respondent Party is responsible for the delays in the proceedings in the applicants' case.

49. Under these circumstances, the fact that the applicants' case was pending for almost five years before the Municipal Court in Tuzla constitutes a violation of the applicants' rights to a fair hearing within a reasonable time under Article 6, paragraph 1 of the Convention.

c. Conclusion

50. Having regard to the above, the Commission concludes that the length of proceedings in this case has been unreasonable and that the Federation of Bosnia and Herzegovina is responsible, in violation of the applicant's right to a fair hearing within a reasonable time under Article 6(1) of the Convention.

VIII. REMEDIES

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

52. The applicants request compensation of pecuniary and non-pecuniary damages and appropriate compensation for their costs and expenses.

53. The Commission has found a violation of the applicants' right to a fair hearing within a reasonable time as guaranteed by Article 6, paragraph 1 of the Convention. Therefore, the Commission considers it appropriate to order the respondent Party to take all necessary steps to issue a final and binding decision in the applicants' case before the domestic courts within the time limits established by law.

54. The Commission further finds it appropriate to award a sum to the applicants in recognition of the sense of injustice they have suffered as a result of the length of proceedings before the domestic courts.

55. Accordingly, the Commission will order the respondent Party to pay to the applicants the sum of 2,000 Convertible Marks (*konvertibilnih maraka*) within one month of its receipt of this

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decision in recognition of their suffering as a result of their inability to have their case decided within a reasonable time by the courts.

56. Additionally, the Commission will further award simple interest at an annual rate of 10% on the sum awarded to be paid to the applicants in the preceding paragraph. The interest shall be paid as of the due date on the sum awarded or any unpaid portion thereof until the date of settlement in full.

57. The Commission will order the Federation of Bosnia and Herzegovina to submit to it, by 31 December 2004, a report on the steps taken by it to comply with the above orders.

IX. CONCLUSION

58. For the above reasons, the Commission decides:

1. unanimously, to declare the part of the application relating to the length of the domestic proceedings in the applicants' case before the Municipal Court in Tuzla admissible under Article 6, paragraph 1 of the European Convention on Human Rights ;

2. unanimously, to declare the remainder of the application inadmissible;

3. unanimously, that there has been a violation of the applicants' right to a fair hearing within a reasonable time under Article 6, paragraph 1 of the European Convention on Human Rights, the Federation of Bosnia and Herzegovina thereby being in breach of Article I of the Human Rights Agreement;

4. unanimously, to order the Federation of Bosnia and Herzegovina to take all necessary steps to ensure that the domestic courts issue a final and binding decision in the applicants' case within the time limits established by law;

5. unanimously, to order the Federation of Bosnia and Herzegovina to pay the applicants the total sum of 2,000 Convertible Marks (*konvertibilnih maraka*), within one month of the date of its receipt of this decision, as compensation for non-pecuniary damages;

6. unanimously, to order the Federation of Bosnia and Herzegovina to pay simple interest at an annual rate of 10 (ten) per cent on the sum awarded to the applicants in conclusion no. 5 above, such interest to be paid as of the due date on the sum awarded or any unpaid portion thereof until the date of settlement in full; and

7. unanimously, to order the Federation of Bosnia and Herzegovina to submit to the Commission, by 31 December 2004, a report on the steps taken by it to comply with the above orders.

(signed)	(signed)
J. David YEAGER	Jakob MÖLLER
Registrar of the Commission	President of the Commission

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