HUMAN RIGHTS CHAMBER FOR BOSNIA AND HERZEGOVINA
DOM ZA LJUDSKA PRAVA ZA BOSNU I HERCEGOVINU

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* The Human Rights Chamber has published two companion volumes of the text of decisions issued in 2002.

I. INTRODUCTION

The Human Rights Chamber for Bosnia and Herzegovina, first constituted in March 1996, has just completed its seventh year of functioning. Many changes have taken place since the Chamber issued its first decision on the merits in the case CH/96/01 *Matanović v. the Republika Srpska*. From that early beginning when the electricity failed in 1997 during the public hearing in that case, and the hearing had to be continued under the glow of candlelight, until today, the Chamber has deliberated, debated and decided on a couple thousand cases involving a diverse range of alleged violations of human rights. Over the years it has established itself into an effective and impartial judicial institution that has earned the trust and confidence of the citizens of Bosnia and Herzegovina.

The year 2002 has seen the largest number of new applications - 4,177 - filed to the Chamber in any one year - an average of 348 per month. At the same time the Chamber has resolved almost twice as many cases as in the previous year -- 675 cases. But the rate at which cases are resolved simply cannot keep pace with the ever-increasing rate at which new applications are received. The increase is partly explained by the submission in 2002 of more than 1,500 individual applications by family members of Bosniak men who disappeared during the fall of Srebrenica. A large number of applications relating to housing issues are still received, however, which reveals that the problem is not yet solved seven years after the end of the war.

But statistics do not reflect the actual work of the Chamber. During 2002, many important cases were decided among which was the first freedom of information case (*"ORDO"- RTV "Sveti Georgije" v. State BiH*), and the first case related to the expulsion of aliens and nationals (*Boudellaa, Lakhdar, Nechle and Lahmar v. State BiH and the Federation of BiH*). Other important cases include *Škrgić et al. v. the Federation of BiH,* which concerned the applicants' attempts to gain recognition of their claimed rights as shareholders of Agrokomerc, one of the largest companies in Bosnia and Herzegovina before the war; the cases *Rizvić, Huskić, Šabančević, Sefić and Gračanin v. the Federation of BiH* which concerned claims of maltreatment in custody and the right to a fair trial after the applicants had been arrested, indicted and convicted for having committed war crimes or murder; and *Todorović et al. v. State BiH and the Federation of BiH* which concerned frozen foreign currency savings accounts. In March 2003 the Chamber also issued its decision in the "Srebrenica cases", directed against the Republika Srpska, which dealt with the rights of family members to be informed about the fate and whereabouts of their loved ones.

These decisions reflect the diversity of cases alleging violations of human rights brought before the Chamber but are only a few of the decisions on admissibility and merits decided in 2002 and the first few months of 2003.

Compliance with the Chamber's orders is another matter. In general, it can be said that both the Federation and the Republika Srpska have an uneven record with respect to implementation, although sustained pressure from the international community has helped to push the rate of compliance up in recent years. Compensation awards have been paid in many cases, but not all. Some orders seem to be particularly difficult for the respondent Parties and often take years to implement e.g., those which require the granting of permits to rebuild mosques or investigations into disappearances and allegations of maltreatment by police. Although few orders have been directed against the State of Bosnia and Herzegovina, they are virtually ignored. There is still some way to go before the citizens of Bosnia and Herzegovina can feel confident that when a decision is made by the Chamber, not to mention by the domestic courts, it will be fully respected without being subjected to a political filter.

The future of the Human Rights Chamber is a looming uncertainty. Its current mandate expires at the end of 2003. The mandate was extended an additional three years at the end of 2000 in recognition of the continuing need for this type of institution to address the ongoing human rights violations in Bosnia and Herzegovina. The preferred option of the international community, which has been under discussion for several years, is to "merge" the Chamber and the Constitutional Court of Bosnia and Herzegovina after the expiration of this extended mandate period. The legal, procedural and administrative difficulties associated with this option, however, have defied satisfactory solution. Toward the latter part of 2002, however, this issue appears to have been taken up again with renewed urgency. The position now of the proponents of a "merger" is that the Chamber will cease to function on 31 December 2003 and all remaining pending cases and all future applications will then be transferred or directed to the Constitutional Court. The Chamber is not aware of the position of the signatories to Annex 6 (Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and the Republika Srpska) on the "merger".

The Chamber is concerned because the Constitutional Court has not been functioning at all since May 2002 due to the failure to appoint two of the new members. Moreover, the new Constitutional Court, when it is finally constituted, will already have its own backlog of cases to deal with.

If the Chamber is to disappear, however, and its remaining pending cases taken over for ultimate resolution by the Constitutional Court, the legal opinion of the Chamber (adopted on 7 November 2002 and distributed to national and international decision-makers) is that this can be effected only through amendments to the Constitution of Bosnia and Herzegovina and to Annex 6 of the Dayton Peace Agreement. In the opinion of the Chamber, these are necessary if there is to be no diminution in the protection of human rights in Bosnia and Herzegovina as stipulated in Article 10 paragraph 2 of the Constitution of Bosnia and Herzegovina.

In April 2002 Bosnia and Herzegovina acceded to the Council of Europe and in July ratified the European Convention on Human Rights. It has been said that now that the country is under the jurisdiction of the European Court of Human Rights, the Chamber is no longer needed. But cases filed with the Chamber before ratification of the European Convention are not within the jurisdiction of the European Court. Regarding the possibly "overlapping competence" of the Chamber and the European Court after July 2002, it will be up to the European Court to decide whether proceedings before the Chamber will be regarded as a domestic remedy to be exhausted before a case can be declared admissible in Strasbourg or as "another procedure of international investigation or settlement" in which an application already submitted to the Chamber will have to be declared inadmissible by the European Court in accordance with Article 35(2)(b) of the European Convention.

Also, in respect of the "overlapping competence" of the Chamber and of the European Court, whether before or after 31 December 2003, it should be noted that:

The Human Rights Chamber has jurisdiction not only in relation to allegations that the rights protected in the European Convention are not respected and secured, but also on alleged discrimination in the enjoyment of rights protected by other international treaties (Article II(2)(b) of Annex 6). In the practice of the Chamber those cases concerning discrimination in the right to work, the right to social security and the right of access to the public service have become more and more important. Discrimination in employment or reemployment is one of the most severe problems for the return of refugees and displaced persons.

Annex 6 confers on the Chamber the competence to issue provisional orders for the protection of human rights. As the judiciary in wide parts of Bosnia and Herzegovina is not yet functioning properly, the Chamber has made use of this competence in numerous cases. It has been an effective means of protecting human rights in practice. The European Court of Human Rights has no power to issue legally binding provisional orders. The Chamber also has wider power than the European Court to make legally binding orders to remedy the violations of human rights which it finds.

The reform of the judiciary should be able, in the future, if performed, to render this institution less necessary. But, acknowledgement that the establishment of the rule of law is fundamental to the future of Bosnia and Herzegovina came late to the international community. Steps are finally being taken now but the process will not take place overnight and the results of that process will take even more time.

The end of the Chamber's mandate may be almost at hand. The decision as to whether the Chamber will receive an extension of its mandate, be transformed in some way or simply disappear at the end of 2003 is in the hands of national and international decision-makers. But the year 2002 has not been much different from 2001 in terms of respect for human rights and the year 2003 is already proving to be much the same. The Chamber's fate should not be decided on the basis of a pre-determined date selected for its demise, but rather on a careful and honest evaluation of the context in which the Chamber operates to determine whether a need still exists for the continuation of such an institution in Bosnia and Herzegovina to protect human rights.

MichŁle Picard
President of the Chamber

II. MEMBERS AND SECRETARIAT OF THE CHAMBER

A. MEMBERS OF THE CHAMBER

The Human Rights Chamber is composed of 14 members as provided in Article VII of Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina (see *Annex A*). Four members were appointed by the Federation of Bosnia and Herzegovina and two by the Republika Srpska. The other eight members are internationals and were appointed by the Committee of Ministers of the Council of Europe. Pursuant to Annex 6, the international members are not citizens of Bosnia and Herzegovina or any neighbouring state. The President of the Chamber, Ms. MichŁle Picard, a French national, was designated by the Committee of Ministers of the Council of Europe from among the international members. The members appointed are all distinguished lawyers and bring to the Chamber a wide variety of experience in different backgrounds including the judiciary, the academic sphere, private legal practice, administration and politics, and international, criminal and human rights law. A list of the members and their short biographies are attached to this Report as *Annex B*.

B. SECRETARIAT OF THE CHAMBER

The Secretariat is the full-time staff of the Chamber, based in Sarajevo, with an additional office in Banja Luka. The staff of the Secretariat remained at about 45 during the year, with approximately 10 internationals employed at any one time. Additionally, several fourth-year national law students work as interns in both the Sarajevo and Banja Luka offices. In the first few months of 2003, approximately 10 new staff members (mainly lawyers and translators) and several interns were hired. A list of the staff of the Secretariat in 2002 is attached to this Report as *Annex C*.

In preparation for the sessions and during the sessions, the staff of the Chamber receives and processes applications; corresponds with the applicants and respondent Parties on cases in procedure; researches national and international law; prepares memoranda and draft decisions for presentation at the sessions; coordinates the preparation of the session agendas for the plenary and two panels; organises public hearings; keeps track of the decisions adopted, delivered and dispatched; and continually updates the case database and case files with incoming and outgoing correspondence. Almost all documents including submissions of the respondent Parties and applicants, correspondence, press releases, news articles, case memoranda and decisions are translated in full for every session. During the sessions, which take place for one full week every month, the lawyers follow their cases as they come before the Chamber, take instructions from the judges for further procedure and take the minutes of the session. The translators provide simultaneous interpretation during the public hearings and sessions.

The staff of the Chamber also perform many additional tasks. A press release is made every month which summarizes the decisions on admissibility and merits issued at each session and announces upcoming public hearings. These are distributed widely to the national media and international community in Bosnia and Herzegovina. The staff also publishes volumes of its decisions every six months and an annual report; keeps the international community in Bosnia and Herzegovina informed about the work of the Chamber through meetings and various types of reporting; cooperates on issues of mutual concern with OSCE, OHR, the CRPC and the BiH Constitutional Court; tracks the implementation of the Chamber's decisions; writes reports to donors; updates its web site; and undertakes a multitude of administrative tasks necessary to keep the Secretariat running efficiently on a daily basis.

The Human Rights Chamber is provided office space by the State of Bosnia and Herzegovina in the Presidency Building in Sarajevo. New staff hired in 2003, however, had to be accommodated in office space rented by the Chamber within the Executive Offices of the Commission for Real Property Claims (CRPC), at Muvekita 4 in Sarajevo, as no additional space was provided to the Chamber within the Presidency building. The Chamber meets in session in the Presidency Building in a room that it shares with the Constitutional Court of Bosnia and Herzegovina. Public hearings are held at the Sarajevo Cantonal Court. Private office space is rented in Banja Luka.

III. MANDATE AND JURISDICTION OF THE CHAMBER

The mandate of the Human Rights Chamber is set out in Article II of Annex 6 to the Dayton Peace Agreement. The Chamber has the mandate to consider alleged or apparent violations of human rights as provided in the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto, and alleged or apparent discrimination arising in the enjoyment of the rights and freedoms provided for in the Convention and 15 other international agreements listed in the Appendix to Annex 6. The Chamber may only receive applications concerning matters which are within the responsibility of one of the Parties to Annex 6 (the State of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and the Republika Srpska), and which occurred or continued after entry into force of the Dayton Peace Agreement (14 December 1995). Particular priority is given to allegations of especially severe or systematic violations, as well as those founded on alleged discrimination on prohibited grounds.

The Chamber may receive applications concerning such human rights violations directly from any Party to Annex 6 to the Dayton Peace Agreement or from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by any Party or acting on behalf of alleged victims who are deceased or missing.

Under the terms of Annex 6, when the Chamber receives an application it must decide whether to accept or reject it, taking into account a number of criteria listed in Article VIII. These criteria include: (a) whether effective remedies exist, and the applicant has demonstrated that they have been exhausted and that the application has been filed with the Commission [the Chamber or the BiH Ombudsman] within six months from such date on which the final decision was taken; (b) whether the application is substantially the same as a matter that the Chamber has already examined; c) whether the application is incompatible with the Human Rights Agreement, manifestly ill-founded, or an abuse of the right of petition; and d) whether the application concerns a matter currently pending before another international human rights body or another Commission established by the Annexes to the General Framework Agreement.

The Chamber's procedures are modeled on those of the European Court of Human Rights. Unless the Chamber decides at the outset that an application is inadmissible or should be struck out, written observations are requested from the applicant and respondent Party, after which the Chamber deliberates and decides on the case. In addition to the written procedure, the Chamber may decide to schedule a public hearing for oral argument by the parties and submission of evidence by witnesses and experts. The Chamber may also invite written or oral *amicus curiae* submissions. If the Chamber finds a violation, it may, in its written decision on the merits, issue an order or orders indicating the steps that the respondent Party or Parties must take to remedy the breach, including orders to cease and desist or grant monetary relief. At any stage of the proceedings, it may also order provisional measures or attempt to facilitate an amicable resolution based on respect for human rights.

The decisions of the Chamber are final and binding and the respondent Parties are obligated to implement them fully. Chamber decisions on the merits are forwarded to the Organization for Security and Co-operation in Europe (OSCE) and the Office of the High Representative (OHR) for monitoring of compliance.

IV. THE CHAMBER'S RULES OF PROCEDURE

Annex 6 provides that the Chamber "shall develop fair and effective procedures for the adjudication of applications" and that such procedures "shall provide for appropriate written pleadings and, on the decision of the Chamber, a hearing for oral argument or the presentation of evidence" (Article X, paragraph 1). Initially, the Chamber decided its procedure *ad hoc,* and on the basis of provisional Rules of Procedure adopted in July 1996, in line with the principles set forth in the Dayton Peace Agreement. The Chamber's Rules of Procedure (see *Annex D*), adopted on 13

December 1996 and amended on 15 May and 11 September 1998, 8 March 2001, 4 November 2002 and 8 March 2003 are intended to give effect to those principles. They are modeled to a large extent on the rules of procedure of the former European Commission and Court of Human Rights, although substantial adjustments have been made to accommodate the special composition and circumstances of the Chamber.

The Rules provide for a combination of written and oral procedure and for consideration of issues of both admissibility and merits. The Rules also provide for, among other matters, the giving of priority to particular applications, provisional measures, procedures at hearings, amicable resolutions, the award of monetary relief and proceedings for review by the plenary Chamber of decisions of the panels. There are a number of possible outcomes to proceedings before the Chamber, such as a decision rejecting the application as inadmissible, a friendly settlement of the case, a decision to strike the application off the case list, or a decision on admissibility and merits. The Chamber's decisions on admissibility and merits (or merits only), decisions on review and decisions on further remedies are orally delivered at public hearings.

V. CASELOAD OF THE CHAMBER

During the year 4,177 applications were registered (more than in any other year) which brought the total number of applications registered at the Chamber to 12,659 by the end of 2002. On average, then, the Chamber received 348 applications every month during 2002. A total of 1,878 applications have been resolved through decisions of the Chamber. That left 10,781 applications pending before the Chamber by the end of 2002. During the first three months of 2003, already 787 new applications were received and 350 new cases resolved.

In 2002, the Chamber held a total of 11 plenary sessions and 11 sessions of each of its two panels (no session is held during August).

Session No. Zasjedanje br.	Dates Datumi	Month Mjesec
65	7 - 12	January / Januar / Siječanj
66	4 - 9	February / Februar / Veljača
67	4 - 9	March / Mart / Ožujak
68	8 - 13	April / April / Travanj
69	6 - 11	May / Maj / Svibanj
70	3 - 8	June / Juni / Lipanj
71	1 - 6	July / Juli / Srpanj
--	--	August / August / Kolovoz
72	2 - 7	September / Septembar / Rujan
73	7 - 12	October / Oktobar / Listopad
74	4 - 9	November / Novembar / Studeni
75	2 - 7	December / Decembar / Prosinac

During its sessions, normally held during the first full week of every month, the Chamber considers the cases before it, both in private deliberations and public hearings. At the sessions held in 2002, the Chamber issued a total of 564 final and binding decisions which included decisions on admissibility, merits, strike-outs, requests for review, decisions on review and decisions on further remedies resolving 675 individual applications/cases. (One decision issued by the Chamber may resolve more than one individual application/case, as the Chamber has the discretion to join cases if appropriate. Also,

several decisions may be issued regarding one application -- e.g. a decision on admissibility and merits, a decision on request for review and a decision on review for one case).

Decisions on admissibility and merits, decisions on review and decisions on further remedies are publicly delivered each month after they have been adopted (voted on), while all other types of decisions are adopted by the Chamber, but not publicly delivered. Public deliveries take place at the Cantonal Court in Sarajevo. (In a public delivery, some sections of the decisions are read aloud by the President or Vice-President of the Chamber. The agents appear on behalf of the respondent Parties and often the applicants are present in person). The full texts of the decisions are available to the public after the hearing.

In the decisions on admissibility and merits, issues considered in 2002 included property matters, freedom of expression, expulsion of aliens and nationals, employment discrimination, age discrimination, length of proceedings, non-enforcement of court decisions, fair trial, ill-treatment in detention, and the lack of effective remedies. In addition to adopting and delivering decisions each session, the judges also deliberated on several hundreds of other cases in various stages of procedure throughout the year. Hundreds of requests for provisional measures were also considered and decided.

The Chamber held four public hearings in 2002 during which testimony was heard and evidence received in 10 cases pending before the Chamber. The issues concerned freedom of expression, freedom of religion, right to private and family life, right to liberty and security of person, right to a fair trial, the prohibition of expulsion of aliens and nationals, right to peaceful enjoyment of possessions and discrimination. Three of the hearings were held in Sarajevo and one in Travnik. As of April 2003, the Chamber had issued decisions in all but two of the cases.

The chart below illustrates the increase in applications received and cases resolved over a period of 7 years. *Annex F* attached to this Report provides a dramatic visual presentation of this information. *Annex E* specifically shows the types and numbers of decisions taken by the Chamber through 31 December 2002.

Year	Number of applications registered	Number of cases resolved
1996	31	0
1997	83	10
1998	1,382	68
1999	1,943	336
2000	3,239	412
2001	1,804	377
2002	4,177	675
Total as of 31 December 2002	12,659	1,878

Note: In the first 3 months of 2003, the Chamber registered 787 new applications and resolved 350 cases bringing the total number of applications registered with the Chamber through 31 March 2003 to 13,446 and the total number of cases resolved to 2,228.

VI. STRATEGIES, MECHANISMS AND PRIORITIES FOR DECIDING CASES

The Chamber has considered over the years various strategies and procedures for dealing efficiently with its huge caseload and developed several "model" decisions for use in certain types of cases. Scarce resources, especially in terms of staffing, have meant that these strategies, procedures and mechanisms for dealing with its caseload could only be partially implemented. Only in 2003 have additional resources been given to the Chamber to facilitate the processing of these cases. Time is of the essence, however, as the Chamber's mandate expires at the end of 2003 and the organisation, coordination and legal and administrative work involved in the ultimate processing of many thousands of cases is considerable. Moreover, other important considerations relating to the purpose and legal mandate of the Chamber and its role in contributing to the rule of law in Bosnia and Herzegovina influence the Chamber's strategic approach.

According to Article VIII(2)(e) of Annex 6 to the Dayton Peace Agreement, "the Chamber shall endeavor to accept and to give particular priority to allegations of especially severe or systematic violations and those founded on alleged discrimination on prohibited grounds".

In pursuance of this principle set forth in its founding instrument, the Chamber has adopted the following informal guidelines in addressing its caseload:

- Priority is given to allegations of systematic violations of human rights;
- priority is given to allegations of particularly severe violations of human rights, such as violations of the right to life, unlawful detention, disappearances, serious violations of the principle of fair trial;
- priority is given to allegations of discrimination;
- moreover, although not expressly mentioned in Article VIII(2)(e), the Chamber gives priority to applications which either
  (a) raise novel legal issues of particular relevance for Bosnia and Herzegovina, so that the Chamber's decision can serve as a precedent or guideline for domestic decision-makers, including the administrative authorities and the courts; or
  (b) are particularly important for the promotion of the rule of law in Bosnia and Herzegovina.

A. SYSTEMATIC VIOLATIONS OF HUMAN RIGHTS

As to the mandate to give priority to allegations of systematic violations of human rights, the Chamber has noted that most of the cases it deals with are individual instances of systematic (at least in the sense of widespread) violations of human rights. This is, e.g., the case of obstruction of the refugee return process resulting in violations of the right to respect for a person's home and property, the freezing of foreign currency bank accounts, employment discrimination, failure to investigate war-time disappearances and systematic failure of courts to decide within a reasonable time cases brought by members of minorities. These types of cases account for approximately two-thirds of the applications registered with the Chamber. With regard to these systematic violations of human rights, the Chamber sees its role as deciding "lead cases" or precedent-setting cases, which provide domestic and international decision-makers with the principles to be applied in order to address the remaining cases sharing the same fact pattern.

B. CATEGORIES OF CASES THAT SIGNIFICANTLY CONTRIBUTE TO THE CHAMBER'S CASELOAD

(I) Applications that fit model decisions on admissibility and to strike out

The Chamber has developed model decisions for standard inadmissibility decisions and strike out decisions, which significantly expedite the drafting process in standard situations. These model decisions concern, e.g., cases that are outside the Chamber's competence *ratione temporis,* where the applicant has failed to exhaust domestic remedies, where the applicant

asks the Chamber to act as an additional appeals instance to the domestic judicial system, or cases in which the applicant complains about his/her eviction from an apartment he/she has to vacate in order to allow the return of the pre-war occupant.

(II) Right to respect for one's home and right to property in the context of the repossession of pre-war apartments and houses

As of the end of the year 2002, more than 3,000 applications lodged with the Chamber concerned the applicants' right to respect for their home and their right to property in the context of the repossession of pre-war apartments and houses, often coupled with complaints of unreasonable length of proceedings and allegations of discrimination.

During 2002, the Chamber's strategy to more effectively deal with this huge caseload has had three prongs: the grouping of cases by the Municipality in which the pre-war property is located; the exchange of information on repossessions with the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) as part of a pro-active approach towards identifying cases in which the applicant has repossessed his or her pre-war dwelling; and strike out decisions under Article VIII(3) of the Human Rights Agreement where an applicant has repossessed his or her pre-war home.

Regarding the latter prong, in the course of the year 2002 the Chamber has changed its approach to cases in which the applicant has been reinstated into possession of his or her pre-war home but asks the Chamber to still issue a decision recognising the past violation of his or her rights and ordering the respondent Party to pay compensation. Under Article VIII(3) of the Annex 6 Human Rights Agreement, the Chamber may strike out an application from its case list when "the matter has been resolved" and it is compatible with respect for human rights not to further pursue consideration of the matter. The previous approach of the Chamber, as set forth in the case of *S.P.* (case no. CH/99/2336, decision to strike out of 2 July 2001), was that the Chamber would in each case of repossession balance several elements when deciding whether to decide on admissibility, merits and possible remedies of a case of reinstatement into the pre-war home or rather decide to strike the case out. These elements included the difficulties faced by the domestic authorities in implementing the property legislation in force in a timely manner, the stage the proceedings have reached when the Chamber is informed of the applicant's reinstatement, and the circumstances of the applicant's reinstatement, such as "the length of time the applicant has had to wait for reinstatement; other exceptional suffering incurred by the applicant … and the proven effectiveness, in a particular locality, of the domestic remedies".

In October 2002 the Chamber decided to adopt a slightly different approach. In *Vujičić* (case no. CH/99/2198, *Vujičić v. the Federation of BiH*, decision to strike out of 10 October 2002), the applicant had been reinstated into possession of his pre-war apartment in Sarajevo after nearly four years of proceedings before the domestic authorities. He asked the Chamber to continue consideration of his case, to find a violation of his human rights and to award him compensation. In its decision to strike out the application, the Chamber recalled its obligation to give particular priority to allegations of especially severe or systematic violations and of discrimination. The Chamber further observed that there are presently over 10,000 undecided applications pending before it, and that this number is growing month by month, at an increasing rate. The Chamber also noted the significant progress in the return and property law implementation process in Bosnia and Herzegovina since it adopted the *S.P.* decision. The Chamber observed that, the applicant having been reinstated, the ongoing alleged human rights violation has been brought to an end and the main issue of the application solved. In the light of all these considerations, the Chamber decided to strike the application out, notwithstanding the understandable request of the applicant, on the ground that "it is no longer justified to continue the examination of the application" within the meaning of Article VIII(3)(c) of the Agreement. The Chamber finally found that this result is "consistent with the objective of respect for human rights, as this "objective" must be understood to embrace not only the individual applicant's human rights, but also the Chamber's more general mandate to assist the Parties in securing to all persons within their jurisdiction the highest level of internationally recognised human rights".

(III) Applications with a clear failure to exhaust domestic remedies

The Chamber has continually received a great number of cases in which applicants file an application to the Chamber without awaiting a final decision in their case by the domestic authorities. Under Article VIII(2)(a) of the Human Rights Agreement, applicants are required to exhaust effective domestic remedies before applying to the Chamber. The Chamber

has in its case-law stressed the requirement that the remedies available be effective, and has considered on the merits many applications in which domestic remedies had not formally been exhausted, because the prospect of their providing relief to the applicants' complaints was non-existent in practice.

However, the Chamber receives a significant number of applications in which the applicants completely disregard the existence of a domestic court system competent to deal with their grievances, or address the Chamber more or less at the same time as they initiate proceedings before domestic authorities. In most of these cases, there is *prima facie* no reason to doubt that the domestic remedy could be effective. These applications therefore appear to be clearly inadmissible.

The Chamber could increase the number of decisions issued by identifying these cases and declaring them inadmissible. However, it may be questioned whether the Chamber's resources are well-invested in issuing numerous decisions rejecting clearly inadmissible applications. The argument could be made that an increased number of such inadmissibility decisions could discourage future applications of the same kind. However:

(a) most applicants are not represented by lawyers, and therefore not aware of admissibility requirements; and
(b) submitting an application to the Chamber does not involve any costs, while lawyers' fees and court expenses are for many persons an obstacle to litigation before domestic courts. They are therefore not easily discouraged from filing applications with the Chamber instead of the domestic court system.

(IV) CRPC decision implementation cases

The Chamber developed a model decision on admissibility and merits for cases concerning the failure of the housing authorities to implement decisions of the Annex 7 Commission for Real Property Claims of Refugees and Displaced Persons (CRPC). In the course of 2002 about 30 cases were decided on the merits using this model decision. Subsequently, the Chamber abandoned the use of such model decisions, for reasons connected to the explicit and mandatory introduction of the "chronological order" requirement for the reinstatement process in the new property law implementation legislation, imposed by the High Representative in December 2001. In issuing such decisions, - if issued in the streamlined procedure - the implementation of the Chamber's decisions within the deadlines set by the Chamber risked being at odds with the respect of the statutory chronological order requirement. This illustrates a circumstance in which an approach to the Chamber's caseload aiming at the expeditious decision of as many cases as possible might prove counterproductive when viewed within the larger context.

(V) JNA apartment cases

A common theme of the Chamber's case-law has been the decisions concerning the right to respect for home, the right to property, and the right to access to a court and to fair and expeditious proceedings in the context of the so-called "JNA apartment cases". More than 1,000 such cases had been lodged with the Chamber as of the end of 2002, and the Chamber has decided on the merits more than 125 of them. However, the reluctance of the Federation legislature, administration and judiciary to implement the Chamber's decisions in this matter, means that only a part of these cases can be struck out as a result of the matter being resolved, while the Chamber again and again has to examine JNA apartment applications on the merits. The changes to the legislation and/or to the administrative practice necessary to implement the Chamber's decision of December 2001 in *Miholić & Others* (case nos. CH/97/60 et al., decision on admissibility and merits of 4 December 2001) have not been put in place during the entire year 2002 (and the first third of the year 2003). Moreover, even where the legislation concerning JNA apartments has been changed to implement the Chamber's decisions, the authorities continue to obstruct the implementation of the amended laws in individual cases (see, e.g., the Chamber's decision in case no. CH/99/2028, *Crnogorčević v. the Federation of BiH,* decision on admissibility of 11 October 2002).

(VI) Right to property in frozen foreign currency account cases

About 2,000 "frozen foreign currency account cases" have been lodged with the Chamber. All but about 30 of these cases concern foreign currency savings deposited with banks now located in the Federation, the remaining accounts with banks

in the Republika Srpska and the Brčko District of BiH. In May 2000 the Chamber delivered its decision in the first four of these cases. In order to comply with the Chamber's remedial orders issued in that decision, the government and legislature of the Federation have amended the relevant legislation. However, a decision of the Constitutional Court of the Federation and the lack of response thereto of the government and legislature have put into question the steps taken by the Federation authorities to implement the Chamber's May 2000 decision. In October 2002, the Chamber issued a new decision concerning old foreign currency savings in the Federation, in which it found that:

"[T]aken together, the decision of the Federation Constitutional Court, the lack of responsive legislative action, and the continued application of the Citizens' Claims Law have led to a state of legal confusion with regard to the applicants' old foreign currency savings accounts. There is no justification for the current uncertainty, which leaves the applicants' claims to their property in a state of oblivion and neglect. Meanwhile, as the privatisation process moves forward without clarification of the law, the potential consequences of the applicants' insistence on their property rights become more severe."

(Case nos. CH/97/104 *et al., Todorović & 6 Others v. BiH and the Federation of BiH,* decision on admissibility and merits of 10 October 2002, paragraph 148).

As a consequence, the remaining 2,000 "old foreign currency account cases" pending before the Chamber remain unresolved. The Chamber will in the course of 2003 again examine whether the Federation legislature has created a legal framework that strikes an acceptable balance between the rights of the individual applicants (holders of old foreign currency accounts) and the public interest. The prospects of resolving the remaining frozen foreign currency account cases in a standardised and expedited procedure are, at the current stage, remote.

(VII) Employment discrimination cases

More than 500 applications pending before the Chamber allege discriminatory termination of labour relations, mostly on grounds of ethnic/national origin. Although in most of these cases the termination or suspension of the employment is linked to the armed conflict, the Chamber has found that it is competent *ratione temporis* in a majority of the cases considered until now. As several decisions of the Chamber during the year 2002 have shown, the current legal framework and practice of the authorities, both administrative and judicial, do not provide any effective remedy for these applicants. On the contrary, these cases show that systematically a violation of the right to fair trial within a reasonable time is added to the alleged violation of the right not to be discriminated against in the right to work in the aftermath of the armed conflict (see case no. CH/98/948 *Mitrović v. the Federation of BiH,* decision on admissibility and merits of 9 June 2002; case no. CH/01/7351 *Kraljević v. the Federation of BiH,* decision on admissibility and merits of 12 April 2002; and case no. CH/99/1714 *Vanovac v. the Federation of BiH,* decision on admissibility and merits of 8 November 2002).

As a consequence, the Chamber also has found that the considerable backlog of cases falling into this category cannot be addressed in any standardised, summary or otherwise expedited procedure.

(VIII) Srebrenica cases

In November 2001 the Chamber has begun to receive applications that can be classified as "Srebrenica cases". In the course of the year 2002 more than 1,500 of these applications have been lodged with the Chamber. The applicants complain of the disappearance of the spouse or one or several relatives in the aftermath of the fall of Srebrenica in July 1995, of the failure of the government of the Republika Srpska to take any steps to clarify the fate of these persons or the whereabouts of their mortal remains, to punish the perpetrators and to compensate the relatives of the victims. The Chamber has issued a decision on admissibility and merits concerning 49 of these cases in March 2003.

C. BALANCING QUANTITY OF DECIDED CASES V. IMPACT OF DECISIONS

The Chamber's output, in numerical terms, has been considerably increased in the course of the year 2002: 675 applications have been decided, 80 percent more than the 377 decided in 2001. During the year 2003 the number of cases

decided will be further increased by allocating a significant portion of its resources (i.e. lawyer and translator working hours) to the issuance of decisions in strike-out cases, cases permitting the drafting of standardized decisions, and clearly inadmissible cases. However, in pursuing such a "quantity-oriented" approach, the Chamber is aware of the risk that it is mostly deciding cases which either are already decided from a substantive point of view (because the matter is solved in fact, or because the Chamber has stated the law in a lead decision addressing the same issue, thereby substantially deciding the other identical cases), or which do not even come close to revealing a violation of the Human Rights Agreement.

Therefore, to balance quantity with quality and impact, the Chamber will continue to allocate most of its resources during the remaining part of 2003 to deciding:

(a) cases involving requests for provisional measures, which by their nature have to be dealt with urgently; and
(b) cases involving allegations of particularly serious violations of human rights and discrimination, and cases raising new legal issues, where the Chamber's decision can function as a precedent for domestic courts, and, finally, other cases which promise to have a particular impact on the rule of law in Bosnia and Herzegovina.

It is fair to say that the overall procedure (written procedure involving the parties, possibly oral hearing, legal research of both domestic and international law, drafting of memoranda and decisions, deliberations of the judges) in deciding one important case on admissibility and merits on average involves the same amount of resources (lawyers', translators' and judges' time) required to decide perhaps 40 or 50 of the applications that could be solved by a standardised decision.

Nonetheless, the Chamber's impact on respect for human rights and the rule of law in Bosnia and Herzegovina is secured primarily by these "big", resource-intensive decisions, and not by the sixty to one hundred inadmissibility and strike-out decisions the Chamber issues every month.

It is therefore necessary for the Chamber to balance two conflicting necessities: on the one hand, to solve the important and urgent cases it is mandated to give priority to or novel cases that will set precedents or cases that are of particular importance for the rule of law in Bosnia and Herzegovina, and, on the other hand, to decide as many of the "smaller", "standard", strike-out and inadmissible cases as possible, in order to limit the uncontrolled growth of its backlog of unsolved cases.

D. LIMITATIONS ON STREAMLINING

It is worth mentioning that the Chamber has considered the legal feasibility of more radical measures for the streamlining of its procedures, which would touch the very core of the judicial process before the Chamber, e.g. introducing a judge rapporteur system, or small panels for standard inadmissibility and strike out decisions (possibly composed only of domestic judges). However, the provisions of Annex 6 place severe limitations on the legal possibility to validly change proceedings before the Chamber in these respects. Moreover, other practical difficulties associated with these changes leave open to doubt whether they would actually increase the Chamber's ability to solve substantially more cases.

VII. COOPERATION WITH THE RESPONDENT PARTIES

Cooperation with the respondent Parties -- the Federation of Bosnia and Herzegovina, the Republika Srpska and the State of Bosnia and Herzegovina -- is conducted almost exclusively through appointed agents who represent the Parties in proceedings before the Human Rights Chamber. The agents are given notice by the Chamber of applications against the Party they represent and are invited to submit their observations in writing on the admissibility and merits of the applications. Agents are also invited to appear at public hearings and to present oral argument. If the Chamber finds a violation of human rights in a decision on the merits, it may order the respondent Party or Parties against which the decision was taken to take remedial measures and/or pay compensation. The agents are responsible for informing the

respondent Parties of the Chamber's decisions and of their obligation to implement fully the orders of the Chamber. Agents are also responsible for reporting to the Chamber on the steps taken by the respondent Parties to implement the decisions.

In March 2002, the agent of the Federation was removed from office and a replacement appointed. In March 2003, the new agent resigned and the following month an acting agent was appointed. The agent for the Republika Srpska resigned in May 2002 and a new agent was appointed. Three agents represent the State of Bosnia and Herzegovina in proceedings before the Chamber. The agents for the Federation and the Republika Srpska generally respond to requests from the Chamber for written observations on the admissibility and merits of cases. The State agents, however, almost never respond to such requests. The agents attend almost all public hearings of the Chamber in which they are a Party to the proceedings.

Under Article XI, paragraph 6, of Annex 6, the Parties must "implement fully decisions of the Chamber". Generally speaking the Chamber sets a deadline for the fulfilment of any order it makes, running from the date of delivery of the decision or, in the case of a decision taken by a Panel, from the date when the decision becomes final and binding. The latter date is the date of expiry of the time limit for the initiation of review proceedings, or the date of completion of any review proceedings initiated. It is also the practice of the Chamber to order the respondent Party to report to it within a set time limit on the steps taken to implement the decision. If an adequate response is not received, the matter is taken up by the OSCE, which took over the mandate for monitoring compliance with the Chamber's decisions from the OHR in 2002. The OSCE is also informed about all orders for provisional measures so that the Parties' compliance with them can be monitored as well.

By the end of March 2003 the Chamber had taken a total of 171 decisions on admissibility and merits (resolving 468 applications/cases), most of which required some action by one or more of the respondent Parties. Most of the decisions contained multiple orders. Of those 171 decisions, 95 are in "full compliance", 28 decisions are in "partial compliance" and 28 decisions are in "no compliance". In the remaining 20 decisions, the Chamber either concluded that there had been no violation of human rights and hence no orders were issued, or, if it did find a violation, it decided not to issue any orders.

VIII. CASES BEFORE THE CHAMBER IN 2002

This section of the Report is intended to provide a broad picture of the Chamber's casework during the year and to highlight some of the main developments in its case-law. A list of all decisions taken during the year on admissibility or merits, the striking out of cases, on requests for review or on review itself where the request for review has been granted, is attached to this Report as *Annex G.* Summaries of a selection of decisions on the merits are annexed as *Annex H.* The full text of all decisions on the merits, and a selection of decisions on admissibility and to strike out will be included in two companion volumes of decisions (January-June 2002 and July-December 2002) published by the Chamber. Copies of particular decisions are also available from the Secretariat on request. Decisions of the Chamber are also accessible on its web site on the searchable database at www.hrc.ba.

1. Provisional Measures

The Chamber continues to receive substantial numbers of requests for provisional measures. In accordance with Article VIII, para. 2(f) of the Human Rights Agreement all cases involving such requests are reviewed as a matter of priority. The Chamber has developed a streamlined procedure for dealing with cases where the request for a provisional order appears clearly ill-founded.

2. Questions of Admissibility

When a case comes before it, the Chamber must decide whether or not to accept it, taking into account the admissibility criteria set out in Article VIII, para. 2 of the Agreement. The principal criteria relate to the exhaustion of any effective domestic remedies, the introduction of the application within six months of the final domestic decision, whether the application is compatible with the Agreement (i.e., principally whether it is within the Chamber's jurisdiction as regards the

time, place, subject matter and responsibility for the matter complained of) and whether the application is manifestly ill-founded. These provisions are similar to, but not identical with, the provisions of the European Convention on Human Rights governing the admissibility of applications to the European Court of Human Rights and the Chamber has held that it has a broader discretion than does the European Court in deciding whether or not to accept an application.

The number of inadmissibility decisions has increased substantially during the year. In particular an increasing number of cases has been rejected for non-exhaustion of domestic remedies as the functioning of the domestic courts has improved. However, there have still been numerous instances during the year where, due to delay or other defects in the domestic procedures, the Chamber has not been satisfied that the domestic remedies available in theory are effective in practice. In such cases, following the long-standing case-law of the European Court of Human Rights, the Chamber will rule that the remedy in question need not be exhausted. It also remains rare for the domestic courts and other authorities to show themselves willing to apply the provisions of the European Convention in priority over other law, as they are required to do under the Constitution of Bosnia and Herzegovina (see Annex 4 to the General Framework Agreement, Article II para. 2).

3. Striking Out etc.

Under Article VIII, para. 3 of the Agreement the Chamber may suspend consideration of, or strike out, an application on the ground that the applicant does not intend to pursue it, that the matter has been resolved, or that for any other reason continued examination of the application is no longer justified. It can only take such a decision if satisfied that to do so is consistent with the objective of respect for human rights.

The Chamber has made increasing use of this provision. A total of 308 applications were struck out during the year. In many cases the decision is based on the applicant's withdrawal of the case or failure to respond to communications from the Chamber, leading to the conclusion that the applicant does not intend to pursue the case.

Where the applicant's case has been substantially resolved the Chamber may also strike the case out even if all the applicant's claims have not been met. In particular in the field of housing, the Chamber has received many applications from persons complaining that they have been unable to return to the properties occupied by them before the war. Following earlier decisions of the Chamber, substantial changes in legislation and administrative practice have secured the right to return in domestic law in most of these cases. Where the applicant succeeds in recovering possession of the property during the proceedings, the Chamber will not normally retain the case solely to determine a claim for compensation for the alleged breach of the applicant's rights in the past. The Chamber's policy in relation to such cases was explained in the case of *Vujičić v. the Federation of Bosnia and Herzegovina* (case no. CH/99/2198, decision of 10 October 2002) where the applicant had regained possession of his property. The Chamber pointed out that it is obliged under the Agreement to give priority to allegations of especially severe or systematic violations of the Agreement and to those founded on alleged discrimination. In view of the large and increasing number of cases pending before it and the significant progress made in the implementation of the property laws, it found that further examination of the application was not justified. It held that the objective of respect for human rights referred to in Article VIII (3)(c) of the Agreement must be understood to embrace not only the applicant's rights but also its more general mandate to assist the Parties in securing the rights of all persons within their jurisdiction. It has adopted the same approach in numerous other cases.

4. Questions Arising on the Merits

The Chamber continues to deal with a large and diverse case-load. The following is a selective outline of some of the more significant matters the Chamber has dealt with in 2002.

a) The Right to Life

In February 2002 the Chamber delivered a decision finding a violation of *inter alia* the right to life under Article 2 of the Convention, arising from the failure of the national authorities effectively to prosecute the killer of a person (Š.T.), who had

been shot in the street by one B.B. following an argument. B.B. was prosecuted and the Livno Municipal Court found that he had killed Š.T.. However, the court found that B.B.'s responsibility for his acts had been impaired by alcohol and post-traumatic stress and ordered that he should undergo a period of psychiatric treatment. B.B. was released within a few months. Subsequently, following a petition for the protection of legality, the Supreme Court of the Federation found that the Municipal Court had violated several provisions of the law in deciding the question of B.B.'s responsibility. However, since a *reformatio in peius* at the expense of the accused was not possible the Municipal Court decision stood and B.B. remained free. The Chamber found that there had been a fundamental failure by the Municipal Court to give proper consideration to the question of B.B.'s criminal responsibility and that there had been a violation of Article 2 of the Convention in so far as it imposed a positive obligation on the authorities to take appropriate steps, such as investigation and prosecution, to safeguard the lives of those within their jurisdiction.

As mentioned below, the Chamber also found a violation of Article 1 of Protocol No. 6 to the Convention, which abolishes the death penalty, in a case where terrorist suspects were handed into the custody of United States forces without any assurance that they would not be subjected to the death penalty (see the *Boudellaa* case below).

b) Missing Persons

The Chamber has received many cases submitted by the relatives of persons who have gone missing during the war in Bosnia and Herzegovina. It has no competence *ratione temporis* to deal with complaints concerning events before 14 December 1995, when the Agreement came into force. It cannot therefore rule on such questions as whether the rights to life or liberty of the disappeared persons were violated during the war. However, it can consider whether the authorities' treatment of the relatives of missing persons after that date has respected their rights under the Agreement.

One such case dealt with during the year was *Unković v. the Federation of Bosnia and Herzegovina,* which arose from the murder of members of the applicant's family in 1992. The applicant complained of alleged inadequacies in the authorities' investigations and of their alleged failure to provide him with information about the fate of his relatives. In a decision on review the plenary Chamber considered whether the applicant's rights under *inter alia* Articles 3 (prohibition of inhuman and degrading treatment) and 8 (respect for family life) had been violated. Taking into account case-law of the European Court of Human Rights, the Chamber found that the case raised issues within the scope of these provisions but that in the particular circumstances of the case, where a successful prosecution for the murders had been brought, there had been no violation of the applicants' rights.

During 2002, the Chamber received some 1500 applications directed against the Republika Srpska submitted by the relatives of persons presumed to have been killed during the events surrounding the fall of Srebrenica in July 1995. These cases raise similar issues regarding the rights of family members to be informed about the fate and whereabouts of the missing persons. The Chamber transmitted a selection of 49 of the cases to the respondent Party for written observations under Articles 3, 8 and 13 of the Convention. The Chamber delivered its decision on admissibility and merits of these 49 cases in March 2003.

c) Arrest and Detention

As in previous years, the Chamber has dealt with several cases concerning arrest and detention, including allegations of ill-treatment in custody. These cases have raised issues concerning the lawfulness of detention under Article 5 of the Convention and the treatment of detainees under Article 3 (see e.g., decisions of 8 November 2002 in *Marjanović v. Republika Srpska* and *Aleksić v. Republika Srpska*). In the case of *Bajrić v. the Federation of Bosnia and Herzegovina* (decision of 10 May 2002), the Chamber found that the applicant had been subjected to inhuman and degrading treatment whilst in police custody. Noting that the applicant had informed the investigative judge of the ill-treatment and that he had had visible injuries, the Chamber also found that the failure of the judge to take any action to investigate the complaint involved a breach of the positive obligation incumbent on the respondent Party to secure the applicant's rights under Article 3.

d) Civil and Criminal Proceedings

The Chamber has dealt with numerous cases concerning possible breaches of Article 6 of the Convention, which guarantees the right to a fair hearing in civil and criminal proceedings. Issues which have commonly arisen include the fairness of particular proceedings and the length of proceedings.

In a number of cases novel issues have arisen regarding the availability of access to court to challenge administrative decisions affecting private rights. In the case of *"ORDO" - RTV "Sveti Georgije" v. Bosnia and Herzegovina* (decision of 5 July 2002) the Chamber found that there had been a breach of this right in relation to proceedings leading to the revocation of a television broadcasting licence. It held that the proceedings before the administrative authorities did not meet the requirements of Article 6 of the Convention and that in the absence of any possibility of review of the revocation decision by a court with full jurisdiction, the right of access to court had been violated. Subsequently a similar decision was reached in relation to a decision denying the applicants long-term radio and television broadcasting licences (*Televizija "MIB" Brčko and Muzička radio stanica "Studio 76" Brčko v. Bosnia and Herzegovina,* decision of 6 December 2002).

e) Expulsion or Removal from the Territory

Several cases concerning expulsion or removal from the territory of Bosnia and Herzegovina have been considered. In particular in October 2002 the plenary Chamber delivered its decision on the admissibility and merits of four applications submitted on behalf of persons suspected of involvement in terrorism, who here handed over to military forces of the United States of America and removed to the military detention facility at Guantanamo Bay in Cuba (*Boudellaa and others v. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina*). The applicants were arrested in October 2001 on suspicion of having planned an attack on the Embassies of the United States and the United Kingdom in Sarajevo. On 17 January 2002 their release from pre-trial detention was ordered by the competent national court. They were then immediately taken into the custody of the Federation police, handed over to the US forces and removed to Cuba. The Chamber found that there had been no basis in domestic law either for the applicants' detention after their release by the court, or for their subsequent removal. It held that their rights not to be arbitrarily expelled under Article 1 of Protocol No. 7 to the European Convention had been violated by both respondent Parties, as had their rights to liberty and security of person under Article 5 of the Convention. The Chamber also held that the failure of the authorities to seek assurances that the death penalty would not be imposed violated the applicants' rights under Article 1 of Protocol No. 6 to the Convention, which provides for the abolition of the death penalty. In three of the cases the Chamber also held that decisions depriving the applicants of their citizenship violated the presumption of innocence in criminal proceedings provided for in Article 6(2) of the Convention. Two similar cases remained pending before the Chamber at the year's end.

In another immigration case (*Unal v. Bosnia and Herzegovina*) the plenary Chamber adopted a decision finding that the applicant's rights under Article 1 of Protocol No. 7 to the Convention to submit reasons against his expulsion and to have his case reviewed had been violated (decision adopted in December 2002, delivered 10 January 2003). The applicant, a Turkish citizen, had received, in January 2002, a decision ordering his expulsion. The decision indicated that no appeal was allowed but that an administrative dispute could be initiated before the Court of Bosnia and Herzegovina within two months of the decision. The Chamber noted that the relevant legislation provided for an appeal to the appeals panel of the Council of Ministers, but that the panel in question had not been established at the date of the decision. Nor had the Court of Bosnia and Herzegovina been established at that time.

f) Repossession of Pre-War Housing

A high proportion of the cases pending before the Chamber still relate to property rights of one form or another. The Chamber has continued to deal with cases concerning refusal or delay in implementing the right of refugees and displaced persons to return to their pre-war homes, although in view of the generally improving situation as regards implementation of this right the Chamber has, in the latter part of the year particularly, been giving greater priority to other issues.

Certain housing cases which the Chamber has considered during the year relate to specific aspects of the property laws which have not previously been considered. One group of such cases concerns the law applicable where the right of return is claimed by the pre-war occupant over property which has been disposed of under a contract for the exchange of property. The Chamber held a public hearing in relation to a group of four such cases in October 2002. The cases raise issues under Articles 6 and 8 of the Convention and Article 1 of Protocol No. 1 to the Convention. Issues arise in particular as to where the onus of proof should lie when the validity of an exchange contract is disputed in the domestic courts and in relation to the handling of requests for provisional orders in the domestic courts. Several applicants complain that they have requested the domestic courts to protect them against eviction pending the resolution of court proceedings as to the validity of an exchange contract, but that such requests are left undecided. At the hearing the Chamber received *amicus curiae* submissions on issues of general importance from the OSCE and the Office of the High Representative, in addition to hearing the parties. The Chamber delivered four decisions in "exchange contract cases" during January and February 2003.

Other housing cases raising new issues concern the eviction of temporary occupants from apartments which are not being reclaimed by a pre-war occupant and the exclusion of certain categories of person from the right to be registered as owners of, or to repossess, apartments formerly under the control of the Yugoslav National Army.

g) Other Property Cases

The Chamber has again considered a group of cases concerning the expropriation of land in the Glamoč area for use as a military range *(Ubović et al. v. the Federation of Bosnia and Herzegovina)*. In a decision on the admissibility and merits of these cases taken in September 2001 the Chamber had found violations of Article 1 of Protocol No. 1 to the Convention and of Article 8 of the Convention itself and ordered the Federation to decide either to pursue the expropriation of the applicants' property in accordance with the law, or not to do so and to return the applicants' land to them and compensate them for damage suffered. The Federation informed the Chamber that it had abandoned the expropriation. In a decision on further remedies taken in December 2002 the Chamber ordered the Federation *inter alia* formally to withdraw the declaration of general interest. In the light of the Federation's continuing inaction with regard to compensating the applicants, the Chamber also decided to appoint an expert to report on the amount of compensation payable to each applicant.

In another group of cases (*Hajder et al. v. the Federation of Bosnia and Herzegovina*) the applicants complained of the use of their land by SFOR for training purposes. The Chamber declared these cases inadmissible in November 2002 on the ground that the Federation was not responsible for the activities of SFOR and the case was therefore incompatible with the Agreement *ratione personae*.

The Chamber has also dealt with a number of cases concerning frozen bank accounts in the Federation, where the rights of foreign currency account holders were converted into vouchers for use in the privatisation process. In one group of such cases (*Todorović and others v. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina*, decision on admissibility and merits of 11 October 2002) it considered the position of persons holding such accounts in light of changes in the relevant law and practice introduced by the Federation authorities following the Chamber's decision on the admissibility and merits of the test case of *Poropat and others v. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina* (decision of 9 June 2000). In that decision the Chamber ordered the Federation to amend the privatisation programme so as to achieve a fair balance between the general interest and the rights of the holders of the bank accounts in question. Thereafter certain legislative changes were made but the position was further complicated by a decision of the Constitutional Court of the Federation, which held that the provisions providing for the scheme of conversion of foreign currency accounts into certificates for use in the privatisation process contravened the Federation Constitution.

In the *Todorović and others* case the Chamber held that the situation of the applicants, as account holders, violated their rights under Article 1 of Protocol No. 1 to the Convention. It held that the state of legal uncertainty in which the applicants were placed, the continued application of the laws despite the Federation Constitutional Court's decision, the lack of any timely amendment to the laws and the apparent unavailability of relief in the domestic courts created a disproportionate

interference with the applicants' property rights and therefore violated Article 1 of Protocol No. 1 to the Convention. It ordered the Federation to enact laws or regulations clearly addressing the problem in a manner compatible with Article 1 of Protocol No. 1 as interpreted in the Chamber's decisions.

Some 2,000 similar cases remain pending before the Chamber. Approximately 30 cases concerning foreign currency accounts in the Republika Srpska are also pending.

(g) Employment

The Chamber receives many applications concerning employment matters and access to the public service. Since the European Convention does not guarantee the right to employment, the Chamber can only deal with such cases if they raise issues of discrimination in connection with employment rights within the scope of one of the other human rights instruments mentioned in the Agreement.

In the case of *Mitrović v. the Federation of Bosnia and Herzegovina* (decision of 2 September 2002) the Chamber found that the applicant had been discriminated against in relation to his employment by a court decision which held that the applicant had been lawfully dismissed from his employment due to his participation in the armed conflict "on the side of the aggressor". Since this ground of dismissal applied almost exclusively to persons of non-Bosniak origin the Chamber concluded that the applicant had been unlawfully discriminated against due to his national or ethnic origin in connection with the right to work under Article 6 of the International Covenant on Economic, Social and Cultural Rights.

Another case (*Selimović and others v. the Federation of Bosnia and Herzegovina*, decision of 11 January 2002) concerned a decision of the House of Peoples of the Federation Parliament in which it decided not to approve the nomination of the eight applicants for re-appointment as judges of the Supreme Court of the Federation. The Chamber found that the decision had unlawfully discriminated against the applicants on the ground of their age in the enjoyment of their right of equal access to the public service under Article 25(c) of the International Covenant on Civil and Political Rights.

h) Pensions

During the year the Chamber has considered a group of cases (*Kličković and others v. Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and the Republika Srpska*) concerning the pension rights of displaced persons. The applicants are retired persons who lived in Sarajevo before the war. They were displaced during the war and lived in the territory of the Republika Srpska. They have since returned to live in Sarajevo. Under the arrangements in force their pensions are paid by the Republika Srpska pension fund. They complain that the pensions they receive are less than those paid to other Federation residents who were not displaced. The cases raise issues under Article 1 of Protocol No. 1 to the Convention and in relation to discrimination in the enjoyment of the right to social security under Article 9 of the International Covenant on Economic, Social and Cultural Rights. The Chamber's decision in these cases was adopted and delivered in January 2003.

i) Freedom of Expression

On 5 July 2002 the Chamber delivered its first decision dealing with the merits of a complaint concerning freedom of expression (*"ORDO" - RTV "Sveti Georgije" v. Bosnia and Herzegovina*). The applicant, which was a private radio and television station, complained of the revocation of its provisional broadcasting licence by the Communications Regulatory Authority "the CRA". The licence was first suspended by the CRA on the ground that the applicant had broadcast a tendentious and one-sided programme regarding violent disturbances in Banja Luka on the occasion of the foundation stone laying ceremony for the reconstruction of the Ferhadija mosque. The licence was then revoked when the applicant breached the terms of the suspension. Following a public hearing, the Chamber examined the case under Article 10 of the European Convention (freedom of expression). After considering all the circumstances it found that the CRA decisions had been justified as necessary in a democratic society for the protection of the rights of others, for the protection of public safety and for the prevention of disorder or crime.

5. Remedies

Article XI, para. 1(b) of the Agreement gives the Chamber a wide power to order remedies where it finds a violation of the Agreement. It provides that the Chamber shall address in its decision "what steps shall be taken by the respondent Party to remedy the breach, including orders to cease and desist, monetary relief. ... and provisional measures'".

Compensation and the return of property continue to be the remedies most commonly ordered. A wide variety of other remedies has also been awarded, however. These include orders for: the investigation of allegations of ill-treatment with a view to the prosecution of those responsible; the prompt conclusion of proceedings which have lasted an unreasonable time; and release from detention and reinstatement in employment.

In the *Selimović* case (*supra*) the Chamber ordered the respondent Party to include the applicants in a new procedure for the filling of vacancies in the Supreme Court. In its decision on further remedies in the *Ubović* case (*supra*) it ordered the respondent Party to take a formal decision withdrawing a declaration of general interest in relation to the expropriation of the applicants' property. In the *Boudellaa* case (*supra*) the Chamber ordered *inter alia* the use of diplomatic channels to protect the basic rights of the applicants, the seeking of assurances that the applicants would not be subjected to the death penalty and the retention of lawyers to protect the applicants' interests while in US custody.

6. Review Proceedings

Where a case is decided by a Panel, the plenary Chamber may decide, in accordance with Article X, para. 2 of the Agreement, to review the decision. Rule 64 of the Rules of Procedure provides that the Chamber shall not accept a request for review unless it considers that the case raises a serious question affecting the interpretation or application of the Agreement, and that the whole circumstances justify reviewing the decision. In practice the Chamber uses its powers sparingly.

In the *Unković* case (*supra*), where the Panel had found a violation of Article 3 of the Convention in connection with the authorities' treatment of the applicant as a relative of missing persons, the Chamber accepted the respondent Party's request for review and reversed the Panel's decision. In the *Bajrić* case (*supra*) a request for review in relation to part of the Panel's decision was accepted on the basis that the Panel had not taken into account certain documentary evidence submitted by the respondent Party. The Chamber's decision on review in this case was delivered in January 2003.

IX. FINANCIAL STATUS OF THE CHAMBER

Through the years, the Chamber has received sufficient financial contributions to enable it to carry out its mandate and this was the same in 2002. As always, however, the Chamber had to carry enough funds over into the new year to be able to function for the first few months until the promised contributions actually materialized. As in previous years, the contributions received in 2002 came almost exclusively from international donors, the largest contributors being the European Commission and the United States. Other contributions were received from Canada, Norway and Switzerland. Germany and the Netherlands each provided funding for one lawyer. The United States government also continued its generous support to the Chamber in the form of additional funding for the costs of the Executive Officer and three U.S. lawyers. In 2002, the State of Bosnia and Herzegovina made its largest contribution ever in support of the Chamber. In keeping with the State Treasury's procedures, the Chamber submitted receipts for operational costs which were then reimbursed. The total amount of receipts submitted and reimbursed was 390,980 KM.

A list of donors and their contributions plus a summary of the Chamber's expenses in 2002 are attached to this Report as *Annex I*.

ANNEXES

A. Annex 6 to the General Framework Agreement for Peace in BiH

B. Members of the Human Rights Chamber

C. Staff of the Secretariat of the Human Rights Chamber

D. Rules of Procedure

E. Statistical Summary

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G. Decisions issued in 2002

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A

Annex 6 to the General Framework Agreement for Peace in BiH

ANNEX 6

AGREEMENT ON HUMAN RIGHTS

The Republic of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and the Republika Srpska (the "Parties") have agreed as follows:

CHAPTER ONE: RESPECT FOR HUMAN RIGHTS

Article I
Fundamental Rights and Freedoms

The Parties shall secure to all persons within their jurisdiction the highest level of internationally recognised human rights and fundamental freedoms, including the rights and freedoms provided in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols and the other international agreements listed in the Appendix to this Annex. These include:

(1) The right to life.
(2) The right not to be subject to torture or to inhuman or degrading treatment or punishment.
(3) The right not to be held in slavery or servitude or to perform forced or compulsory labor.
(4) The rights to liberty and security of person.
(5) The right to a fair hearing in civil and criminal matters, and other rights relating to criminal proceedings.
(6) The right to private and family life, home, and correspondence.
(7) Freedom of thought, conscience and religion.
(8) Freedom of expression.
(9) Freedom of peaceful assembly and freedom of association with others.
(10) The right to marry and to found a family.
(11) The right to property.
(12) The right to education.
(13) The right to liberty of movement and residence.
(14) The enjoyment of the rights and freedoms provided for in this Article or in the international agreements listed in the Annex to this Constitution secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

CHAPTER TWO: THE COMMISSION ON HUMAN RIGHTS
Part A: GENERAL

Article II
Establishment of the Commission

1. To assist in honouring their obligations under this Agreement, the Parties hereby establish a Commission on Human Rights (the "Commission"). The Commission shall consist of two parts: the Office of the Ombudsman and the Human Rights Chamber.
2. The Office of the Ombudsman and the Human Rights Chamber shall consider, as subsequently described:
   (a) alleged or apparent violations of human rights as provided in the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto, or
   (b) alleged or apparent discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status arising in the enjoyment of any of the rights and freedoms provided for in the international agreements listed in the Appendix to this Annex, where such violation is alleged or appears to have been committed by the Parties, including by any official or organ of the Parties, Cantons, Municipalities, or any individual acting under the authority of such official or organ.
3. The Parties recognize the right of all persons to submit to the Commission and to other human rights bodies applications concerning alleged violations of human rights, in accordance with the procedures of this Annex and such bodies. The Parties shall not undertake any punitive action directed against persons who intend to submit, or have submitted, such allegations.

Article III
Facilities, Staff and Expenses

1. The Commission shall have appropriate facilities and a professionally competent staff. There shall be an Executive Officer, appointed jointly by the Ombudsman and the President of the Chamber, who shall be responsible for all necessary administrative arrangements with respect to facilities and staff. The Executive Officer shall be subject to the direction of the Ombudsman and the President of the Chamber insofar as concerns their respective administrative and professional office staffs.

2. The salaries and expenses of the Commission and its staff shall be determined jointly by the Parties and shall be borne by Bosnia and Herzegovina. The salaries and expenses shall be fully adequate to implement the Commission's mandate.
3. The Commission shall have its headquarters in Sarajevo, including both the headquarters Office of the Ombudsman and the facilities for the Chamber. The Ombudsman shall have at least one additional office in the territory of the Federation and the Republika Srpska and at other locations as it deems appropriate. The Chamber may meet in other locations where it determines that the needs of a particular case so require, and may meet at any place it deems appropriate for the inspection of property, documents or other items.
4. The Ombudsman and all members of the Chamber shall not be held criminally or civilly liable for any acts carried out within the scope of their duties. When the Ombudsman and members of the Chamber are not citizens of Bosnia and Herzegovina, they and their families shall be accorded the same privileges and immunities as are enjoyed by diplomatic agents and their families under the Vienna Convention on Diplomatic Relations.
5. With full regard for the need to maintain impartiality, the Commission may receive assistance as it deems appropriate from any governmental, international, or non-governmental organisation.

Part B: HUMAN RIGHTS OMBUDSMAN

Article IV
Human Rights Ombudsman

1. The Parties hereby establish the Office of the Human Rights Ombudsman (the "Ombudsman").
2. The Ombudsman shall be appointed for a non-renewable term of five years by the Chairman-in-Office of the Organization for Security and Cooperation in Europe (OSCE), after consultation with the Parties. He or she shall be independently responsible for choosing his or her own staff. Until the transfer described in Article XIV below, the Ombudsman may not be a citizen of Bosnia and Herzegovina or of any neighboring state. The Ombudsman appointed after that transfer shall be appointed by the Presidency of Bosnia and Herzegovina.
3. Members of the Office of the Ombudsman must be of recognised high moral standing and have competence in the field of international human rights.
4. The Office of the Ombudsman shall be an independent agency. In carrying out its mandate, no person or organ of the Parties may interfere with its functions.

Article V
Jurisdiction of the Ombudsman

1. Allegations of violations of human rights received by the Commission shall generally be directed to the Office of the Ombudsman, except where an applicant specifies the Chamber.
2. The Ombudsman may investigate, either on his or her own initiative or in response to an allegation by any Party or person, non-governmental organization, or group of individuals claiming to be the victim of a violation by any Party or acting on behalf of alleged victims who are deceased or missing, alleged or apparent violations of human rights within the scope of paragraph 2 of Article II. The Parties undertake not to hinder in any way the effective exercise of this right.
3. The Ombudsman shall determine which allegations warrant investigation and in what priority, giving particular priority to allegations of especially severe or systematic violations and those founded on alleged discrimination on prohibited grounds.
4. The Ombudsman shall issue findings and conclusions promptly after concluding an investigation. A Party identified as violating human rights shall, within a specified period, explain in writing how it will comply with the conclusions.
5. Where an allegation is received which is within the jurisdiction of the Human Rights Chamber, the Ombudsman may refer the allegation to the Chamber at any stage.
6. The Ombudsman may also present special reports at any time to any competent government organ or official. Those receiving such reports shall reply within a time limit specified by the Ombudsman, including specific responses to any conclusions offered by the Ombudsman.
7. The Ombudsman shall publish a report, which, in the event that a person or entity does not comply with his or her conclusions and recommendations, will be forwarded to the High Representative described in Annex 10 to the General Framework Agreement while such office exists, as well as referred for further action to the Presidency of the appropriate Party. The Ombudsman may also initiate proceedings before the Human Rights Chamber based on such Report. The Ombudsman may also intervene in any proceedings before the Chamber.

Article VI
Powers

1. The Ombudsman shall have access to and may examine all official documents, including classified ones, as well as judicial and administrative files, and can require any person, including a government official, to cooperate by providing relevant information, documents and files. The Ombudsman may attend administrative hearings and meetings of other organs and may enter and inspect any place where persons deprived of their liberty are confined or work.
2. The Ombudsman and staff are required to maintain the confidentiality of all confidential information obtained, except where required by order of the Chamber, and shall treat all documents and files in accordance with applicable rules.

Part C: HUMAN RIGHTS CHAMBER

Article VII
Human Rights Chamber

1. The Human Rights Chamber shall be composed of fourteen members.
2. Within 90 days after this Agreement enters into force, the Federation of Bosnia and Herzegovina shall appoint four members and the Republika Srpska shall appoint two members. The Committee of Ministers of the Council of Europe, pursuant to its resolution (93)6, after consultation with the Parties, shall appoint the remaining members, who shall not be citizens of Bosnia and Herzegovina or any neighboring state, and shall designate one such member as the President of the Chamber.
3. All members of the Chamber shall possess the qualifications required for appointment to high judicial office or be jurists of recognized competence. The members of the Chamber shall be appointed for a term of five years and may be reappointed.
4. Members appointed after the transfer described in Article XIV below shall be appointed by the Presidency of Bosnia and Herzegovina.

Article VIII
Jurisdiction of the Chamber

1. The Chamber shall receive by referral from the Ombudsman on behalf of an applicant, or directly from any Party or person, non-governmental organisation, or group of individuals claiming to be the victim of a violation by any Party or acting on behalf of alleged victims who are deceased or missing, for resolution or decision applications concerning alleged or apparent violations of human rights within the scope of paragraph 2 of Article II.
2. The Chamber shall decide which applications to accept and in what priority to address them. 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 that the application has been filed with the Commission within six months from such date on which the final decision was taken.
   (b) The Chamber shall not address any application which is substantially the same as a matter which has already been examined by the Chamber or has already been submitted to another procedure of international investigation or settlement.
   (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.
   (d) The Chamber may reject or defer further consideration if the application concerns a matter currently pending before any other international human rights body responsible for the adjudication of applications or the decision of cases, or any other Commission established by the Annexes to the General Framework Agreement.
   (e) In principle, the Chamber shall endeavor to accept and to give particular priority to allegations of especially severe or systematic violations and those founded on alleged discrimination on prohibited grounds.
   (f) Applications which entail requests for provisional measures shall be reviewed as a matter of priority in order to determine (1) whether they should be accepted and, if so (2) whether high priority for the scheduling of proceedings on the provisional measures request is warranted.
3. The Chamber may decide at any point in its proceedings to suspend consideration of, reject or strike out, an application on the ground that (a) the applicant does not intend to pursue his application; (b) the matter has been resolved; or (c) for any other reason established by the Chamber, it is no longer justified to continue the examination of the application; provided that such result is consistent with the objective of respect for human rights.

Article IX
Friendly Settlement

1. At the outset of a case or at any stage during the proceedings, the Chamber may attempt to facilitate an amicable resolution of the matter on the basis of respect for the rights and freedoms referred to in this Agreement.
2. If the Chamber succeeds in effecting such a resolution it shall publish a Report and forward it to the High Representative described in Annex 10 to the General Framework Agreement while such office exists, the OSCE and the Secretary General of the Council of Europe. Such a Report shall include a brief statement of the facts and the resolution reached. The report of a resolution in a given case may, however, be confidential in whole or in part where necessary for the protection of human rights or with the agreement of the Chamber and the parties concerned.

Article X
Proceedings before the Chamber

1. The Chamber shall develop fair and effective procedures for the adjudication of applications. Such procedures shall provide for appropriate written pleadings and, on the decision of the Chamber, a hearing for oral argument or the presentation of evidence. The Chamber shall have the power to order provisional measures, to appoint experts, and to compel the production of witnesses and evidence.
2. The Chamber shall normally sit in panels of seven, composed of two members from the Federation, one from the Republika Srpska, and four who are not citizens of Bosnia and Herzegovina or any neighboring state. When an application is decided by a panel, the full Chamber may decide, upon motion of a party to the case or the Ombudsman, to review the decision; such review may include the taking of additional evidence where the Chamber so decides. References in this Annex to the Chamber shall include, as appropriate, the Panel, except that the power to develop general rules, regulations and procedures is vested in the Chamber as a whole.

3. Except in exceptional circumstances in accordance with its rules, hearings of the Chamber shall be held in public.
4. Applicants may be represented in proceedings by attorneys or other representatives of their choice, but shall also be personally present unless excused by the Chamber on account of hardship, impossibility, or other good cause.
5. The Parties undertake to provide all relevant information to, and to cooperate fully with, the Chamber.

Article XI
Decisions

1. Following the conclusion of the proceedings, the Chamber shall promptly issue a decision, which shall address:
   (a) Whether the facts found indicate a breach by the Party concerned of its obligations under this Agreement; and if so
   (b) what steps shall be taken by the Party to remedy such breach, including orders to cease and desist, monetary relief (including pecuniary and non-pecuniary injuries), and provisional measures.
2. The Chamber shall make its decisions by a majority of members. In the event a decision by the full Chamber results in a tie, the President of the Chamber shall cast the deciding vote.
3. Subject to review as provided in paragraph 2 of Article X, the decisions of the Chamber shall be final and binding.
4. Any member shall be entitled to issue a separate opinion on any case.
5. The Chamber shall issue reasons for its decisions. Its decisions shall be published and forwarded to the parties concerned, the High Representative described in Annex 10 to the General Framework Agreement while such office exists, the Secretary General of the Council of Europe and the OSCE.
6. The Parties shall implement fully decisions of the Chamber.

Article XII
Rules and Regulations

The Chamber shall promulgate such rules and regulations, consistent with this Agreement, as may be necessary to carry out its functions, including provisions for preliminary hearings, expedited decisions on provisional measures, decisions by panels of the Chamber, and review of decisions made by any such panels.

CHAPTER THREE: GENERAL PROVISIONS

Article XIII
Organizations Concerned with Human Rights

1. The Parties shall promote and encourage the activities of non-governmental and international organizations for the protection and promotion of human rights.
2. The Parties join in inviting the United Nations Commission on Human Rights, the OSCE, the United Nations High Commissioner for Human Rights, and other intergovernmental or regional human rights missions or organizations to monitor closely the human rights situation in Bosnia and Herzegovina, including through the establishment of local offices and the assignment of observers, rapporteurs, or other relevant persons on a permanent or mission-by-mission basis and to provide them with full and effective facilitation, assistance and access.
3. The Parties shall allow full and effective access to non-governmental organizations for purposes of investigating and monitoring human rights conditions in Bosnia and Herzegovina and shall refrain from hindering or impeding them in the exercise of these functions.
4. All competent authorities in Bosnia and Herzegovina shall cooperate with and provide unrestricted access to the organizations established in this Agreement; any international human rights monitoring mechanisms established for Bosnia and Herzegovina; the supervisory bodies established by any of the international agreements listed in the Appendix to this Annex; the International Tribunal for the Former Yugoslavia; and any other organization authorised by the UN Security Council with a mandate concerning human rights or humanitarian law.

Article XIV
Transfer

Five years after this Agreement enters into force, the responsibility for the continued operation of the Commission shall transfer from the Parties to the institutions of Bosnia and Herzegovina, unless the Parties otherwise agree. In the latter case, the Commission shall continue to operate as provided above.

Article XV
Notice

The Parties shall give effective notice of the terms of this Agreement throughout Bosnia and Herzegovina.

Article XVI
Entry into Force

This Agreement shall enter into force upon signature.

APPENDIX

HUMAN RIGHTS AGREEMENTS

1.	1948	Convention on the Prevention and Punishment of the Crime of Genocide
2.	1949	Geneva Conventions I-IV on the Protection of the Victims of War and the 1977 Geneva Protocols I-II thereto
3.	1950	European Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto
4.	1951	Convention relating to the Status of Refugees and the 1966 Protocol thereto
5.	1957	Convention on the Nationality of Married Women
6.	1961	Convention on the Reduction of Statelessness
7.	1965	International Convention on the Elimination of All Forms of Racial Discrimination
8.	1966	International Covenant on Civil and Political Rights and the 1966 and 1989 Optional Protocols thereto
9.	1966	Covenant on Economic, Social and Cultural Rights
10.	1979	Convention on the Elimination of All Forms of Discrimination against Women
11.	1984	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
12.	1987	European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
13.	1989	Convention on the Rights of the Child
14.	1990	Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
15.	1992	European Charter for Regional or Minority Languages
16.	1994	Framework Convention for the Protection of National Minorities

B

Members of the Human Rights Chamber

Prof. Dr. Rona Aybay

Member March 1996-present
Appointed by the Council of Europe from Turkey

Mr. Aybay was educated in Istanbul and in the United States of America, where he received a Masters Degree in Comparative Law at Columbia University. Among his past positions, he has been Vice-President of the Istanbul Bar Association; Associate Dean of the Faculty of Political Science at the University of Ankara; Dean of the Faculty of Administrative Sciences at the Middle East Technical University; Member of the European Commission Against Racism and Intolerance; and a Visiting Fulbright Professor at Iowa University Law School in the USA. He is currently a Professor at the Faculty of Law at Istanbul Bilgi University and President of the Aybay Foundation for Legal Studies. He is author of several books and articles in the field of human rights, constitutional law and private international law.

Dr. Hasan Balić

Member March 1996-present
Appointed by the Federation of Bosnia and Herzegovina

Mr. Balić completed postgraduate studies in criminal law at the University of Sarajevo in 1975 and afterwards was awarded a Ph.D. at the Criminal Law Department on 6 December 1999. After having worked as a judge at the Municipal Court in Foča and Municipal Court I in Sarajevo, he was appointed a judge of the District Court in Sarajevo (1975-1981); of the Associated Labour Court in Bosnia and Herzegovina (1981-1984); and from 1984 to 1995 of the Supreme Court of the Republic of Bosnia and Herzegovina and of the Criminal Court (of which he was President), which decided upon the applications of the Hague Tribunal. He was also a member of the Commission for Qualifying Exam for Judges. He has published two books on labour law and occupancy right law and has co-authored articles for national and international law magazines. He is the author of the book "Bosnian Cataclysm". This was his doctoral dissertation, under the working title "Genocide against Bosniacs 1992-1995 with a special review of the Foča Municipality" adopted for publishing.

Mr. Mehmed Deković

Member March 1996-present
Appointed by the Federation of Bosnia and Herzegovina

Mr. Deković was born in Podgorica and completed his education in Sarajevo where he graduated from the Faculty of Law at the University of Sarajevo on 30 June 1959. He worked as court and law clerk, and in 1963 he passed the qualifying exam for judge. He worked as a case lawyer and in 1967 as the Head of the legal department of the Institute for Social Insurance of the Republic. He has worked as a judge at the Municipality Court in Sarajevo (1971-1975); at the Commercial Court of Bosnia and Herzegovina (1975-1980); and at the Supreme Court of the Republic of Bosnia and Herzegovina from 1983 to 1996. He also has been a member of several expert commissions. Mr. Deković is the author of several books on employment and property rights; has published articles in several law magazines; and is the main editor of the magazine "Pravna Misao". He published more than 200 legal articles /"Informator" Zagreb, "Savremena praksa" Beograd, ZIPS and "Pravna misao" Sarajevo/. As lecturer he has appeared on many international and national symposiums. He was the President of the Election Commission of the Republic (1987-1990). He was a member of the Commission for Qualifying Exam for Judges and the Commission for state officials and petty offence judges.

Prof. Dr. Giovanni Grasso

Member March 1996-present, Vice President December 1998-December 2002
Appointed by the Council of Europe from Italy

Mr. Grasso holds a Master of Laws Degree from the University of Catania. He is a full Professor of Criminal Law in the Law Faculty of the University of Catania since 1987; former Legal Counsel for international cooperation in criminal matters to the Italian Minister of Interior; member of the Catania Bar, the Scientific Council of the ISISC (Institute Superieur de Sciences Criminelles), and the Scientific Council of the "Espana European Institute"; and President of the Centre for European Criminal Law in Catania. He was also a member of the Research Group set up by the European Commission to make recommendations on the "European Judicial Space." He is a former member of several experts committees of the Council of Europe and of numerous commissions and delegations. He was Legal Counsel to the Italian Government Agent before the European Commission and Court of Human Rights from 1987-1989 and in 1992. He is author of several books, commentaries to the Italian criminal code, and numerous publications in the fields of criminal law, human rights law and international law.

Mr. Andrew William Grotrian

Member December 1997-present
Appointed by the Council of Europe from the United Kingdom

Mr. Grotrian graduated with a Bachelor of Laws (LLB) in 1966 from the University of St Andrews (Queen's College, Dundee), and was admitted to the Faculty of Advocates (Scotland) in 1970. Mr. Grotrian practised as an advocate during the years 1970-74 and 1984-96. From 1974 to 1984, he worked as a lawyer in the Secretariat of the European Commission of Human Rights. He later joined the United Nations Independent Jurist for Namibia as an Assistant, where he was also appointed to the UN Mission on Detainees. From 1996 to 1997 he was the Registrar of the Human Rights Chamber.

Mr. Želimir Juka

Member March 1996-present
Appointed by the Federation of Bosnia and Herzegovina

Educated at the University of Sarajevo, Mr. Juka was appointed as a judge of District Court II in Sarajevo until 1969. Afterwards, he was nominated Deputy of the Municipality and District Attorney in Split, and Deputy Republic Public Attorney from 1983 until 1994, when he was appointed as a judge of the Constitutional Court of the Republic of Bosnia and Herzegovina. He resigned from the Constitutional Court in 1996. He also served as a Deputy Prosecutor for the Federation of Bosnia and Herzegovina in 1997, but resigned in 1998.

Prof. Dr. Viktor Masenko-Mavi

Member March 1997-present
Appointed by the Council of Europe from Hungary

Having specialised in international law at Kiev State University, where he was awarded a Ph.D., Mr. Masenko - Mavi has been working since 1989 as a Senior Research Fellow at the Institute for Legal and Administrative Sciences at the Hungarian Academy of Sciences. He has carried out teaching activities simultaneously with research work. Presently he is the chair of international law of Budapest University of Economics and Public Administration. Since 1991 he has been a Member of the Council of Europe Committee on the Development of Human Rights and the Deputy Director of the Hungarian Centre for Human Rights. He has published three books and is the author of numerous articles and reports on different problems of international law.

Mr. Jakob Möller

Member March 1996-present, Vice President December 1996-December 1997,
Acting President July-October 1997
Appointed by the Council of Europe from Iceland

A lawyer and judge from Iceland, Mr. Möller worked in the UN Centre for Human Rights (1971-1996) as the Chief of the Communications Branch (1974-1996), and Secretary of the UN Commission on Human Rights (1995-1996). He has also been a lecturer for the UN and a speaker at universities and institutions on the UN human rights programme. Mr. Möller has written articles and commentaries for several international law publications on human rights.

Prof. Dr. Manfred Nowak

Member March 1996-present, Vice President December 1997-December 1998
Appointed by the Council of Europe from Austria

Mr. Nowak holds a Master of Laws Degree and Ph.D. from Vienna University and Columbia University in New York. At present he holds the Olof Palme Chair on Human Rights and Humanitarian Law at the University of Lund in Sweden. Since 1992, he has been Director of the Ludwig Boltzmann Institute of Human Rights at Vienna University. He is a member of the International Commission of Jurists, UN Expert on enforced disappearances, Chairperson of the European Master Programme on Human Rights and Democratization in Venice and recipient of the 1994 UNESCO Prize for the Teaching of Human Rights. Among his past positions, he has been Director of the Netherlands Institute of Human Rights at Utrecht University (1987-1989), member of the Austrian delegation to the UN Commission on Human Rights (1986-1994), and UN Expert on Missing Persons in the Former Yugoslavia (1994-1997). He is author of numerous books and articles in the fields of human rights, constitutional and international law, and politics.

Mr. Miodrag Pajić

Member March 1996-present
Appointed by the Republika Srpska

After graduating from the Faculty of Law in Banja Luka, Mr. Pajić worked as an Agent, then Director of the legal and personnel sector and Director of a manufacturing company in Brčko. In 1990, Mr. Pajić was appointed as the Director of Legal Property Department and Cadastral Survey in the Municipality of Brčko and as a member of the Brčko Municipality Government. He performed the duty of the Secretary of the Municipality Brčko. He was also Mayor of Brčko from March 1994 until 1997. He was appointed as a member of the Government of the Brčko District, and afterwards as Vice-President of the Transitional Assembly of the Brčko District of Bosnia and Herzegovina.

Ms. Michèle Picard

Member March 1996-present, President November 1997-present
Appointed by the Council of Europe from France

After receiving a Master of Laws Degree from the University of Paris II, Ms. Picard was appointed as a judge in 1982. She later joined the Cour de Cassation as an auditeur in 1984. She worked with the Ministry of Economy and Finance in commercial and social law from 1987 to 1989. In 1989, Ms. Picard began working for the Ministry of Foreign Affairs in the legal department where she dealt with international human rights, including cases before the European Court of Human Rights and the UN Committee of Human Rights. From 1995 to 2001, Ms. Picard has been working as a judge at the Tribunal de Grande Instance de Paris. Since 2001, she is Vice President of the Tribunal de Grande Instance de Nanterre.

Prof. Dr. Vitomir Popović

Member March 1996-present
Appointed by the Republika Srpska

Mr. Popović holds a MA degree from the Faculty of Law in Banja Luka and a Ph.D. in International Commercial Law at the University of Belgrade. He was President and judge of the First Instance Court in Banja Luka and Vice-President of the Government of Republika Srpska for Internal Affairs; Director of the Institute for International Law and International Business Co-operation in Banja Luka; arbiter for the Republika Srpska for the area of Brčko: and arbiter of foreign trade arbitration in the Federal Republic of Yugoslavia and Macedonia. He is permanently employed as a Professor of Foreign Trade Law at the Law School of the University of Banja Luka and is a judge of the Constitutional Court of Bosnia and Herzegovina. He has published a number of professional and scientific works in the country and abroad. He participated in preparation of several projects in the field of establishment of duty free zones and foreign investments in the Republika Srpska.

Prof. Dr. Dietrich Rauschning

Member March 1996-present
Appointed by the Council of Europe from Germany

Mr. Rauschning obtained his legal training at the Universities of Hamburg, Munich and Vancouver B.C., and at the courts of Hamburg. Holding a doctoral degree from the University of Hamburg, he received his Habilitation at the Law Faculty of Kiel. Since 1970 he has been a full Professor of Public Law. Since 2000 he is the Leading Co-ordinator of the Eurofaculty at the Russian State University of Kaliningrad. He has been, *inter alia*, Director of the Institute of Public International Law at the University of Göttingen, dean of his faculty, founding dean of the Law Faculty at Halle/Saale and Legal Counsel to the State Government of Lower Saxony. The books and articles he has published have dealt mainly with topics of public international law and constitutional law.

Mr. Mato Tadić

Member June 1999-present, Vice President December 2002-present
Appointed by the Federation of Bosnia and Herzegovina

After graduating from the Faculty of Law of the University of Sarajevo in 1977, Mr. Tadić worked with the Municipal Public Prosecutor's Office in Brčko. In 1978 he was appointed a Deputy Public Prosecutor and in 1983 Public Prosecutor. In 1990 he was appointed Deputy Republic Public Prosecutor for Bosnia and Herzegovina in Sarajevo. From 1994-1998 Mr. Tadić served as Minister of Justice of the Federation of Bosnia and Herzegovina. He is a member of the Commission for Supervision of Regulations in Brčko District in accordance with the Arbitration Decision for Brčko District and member of several expert groups for reform of the judiciary in the Federation of Bosnia and Herzegovina and Bosnia and Herzegovina, especially in criminal law. He is the author of several publications in criminal law, constitutional law and local self-government and human rights. On 30 July 2002 he was appointed as a judge of the Constitutional Court of Bosnia and Herzegovina.

C

Staff of the Secretariat of the Human Rights Chamber

Executive Officer:	Therese Nelson
Registrar:	Ulrich Garms
Deputy Registrars:	Olga Kapić Antonia De Meo
Lawyers:	Julien Attuil Andreas Busch *(until May 2002)* Toby Cadman Mira Čondrić Darko Ćurić Ćazim Hasanspahić Meagan Hrle Vanesa Ibrišimović Ljiljana Jakšić *(Banja Luka)* Cara Jordan *(until March 2002)* Sanela Kovač *(Senior Lawyer)* Javier Leon Diaz Stephanie van Lokven Andreas Ljungholm *(until March 2002)* Katharina Peschke Mirjana Prijić-Mikić Čedomir Radnić Belma Skalonjić David J. Yeager Erda Začiragić
Senior Translator:	Mirsada Panjeta
Senior Interpreter:	Dubravka Fijala
Translators/Interpreters:	Azra Abdulahagić Jelena Avlijaš Hidajeta Demirović Ivana Falatar Suzana Karamehmedović Sanja Maunaga Ognjen Radić *(Banja Luka)* Borjana Stanišljević *(Banja Luka)*
Finance Officer:	Tatjana Luledžija
Financial Assistant:	Anesa Čukojević
Executive Assistant:	Emina Dolić Jasmina Hadžić *(until August 2002)*

Data Manager:	Igor Slipičević
Office Administrator:	Branko Čupović
File Management Assistants:	Nirmela Borišić Bojan Lisac
Office Coordinator/ Financial Assistant:	Katarina Jovanović *(Banja Luka)*
Receptionist/Secretaries:	Suzana Trubajić *(Banja Luka)* Azra Zornić
Senior Driver:	Nedžmedin Zaimović
Driver/ Admin. Assistant:	Izet Bibić
Security Guards (Banja Luka):	Dragiša Dujaković *(until February 2002)* Predrag Gatarić Veličko Markičević Rajko Runić
Interns:	Amir Bajrić Nermin Bećirbašić *(Banja Luka)* Mark Gurevich Geert-Jan van den Hoek Francesca Lunardi Amila Muslić Marko Nuić Sonja Stamenić *(Banja Luka)* Nina Šahinpašić

D

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Rules of Procedure

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HUMAN RIGHTS CHAMBER FOR BOSNIA AND HERZEGOVINA

Adopted on 13 December 1996
(Amended on 15 May and 11 September 1998, on 8 March 2001,
on 4 November 2002 and on 8 March 2003)

PREAMBLE

The Human Rights Chamber,

Having regard to:

- the Agreement on Human Rights (Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina) between the Republic of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and the Republika Srpska, hereinafter called the "Agreement";
- pursuant to Article X paras. 1 and 2 and Article XII of the Agreement,

Adopts the present Rules:

TITLE I
ORGANISATION OF THE CHAMBER

Chapter I
The Chamber

Rule 1
Independence of the Chamber

The Chamber, established under the Agreement as a judicial body, shall function in complete independence.

Rule 2
Plenary Chamber and Panels

1. The Chamber sits in plenary session and in Panels set up under Article X para. 2 of the Agreement.
2. Unless otherwise stated, the terms "Chamber" and "President" in these Rules shall mean "Panel" and "President of the Panel" in relation to cases referred to Panels, and "Chamber" and "President of the Chamber" in relation to cases referred to the Chamber.

Chapter 2
Members of the Chamber

Rule 3
Irremovability of members and solemn declaration

1. The members of the Chamber shall serve in their personal capacity as judges and may not be removed from their office during their term as defined in Article VII (3) of the Agreement.
2. Before taking up their duties, members of the Chamber shall, at the first meeting of the Chamber at which they are present after their appointment, make the following solemn declaration:
"I solemnly declare that I will exercise all my powers and duties honourably and faithfully, impartially and conscientiously and that I will keep secret all Chamber proceedings."

Rule 4
Order of precedence

1. Members of the Chamber shall take precedence after the President and Vice-President according to the length of time they have been in office.
2. Members having the same length of time in office shall take precedence according to age.
3. Re-appointed members shall take precedence having regard to the duration of their previous terms of office.

Rule 5
Resignation of a member

Resignation of a member shall be notified to the President of the Chamber who shall transmit it to the Parties, the Secretaries General of the Council of Europe and the Organization for Security and Co-operation in Europe (OSCE) and the High Representative referred to in Annex 10 to the General Framework Agreement while such office exists.

Chapter 3
Presidency of the Chamber

Rule 6
Duties of the President of the Chamber

The President of the Chamber shall direct the work of the Chamber and preside at its sessions.

Rule 7
Presidency of the Panels

1. The President shall also preside at the meetings of one Panel. The Vice-President shall preside at the meetings of the other Panel.
2. The term "President" shall in these Rules, where appropriate, include also any member acting as President.

Rule 8
Election of the Vice-Presidents of the Chamber and of the Panels

1. The Chamber shall elect its Vice-President for a term of office of one year.
2. Each Panel, voting separately, shall elect its Vice-President as soon as the Panels have been constituted according to Rule 26 para. 3.
3. The elections shall be by secret ballot; only the members present shall take part.
4. Election shall be by an absolute majority of the members. If no member receives such a majority, a second ballot shall take place. The member receiving the most votes shall then be elected. In the case of equal voting the member having precedence under Rule 4 shall be elected.

Rule 9
Duties of the Vice-Presidents of the Chamber and of the Panels

1. The Vice-President shall take the place of the President of the Chamber if the latter is prevented from carrying out the duties of President or if the office of President is vacant.
2. The Vice-President of a Panel shall take the presidency of the Panel if the President or the Vice-President is prevented from carrying out his duties or if the office of President of the Panel is vacant.
3. The President of the Chamber may delegate certain functions to the Vice-President.

Rule 10
Substitution for the President and the Vice-President

1. If the President of the Chamber and the Vice-President are at the same time prevented from carrying out their duties, or if their offices are at the same time vacant, the duties of President of the Chamber shall be carried out by another member according to the order of precedence laid down in Rule 4.
2. If the persons presiding at the meetings of a Panel according to Rules 7 and 9 are prevented from carrying out their duties in respect of the Panel, or if their offices are at the same time vacant, their duties shall be carried out by another member according to the order of precedence laid down in Rule 4.

Rule 11
(eliminated)

Rule 12
Withdrawal of the President or the Vice-President

Where the President of the Chamber or the Vice-President for some special reason consider that they should not preside in a particular case, they shall be replaced in accordance with the provisions of Rule 9 and Rule 10.

Chapter 4
Secretariat of the Chamber

Rule 13
Appointment of the Executive Officer, the Registrar and other staff

1. The Secretariat of the Chamber shall consist of the Executive Officer, the Registrar, the Deputy Registrars and other administrative and professional staff.
2. The Registrar and the Deputy Registrars shall be appointed by the Chamber.
3. The Executive Officer shall be appointed by the President of the Chamber.
4. The Executive Officer and the Registrar shall be subject to the direction of the President of the Chamber in respect of the Secretariat of the Chamber.
5. The staff of the Chamber, other than the Executive Officer, the Registrar and Deputy Registrars, shall be selected by the Executive Officer and the Registrar after consultation with the President, and thereafter appointed by the President.
6. Staff employed by the Chamber shall either sign a written statement of confidentiality also signed by a witness or make the following declaration at the next session before performing any duties:
   "I solemnly declare that I will perform my duties faithfully, independently, impartially and with full respect for the duty of confidentiality."
7. The Secretariat shall be based at the seat of the Chamber in Sarajevo.

Rule 14
Duties of the Registrar

1. The Registrar shall, under the direction of the President, be responsible for the work of the Secretariat and, in particular:
   a) shall assist the Chamber and its members in the fulfilment of their duties;
   b) shall be the channel for all communications concerning the Chamber;
   c) shall have custody of the archives of the Chamber.
2. The Registrar shall be responsible for the publication of:
   a) the decisions of the Chamber;
   b) any other document as decided by the Chamber.

Rule 15
The register of applications

A special register shall be kept at the Secretariat in which shall be entered the date of registration of each application and the date of the termination of the relevant proceedings before the Chamber.

TITLE II
THE FUNCTIONING OF THE CHAMBER

Chapter 1
General Rules

Rule 16
The seat of the Chamber

1. The seat of the Chamber shall be in Sarajevo.
2. The Chamber may decide to hold sessions elsewhere if it thinks fit.
3. The Chamber may decide, at any stage of the examination of an application, that it is necessary that an investigation or any other of its functions be carried out elsewhere by it or one or more of its members.

Rule 17
Sessions of the Chamber

1. The Chamber shall determine the number and dates of its sessions.
2. The Chamber shall meet at other times by decision of the President as circumstances may require. It shall also meet if at least one third of its members so request.
3. Members who are prevented by illness or other serious reason from attending all or part of any session of the Chamber or from fulfilling any other duty shall, as soon as possible, give notice thereof to the Registrar who shall inform the President.

Rule 18
Confidentiality of deliberations

1. All deliberations of the Chamber shall be and shall remain confidential. Only the Registrar, members of the Secretariat, interpreters, and persons providing technical or secretarial assistance to the Chamber may be present at its meetings, unless the Chamber decides otherwise.
2. At any stage in the examination of an application, the President of the Chamber, the Vice-President, the Executive Officer and the Registrar may communicate information to the press to an extent compatible with the legitimate interests of the parties and subject to any special directions by the Chamber.

Rule 19
Voting

1. After any deliberations and before a vote is taken on any matter in the Chamber, the President may request members to state their opinions thereon.
2. If the voting is equal, a roll call vote shall then be taken and the President shall have the casting vote.
3. Members shall not abstain when voting on the conclusions of a decision or on the recommendation of the Panel in decisions on request for review.

Rule 20
Records of deliberations and hearings

1. The records of the deliberations shall include a record of the subject of the discussions, the votes taken, the names of those voting for and against a motion and any statements expressly made for insertion therein.
2. The records of hearings shall contain the names of the members present and of any persons appearing; they shall give a brief account of the course of the hearing and of any decision taken.

Rule 21
Safeguards for the impartiality of the members

1. Members shall not take part in the examination of an application before the Chamber, where they:
   a) have any personal interest in the case;
   b) have participated in any decision on the facts on which the application is based as adviser to any of the parties or as a member of any tribunal or body of enquiry.
2. If, in any case of doubt with regard to paragraph 1 of this Rule, or in any other circumstances which might appear to affect the impartiality of members in their examination of an application, they or the President consider that they should not take part, the Chamber shall decide.

Rule 22
Withdrawal of members

When, for any special reason other than under Rule 21, members consider that they should not take part or continue to take part in the examination of a case, they shall inform the President.

Rule 23
Quorum after withdrawal of members

Any member who, under the provisions of Rule 21 or Rule 22, does not take part in the examination of an application, shall not form part of the quorum during such examination.

Chapter 2
The Plenary Chamber

Rule 24
Applications determined by the Plenary Chamber

The Plenary Chamber shall determine applications:
a) submitted by a party according to Articles II para. 2 and VIII para. 1 of the Agreement;
b) when a Panel has relinquished jurisdiction according to Rule 29 para. 2 of the Rules of Procedure;
c) when the case has been referred to it under Rule 63.

Rule 25
Quorum of the Plenary Chamber

A quorum of the Plenary Chamber shall consist of eight members.

Chapter 3
The Panels

Rule 26
Constitution of the Panels

1. There shall be two Panels set up under Article X para. 2 of the Agreement.
2. The Panels shall be composed of four of the members appointed by the Committee of Ministers of the Council of Europe, two of the members appointed by the Federation of Bosnia and Herzegovina, and one of the members appointed by the Republika Srpska.
3. The Panels shall be constituted for a fixed period as determined by the Chamber.
4. The Chamber may make such special arrangements concerning the constitution of Panels as it sees fit.

Rule 27
Succession of Panel members

When members of a Panel cease to be members of the Chamber before the expiration of the period for which the Panel was constituted, their successors in the Chamber shall succeed them as members of the Panel.

Rule 28
Quorum and meetings of the Panels

1. A quorum of a Panel shall be four members.
2. As a rule, the Panels shall meet during the sessions of the Plenary Chamber.
3. Where circumstances require, a Panel or, when it is not in session, its President upon consultation with the President of the Chamber, may decide that the Panel may meet when the Plenary Chamber is not in session.

Rule 29
Referral of applications to the Plenary Chamber and the Panels

1. Applications shall normally be referred to a Panel in accordance with general guidelines decided on by the Plenary Chamber.
2. Where a case pending before a Panel raises a serious question as to the interpretation of the Agreement or of any of the international agreements referred to in it, or where the resolution of a question before a Panel might have a result inconsistent with previous jurisprudence of the Chamber, the Panel may at any time before taking a final decision relinquish jurisdiction in favour of the Plenary Chamber.
3. The President may decide to refer to the Plenary Chamber any application not yet placed before a Panel for consideration in accordance with Rule 49 which, to her or him,
   a) appears to raise a serious question as to the interpretation of the Agreement or of any of the international agreements referred to in it, or
   b) appears to require a final decision to be taken without undue delay, or
   c) for any other justified reason appears to require such a course.
4. The President may decide proprio motu to transfer from one Panel to another any application not yet placed before a Panel for consideration in accordance with Rule 49, if she or he considers that such action is indicated to prevent the emergence of divergent case law, or to redress an imbalance in workload, or for another reason warranted.
5. For the same reasons as in Rule 29(4), the President may, at any subsequent stage of the proceedings, decide to transfer any application from one Panel to another on the suggestion of the Panel that has already considered the application.

TITLE III
PROCEDURE

Chapter 1
General Rules

Rule 30
Official languages

1. The official languages of the Chamber shall be Bosnian, Croatian, English and Serbian.
2. The President may authorise a member to speak in another language.
3. The President may permit the use by a party or a person representing that party of a language other than an official language either in hearings or documents. Any such documents shall be submitted in an original and at least two copies.
4. The Registrar is authorised, in correspondence with an applicant, to employ a language other than an official language.

Rule 31
Representation of Parties to the Agreement

The Parties to the Agreement shall be represented before the Chamber by their agents who may have the assistance of advisers.

Rule 32
Presentation of applications by applicants; representation of applicants

1. Persons, non-governmental organisations, or groups of individuals claiming to be a victim of a violation by any Party or acting on behalf of alleged victims who are deceased or missing, may present and conduct applications under Article VIII para. 1 of the Agreement.
2. Such applicants may appoint and be represented in proceedings before the Chamber by attorneys or other representatives of their choice.
3. Any such applicant or representative shall appear in person before the Chamber:
   a) to present the application in any hearing fixed by the Chamber, or
   b) for any other purpose, if invited by the Chamber.
4. The Chamber may exempt an applicant from being present on account of hardship, impossibility or other good cause.
5. In the other provisions of these Rules the term "applicant" shall, where appropriate, include the applicant's representatives.

Rule 32 bis
(eliminated)

Rule 32 ter
Amici curiae

1. The Chamber may at any stage of the proceedings allow or invite any governmental or non-governmental body or organisation, individual, or group of individuals, and in particular a Human Rights Ombudsperson appointed by Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina or the Republika Srpska, to participate as *amicus curiae.*
2. Such participation may be limited to factual or legal questions indicated by the Chamber's decision.
3. The Chamber's decision in the matter shall set out the procedure to be followed.

Rule 33
Action by the Chamber in specific cases

1. The Chamber may, *proprio motu* or at the request of a party, take any action which it considers expedient or necessary for the proper performance of its duties under the Agreement.
2. The Chamber may delegate one or more of its members to take any such action in its name, and in particular to hear witnesses or experts, to examine documents or to visit any locality. Such member or members shall duly report to the Chamber.
3. In case of urgency when the Chamber is not in session, the President of the Chamber or, if she or he is prevented from carrying out his duties, the Vice-President, may take any necessary action on behalf of the Chamber. As soon as the Chamber is again in session, any action which has been taken under this paragraph shall be brought to its attention.

Rule 34
Joinder of applications

The Chamber may, if it considers necessary, order the joinder of two or more applications.

Rule 35
Priority of particular applications

1. The Chamber shall deal with applications in the order in which they become ready for examination.
2. The Chamber may, however, decide to give precedence to a particular application.
3. The Chamber shall give particular priority to allegations of especially severe or systematic violations and those founded on alleged discrimination on prohibited grounds.

Rule 36
Provisional measures

1. Applications entailing requests for provisional measures shall be reviewed as a matter of priority. The Chamber, or when it is not in session, the President, shall determine in particular whether such applications should be accepted and, if so, whether high priority for the scheduling of proceedings on the provisional measures requested is warranted.
2. The Chamber or, when it is not in session, the President, shall decide whether, in the interest of the parties or the proper conduct of proceedings, any provisional measures should be ordered under Article X para. 1 of the Agreement.
3. The Chamber or, when it is not in session, the President, shall bring any such order to the notice of the party concerned by any available means with a view to ensuring its effective implementation in accordance with the Agreement.
4. Where the President has ordered any provisional measures she or he shall report her or his action to the Chamber under para. 3 of Rule 33.
5. Whenever an order for provisional measures is no longer justified, the Chamber shall, by a formal decision, withdraw it.

Chapter 2
Hearings

Rule 37
Public nature and organization of hearings

1. Hearings before the Chamber shall be held in public.
2. The press and public may be excluded from all or part of the hearing in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the Chamber in special circumstances where publicity would prejudice the interests of justice.
3. If the applicant is a non-governmental organisation or group of individuals, the Chamber shall ascertain that those appearing are entitled to represent it or them.
4. When it considers it in the interest of the proper conduct of a hearing, the Chamber may limit the number of the parties' representatives or advisers who may appear.
5. The parties shall duly be informed of the Chamber's decision to conduct a hearing. The parties shall transmit to the Chamber the names and functions of the persons who will appear on their behalf at the hearing.
6. The provisions of the present Rule shall apply *mutatis mutandis* to hearings before delegates of the Chamber, in accordance with Rule 33 para. 2.

Rule 38
Failure by a party to appear

Where, without justified cause, a party fails to appear, the Chamber may, provided that it is satisfied that such a course is consistent with the proper administration of justice, proceed with the hearing.

Rule 39
Summoning of individual applicants, experts and witnesses

1. Any individual applicant, expert or other person whom the Chamber decides to hear as a witness, shall be summoned by the Registrar. The summons shall indicate:
   a) the parties to the application;
   b) the facts or issues regarding which the person concerned will be heard;
   c) the arrangements made, in accordance with Rule 43 para. 1 or 2, to reimburse the persons concerned for any expenses incurred by them.
2. Any such persons may, if they have not sufficient knowledge of the official languages, be authorised by the President to speak in any other language.

Rule 40
Solemn declaration of witnesses and experts

After establishing the identity of the witnesses or experts the President or the principal delegate mentioned in Rule 33 para. 2, shall request them to make the following declaration:

a) for witnesses:
"I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth and nothing but the truth."
b) for experts:
"I solemnly declare upon my honour and conscience that my statement will be in accordance with my sincere and expert belief."

Rule 41
Conduct of hearings

1. The President, or the principal delegate, shall conduct the hearing or examination of any persons heard. She or he shall determine the order in which the parties shall be called upon to speak.
2. Any member may put questions to the parties or to the persons heard with the leave of the President or the principal delegate.
3. A party may, with the permission of the President or of the principal delegate, also put questions to any person heard.

Rule 42
Record of hearings

1. The Registrar shall be responsible for the production of verbatim records of hearings before the Chamber.
2. Hearings before the Chamber shall be recorded on tape. The parties, or where appropriate, their representatives shall receive a draft verbatim record of their arguments, statements or evidence in order that they may propose corrections to the Registrar within a time-limit laid down by the President. After necessary corrections, if any, the text shall constitute certified matters of record.

Rule 43
Costs

1. The expenses incurred by any person who is heard by the Chamber as a witness or as an expert at the request of a party shall be borne either by that party or the Chamber as the Chamber may decide.
2. The expenses incurred by any such person whom the Chamber hears *proprio motu* shall be borne by the Chamber.
3. Where written expert opinion is obtained by the Chamber or at its request, any costs incurred shall be borne by the Chamber.
4. Where written evidence is submitted by a party at the request of the Chamber, any costs incurred shall be borne by that party or the Chamber as the Chamber may decide.
5. Where written evidence, including any expert evidence, is submitted by a party other than at the request of the Chamber, any costs incurred shall be borne by that party unless the Chamber decides otherwise.
6. The amount of any costs or expenses payable by the Chamber under this Rule shall be agreed by the President.

Chapter 3
Friendly Settlement

Rule 44
Friendly settlement

1. At the outset of a case or at any stage during the proceedings, the Chamber may attempt to facilitate an amicable resolution of the matter on the basis of respect for the rights and freedoms referred to in the Agreement.
2. If the Chamber succeeds in effecting such a resolution, it shall publish a Report and forward it to the High Representative referred to in Annex 10 to the General Framework Agreement while such office exists, the Secretaries General of the Organisation for Security and Co-operation in Europe (OSCE) and the Council of Europe, as well as to the parties to the case.
3. The Chamber's report shall include a brief statement of the facts and the resolution reached.
4. The report of a resolution in a given case may, however, be confidential in whole or in part where necessary for the protection of human rights or with the agreement of the Chamber and the parties concerned.
5. An amicable resolution of a case concluded by intervention of the Chamber has legal force equivalent to a final decision of the Chamber.

Chapter 4
Submission and Content of Applications

Rule 45
Form of applications

1. Any application made under Article VIII para. 1 of the Agreement shall be submitted in writing and shall be signed by the applicant or by the applicant's representative.
2. Where an application is submitted by a non-governmental organisation or by a group of individuals, it shall be signed by those persons competent to represent such organisation or group. The Chamber shall determine any question as to whether the persons who have signed an application are competent to do so.

3. Where applicants are represented in accordance with para. 2 of Rule 32, a power of attorney or written authorisation shall be supplied by their representative or representatives.

Rule 46
Content of applications

1. Any application under Article VIII para. 1 of the Agreement shall set out:
   a) the identity of the applicant and any alleged victim including, where appropriate, the name, age, occupation and address of the person concerned;
   b) the name, occupation and address of the representative, if any;
   c) the name of the Party against which the application is made;
   d) a statement of the facts;
   e) a statement of the rights under the Agreement alleged to have been violated, and any relevant argument;
   f) a statement of any provisional measures or other remedies sought; and any relevant document.
2. Applicants shall furthermore:
   a) provide information as to whether the criteria referred to in Article VIII para. 2(a) of the Agreement have been satisfied;
   b) indicate whether the subject-matter of the application has already been submitted to the Chamber, any other Commission established under the Annexes to the General Framework Agreement or any other international procedure of adjudication, investigation or settlement;
   c) indicate in which of the official languages they wish to receive the Chamber's decisions;
   d) indicate whether they do or do not object to their identity being disclosed to the public.
3. Applications, other than those presented by a Party, should normally be made on the application form provided by the Registrar.
4. Failure to comply with the requirements set out under paragraphs 1-3 above may result in the application not being registered and examined by the Chamber.
5. The date of introduction of the application shall in general be considered to be the date of the first communication from the applicant setting out, even summarily, the subject matter of the application. The Chamber may nevertheless for good cause decide that a different date be considered to be the date of introduction.
6. Applicants shall keep the Chamber informed of any change of their address and of all circumstances relevant to the application.

Chapter 5
Proceedings on the Admissibility of an Application

Rule 47
Inter-Party applications

1. Where, pursuant to Article VIII para. 1 of the Agreement, an application is brought before the Chamber by a Party, the President of the Chamber shall give notice of such application to the Party against which the claim is made and shall invite it to submit to the Chamber its observations in writing on the admissibility of such application. The observations so obtained shall be communicated to the Party which brought the application and it may submit written observations in reply.
2. Before deciding upon the admissibility of the application the Plenary Chamber may invite the Parties to submit further observations, either in writing or at a hearing.

Rule 47 bis
(eliminated)

Rule 48
Information to respondent Party in urgent cases

In any case of urgency, the Registrar may, without prejudice to the taking of any other procedural steps, inform the respondent Party in an application, by any available means, of the introduction of the application and of a summary of its subject-matter.

Rule 49
First consideration and written proceedings

1. Any application submitted pursuant to Article VIII para. 1 of the Agreement, other than one submitted by a Party to the Agreement, shall be placed before the Chamber which shall consider the admissibility of the application and the procedure to be followed.
2. The Chamber may declare at once that the application is inadmissible under the second paragraph of Article VIII of the Agreement or may decide to suspend consideration of, reject or strike out the application under para. 3 of Article VIII.
3. Alternatively, the Chamber may:
   a) request relevant information on matters connected with the application from the applicant or respondent Party concerned. Any information so obtained from the respondent Party shall be communicated to the applicant for comments;

b) give notice of the application to the respondent Party against which it is brought and invite that Party to present to the Chamber written observations on the application, including relevant information requested by the Chamber. Observations so obtained shall be communicated to the applicant for any written observations in reply.

Rule 50
Further written proceedings or hearings in particular cases

Before deciding upon the admissibility of the application, the Chamber may invite the parties:

a) to submit further observations in writing;
b) to submit further observations orally at a hearing on issues of admissibility and at the same time, if the Chamber so decides, on the merits of the application.

Rule 51
Time-limits

Time-limits shall be fixed by the Chamber for any information, observations or comments requested under Rule 49 or Rule 50.

Rule 52
Decisions on admissibility, on suspension, to reject or to strike out an application

1. Any decision of the Chamber on admissibility under Article VIII para. 2 of the Agreement shall be issued in writing and shall be communicated by the Registrar to the applicant and to the respondent Party.
2. Para. 1 of this Rule shall apply *mutatis mutandis* to any decision of the Chamber under Article VIII para. 3 to suspend consideration of, reject or strike out an application which has not already been declared admissible.
3. The decision of the Chamber shall state whether it was taken unanimously or by majority and shall be accompanied or followed by reasons.
4. Any member who has taken part in the consideration of the case shall be entitled to annex to the decision on admissibility, to suspend consideration, to reject or to strike out an application either a separate opinion concurring with or dissenting from that decision, or a bare statement of dissent.

Chapter 6
Procedure after the Admission of an Application

Rule 53
Consideration of the merits

1. After deciding to admit an application, the Chamber shall decide on the procedure to be followed:
   a) for the examination of the application under Article XI subpara. 1 (a) of the Agreement as to whether the facts found indicate a breach by the respondent Party of its obligations under the Agreement;
   b) with a view to securing an amicable resolution of the case under Article IX paras. 1 and 2.
2. The Chamber may invite the parties to submit further evidence or observations. The Chamber shall decide in each case whether such observations should be submitted in writing or orally at a hearing.
3. The Chamber shall lay down the time-limits within which the parties shall submit evidence and written observations.

Rule 54
Provisional opinions

The Chamber may, when it sees fit, deliberate with a view to reaching a provisional opinion on the merits of the case.

Rule 55
(eliminated)

Rule 55 bis
Decisions on admissibility and merits

The Chamber may, when it sees fit, decide on the admissibility and the merits of an application at the same time.

Chapter 7
Decision on the Merits

Rule 56
Failure by a party to appear or to present its case

The failure of a party to appear or to present its case shall not prevent the Chamber from giving a decision in the case.

Rule 57
Form of the decision on the merits

The decision shall contain:
a) the names of the President and the members constituting the Chamber or the Panel and also the names of the Registrar and where appropriate, the Deputy Registrar;
b) the dates on which it was adopted and delivered;
c) description of the party or parties;
d) the names of the representatives of the parties;
e) an account of the procedure followed;
f) a summary of the submissions of the parties;
g) the facts of the case;
h) the opinion of the Chamber;
i) the conclusions;
j) the remedies ordered;
k) the number of members constituting the majority.

Rule 58
Content of the decision on the merits

The opinion of the Chamber and the conclusions of the decision shall in particular address:
a) whether the facts found indicate a breach by the respondent Party of its obligations under the Agreement; and, if so,
b) what steps shall be taken by the Party to remedy such breach, including orders to cease and desist, monetary relief (including compensation for pecuniary and non-pecuniary injuries), and any provisional measures.

Rule 59
Separate decision on the remedies

Notwithstanding Rule 57(j), the Chamber may, if it deems it appropriate, defer a decision on the remedies in whole or in part.

Rule 60
Delivery of the decision

1. The decision shall be signed by the President and by the Registrar.
2. Relevant parts of the decision shall be read out by the President, or by another member of the Chamber delegated by her or him, at a public hearing in one of the official languages. It shall not be necessary for the other members to be present. The parties shall be informed in due time of the date and time of delivery of the decision.
3. However, in respect of a decision relating only to remedies according to Rule 59, the Chamber may direct that the notification provided for under paragraph 4 of this Rule shall count as delivery.
4. The decision shall be transmitted by the Registrar to the parties concerned as well as the High Representative referred to in Annex 10 to the General Framework Agreement while such office exists, the Secretaries General of the Council of Europe and the OSCE.
5. The original, duly signed and sealed, shall be placed in the archives of the Chamber.

Rule 61
Separate opinions and statements of dissent

Any member who has taken part in the consideration of the case shall be entitled to annex to the decision on the merits either a separate opinion concurring with or dissenting from that decision, or a bare statement of dissent.

Chapter 8
Publication of Decisions

Rule 62
Publication of decisions

1. The Registrar shall be responsible for the publication of decisions of the Chamber.
2. Any decision on the merits, any decision declaring an application admissible or inadmissible, rejecting or striking out an application or suspending consideration of an application, on request for review and on review shall be publicly available. Orders concerning provisional measures issued by the Chamber shall be publicly available unless the Chamber, or a member acting on behalf of the Chamber under Rule 33, paragraphs 2 and 3, decides otherwise. Other decisions shall be publicly available if the Chamber so decides.
3. The Parties to the Agreement may be requested to publish decisions of the Chamber in their Official Journals.

Chapter 9
Review Proceedings

Rule 63
Request for review

1. Upon motion of a party to the case the plenary Chamber may decide to review:
   - a decision of a Panel declaring an application inadmissible under para. 2 of Article VIII of the Agreement;
   - a decision of a Panel to reject or strike out an application or to suspend its consideration under Article VIII para. 3 of the Agreement;
   - a decision of a Panel on the merits of an application.
   - a decision to declare an application admissible. However, a party may request review of these decisions only after the adoption of the decision on the merits;
   - a decision on remedies.
2. Any such request for review shall specify the grounds of the request.
3. Any such request for review shall be submitted:
   a) if directed against a decision read out at a public hearing in pursuance of Rule 60, paragraph 2: within one month starting on the day following that on which the Panel's reasoned decision was so read out;
   b) in all other cases: within one month starting on the day following that on which the Panel's reasoned decision was delivered to the Parties in writing.

Rule 63 bis
Notification of receipt of request for review

Upon receipt of a request for review by a party, the Registry shall notify the other parties of the receipt of the request.

Rule 64
Procedure for deciding a request for review

1. Any request for review under Rule 63 shall be referred to the Panel which did not take the decision in question and that Panel shall make a recommendation to the Plenary Chamber as to whether the decision should be reviewed or not.
2. The Plenary Chamber shall consider the request for review and the recommendation of the Panel and decide whether to accept the request or not. It shall not accept the request unless it considers (a) that the case raises a serious question affecting the interpretation or application of the Agreement or a serious issue of general importance and (b) that the whole circumstances justify reviewing the decision.
3. Any member who has taken part in the consideration of the request for review shall be entitled to annex to the decision on the request for review either a separate opinion concurring with or dissenting from that decision, or a bare statement of dissent.

Rule 65
Procedure after acceptance of a request for review

1. If the Plenary Chamber accepts the request for review it shall decide on the procedure to be followed. It may invite the parties to submit written or oral observations or additional evidence on any aspect of the case.
2. The Plenary Chamber shall decide any case in which it accepts a request for review. The provisions of Rules 56-61 shall apply *mutatis mutandis*.

Rule 66
Finality and binding nature of decisions

1. Decisions of the Chamber shall be final and binding in accordance with para. 3 of Article XI of the Agreement.
2. Decisions of Panels which are reviewable under Rule 63 shall become final and binding:
   a) when the parties declare that they will not request review;
   b) when the time limit referred to in Rule 63 para. 3 has expired without any request for review;
   c) when a request for review has been rejected under Rule 64.
3. When a Panel takes a decision which is reviewable under Rule 63 it may order such provisional measures as it thinks fit to protect the interests of the parties until the decision becomes final and binding under the preceding paragraph.
4. After a request for a review has been made the Plenary Chamber may make any such order for provisional measures and may revoke or vary any such order made by the Panel which took the decision under review.

Rule 66 bis
Rectification of errors in decisions

The Chamber may rectify clerical errors, errors in calculation or obvious mistakes in its decisions.

TITLE IV
RELATIONS OF THE CHAMBER WITH THE OFFICE OF THE OMBUDSPERSON

Rule 67
(eliminated)

Rule 68
Procedural position of the Ombudsperson

1. Where the Ombudsperson:
   a) initiates proceedings on the basis of a Report in accordance with para. 7 of Article V of the Agreement; or
   b) refers a case to the Chamber on behalf of an applicant under para. 1 of Article VIII of the Agreement, the provisions of these Rules relating to proceedings instituted by other parties shall apply *mutatis mutandis* as if the Ombudsperson were a party to the proceedings.
2. In the cases provided for by the first paragraph of this Rule under (a) the Ombudsperson shall be entitled to refer all or part of the issues raised by the original application to the Chamber for consideration.

FINAL TITLE

Rule 69
Amendment and suspension of these Rules

1. Any rule may be amended upon motion made by any member after notice when such motion is carried by the Plenary Chamber by an absolute majority of all the members of the Chamber. Notice of such motion shall be delivered in writing to the Registrar at least one month before the session where it is to be discussed. On receipt of such notice of motion the Registrar shall be required to inform all members of the Chamber at the earliest possible moment.
2. Any Rule may be suspended by the Chamber or a Panel upon motion made without notice, provided that this decision is taken unanimously. The suspension of a Rule shall in this case be limited in its operation to the particular purpose for which suspension has been sought.

Rule 70
Notification of these Rules

1. These Rules and any amendment to them shall, when adopted by the Plenary Chamber, be notified to the Parties to the Agreement, to the Secretaries General of the Council of Europe and the Organisation for Security and Co-operation in Europe and, while such office exists, to the High Representative referred to in Annex 10 to the General Framework Agreement for Peace in Bosnia and Herzegovina.
2. The Parties to the Agreement shall be requested to publish these Rules and any amendment to them in their Official Journals.

E

Statistical Summary

Statistical Summary

through 31 December 2002

Applications Registered with the Chamber (through 31 December 2002)	12,659
Applications Resolved by the Chamber (through 31 December 2002)	1,878

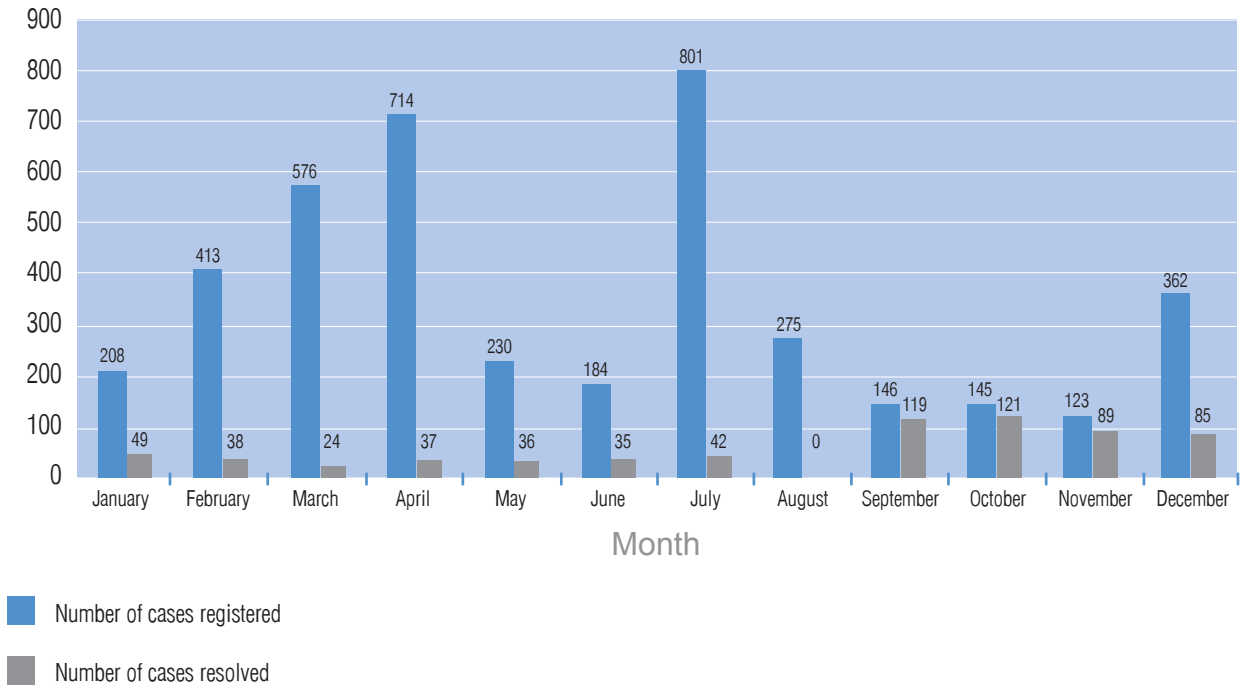
Decisions of the Chamber*	1,590
Decisions on admissibility - admissible (20) - inadmissible (738)	758
Decisions on admissibility and merits	156
Decisions on request for review - accepted (9) - rejected (81)	90
Decisions on review	5
Decisions to strike-out	567
Decisions on separate compensation claims	12
Decisions on further remedies	1
Reports on amicable settlement	1

*One decision may resolve more than one application and one application may result in more than one decision

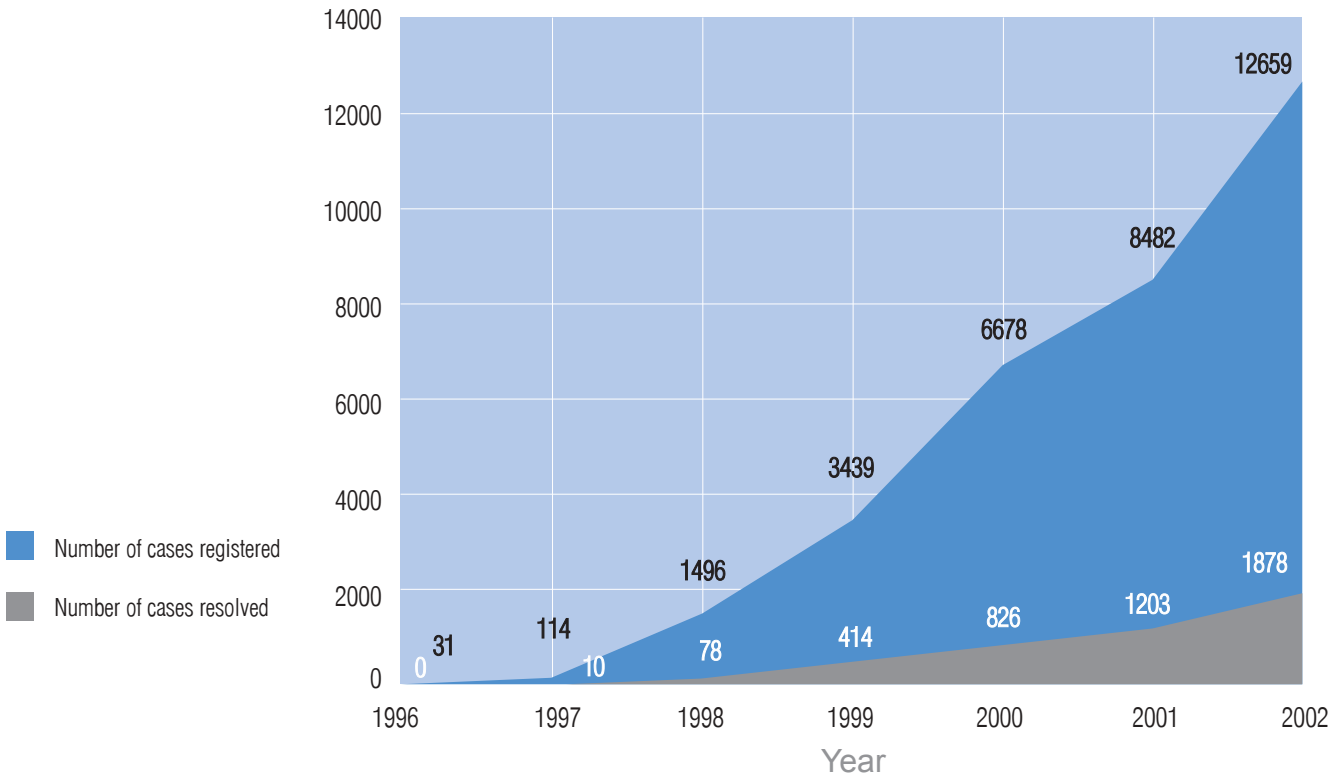
F

Statistical Graphs

A Comparison Between Cases Registered and Cases Resolved 01 January - 31 December 2002



The Gap Between Cases Registered and Cases Resolved 1996 - 2002



G

Decisions issued in 2002

CH/97/60, 98/276, 287, 362 and 99/1766
Miholić, Čorapović, Ćirić, Ristić and Buzić v. State BiH and Federation BiH
Decision on request for review and on motion for the renewal of proceedings, adopted 8 February 2002

CH/97/66 Jahić v. Federation BiH
Decision on admissibility, adopted 11 January 2002

CH/97/104, 106, 107, CH/98/374, 386, CH/99/2997 and CH/00/4358
Todorović, Hodžić, Hadžić, Mulalić-Papo, Ilić, Višnjevac and Janković v. State BiH and Federation BiH
Decision on admissibility and merits, delivered 11 October 2002

CH/97/109 Subanović v. State BiH and Federation BiH
Decision to strike out, adopted 7 November 2002

CH/98/123 Đ.P. v. State BiH and Federation BiH
Decision to strike out, adopted 11 October 2002

CH/98/136 Bratanović v. State BiH and Federation BiH
Decision to strike out, adopted 5 September 2002

CH/98/140 Ramić v. State BiH and Federation BiH
Decision to strike out, adopted 9 April 2002

CH/98/145 Mehmedinović v. State BiH and Federation BiH
Decision to strike out, adopted 5 December 2002

CH/98/175 Dražetić v. State BiH and Federation BiH
Decision to strike out, adopted 11 January 2002

CH/98/177 Malokas v. State BiH
Decision to strike out, adopted 11 January 2002

CH/98/189 Stojanov v. State BiH and Federation BiH
Decision to strike out, adopted 11 January 2002

CH/98/193 Mitrinović v. Federation BiH
Decision to strike out, adopted 7 November 2002

CH/98/195 Todorović-Ostrogović v. State BiH and Federation BiH
Decision on admissibility and to strike out, adopted 5 September 2002

CH/98/201 Pletikosić v. Federation BiH
Decision to strike out, adopted 5 September 2002

CH/98/203 Medan v. Federation BiH
Decision to strike out, adopted 5 July 2002

CH/98/207 and CH/98/982
Izgarević v. State BiH and Federation BiH
Decision to strike out, adopted 5 September 2002

CH/98/212 Vujović v. Federation BiH
Decision to strike out, adopted 5 July 2002

CH/98/214 Šešum v. Federation BiH
Decision to strike out, adopted 3 July 2002

CH/98/216 Durić v. Federation BiH
Decision to strike out, adopted 5 July 2002

CH/98/223 Šolaja v. Federation BiH
Decision to strike out, adopted 5 July 2002

CH/98/227 Uljarević v. Federation BiH
Decision to strike out, adopted 5 September 2002

CH/98/228 Ostojić v. Federation BiH
Decision to strike out, adopted 3 July 2002

CH/98/242 Džindžovski v. State BiH
Decision to strike out, adopted 9 April 2002

CH/98/245 Martinović v. State BiH and Federation BiH
Decision to strike out, adopted 8 February 2002

CH/98/246 Jović v. Federation BiH
Decision to strike out, adopted 11 October 2002

CH/98/249 Zenunović v. State BiH and Federation BiH
Decision to strike out, adopted 9 April 2002

CH/98/253 Džankić v. State BiH and Federation BiH
Decision to strike out, adopted 11 October 2002

CH/98/254 Duradbegović v. State BiH and Federation BiH
Decision to strike out, adopted 7 September 2002

CH/98/258 Galić v. State BiH and Federation BiH
Decision to strike out, adopted 7 September 2002

CH/98/259 Spahić v. State BiH and Federation BiH
Decision to strike out, adopted 6 September 2002

CH/98/291, 310, 318 and 328
Dubravčević, Vilič, Palalić and Gradaščević v. State BiH and Federation BiH
Decision to strike out, adopted 7 November 2002

CH/98/296 Nikešić v. State BiH and Federation BiH
Decision to strike out, adopted 8 November 2002

CH/98/298 Nikić v. State BiH and Federation BiH
Decision on admissibility, adopted 3 July 2002

CH/98/302 Škopelja v. State BiH and Federation BiH
Decision to strike out, adopted 9 April 2002

CH/98/303 Kozica v. State BiH and Federation BiH
Decision to strike out, adopted 5 September 2002

CH/98/304 Bešlagić v. State BiH and Federation BiH
Decision to strike out, adopted 9 April 2002

CH/98/322, 324, 334, 346, 352, 354, 358 and 675
Kurilić, Bećirović, Mehić, Živković, Đokić, Kovačević, Mrkajić and Rončević v. State BiH and Federation BiH
Decision to strike out, adopted 8 November 2002

CH/98/330 Stefanović v. State BiH and Federation BiH
Decision to strike out, adopted 5 July 2002

CH/98/368 Ž.D. v. Federation BiH
Decision to strike out, adopted 11 January 2002

CH/98/381	S. and B. Đonlagić v. Federation BiH Decision to strike out, adopted 5 September 2002
CH/98/401	Bandov v. Federation BiH Decision on admissibility and to strike out, adopted 11 October 2002
CH/98/438	Pelja v. State BiH and Federation BiH Decision on admissibility and to strike out, adopted 7 October 2002
CH/98/543	R.B. v. State BiH and Federation BiH Decision to strike out, adopted 5 September 2002
CH/98/603	R.T. v. State BiH and Federation BiH Decision on admissibility and merits, delivered 8 November 2002
CH/98/628	R.P. v. Federation BiH Decision to strike out, adopted 8 April 2002
CH/98/654	Kecman v. State BiH and Federation BiH Decision to strike out, adopted 5 September 2002
CH/98/656	Karić v. State BiH and Federation BiH Decision to strike out, adopted 6 December 2002
CH/98/688	Muftić v. Republika Srpska Decision on admissibility and merits, delivered 8 November 2002
CH/98/704	Kovačević v. Federation BiH Decision on admissibility and merits, delivered 11 January 2002 Decision on request for review, adopted 12 April 2002
CH/98/705	Imamović v. State BiH and Federation BiH Decision to strike out, adopted 5 December 2002
CH/98/713	A.J. v. State BiH and Federation BiH Decision on request for review, adopted 7 March 2002
CH/98/729	Kahrić v. Republika Srpska Decision to strike out, adopted 5 December 2002
CH/98/739	M.V. v. State BiH and Federation BiH Decision to strike out, adopted 11 October 2002
CH/98/742	S. Zidar v. Federation BiH Decision to strike out, adopted 8 November 2002
CH/98/746	J. Zidar v. State BiH and Federation BiH Decision to strike out, adopted 5 September 2002
CH/98/747	Jusufović v. Federation BiH Decision to strike out, adopted 5 December 2002
CH/98/765	Tadić v. Republika Srpska Decision to strike out, adopted 9 May 2002
CH/98/777	Pletilić v. Republika Srpska Decision on request for review, adopted 10 January 2002
CH/98/782	Pranjić v. Federation BiH Decision on admissibility, adopted 8 November 2002

CH/98/791 Šević v. Federation BiH
Decision to strike out, adopted 5 July 2002

CH/98/799 Brčić v. State BiH and Federation BiH
Decision on admissibility and merits, delivered 10 May 2002
Decision on request for review, adopted 5 July 2002

CH/98/818 Tošić v. Federation BiH
Decision to strike out, adopted 5 September 2002

CH/98/836 Milak v. Federation BiH
Decision on admissibility and to strike out, adopted 8 November 2002

CH/98/863, CH/00/3463, 3464 and 4490
Čutuna, Anđelić, Z.P. and Momčilović v. State BiH and Federation BiH
Decision on admissibility, adopted 8 May 2002

CH/98/880, 882 and CH/02/9449
Goganović, Vidović and Jovanović v. Federation BiH
Decision to strike out, adopted 6 December 2002

CH/98/883 R.N. v. State BiH and Federation BiH
Decision to strike out, adopted 11 October 2002

CH/98/885 Miodrag v. State BiH and Federation BiH
Decision to strike out, adopted 11 October 2002

CH/98/886 Šukurma v. Republika Srpska
Decision to strike out, adopted 6 December 2002

CH/98/900 Milašinović v. Republika Srpska
Decision to strike out, adopted 12 January 2002

CH/98/902 Došen v. Republika Srpska
Decision to strike out, adopted 12 January 2002

CH/98/909 D. and Z. Zekić v. Federation BiH
Decision to strike out, adopted 11 October 2002

CH/98/916 Tomić v. Federation BiH
Decision on admissibility and merits, delivered 11 January 2002
Decision on request for review, adopted 7 March 2002

CH/98/928 Džomba v. Federation BiH
Decision on admissibility, adopted 6 December 2002

CH/98/936 Galeb v. Federation BiH
Decision to strike out, adopted 5 September 2002

CH/98/948 Mitrović v. Federation BiH
Decision on the merits, delivered 6 September 2002

CH/98/956 Hadžagić v. Republika Srpska
Decision on admissibility, adopted 11 April 2002

CH/98/964 Kalender v. Federation BiH
Decision to strike out, adopted 11 October 2002

CH/98/974 Pindžo v. Federation BiH
Decision to strike out, adopted 11 January 2002

CH/98/988 Jovanović v. State BiH and Federation BiH
Decision to strike out, adopted 6 December 2002

CH/98/1010 Hacibasioglu v. State BiH and Federation BiH
Decision to strike out, adopted 11 October 2002

CH/98/1048 Dragičević v. Federation BiH
Decision to strike out, adopted 6 December 2002

CH/98/1051 Remetić v. State BiH and Federation BiH
Decision to strike out, adopted 11 January 2002

CH/98/1064 Čančar v. Federation BiH
Decision to strike out, adopted 5 September 2002

CH/98/1075 Laketić v. Federation BiH
Decision to strike out, adopted 11 October 2002

CH/98/1118, 1207, 1222, 1254, 1270, 1288, 1293 and 1395
Tufeković, Čanković, Poško, Pajić, Kupinić, Hukić, Raković and Ademović v. Republika Srpska
Decision to strike out, adopted 6 July 2002

CH/98/1142 Samardžić v. Republika Srpska
Decision to strike out, adopted 7 September 2002

CH/98/1154, 1173, 1178 and 1190
Gerzić, Kasumović, Hasanbegović and Rizvanović v. Republika Srpska
Decision to strike out, adopted 6 July 2002

CH/98/1158 Livak v. Republika Srpska
Decision to strike out, adopted 7 September 2002

CH/98/1168 Dubičanac v. Republika Srpska
Decision to strike out, adopted 8 November 2002

CH/98/1172 Kurbegović v. Republika Srpska
Decision to strike out, adopted 7 September 2002

CH/98/1179 Fajković v. Republika Srpska
Decision to strike out, adopted 5 December 2002

CH/98/1180 Rizvić v. Republika Srpska
Decision to strike out, adopted 12 October 2002

CH/98/1183 Murić v. Republika Srpska
Decision to strike out, adopted 7 November 2002

CH/98/1196 Isić v. Republika Srpska
Decision to strike out, adopted 12 October 2002

CH/98/1231 Hatić v. Republika Srpska
Decision to strike out, adopted 7 November 2002

CH/98/1252 Sejkić v. Republika Srpska
Decision to strike out, adopted 6 December 2002

CH/98/1256 Jeličić v. State BiH and Federation BiH
Decision to strike out, adopted 5 December 2002

CH/98/1279 Mehanić v. Republika Srpska
Decision to strike out, adopted 7 November 2002

CH/98/1309, 1312, 1314, 1318, 1319, 1321, 1322, 1323 and 1326
Kajtaz, Bijedić, Sivčević, Mešić, Begić, Dević, Cvijetić, Šljivo and Šehović v. State BiH
Decision on request for review, adopted 7 February 2002

CH/98/1311 and CH/01/8542
Kurtišaj and M.K. v. Federation BiH
Decision on admissibility and merits, delivered 6 September 2002
Decision on request for review, adopted 6 November 2002

CH/98/1320 Kozić v. Federation BiH
Decision to strike out, adopted 5 September 2002

CH/98/1324 Hrvačević v. State BiH and Federation BiH
Decision on admissibility and merits, delivered 8 March 2002

CH/98/1334 Pandur v. Federation BiH
Decision on admissibility, adopted 8 November 2002

CH/98/1335, 1370, 1505, 2805 and CH/00/4371
Rizvić, Huskić, Šabančević, Sefić and Gračanin v. Federation BiH
Partial decision on admissibility and decision on the merits, delivered 8 March 2002

CH/98/1341 Silajdžić v. State BiH and Federation BiH
Decision to strike out, adopted 5 July 2002

CH/98/1350 Zuko v. Federation BiH
Decision to strike out, adopted 8 November 2002

CH/98/1351 Lesko v. State BiH and Federation BiH
Decision to strike out, adopted 11 October 2002

CH/98/1361 M.K. v. State BiH and Federation BiH
Decision to strike out, adopted 7 November 2002

CH/98/1367 Knežević v. Federation BiH
Decision to strike out, adopted 5 September 2002

CH/98/1368 Repija v. Federation BiH
Decision to strike out, adopted 5 September 2002

CH/98/1373 Bajrić v. Federation BiH
Decision on admissibility and merits, delivered 10 May 2002
Decision on request for review, adopted 5 July 2002

CH/98/1374 Pržulj v. Federation BIH
Decision on the claim for compensation, adopted 5 July 2002

CH/98/1378 Jusufović v. State BiH and Federation BiH
Decision to strike out, adopted 8 November 2002

CH/98/1381 Duraković v. Republika Srpska
Decision to strike out, adopted 7 November 2002

CH/98/1382 S. Softić v. Republika Srpska
Decision to strike out, adopted 12 October 2002

CH/98/1396 F. Softić v. Republika Srpska
Decision to strike out, adopted 12 October 2002

CH/99/1415 Kurilić v. State BiH and Federation BiH
Decision on admissibility and to strike out, adopted 5 December 2002

CH/99/1423	Paradžik v. Federation BiH Decision to strike out, adopted 7 November 2002
CH/99/1431	Vujić v. Federation BiH Decision to strike out, adopted 9 April 2002
CH/99/1436	Besarović v. Federation BiH Decision to strike out, adopted 11 October 2002
CH/99/1445	Trifunović v. Federation BiH Decision to strike out, adopted 5 December 2002
CH/99/1466	Drašković v. Federation BiH Decision to strike out, adopted 6 December 2002
CH/98/1480	Bešić v. Republika Srpska Decision to strike out, adopted 12 October 2002
CH/98/1485	Spahić v. Republika Srpska Decision to strike out, adopted 5 December 2002
CH/98/1490	Vukadinović v. Republika Srpska Decision to strike out, adopted 7 June 2002
CH/98/1491	Ibrišević v. Republika Srpska Decision to strike out, adopted 5 December 2002
CH/98/1499	Hubijar v. Republika Srpska Decision to strike out, adopted 5 December 2002
CH/99/1501	Jovanović v. State BiH and Federation BiH Decision to strike out, adopted 11 October 2002
CH/99/1518	Ćebić v. State BiH and Federation BiH Decision to strike out, adopted 11 October 2002
CH/99/1546	Krstić v. State BiH and Federation BiH Decision to strike out, adopted 8 November 2002
CH/99/1568	Čoralić v. Federation BiH Decision on request for review, adopted 9 May 2002
CH/98/1582	Dubarić v. Republika Srpska Decision to strike out, adopted 6 December 2002
CH/98/1583	Mutapčić v. Republika Srpska Decision to strike out, adopted 11 October 2002
CH/98/1585	Crnović v. Republika Srpska Decision to strike out, adopted 11 October 2002
CH/98/1586	Suhonjić v. Republika Srpska Decision to strike out, adopted 12 October 2002
CH/99/1603	Božić v. Federation BiH Decision to strike out, adopted 9 April 2002
CH/99/1635	Nujić v. State BiH and Federation BiH Decision to strike out, adopted 11 October 2002

CH/98/1687 Mujkanović v. Republika Srpska
Decision to strike out, adopted 5 December 2002

CH/98/1697 Merdanović v. Republika Srpska
Decision to strike out, adopted 11 October 2002

CH/99/1706 Subašić v. Federation BiH
Decision on admissibility, adopted 5 September 2002

CH/99/1714 Vanovac v. Federation BiH
Decision on admissibility and merits, delivered 8 November 2002

CH/99/1773 Vuković v. State BiH and Federation BiH
Decision to strike out, adopted 11 October 2002

CH/99/1775 Grgić v. Federation BiH
Decision to strike out, adopted 5 December 2002

CH/98/1783 Čatak v. Republika Srpska
Decision to strike out, adopted 11 October 2002

CH/98/1800 E.Ć. v. Republika Srpska
Decision to strike out, adopted 11 October 2002

CH/99/1835 and CH/99/2803
Odžaković and Miljanović v. Federation BiH
Decision to strike out, adopted 5 September 2002

CH/99/1900 and CH/99/1901
D.Š. and N.Š. v. Federation BiH
Decision on admissibility and merits, delivered 12 April 2002
Decision on request for review, adopted 6 June 2002

CH/99/1951 D. and P. Spremo v. Republika Srpska
Decision on admissibility and merits, delivered 6 December 2002

CH/99/1975 Raković v. Republika Srpska
Decision to strike out, adopted 7 June 2002

CH/99/2028 Crnogorčević v. Federation BiH
Decision on admissibility and merits, delivered 11 October 2002

CH/99/2030, 2544, CH/00/4644, 4952, 5290, 5584, 6236, 6315, 6401, 6565, 6587, 6590 and CH/01/7098
Rudić, Simić, Nedimović, Trogrlić, Šekara, Mitrić, Predojević, Vukotić, Milovac, Nedić, Vujović, Džakula and Petrović v. State BiH and Federation BiH
Decision on admissibility and merits, delivered 11 January 2002
Decision on request for review, adopted 7 March 2002

CH/99/2065 M.J. v. Federation BiH
Decision on admissibility, adopted 5 December 2002

CH/99/2068 Mašić and 8 others v. Federation BiH
Decision to strike out, adopted 6 December 2002

CH/99/2081 Mujagić v. Republika Srpska
Decision to strike out, adopted 9 April 2002

CH/99/2091, 2092 and 2093
M.A., S.B. and E.M. v. Federation BiH
Decision on admissibility, adopted 5 July 2002

CH/99/2095, 2096, 2097, 2099, 2100, 2101, 2103, 2111, 2112 and 2113
R.H., R.G., I.B., E.Č., Ž.J., A.T., A.M., I.S., H.H. and I.J. v. Federation BiH
Decision on admissibility, adopted 5 September 2002

CH/99/2115, 2116, 2193, 2199, 2235, 2281, 2284, 2285, 2294 and 2295
M.H., N.H., N.O., Husić, E.B., Lipovac, Gurda, Salkić, Šehanović and Lapandić v. Federation BiH
Decision on admissibility, adopted 5 September 2002

CH/99/2150 Unković v. Federation BiH
Decision on request for review, adopted 10 January 2002
Decision on review, delivered 10 May 2002

CH/99/2160 Jovančić v. Federation BiH
Decision to strike out, adopted 8 November 2002

CH/99/2198 Vujičić v. Federation BiH
Decision to strike out, adopted 10 October 2002

CH/99/2257 Baluković v. Federation BiH
Decision to strike out, adopted 11 October 2002

CH/99/2309 Solomun v. Republika Srpska
Decision to strike out, adopted 7 June 2002

CH/99/2324 S.K. v. Republika Srpska
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CH/02/8628 Bečić v. Republika Srpska
Decision on admissibility, adopted 6 February 2002

CH/02/8644 Mešanović v. Federation BiH
Decision on admissibility, adopted 11 October 2002

CH/02/8645 Ganija v. State BiH and Federation BiH
Decision on admissibility, adopted 5 September 2002

CH/02/8646, 8658 and 8685
Bahto, Jamaković and Babić v. Federation BiH
Decision on admissibility, adopted 8 April 2002

CH/02/8647 and CH/02/8649
Ganić and Arnautović v. Federation BiH
Decision on admissibility, adopted 8 March 2002

CH/02/8648 Salkić v. Republika Srpska
Decision on admissibility, adopted 6 February 2002

CH/02/8652 Rožajac v. Federation BiH
Decision on admissibility, adopted 6 February 2002

CH/02/8674 Kovač v. Federation BiH
Decision on admissibility, adopted 8 April 2002

CH/02/8676 Jovović v. Federation BiH
Decision on admissibility, adopted 8 November 2002

CH/02/8679, 8689, 8690 and 8691
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Decision on admissibility and merits, delivered 11 October 2002

CH/02/8682 Kordić v. Federation BiH
Decision on admissibility, adopted 9 April 2002

CH/02/8688 Kicara v. State BiH and Federation BiH
Decision on admissibility, adopted 10 May 2002

CH/02/8694 Hajdarević v. Federation BiH
Decision on admissibility, adopted 6 December 2002

CH/02/8696 Jašarević v. Federation BiH
Decision on admissibility, adopted 11 October 2002

CH/02/8700 Šanta v. Federation BiH
Decision on admissibility, adopted 5 September 2002

CH/02/8702 Rahmanović v. Republika Srpska
Decision to strike out, adopted 12 October 2002

CH/02/8716 Ibreljić v. Federation BiH
Decision on admissibility, adopted 5 September 2002

CH/02/8726 Kehić v. Federation BiH
Decision on admissibility, adopted 9 April 2002

CH/02/8733 Ajanović v. Federation BiH
Decision to strike out, adopted 5 September 2002

CH/02/8735 Aluminij d.d. Mostar, Assembly of the Aluminij d.d. Mostar, Čavar, Galić, Kordić, Šoljić and Petković v. Federation BiH
Decision on suspension of consideration, adopted 8 November 2002

CH/02/8783 "ČAVKUNOVIĆ" d.o.o. Bihać v. Federation BiH
Decision on admissibility, adopted 10 May 2002

CH/02/8786 Jovanović v. State BiH and Republika Srpska
Decision on admissibility, adopted 7 June 2002

CH/02/8788 Jašarević v. Republika Srpska
Decision to strike out, adopted 12 October 2002

CH/02/8789 S.K. v. State BiH and Republika Srpska
Decision on admissibility, adopted 5 September 2002

CH/02/8795 Mulasalihović v. Federation BiH
Decision on admissibility, adopted 9 April 2002

CH/02/8820 Tomanić v. Federation BiH
Decision on admissibility, adopted 5 September 2002

CH/02/8826 Mastilo v. Republika Srpska
Decision on admissibility, adopted 11 October 2002

CH/02/8848 Mladenović v. State BiH and Federation BiH
Decision on admissibility, adopted 8 November 2002

CH/02/8856 Dacić v. Federation BiH
Decision on admissibility, adopted 5 September 2002

CH/02/8874 Mustafičić v. Republika Srpska
Decision to strike out, adopted 5 September 2002

CH/02/8885 Herić v. Republika Srpska
Decision to strike out, adopted 5 December 2002

CH/02/8896 Husić v. Republika Srpska
Decision on admissibility, adopted 7 June 2002

CH/02/8914 Zečević and 36 others v. Republika Srpska
Decision on admissibility, adopted 4 September 2002

CH/02/8917 Đonlagić and 97 others v. Federation BiH
Decision on admissibility, adopted 5 September 2002

CH/02/8934 Karajkić v. Federation BiH
Decision on admissibility, adopted 5 September 2002

CH/02/8935 Group of Citizens of the Municipality of Žepče v. State BiH and Federation BiH
Decision on admissibility, adopted 2 July 2002

CH/02/8949 Gogić, Ćerimović, F. Vehab, H. Vehab, J. Vehab and N. Vehab v. Federation BiH
Decision on admissibility, adopted 11 October 2002

CH/02/8971 Kazakov v. Federation BiH
Decision to strike out, adopted 7 November 2002

CH/02/8995 Hrustanović v. Federation BiH
Decision on admissibility, adopted 11 October 2002

CH/02/9024 Šavija v. Federation BiH
Decision on admissibility, adopted 5 December 2002

CH/02/9043 Suvajac v. Republika Srpska
Decision on admissibility, adopted 9 April 2002

CH/02/9074 Mihajlović v. Republika Srpska
Decision on admissibility, adopted 9 April 2002

CH/02/9117 Malivojević v. Republika Srpska
Decision on admissibility, adopted 9 April 2002

CH/02/9158 Nikolić v. Republika Srpska
Decision on admissibility, adopted 10 May 2002

CH/02/9171 Kričković v. Republika Srpska
Decision on admissibility, adopted 10 May 2002

CH/02/9202 Majstorović v. Republika Srpska
Decision on admissibility, adopted 10 May 2002

CH/02/9249 Kapetanović v. Republika Srpska
Decision to strike out, adopted 6 September 2002

CH/02/9291 Koprena v. Republika Srpska
Decision on admissibility, adopted 7 June 2002

CH/02/9292 Simić v. Republika Srpska
Decision on admissibility, adopted 3 July 2002

CH/02/9299 Šikanjić v. Republika Srpska
Decision on admissibility, adopted 7 June 2002

CH/02/9302 Smolo v. State BiH and Federation BiH
Decision on admissibility, adopted 11 October 2002

CH/02/9319 Čolaković v. Federation BiH
Decision on admissibility, adopted 5 November 2002

CH/02/9337 Marković v. Federation BiH
Decision to strike out, adopted 5 September 2002

CH/02/9346 Mutapčić v. Federation BiH
Decision on admissibility, adopted 8 November 2002

CH/02/9365 Hamzić v. Federation BiH
Decision on admissibility, adopted 5 July 2002

CH/02/9416 Hajvazović v. Republika Srpska
Decision on admissibility, adopted 8 November 2002

CH/02/9424 Halilagić v. Federation BiH
Decision on admissibility, adopted 10 May 2002

CH/02/9425 Pinjo v. Federation BiH
Decision on admissibility, adopted 8 November 2002

CH/02/9436 Hamzić v. Federation BiH
Decision on admissibility, adopted 6 December 2002

CH/02/9448 Members of the Supervisory Board of the Local Community Mladikovine v. Republika Srpska
Decision on admissibility, adopted 5 September 2002

CH/02/9500 Šabić v. Federation BiH
Decision on admissibility, adopted 5 September 2002

CH/02/9501 Golub v. Federation BiH
Decision on admissibility, adopted 5 September 2002

CH/02/9519 Osmančević v. Federation BiH
Decision on admissibility, adopted 5 September 2002

CH/02/9526 Đogović v. Federation BiH
Decision to strike out, adopted 6 December 2002

CH/02/9554 Dragičević v. Federation BiH
Decision on admissibility, adopted 11 October 2002

CH/02/9588 K. and H. Kovač v. State BiH and Federation BiH
Decision on admissibility, adopted 11 October 2002

CH/02/9599 Ahmić v. Federation BiH
Decision on admissibility, adopted 11 October 2002

CH/02/9625 Dokić-Vukojević v. Federation BiH
Decision on admissibility, adopted 11 October 2002

CH/02/9778 Jović v. Federation BiH
Decision on admissibility, adopted 11 October 2002

CH/02/9786 Prusac v. State BiH and Federation BiH
Decision to strike out, adopted 7 September 2002

CH/02/9796 F. and H. Džozo v. Federation BiH
Decision on admissibility, adopted 8 November 2002

CH/02/9817 Hodžić v. Federation BiH
Decision on admissibility, adopted 5 July 2002

CH/02/9832 Skender v. Federation BiH
Decision on admissibility, adopted 6 December 2002

CH/02/9835 Gajić v. Republika Srpska
Decision on admissibility, adopted 5 November 2002

CH/02/9840 Šemović v. Federation BiH
Decision on admissibility, adopted 5 September 2002

CH/02/9853 Citizens of Divič v. Republika Srpska
Decision on admissibility, adopted 6 September 2002

CH/02/9854 E.P. v. State BiH, Federation BiH and others
Decision on admissibility, adopted 11 October 2002

CH/02/9855 Bekonja v. Federation BiH
Decision on admissibility, adopted 5 December 2002

CH/02/9857 and CH/02/11271
Višnjić v. State BiH and Federation BiH and Nahodović v. Federation BiH and Republika Srpska
Decision on admissibility, adopted 8 October 2002

CH/02/9866 T.L. v. Federation BiH
Decision on admissibility, adopted 11 October 2002

CH/02/9876 Ević v. Federation BiH
Decision to strike out, adopted 7 September 2002

CH/02/9924 Pejović v. Federation BiH
Decision to strike out, adopted 8 November 2002

CH/02/9973 Bencun v. Federation BiH
Decision on admissibility, adopted 5 December 2002

CH/02/9993 Škorić v. Republika Srpska
Decision on admissibility, adopted 7 November 2002

CH/02/10007 Ćato v. State BiH and Federation BiH
Decision on admissibility, adopted 7 June 2002

CH/02/10032 Radojević v. State BiH and Federation BiH
Decision to strike out, adopted 7 September 2002

CH/02/10060, 10061 and 10063
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Decision on admissibility, adopted 5 September 2002

CH/02/10062, 10064 and 10065
J. and E. Mulać v. Republika Srpska, H. Mulać and H. Mulać v. Federation BiH
Decision on admissibility, adopted 5 September 2002

CH/02/10427 Fejzović v. Republika Srpska
Decision on admissibility, adopted 5 September 2002

CH/02/10448 Carina v. Federation BiH
Decision on admissibility, adopted 5 September 2002

CH/02/10474 Muharemović v. Federation BiH
Decision on admissibility, adopted 5 September 2002

CH/02/10478 Stevanović v. Federation BiH
Decision to strike out, adopted 6 December 2002

CH/02/10479 Uzelac v. Federation BiH and Republika Srpska
Decision on admissibility and to strike out, adopted 5 December 2002

CH/02/10497 Ikić v. Federation BiH
Decision on admissibility, adopted 11 October 2002

CH/02/10540 Martić v. Republika Srpska
Decision on admissibility, adopted 5 September 2002

CH/02/10541 Kecman v. Republika Srpska
Decision on admissibility, adopted 5 July 2002

CH/02/10547 Balaban v. Republika Srpska
Decision on admissibility, adopted 5 July 2002

CH/02/10558 Đukić v. Republika Srpska
Decision on admissibility, adopted 5 September 2002

CH/02/10600 Krneta v. Republika Srpska
Decision on admissibility, adopted 5 September 2002

CH/02/10620 Lalatović v. State BiH and Federation BiH
Decision to strike out, adopted 8 November 2002

CH/02/10627 Nikić v. Republika Srpska
Decision on admissibility, adopted 5 September 2002

CH/02/10638 Moreti v. Republika Srpska
Decision to strike out, adopted 8 November 2002

CH/02/11022 Mirković v. Federation BiH
Decision on admissibility, adopted 5 September 2002

CH/02/11045 Pudar v. State BiH and Federation BiH
Decision to strike out, adopted 11 October 2002

CH/02/11052	Sendo v. Federation BiH Decision on admissibility, adopted 5 September 2002
CH/02/11070	Poparić v. State BiH and Federation BiH Decision on admissibility, adopted 11 October 2002
CH/02/11073	Zejnilović v. Federation BiH Decision on admissibility, adopted 5 December 2002
CH/02/11107	Mulamustafić v. State BiH and Federation BiH Decision on admissibility, adopted 5 November 2002
CH/02/11138	Hergić v. Federation BiH Decision on admissibility, adopted 11 October 2002
CH/02/11140	Muhedinović v. Federation BiH Decision on admissibility, adopted 8 November 2002
CH/02/11146	Botić v. Federation BiH Decision on admissibility, adopted 11 October 2002
CH/02/11176	Tokić v. Federation BiH Decision on admissibility, adopted 6 December 2002
CH/02/11182	Zametica v. Republika Srpska Decision on admissibility, adopted 11 October 2002
CH/02/11187	Memišević v. Federation BiH Decision on admissibility, adopted 5 November 2002
CH/02/11200	Prljača v. State BiH and Republika Srpska Decision on admissibility, adopted 6 December 2002
CH/02/11239	Knežević v. Federation BiH Decision on admissibility, adopted 11 October 2002
CH/02/11259	Mulaosmanović, H. Aganović and F. Aganović v. Republika Srpska Decision on admissibility, adopted 5 December 2002
CH/02/11262	Luketa v. Federation BiH Decision to strike out, adopted 12 October 2002
CH/02/11291	Kuka v. Federation BiH Decision on admissibility, adopted 5 December 2002
CH/02/11292	Drugovac v. State BiH and Federation BiH Decision on admissibility, adopted 11 October 2002
CH/02/11293	Hodžić v. Federation BiH Decision on admissibility, adopted 11 October 2002
CH/02/11327	Beganović v. Federation BiH Decision on admissibility, adopted 5 November 2002
CH/02/11927	Akšamija v. State BiH and Federation BiH Decision on admissibility, adopted 11 October 2002
CH/02/11932	SUBNOR v. Federation BiH Decision on admissibility, adopted 11 October 2002

CH/02/11995 Hodžić and Ljevaković v. Federation BiH
Decision on admissibility, adopted 11 October 2002

CH/02/12006 Peljto v. Federation BiH
Decision on admissibility, adopted 5 November 2002

CH/02/12032, 12198 and 12199
Muharemović, H. Hadžić and I. Hadžić v. Republika Srpska
Decision on admissibility, adopted 11 October 2002

CH/02/12060 Hasić v. Federation BiH
Decision on admissibility, adopted 6 December 2002

CH/02/12191 Simić v. Federation BiH
Decision on admissibility, adopted 5 November 2002

CH/02/12193 M. and M. Marković v. Federation BiH
Decision on admissibility, adopted 11 October 2002

CH/02/12195 Čelik v. Federation BiH
Decision on admissibility, adopted 5 November 2002

CH/02/12205 Bašović v. Federation BiH
Decision on admissibility, adopted 5 December 2002

CH/02/12208 Mostarac v. Federation BiH
Decision on admissibility, adopted 11 October 2002

CH/02/12214 Džananović v. Federation BiH
Decision on admissibility, adopted 11 October 2002

CH/02/12268 Đokić v. State BiH
Decision on admissibility, adopted 8 November 2002

CH/02/12290 Velagić v. State BiH and Federation BiH
Decision on admissibility, adopted 8 November 2002

CH/02/12299 Jurić v. State BiH
Decision to strike out, adopted 7 November 2002

CH/02/12303 Marković v. Federation BiH
Decision to strike out, adopted 7 November 2002

CH/02/12329 Bradvić v. Federation BiH
Decision on admissibility, adopted 5 December 2002

CH/02/12333 Zorić v. Federation BiH
Decision on admissibility, adopted 5 December 2002

CH/02/12368 Bratić v. Federation BiH
Decision on admissibility, adopted 6 December 2002

CH/02/12379 K. and P. Bahun v. Federation BiH
Decision on admissibility, adopted 5 December 2002

CH/02/12439 Čamdžić v. Federation BiH
Decision on admissibility, adopted 5 December 2002

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Summaries of Selected Decisions on the Merits

Case No.:	CH/01/7952
Applicants:	Suada SELIMOVIĆ and 7 others
Respondent Party:	Federation of Bosnia and Herzegovina
Date Delivered:	11 January 2002

DECISION ON ADMISSIBILITY AND MERITS

Factual background

The applicants are eight former judges of the Supreme Court of the Federation of Bosnia and Herzegovina whose five-year term of office had expired in 2001. They were born between 1933 and 1937 and thus eligible for reappointment, as Federation judges may continue to serve until the mandatory retirement age of 70. The case concerns the decision by the House of Peoples of the Federation of Bosnia and Herzegovina not to approve the nomination by the President of the Federation for their re-appointment as judges to the Supreme Court. The applicants alleged that age was the decisive factor in the rejection of their re-appointment. They claim that the decision by the House of Peoples of the Federation of Bosnia and Herzegovina constitutes discrimination on the ground of age in the enjoyment of their right to public service in violation of Article 25(c) of the International Covenant on Civil and Political Rights ("ICCPR") in conjunction with Article II(2)(b) of the Human Rights Agreement.

Admissibility

The respondent Party did not object to the admissibility of the applications and, in fact, indicated that it was inclined to believe that the applicants had been discriminated against. Finding that no effective remedies were available to the applicants and thus that the question of non-exhaustion did not arise, the Chamber declared the applications admissible.

Merits

Article 25(c) of the ICCPR

Applying a three-step analysis to the discrimination claim, the Chamber first found that age was a prohibited discrimination basis covered under "other status" in Article 2 paragraph 1 of the ICCPR.

Second, the Chamber found that the applicants were, in fact, subjected to differential treatment based on their age. For this purpose, the Chamber looked at the transcript of the session of the House of Peoples, in which the applicants' appointment was voted on. It found that the speakers of both the Bosniac and the Croat Clubs in the House of Peoples had stated that judges aged 65 or more should not be re-appointed. These statements, coupled with the fact that all but one applicant were aged 65 or above, while none of the confirmed judges had reached the age of 65, led the Chamber to conclude that their age was the reason for the refusal to re-appoint the applicants.

Third, the Chamber examined whether differential treatment had any reasonable and objective justification, whether it pursued a legitimate aim and whether the means employed and aims sought were proportionally related. The Chamber noted that in the debate in the House of Peoples it had been stated that the courts of the Federation of Bosnia and Herzegovina were not working in a satisfactory way, and that renewing the composition of the Supreme Court could improve their performance. The Chamber found that this was a reasonable aim for the House of Peoples to pursue. However, the insistence on the "age structure", instead of an approach based on the assessment of merits, the Chamber observed, highlighted the unreasonableness of the criteria chosen. The Chamber found that the House of Peoples had failed to establish a reasonable relationship of proportionality between the aim pursued and the means adopted and concluded that the applicants had been discriminated against in the enjoyment of their right to have access on general terms of equality, to public service in their country.

Remedies

The Chamber ordered the Federation of Bosnia and Herzegovina to include the applicants in the current round of selection to fill vacancies on the Supreme Court, without requiring them to reapply or to be interviewed again. The Chamber rejected the applicants' claim for monetary compensation on the ground that its finding of discrimination constituted sufficient compensation for the moral damage suffered by the applicants.

Dissenting Opinions

Mr. Rona Aybay, joined by Mme. MichŁle Picard and Messrs. Dietrich Rauschning and Viktor Masenko-Mavi, dissented in part, writing that the Chamber should not have found a violation of Article 25(c) of the ICCPR. Mr. Aybay argued that the question of whether some of the nominated judges who were over a certain age should or should not be approved and appointed by the House of Peoples was beyond the judicial review of any court unless serious procedural defects existed in the voting process. In reaching this conclusion, Mr. Aybay noted that a significant number of members of the House of Peoples did not take part in the decision, that the individual motives of all those who voted against the applicants could not be ascertained, and that the decisions of members of a parliamentary body should not be scrutinised or subjected to external pressures.

In a separate dissent, Mr. Victor Masenko-Mavi, joined by Mr. Dietrich Rauschning argued that Article 25(c) creates no entitlement to occupy a particular office. He pointed out that the applicants were not deprived of access to the public office, but instead were allowed to participate in the selection process up until its last stage. During this last stage, Mr. Masenko-Mavi argued, the House of Peoples used its legislative discretion properly to appoint other candidates of more suitable qualifications and age.

Mr. Mehmed Deković also dissented from the Chamber's conclusion that its finding of discrimination was sufficient to address the moral harm resulting from the violation. Mr. Deković instead concluded that monetary compensation was appropriate.

In a fourth dissenting opinion, Mr. Andrew Grotrian, joined by Mr. Jakob Möller, expressed the view that the House of Peoples was entitled to take the view that the imposition of an age threshold was an appropriate means of bringing new blood into the Supreme Court. Arguably, such an approach was preferable to the alternative suggested by the majority, namely an assessment of the judicial performance of the individual candidates. Mr. Grotrian did not consider a parliamentary body, such as the House of Peoples, well-equipped to conduct such an assessment which might carry the risk of unacceptable political interference with the judiciary. He was not satisfied, therefore, that the House of Peoples went beyond its margin of appreciation and would have found no violation of the Agreement.

Decision adopted 8 January 2002
Decision delivered 11 January 2002

Case Nos.:	CH/00/5134, CH/00/5136, CH/00/5138 and CH/01/7668
Applicants:	Muhamed ŠKRGIĆ, Raska ĆERIMOVIĆ, Fikret MURTIĆ and the Association for the Protection of Unemployed Shareholders of Agrokomerc
Respondent Party:	Federation of Bosnia and Herzegovina
Other Title:	"Agrokomerc Case"
Date Delivered:	8 March 2002

DECISION ON ADMISSIBILITY AND MERITS

Factual background

The applicants Muhamed Škrgić, Raska Ćerimović, Fikret Murtić and the members of the Association for the Protection of Unemployed Shareholders of Agrokomerc ("Shareholders Association") were employed by the company Agrokomerc in Velika Kladuša. They claimed to hold shares in the company which they allegedly acquired during the period of 1991 until 1994 under the so-called "Marković scheme" for privatisation. Primarily, the applicants alleged that they acquired such shares as partial payment for salaries.

The applicants complained that they were denied their rights to take part in the decision-making process of Agrokomerc and to exercise other shareholder rights since 1994. In addition, on 17 July 1997 the Assembly of the Una-Sana Canton issued a decision that "establishes a list of enterprises in the area of the Una-Sana Canton over which the powers and obligations of the owner on the basis of state capital are performed by the Government of the Canton". Agrokomerc was included in the list in question. The applicants interpreted this decision as declaring Agrokomerc to be exclusively state-owned. Based upon a conclusion of approval by the Agency for Privatisation of the Federation, on 7 March 2001 Revsar, a company for auditing and consulting in Sarajevo, issued a decision on the results of its renewed audit regarding the transformed ownership of Agrokomerc. In the renewed audit, Revsar concluded that the registered internal share capital was not properly and effectively formed; therefore, Revsar completely cancelled it in favor of state capital in the auditing process. The applicants challenged the validity of both these decisions, and any other official acts that deprived them of their rights as shareholders of Agrokomerc.

Admissibility

Considering its competence *ratione personae*, the Chamber observed that the Federation had official power and control over the governing bodies of the company and that the actions of these bodies were thus imputable to the Federation. In addition, the Shareholders Association had standing to lodge the application since it was a legal person and therefore a victim to the alleged violations.

Furthermore, the Chamber found that the event that actually deprived the applicants of their protected possessions was the cancellation of internal shares in favour of state-owned capital, not earlier laws or acts. Since this event occurred after 1995, the Chamber was competent *ratione temporis* to review the application. The applicants' claim of the right to work, however, pertained to earlier events and so was declared inadmissible.

Reviewing the application for non-exhaustion of effective domestic remedies, the Chamber considered the applicants' unsuccessful attempts to initiate judicial, administrative and extra-judicial proceedings and observed that no domestic remedy effective in practice was available to the applicants. The Chamber also noted that the six-month period from the final decision complained of had not expired at the time of lodging the applications. Consequently, the Chamber declared the application admissible with regard to alleged violations of the applicants' right to a fair hearing and the right to peaceful enjoyment of possessions, as guaranteed by Article 6 of the Convention and by Article 1 of Protocol No. 1 to the Convention, respectively.

Merits

Article 1 of Protocol No. 1 to the Convention

The Chamber divided its Article 1 analysis of the applicant's claim into three parts: (1) whether the applicants' claims involved "possessions" protected by the Article; (2) whether there was interference with their enjoyment of their possession; and (3) whether such interference was subject to conditions provided by law. The Chamber first observed that the applicants acquired protected possessions in internal shares of Agrokomerc for which payment was made on the basis of: a) permanent deposits; b) allocations of parts of salaries, either on a monthly basis during the period of 1991 to 1994, or on an annual basis for 1992; and c) distribution of profits for 1992 in proportion to the amount of paid internal shares. However, the Chamber did not

recognise any protected possessions of the applicants for internal shares resulting from the conversion of employee claims for reduced salaries from 1987 to 1991 or the conversion of the value of inventory goods.

The Chamber subsequently found that by exercising effective exclusive control over the management of Agrokomerc, the authorities of the Federation interfered with the rights of the applicants to participate in the management and to share in the profits of Agrokomerc in relation to their paid internal shares. In addition, the Chamber held that the Federation did not act "subject to the conditions provided by law", and so concluded that the applicants' rights to enjoyment of possessions secured by Article 1, were violated.

Article 6 of the Convention

The Chamber observed that neither Revsar, nor the Institute for Accounting and Auditing of the Federation, nor the Ministry of Finance of the Federation had offered the applicants any real opportunity to present documents, testimony, or legal argument in writing or in person during the process of the performance of the audit. The Chamber concluded that for lack of actual or effective proceedings in which the applicants had been invited to participate, their rights under Article 6 were violated.

Remedies

The Chamber designed a remedy that would allow the applicants to regain ownership over their paid internal shares and to exercise the management and participation rights that naturally and legally flowed from these shares. The Chamber made the following orders to the Federation of Bosnia and Herzegovina: a) to take all necessary steps to recognise the applicants as holders of internal shares in relation to the amount of their paid internal shares in Agrokomerc and to enable the applicants to exercise the management rights connected to these shares, as described in the Chamber's decision; b) at its own expense, to employ internationally recognised auditors, in strict compliance with best practice procurement rules for international tenders, to undertake an audit to determine the complete present ownership structure of Agrokomerc, in accordance with the Chamber's decision and in compliance with International Accounting Standards and International Auditing Standards; c) upon completion of the audit, to take all necessary action to ensure that the results of the audit are properly and speedily implemented, including causing the new ownership structure of Agrokomerc to be properly registered, causing individual share certificates to be issued to each applicant in accordance with the Law on Securities of the Federation, and causing a general meeting of the assembly of shareholders to be convened in accordance with the law and at the latest within three months from the delivery of the results of the forensic audit. In addition, the Chamber issued several conclusions as interim measures, which allowed the applicants the opportunity to participate in the management of Agrokomerc until the delivery of the results of the forensic audit. Thus the Chamber ordered that, until the forensic audit is completed, the capital structure of the company be recognised as registered by the competent court in 1991, i.e., 53% share capital and 47% state capital. Further, the Chamber ordered the establishment of an interim supervisory board consisting of 3 members appointed by the Federation and 4 members appointed by the applicants, through the Shareholders Association. The Chamber rejected the applicants' claims for compensation for pecuniary damages, but reserved the right to make additional orders for further remedies.

Dissenting Opinion

Mr. Victor Masenko-Mavi dissented from several of the Chamber's conclusions. He argued that the orders he voted against could have negative consequences for the Agrokomerc joint stock company, because the Shareholders Association would, as a result of them, acquire a privileged position in the management of the company, which in light of the facts of the case was not warranted. The dissenting judge suggested formulating orders more carefully, so as to leave the respondent Party an opportunity to find the most appropriate course of action to remedy the breach.

Decision adopted 8 February 2002
Decision delivered 8 March 2002

DECISION ON REQUEST FOR REVIEW

The applicants submitted a request for review in which they requested the Chamber to recognise the Shareholders Association as representing all shareholders of Agrokomerc, including those who are not members, and to explicitly refer in its findings to all shareholders. Secondly, the applicants challenged the decision with respect to the conclusion to declare the complaint concerning the applicants' right to work inadmissible. In addition they sought recognition of the conversion of employee claims for reduced salaries paid from 1987 to 1991. The applicants also sought recognition of the conversion of the value of inventory goods as payment for internal shares. In addition they requested the Chamber to empower the interim supervisory board to decide by a simple majority instead of the two-thirds majority as envisaged in the Chamber's decision of 8 February 2002 on the appointment of the management and all issues which according to the Law on Business fall under the competencies of the shareholders' assembly. The applicants requested the Chamber either to remove the existing management of Agrokomerc and to refer all competencies to the interim supervisory board or to order that the management shall be composed of four directors appointed by the Shareholders Association and three directors appointed by the respondent Party.

The respondent Party submitted a request for review in which it stated that it recognised the applicants as holders of paid internal shares, but challenged the validity of the Workers' Council decision on the issuance of internal shares as outside the statutory time limit and therefore void. The

respondent Party furthermore did not consider it reasonable that the Chamber gave "majority rights in governing the company during the 'so-called' interim period" to the representatives of the Shareholders Association in the interim supervisory board. Finally, the Federation objected to the unequal position of the shareholders who are not applicants nor members of the Shareholders Association.

The Chamber found that the requests for review did not raise "a serious question affecting the interpretation or application of the Agreement or a serious issue of general importance" as required by Rule 64 paragraph 2(a) of its Rules of Procedure or that the whole circumstances justified reviewing the decision as set forth in the second requirement of Rule 64 paragraph 2. Accordingly, the Chamber decided to reject the requests for review.

Decision adopted 9 May 2002

DECISION ON FURTHER REMEDIES

Developments subsequent to the decision on admissibility and merits

As indicated above, the Chamber's decision on admissibility and merits provided for the establishment of a 7 member interim supervisory board for Agrokomerc (with 4 members appointed by the applicants and 3 members appointed by the Federation). For decisions on issues within the general competence of the assembly of shareholders and for changes in the membership of the management a two-thirds majority of 5 was described. The interim supervisory board was established in April 2002 and its first meeting convened in May 2002. Since the establishment, however, the interim supervisory board has been unable to take any decisions or to carry out any functions. The 4 members appointed by the applicants have been prevented from performing their duties by the management, which has denied them access to the company's documents and premises. Further, the lack of clarity as to whether Agrokomerc is currently governed under the 1995 Law on Enterprises or the 1999 Law on Business Companies appears to have given the management board (appointed by the Federation on 2 August 2001) and the management (appointed by the management board) additional grounds to obstruct any participation in the management of the company by the members of the interim supervisory board appointed by the applicants. The management board continued to function as a supervisory board, while the interim supervisory board established pursuant to the Chamber's decision existed on paper only, without any real power. The applicants repeatedly complained about this state of affairs to the Chamber.

Further remedies

To remedy the situation, the Chamber decided on 5 March 2003, by way of further remedies, *inter alia*, as follows:

(a) to order the Federation to ensure that the management board of Agrokomerc cease to function, so as to permit the interim supervisory board to carry out its intended function;
(b) to partly lift the super-majority requirement and to entitle the interim supervisory board, by a simple majority vote, to replace 3 of the current 6 executive directors of the management, to appoint one more executive director to fill a vacant seat on the management and to determine who of the above 4 shall serve as the deputy director of the company.

The Chamber reserved the right to issue such further orders, as it may deem necessary to remedy the violations found in its decision on admissibility and merits.

Decision adopted 5 March 2003
Decision delivered 7 March 2003

Case No.:	CH/01/6979
Applicant:	E.M. and Š.T.
Respondent Party:	Federation of Bosnia and Herzegovina
Date Delivered:	8 March 2002

DECISION ON ADMISSIBILITY AND MERITS

Factual background

The application was brought before the Chamber by E.M. in her own right and on behalf of her brother, Š.T. In July 1998, under the influence of alcohol, B.B. shot Š.T. in the head and killed him. On 21 October 1998, at the conclusion of the criminal trial for the killing of Š.T., the Municipal Court of Livno found that B.B. had committed the criminal offence of murder. However, because of reduced criminal accountability at the moment of the crime, due to the consumption of alcohol, the Court found that a sentence of imprisonment or other punishment was inappropriate. Instead, the Court issued a procedural decision ordering B.B. to undergo a security measure of mandatory psychiatric treatment in custody. After three months the order for psychiatric treatment in custody was changed to treatment at liberty. B.B. has been free ever since. The applicant initiated several unsuccessful legal proceedings requesting a reconsideration of the procedural decision of the first-instance court. The panel of judges, the public prosecutor, the defence counsel and the accused at the trial before the Municipal Court were all citizens of Bosnia and Herzegovina of Croat origin whereas the victim and his family were citizens of Bosnia and Herzegovina of Bosniak origin. The applicant E.M., Š.T.'s sister, alleged violations of her and the decedent's rights.

Admissibility

The respondent Party argued that the application should be declared inadmissible under the six-month rule (Article VIII(2)(a) of the Agreement) since more than two years had elapsed since the time of the decision of the Municipal Court until the filing of an application. The Chamber found that the six-month period began to run on 15 January 1999, the date on which the Cantonal Court refused the applicant's appeal, and was interrupted less than six months thereafter, on 17 June 1999, with the submissions of the applicant's first letter to the Chamber, in which she summarised her complaints. A provisional file was opened at that time. The fact that the formal application form was filled out and submitted much later (on 13 March 2001) did not negate the applicant's compliance with the six-month rule.

Since no other grounds of inadmissibility were raised, the Chamber declared the application admissible.

Merits

Article 2 of the Convention

The Chamber observed that Article 2 creates a positive obligation for the state not only to refrain from the intentional and unlawful taking of life, but also to take appropriate steps to safeguard the lives of those within its jurisdiction. Taking into account the passive conduct of the prosecutor during B.B.'s trial, the Chamber noted that the criminal proceedings failed to adequately deter B.B. from the crime, since the perpetrator probably expected no sanction to follow. The Chamber concluded that this failure to deter was a breach of the state's obligation to protect life in violation of Article 2. The Chamber found this breach to be a violation of both the decedent's and the applicant's rights.

Discrimination

The Chamber found the respondent Party to have discriminated against the decedent in the enjoyment of his right to life, to equal treatment before the tribunals and to protection of the State against violence as protected by Article 5 (a) and (b) of the CERD. In addition, the respondent Party was found to have discriminated against the applicant in the enjoyment of her right as protected by Article 5 (a) of CERD, the respondent Party thereby being in violation of Article I of the Human Rights Agreement and E.M.'s rights under Article 2 of the Convention to a proper investigation and fair trial in regard to her brother's death.

Article 13 of the Convention

The Chamber had decided that the case primarily raised issues under Article 2 of the Convention. In light of the findings it had made in respect of that Article, and also in respect to the findings made in regard to discrimination, the Chamber did not consider it necessary to examine the applicant's claims under Article 13.

Remedies

The only remedy requested by the applicant was the retrial of B.B. In balancing the opposite interests of the applicant (the conduct of a fair trial) and B.B. (not to be tried again), the Chamber noted that a retrial of the decedent's murderer could have been ordered. It declined, however, to make the order, taking into account, *inter alia*, the length of time that had elapsed between the applicant's initial letter to the Chamber on 17 June 1999 and the submission of the formal application on 13 March 2001.

Decision adopted 8 February 2002
Decision delivered 8 March 2002

Case Nos.:	CH/98/1335, CH/98/1370, CH/99/1505, CH/99/2805 and CH/00/4371
Applicants:	Zuhdija RIZVIĆ, Sead HUSKIĆ, Almir ŠABANČEVIĆ, Ahmet SEFIĆ and Ismet GRAČANIN
Respondent Party:	Federation of Bosnia and Herzegovina
Date Delivered:	8 March 2002 (partial decision on admissibility and decision on the merits)

DECISION ON ADMISSIBILITY AND MERITS

Factual background

On 27 September 1993 Fikret Abdić proclaimed the "Autonomous Province of Western Bosnia" (the "Autonomy") on the territory of the Velika Kladuša and Cazin municipalities. The applicants Rizvić, Huskić, Šabančević and Gračanin, all of Bosniak descent, were members of the armed forces of the Autonomy. The applicant Sefić, also of Bosniak descent, was detained in the Serb run concentration camp "Sana Keran" in the Una-Sana Canton. After the victory of the Army of Bosnia and Herzegovina over the armed forces of the Autonomy, the applicants were arrested, indicted and convicted either for having committed war crimes or for multiple counts of murder.

Admissibility (separate decisions of 3 July, 12 October and 7 November 2001, respectively, and partial decision of 5 March 2002)

The Chamber declared all the applications admissible as to the claims of the right to fair trial and the non-compliance of the respondent Party with the Rules of the Road. For some of the applicants, the Chamber also found admissible claims of maltreatment during police custody, or custody in the district prison, lack of investigation by the investigative judge and double jeopardy.

Merits

Article 3 of the Convention

The Chamber noted that in order to fall within the scope of Article 3, the treatment complained of must have attained a minimal amount of severity. The Chamber paid particular attention to the vulnerability of the applicants during police custody, duration of custody, and their inability to protect themselves during beating incidents. Reviewing the evidence, the Chamber found that applicants Huskić, Šabančević and Gračanin could not protect themselves against the police officers punching, kicking and beating their bodies, heads and foot soles with baseball bats and rubber truncheons for days on end. The Chamber found that this amounted to inhuman and degrading treatment in violation of Article 3. The Chamber found that there had been no violation of Article 3 in the case of the applicant Rizvić, since that applicant's allegations of ill-treatment in the Bihać District Prison were unsubstantiated.

Article 5 of the Convention

The Chamber found that the respondent Party did not comply with the Rules of the Road in any of the cases, thereby violating Article 5, paragraph 1 rights of all the applicants. The Chamber noted that the Rules of the Road became law on 18 February 1996 and that even for applicants arrested very shortly afterwards, the respondent Party had an obligation to comply with the Rules during the applicants' subsequent custody. In response to the Federation's claim that the Bihać courts were not aware of the Rules of the Road, the Chamber observed that it was the respondent Party's duty to make the courts aware of the Rules and that failure to do so was a violation of the Convention.

Article 6 of the Convention

As to the right to a fair trial, guaranteed by Article 6 paragraph 1, the Chamber concluded that there had been no violation in the cases of the applicants Sefić and Gračanin. In the cases of the applicants Huskić, Rizvić, and Šabančević however, the Chamber did establish violations of this right. The Chamber found that Huskić was not informed sufficiently of the accusation against him and not given adequate opportunity to prepare his defence. In addition, the Chamber noted that under domestic law, there was no possibility for the applicant to appeal against his conviction on the ground that he was found guilty of an offence different from the one he was charged with. The violations in the cases of Šabančević and Rizvić concerned their rights to examine and call witnesses. The Chamber did not find the amount of witnesses heard on proposal of the prosecution and on proposal of the defence necessarily disproportionate. However, in combination with the fact that the testimony of one of the refused witnesses appeared to have possibly been of significant importance to the outcome of the proceedings, and the importance of

confronting witnesses with the fact that their testimony was contradictory on decisive points, the Chamber was of the opinion that the court's reasoning in rejecting the defence's request that there had been enough hearings and testimony in the case in order for the court to reach a decision, was insufficient and not consistent with the concept of a fair trial.

Article 4 of Protocol No. 7 to the Convention

The Chamber found that there had been no violation of the right of the applicant Gračanin not to be tried or punished for the same crime twice as guaranteed under Article 4 of Protocol No. 7 to the Convention.

Remedies

The Chamber ordered the Federation of Bosnia and Herzegovina to pay to the applicants Huskić, Šabančević and Gračanin the sum of KM 3,000 by way of compensation for the maltreatment suffered while in custody of the Bihać police. The Chamber further ordered that the applicant Huskić be released from detention at the latest when the Chamber's decision becomes final and binding in accordance with its Rules of Procedure. The Chamber ordered the Federation of Bosnia and Herzegovina to pay to the applicant Gračanin the sum of KM 2,000 by way of compensation for his unlawful detention. Finally, the Chamber ordered the Federation of Bosnia and Herzegovina to take all necessary steps to re-try the criminal cases against the applicants Rizvić, Huskić and Šabančević.

Decision adopted 5 March 2002
Decision delivered 8 March 2002

DECISION ON REQUEST FOR REVIEW

In his request for review, the applicant, Ahmet Sefić, case no. CH/99/2805, argued that (a) the Chamber in finding no violation of Article 6 of the Convention, had failed to consider the fact that he did not have adequate time to prepare his defence after his indictment had been changed from charging him with war crimes to charging him with ordinary murder, which the applicant only learned on the day of the trial; (b) that the Chamber in finding no violation of Article 6 of the Convention, did not adequately consider his allegation that witnesses proposed by him were not heard; and (c) that although in both his case and the case of the applicant Gračanin a violation of Article 5 paragraph 1 was found, and although the applicant was held in unlawful detention for almost seven months, the Chamber did not award him any compensation, whereas it awarded the applicant Gračanin KM 2,000. The Chamber decided that with respect to all the issues raised in the request for review, it could not be said that they raised "a serious question affecting the interpretation or application of the Agreement or a serious issue of general importance", as required by Rule 64 paragraph 2(b) of its Rules of Procedure. Therefore the Chamber decided to reject the request for review.

Case Nos.:	CH/99/1900 and CH/99/1901
Applicants:	D.Š. and N.Š.
Respondent Party:	Federation of Bosnia and Herzegovina
Date Delivered:	12 April 2002

DECISION ON ADMISSIBILITY AND MERITS

Factual background

On 23 September 1995 the applicants, both officers of the Army of the Republika Srpska, were arrested and detained by members of the Army of the Republic of Bosnia and Herzegovina. They were held in detention as prisoners of war until their release on 4 August 1997. The applicants alleged that during their detention they were severely and repeatedly maltreated. The cases were referred to the Chamber on 13 April 1999 by the Ombudsperson, after an attempt to find a friendly settlement promoted by the Ombudsperson had failed.

Admissibility

The Chamber recalled that it had no competence *ratione temporis* to review alleged violations occurring before 14 December 1995. The Chamber concluded that it lacked competence to review the applicants' arrest and detention prior to 14 December 1995, but could review violations of their rights occurring between 14 December 1995 and the end of their detention on 4 August 1997. Acknowledging that the applicants had a domestic remedy of requesting compensation for illegal detention under the Code of Criminal Procedure, the Chamber observed that the respondent Party failed to provide evidence of the effectiveness of this remedy and failed to demonstrate that it had been used successfully in the past. Since the available remedies were not shown to be effective, the Chamber declined to declare the cases inadmissible for non-exhaustion of domestic remedies. Applying its six-month rule, the Chamber declared the parts of the applicants' complaint raised with the Ombudsperson within six months of the violation admissible. However, it found the complaints under Articles 3, 8, 9, 12, and 13 of the Convention inadmissible, since they were not present in the original complaint to the Ombudsperson, but were added to the application later, more than a year after the violations.

Merits

Article 5 of the Convention

The Chamber observed that that the applicants' claims had to be considered in light of their prisoner of war status and of Article IX of Annex 1A of the General Framework Agreement, which regulated the treatment of war prisoners. The Chamber also noted that the applicants stayed in detention significantly longer than all other prisoners of war at their camp, that their names did not appear in the lists of prisoners of war, and that they were hidden from the proper authorities. While detention may have been justified in the direct aftermath of the hostilities by the exigencies of war, they were not justified for such a long time. The Chamber held that the detention of the applicants from the beginning of March 1996 to 4 August 1997 constituted a violation of their right to liberty and security of person as guaranteed by Article 5 paragraph 1 of the Convention, the Federation of Bosnia and Herzegovina thereby being in breach of Article I of the Agreement. The Chamber further considered that it was not necessary to examine whether the applicants had been discriminated against in the enjoyment of their rights as guaranteed by Article 5 of the Convention.

Remedies

The Chamber ordered the Federation of Bosnia and Herzegovina to pay to each applicant the sum of KM 25,000 by way of compensation for non-pecuniary damage.

Decision adopted 6 March 2002
Decision delivered 12 April 2002

DECISION ON REQUEST FOR REVIEW

The respondent Party submitted a request for review in which it complained that the amount of compensation awarded for non-pecuniary damages was not proportional to the amount of compensation awarded in other similar decisions the Chamber had already issued. The Chamber found that the respondent Party's objection did not raise a serious question affecting the interpretation or application of the Human Rights Agreement or a serious issue of general importance. In addition, the Chamber found that the whole circumstances of the case did not justify reviewing the decision. As the request did not meet the conditions set forth in Rule 64 paragraph 2 of its Rules of Procedure, the Chamber decided to reject the request for review.

Decision adopted 6 June 2002

Case No.:	CH/01/7351
Applicant:	Ana KRALJEVIĆ
Respondent Party:	Federation of Bosnia and Herzegovina
Date Delivered:	12 April 2002

DECISION ON ADMISSIBILITY AND MERITS

Factual background

The applicant is a citizen of Bosnia and Herzegovina of Croat origin. Before the armed conflict in Bosnia and Herzegovina she was an ambulance driver at the Medical Center in Ilidža. During the war she was unable to reach her workplace. After the war the applicant unsuccessfully requested to resume her work.

In June 1996 the Medical Center issued a decision terminating the applicant's employment as of 2 May 1992 for not reporting to work for more than twenty days without providing a reason. The decision was posted on a bulletin board within the Medical Center's premises.

In 1996 after the reintegration of Ilidža into the territory of the Federation the Medical Center employed two new drivers. They had not worked at the Medical Center before and were of Bosniak origin.

In January 2000, after the Law on Labour entered into force, the applicant filed a request to the Medical Center seeking reinstatement into her employment position. In February 2000 the Medical Center requested her to present her personal dossier which could be found at the Ilidža Municipality. In the dossier, which the applicant received from the Ilidža Municipality, she discovered, for the first time, the decision terminating her employment, dated 13 June 1996.

In March 2000 the applicant filed an objection against the decision of 13 June 1996 to the Medical Center. On 1 June 2000 the Medical Center sent a notification to the applicant that in accordance with the instructions on Article 143 paragraph 2 of the Law on Labour her request of January 2000 was considered ill-founded and accordingly rejected.

Admissibility

The Chamber observed that although the applicant was prevented from resuming work before 14 December 1995 (the date of entry into force of the Dayton Peace Agreement), the decision on employment termination was issued in 1996, so the Chamber had competence *ratione temporis* to hear the case. The Chamber also noted that the applicant could not regain employment through the relevant domestic courts, and concluded that no remedy was available to the applicant for the purpose of obtaining re-employment. The Chamber, however, observed that the applicant did have access to domestic courts and so it found the applicant's claims under Article 6 of the Convention inadmissible as manifestly ill-founded.

Merits

Examining the evidence, the Chamber first determined that the applicant was treated differently from others in the same or relevantly similar situations. The Chamber then concluded that the Medical Center's decision to hire two new drivers instead of the applicant had discriminatory motives and was influenced by her Croat descent. The Chamber observed that during the armed conflict the applicant was absent from work for good cause, and did not have to provide a timely explanation for her absence. In addition, the decision concerning her termination was not delivered to the applicant as provided by domestic law, so it did not become effective until later, when the applicant found it in her personal file. The Chamber thus concluded that the respondent Party failed to meet its burden of demonstrating that its actions were reasonably and objectively justified. The Chamber found that the applicant had been discriminated against in the enjoyment of her right to work and to just and favourable conditions of work as defined in Articles 6 paragraph 1 and 7(a)(i) and (ii) of the ICESCR and Article 5(e)(i) of CERD.

Remedies

The Chamber ordered the Federation to ensure that the applicant was no longer discriminated against in her right to work and to just and favourable conditions of work, and that she was offered an opportunity to resume her work on terms appropriate to her former position and equal to those enjoyed by other employees.

Addressing the applicant's request for compensation, the Chamber took into account the applicant's unsuccessful attempts to resume work and the Medical Center's inappropriate responses to her efforts from the date the Chamber obtained *ratione temporis* jurisdiction, 14 December 1995, until the delivery of this decision on 12 April 2002. For these reasons the Chamber awarded the applicant, on an equitable basis, a total of KM 15,000 by way of compensation for pecuniary and non-pecuniary damages.

Decision adopted 5 March 2002
Decision delivered 12 April 2002

Case No.:	CH/99/2150
Applicant:	Đorđo UNKOVIĆ
Respondent Party:	Federation of Bosnia and Herzegovina
Date Delivered:	9 November 2001 (Decision on admissibility and merits) 10 May 2002 (Decision on review)

DECISION ON ADMISSIBILITY AND MERITS

Factual Background

The applicant, a citizen of Bosnia and Herzegovina of Serb ethnic origin, is a pensioner living in Sarajevo. At the beginning of the war, the applicant's daughter and her husband and two children (the "Golubović family"), all of Serb ethnic origin, were living in Konjic in the Federation. The applicant lost contact with his daughter and her family in the summer of 1992. Thereafter, the applicant heard rumours that his daughter's family had been killed, but he did not receive any official information to confirm such rumours. In January 1999, the applicant learned from the newspapers that two men had been arrested for killing his daughter's family in Konjic at the beginning of July 1992. The applicant complained that the authorities of the respondent Party wilfully withheld information from him from 1992 through 1999 concerning his daughter's fate and that this has caused him "mental suffering, pain and sorrow." He also claimed compensation for personal property allegedly stolen by the perpetrators at the time of the killings.

Admissibility

The Chamber found that the applicant had not exhausted domestic remedies with respect to his claim for pecuniary compensation for the missing property of his daughter's family, as he did not raise his property law claim in the criminal proceedings against the men charged with the murders and did not pursue civil proceedings against these men or against the Federation. The Chamber thus declared the part of the application concerning the claim for pecuniary compensation for the missing property of his daughter's family inadmissible.

However, the Chamber found that the same reasoning did not apply to the applicant's claim for non-pecuniary compensation for his mental suffering. Since the Chamber was not aware of, and the respondent Party had not pointed out, any provision in domestic law which would grant the applicant an effective domestic remedy from the Federation for the mental suffering damages he sought to recover in his application before the Chamber, the Chamber concluded that the applicant's claim for non-pecuniary compensation was admissible.

Thus the Chamber declared admissible the part of the application concerning the applicant's claims under Articles 3, 8, and 13 of the Convention and his claim for non-pecuniary compensation insofar as these claims related to failures by the respondent Party that continued after 14 December 1995.

Merits

Article 3 of the Convention

The applicant claimed that he experienced mental suffering as a result of the uncertainty surrounding the fate of his daughter and her family. He did not learn the truth until more than seven years after the murders and until after stories and speculation concerning the murders appeared in local newspapers. Throughout the prolonged period of delay and numerous interruptions in the investigative and criminal proceedings, the applicant suffered from his apprehension, distress, and sorrow over the fate of his daughter and her family, including his two young grandsons. The Chamber found no reasonable justification for this suffering to have lasted as long as it did. Thus the Chamber concluded that the respondent Party, by failing to timely investigate and inform the applicant about the fate of his daughter's family, violated the Article 3 right of the applicant to be free from inhuman or degrading treatment during the period of 14 December 1995 through 5 May 1999, when the applicant was recognised and allowed to participate as an injured party in the main criminal proceedings against the men who murdered his daughter's family.

Article 8 of the Convention

Noting that the applicant's claims under Article 3 and Article 8 of the Convention were in essence the same and concern the failure of the respondent Party to timely investigate and inform the applicant about the fate of his daughter's family, and in view of its conclusion with respect to Article 3, the Chamber found it unnecessary to separately examine the case under Article 8.

Article 13 of the Convention

The Chamber found that in the context of a case filed by the relative as opposed to the actual victim of the crime, the right protected by Article 13 is included within the right protected by Article 3 of the Convention. Thus, taking into account its finding of a violation of the applicant's right protected by Article 3, the Chamber found no separate violation of Article 13.

Remedies

The Chamber ordered the respondent Party to pay to the applicant KM 10,000 by way of non-pecuniary compensation for his mental suffering.

Decision adopted 10 October 2001
Decision delivered 9 November 2001

DECISION ON REQUEST FOR REVIEW

The respondent Party's primary challenge to the decision appeared to be that it was "unmanageable" and unfair because, since the murderers of the Golubović family were prosecuted and sentenced, the respondent Party did not in any way contribute to the suffering of the applicant. Moreover, the respondent Party complained that the application was inadmissible *ratione temporis*, as the murder of the Golubović family took place on 10 July 1992. The plenary Chamber decided to review the decision of the Second Panel in its entirety and agreed with the reasoning of the First Panel, which recommended that the request for review be granted. The First Panel considered that the request for review raised significant issues concerning the admissibility of the application and the application of the emerging body of international case-law that recognises the claims of family members under Article 3 of the Convention to be free from inhuman treatment as a result of their inability to obtain information from competent authorities about the whereabouts and fate of a loved one who disappeared under life-threatening circumstances. The First Panel also noted that this was an issue affecting many citizens of Bosnia and Herzegovina.

Decision adopted 10 January 2002

DECISION ON REVIEW

Admissibility

Insofar as the applicant's claims related to failures by the respondent Party that continued after 14 December 1995, the Chamber found itself competent *ratione temporis* to review the application. Claims of the violation of the right to peaceful enjoyment of possessions with regard to the lost personal property of the Golubović family, allegedly stolen in July 1992 in connection with their murder, are clearly outside the Chamber's competence *ratione temporis*.

The Chamber interpreted one of the applicant's claims to be that the respondent Party violated his right to participate in the criminal proceedings against the men charged with murdering the Golubović family and also violated his right to have such proceedings resolved in a timely and thorough manner. Domestic law provides the applicant with the right to participate in criminal proceedings as an injured party. However, this right under domestic law falls outside the scope of the protections of Article 6 of the Convention applicable to criminal proceedings and therefore the applicant's claim under Article 6 in this respect was found incompatible *ratione materiae* and declared inadmissible.

In finding the applicant's compensation claim, in respect of moral damage, admissible, the Chamber noted that Article VIII(2)(a) of the Human Rights Agreement requires the applicant to exhaust domestic remedies with respect to the alleged violations but not with respect to compensation for these violations."

The Chamber declared the application admissible with regard to Articles 3, 8, and 13 of the Convention.

Merits

Article 3 of the Convention

Reviewing the case-law of the European Court of Human Rights, the Chamber noted the special factors that have to be considered with respect to an applicant family member claiming an Article 3 violation for inhuman treatment due to lack of official information on the whereabouts of a loved one, as well as the special factors that have to be taken into consideration with respect to the respondent Party. The Chamber noted that it was obvious that the applicant had suffered greatly from his apprehension, distress, and sorrow over the fate of his daughter and her family; however, taking all of the

relevant factors into account, in particular the successful completion of the main criminal trial against the murderers of the Golubović family, as well as the difficult post-war circumstances in Bosnia and Herzegovina, the Chamber concluded that the actions of the respondent Party toward the applicant do not rise to the level of severe ill-treatment necessary to be considered "inhuman or degrading treatment" within the meaning of Article 3.

Article 8 of the Convention

Taking into account the relevant case-law of the European Court of Human Rights as well as its own decisions, the Chamber considered that information concerning the fate and whereabouts of a family member falls within the ambit of "the right to respect for private and family life". When such information exists within the possession or control of the respondent Party and the respondent Party arbitrarily and without justification refuses to disclose it to the family member, upon his or her request, properly submitted to a competent organ of the respondent Party or the Red Cross, then the respondent Party has failed to fulfil its positive obligation to secure the family member's right. Recognising that there was a long delay and many procedural obstacles before all the relevant information was made known, but noting that all relevant information was eventually disclosed to the applicant during the criminal trial, the Chamber concluded that the respondent Party fulfilled its positive obligation to secure respect for the applicant's rights protected by Article 8.

Article 13 of the Convention

The Chamber noted that the authorities of the Federation of Bosnia and Herzegovina did conduct an investigation and criminal proceedings into the killing of the Golubović family and that the applicant was afforded the opportunity to participate in the criminal proceedings as an injured party. During the trial all relevant information was eventually disclosed. The Chamber therefore decided that there had been no violation of Article 13.

Remedies

Since the Chamber found no violation of the applicant's rights protected by the Convention, the Chamber considered that no issue arose with respect to remedies.

Decision adopted 6 May 2002
Decision delivered 10 May 2002

Case Nos.:	CH/00/6444, CH/00/6506, CH/00/6511 and CH/00/6513
Applicants:	Neđo and Saveta TRKLJA, Envera-Vera ĐIKIĆ, Salko and Katarina OVČINA and Manojlo and Danica AVDALOVIĆ
Respondent Party:	Bosnia and Herzegovina
Date Delivered:	10 May 2002

DECISION ON ADMISSIBILITY AND MERITS

Factual background

The cases concern the attempts of seven applicants to regain possession of their apartments in the municipalities Mostar West ("Zapad") and Mostar Southwest ("Jugozapad"). All the applicants have lodged applications with the CRPC, which has issued decisions confirming their occupancy rights. However, the competent authorities have failed to execute those decisions.

Admissibility

As the applicants could not be required to exhaust any further domestic remedies, the Chamber declared the applications admissible.

Merits

Discrimination

On the basis of Article II paragraph 2(b) of the Human Rights Agreement the Chamber considered whether the applicants had suffered discrimination in the enjoyment of their rights. In the opinion of the Chamber the uncontested policy of the ruling Croat HDZ party to prevent minority returns and maintain the demographic "purity" of the three Croat majority municipalities in itself constituted a systematic pattern of discrimination against persons of Bosniak and Serb origin, including persons of mixed marriages. Accordingly, the Chamber concluded that the applicants had been discriminated against in the enjoyment of their rights under Articles 17 and 26 of the ICCPR and Articles 8 and 13 of the Convention and Article 1 of Protocol No. 1 to the Convention.

Article 8 of the Convention

Recalling *Blentić v. the Republika Srpska* and *Đ.M. v. the Federation of Bosnia and Herzegovina*, the Chamber stated that Article 8 may give rise to positive obligations, which are inherent in an effective respect for the rights which it guarantees, and that a fair balance must be struck between the general public interest and the interests of the people concerned. The Chamber found that the passivity shown by the municipal authorities in response to the applicants' various petitions to re-enter apartments which were indisputably theirs amounted to a lack of respect for their "home" within the meaning of Article 8 paragraph 1. In the opinion of the Chamber the respondent Party had made no attempt to justify this lack of respect. Nor could the Chamber find any such justification on its own motion. The Chamber therefore concluded that the applicants' rights under Article 8 had also been violated.

Article 1 of Protocol No. 1 to the Convention

The Chamber noted that positive obligations may include the provision of necessary assistance in the recovery of property by means of eviction. The Chamber was concerned with the failure of the authorities to protect the applicants against a continuing unlawful occupation of their possessions within the meaning of the first sentence of the first paragraph of Article 1. The Chamber found, for essentially the same reasons as it had given in relation to Article 8 of the Convention, that this failure of the authorities to assist the applicants in recovering their property also amounted to a breach of their rights under Article 1 of Protocol No. 1 to the Convention.

Article 13 of the Convention

Recalling *Galić v. the Federation of Bosnia and Herzegovina*, the Chamber stated that for Article 13 to apply it is not necessary for an applicant to show an actual violation of another one of his Convention rights. It is sufficient for an applicant that he has an arguable claim that such a violation has occurred. The Chamber further stated that the applicants clearly had arguable claims that their rights had been violated and that accordingly they were entitled to an effective remedy in respect of those claims. As the Chamber had already found that there had been no

sufficient response to the applicants' various claims and petitions to the administrative authorities, it followed that in this respect there had also been a violation of Article 13 in isolation.

Remedies

The Chamber ordered the Federation to reinstate the applicants into possession of their apartments immediately and in any event at the latest by 10 June 2002. Further, the Chamber ordered the respondent Party to pay the applicants sums varying from KM 6,800 to KM 7,200, as compensation for non-pecuniary damages and the loss of use of their home. In addition, the Chamber ordered the Federation to pay to the applicants in each registered case KM 200 for each further month that they remain excluded from their apartments as from May 2002 until the end of the month in which they are reinstated, each of these monthly payments to be made within 30 days from the end of the month to which they relate. Finally, the Chamber ordered the Federation to take all necessary measures to ensure the respect for and the implementation of Article 18f of the new Abandoned Property Law, which provides for criminal responsibility of administrative officials who do obstruct the return process.

Decision adopted 11 April 2002
Decision delivered 10 May 2002

DECISION ON REQUEST FOR REVIEW

The respondent Party submitted a request for review in which it argued that (a) the amount of compensation for non-pecuniary damages was not in accordance with the previous decisions of the Chamber; (b) the orders to compensate the applicants for loss of use of their homes were excessive; and (c) that the respondent Party was not responsible for the loss of the possession of their apartments and the damage caused to the applicants. The Chamber stated that the respondent Party had failed to give any grounds as to why the issues referred to in the request for review would raise "a serious question affecting the interpretation or application of the Agreement or a serious issue of general importance". As the request for review failed to meet the first of the two requirements set forth in Rule 64 paragraph 2 of its Rules of Procedure, the Chamber decided to reject the request for review.

Decision adopted 5 July 2002.

Case Nos.:	CH/00/4566, 4674, 5180, 5213, 5216 and 5593
Applicants:	Bajazid JUSIĆ, Adem ŠEHOVIĆ, Mustafa ŠUKILOVIĆ, Mehmed VELAGIĆ, Mehmedalija REDŽIĆ and Salih AJDAREVIĆ
Respondent Party:	Republika Srpska
Date Delivered:	7 June 2002

DECISION ON ADMISSIBILITY AND MERITS

Factual background

The applicants are citizens of Bosnia and Herzegovina of Bosniak origin. They are all pre-war occupancy right holders of apartments or owners of houses in the Municipality of Bijeljina in Republika Srpska. The cases concern the applicants' attempts to regain possession of their apartments or houses. All applicants have lodged applications to the CRPC, which has issued decisions confirming their occupancy rights or ownership as the case may be. However, the competent authorities have failed to execute those decisions.

Admissibility

Noting that the applicants had made repeated attempts to have the CRPC decision enforced and they had been unsuccessful, the Chamber was satisfied that the applicants could not be required to pursue any further remedy provided by domestic law, and declared the applications admissible.

Merits

Article 8 of the Convention

Noting that the applicants' apartments are their "homes" for the purposes of Article 8, the Chamber recalled that the CRPC had issued decisions confirming the applicants' right to repossess their apartments. The applicants were unable to regain possession of their apartments due to the failure of the authorities of the Republika Srpska to deal effectively with their requests for the enforcement of the CRPC decisions. The result of the inaction of the respondent Party was that the applicants could not return to their homes, and thus there was an ongoing interference with the applicants' right to respect for their homes. As the failure of the competent administrative organ to decide upon the applicants' requests was not "in accordance with the law," the Chamber found a violation of the applicants' rights under Article 8.

Article 1 of Protocol No. 1 to the Convention

Noting that the applicants' apartments constituted "possessions" for the purposes of Article 1 of Protocol No. 1, the Chamber considered that the failure of the authorities of the respondent Party to allow the applicants to regain possession of the apartments was an ongoing "interference" with the right to peaceful enjoyment of that possession. For the same reasons as given in its examination under Article 8, the Chamber found that this interference was contrary to the law, and thus that there was a violation of the right of the applicants under Article 1 of Protocol No. 1.

Articles 6 and 13 of the Convention

Considering that it had found violations of the applicants' rights under Article 8 and Article 1 of Protocol No. 1, the Chamber did not consider it necessary to examine the cases under Articles 6 and 13.

Remedies

The Chamber ordered the Republika Srpska to enable the applicants to regain possession of their apartments or houses without further delay and at the latest one month after the date on which the decision became final and binding. The Chamber further ordered the Republika Srpska to pay the applicants compensation for non-pecuniary damage, compensation for the loss of use of their homes, and compensation for each further month that they would remain excluded from their apartments or houses.

Decision adopted 10 May 2002
Decision delivered 7 June 2002

DECISION ON REQUEST FOR REVIEW

The respondent Party submitted a request for review arguing, *inter alia*, that the applications should have been declared inadmissible for non-exhaustion of domestic remedies; that the Chamber had failed to take into account the "chronological order" principle in the handling of property cases by the authorities; that the respondent Party was not responsible for any loss and that the amount of compensation was excessive.

The Chamber found that the request for review did not meet the conditions set out in Rule 64(2) of its Rules of Procedure and decided to reject the request for review.

Decision adopted 6 September 2002

Case No.:	CH/01/7248
Applicant:	"ORDO" - RTV "Sveti Georgije"
Respondent Party:	Bosnia and Herzegovina
Date Delivered:	5 July 2002

DECISION ON ADMISSIBILITY AND MERITS

Factual background

The applicant is a private radio and television station in Banja Luka in the Republika Srpska named "ORDO" - RTV "Sveti Georgije" ("RTV Sveti Georgije"). It obtained a provisional broadcasting license on 30 August 1999 from the Independent Media Commission, which was later succeeded by the Communications Regulatory Agency ("CRA"), both institutions established by decisions of the High Representative to regulate communications and the media.

On 7 May 2001, violent protests occurred in the city centre of Banja Luka which prevented the groundbreaking ceremony for the laying of the cornerstone to reconstruct the former Ferhadija mosque destroyed in 1993. On 8 May 2001, RTV Sveti Georgije broadcast a live call-in television programme concerning the events of the previous day. During this programme, numerous inappropriate statements were made against both the Islamic and international communities by viewers who called in. Many callers were outraged that the groundbreaking ceremony for reconstruction of the Ferhadija mosque was planned on St. George's Day, a major Orthodox religious holiday.

In response to the programme the CRA, in a decision of 17 May 2001, suspended the provisional broadcasting license of RTV Sveti Georgije. In that decision the CRA found that RTV Sveti Georgije violated applicable provisions of the Broadcasting Code of Practice and the Terms and Conditions of its license. The CRA concluded that, "the station has given a tendentious, partially incorrect and one-sided view of an important event in [Bosnia and Herzegovina]". Moreover, "the programme, through the failure of responsible editorial and management control, did not only denigrate the religious beliefs of others, but it also caused a considerable risk of public harm". Thereafter, when RTV Sveti Georgije violated the terms of its suspension, the CRA, in a decision of 27 July 2001, revoked RTV Sveti Georgije's provisional broadcasting license. After pursuing an appeal process within the CRA, those decisions became final and binding. In its application before the Chamber, RTV Sveti Georgije challenged the legality and validity of these decisions of the CRA on both substantive and procedural grounds.

Admissibility

Considering that the applicant had exhausted all available avenues for appeal before the CRA and considering that no Court of Bosnia and Herzegovina was functioning during the relevant time period and the deadline for filing such an appeal appears to have expired, the Chamber decided that the applicant had exhausted all effective remedies. The Chamber found that the CRA is an agency of Bosnia and Herzegovina and that Bosnia and Herzegovina is thereby responsible for its actions.

Merits

Article 10 of the Convention

The Chamber took particular note of the prevailing circumstances in Bosnia and Herzegovina and its status as a country seeking to promote the peace implementation process. It further noted that the programme was broadcast only one day after the extensive violent protests in the city centre of Banja Luka. The Chamber found that the programme, taken as a whole, objectively could be seen as inciting violence and as promoting religious and ethnic intolerance. Therefore, the CRA acted within its margin of appreciation when it determined that RTV Sveti Georgije had committed a breach of the applicable broadcasting Code of Practice, which warranted sanctions. The Chamber concluded that the CRA's suspension and later revocation of RTV Sveti Georgije's provisional broadcasting license was proportionate to the legitimate aims of protecting the rights of others, protecting public safety, and preventing disorder or crime. Thus, the Chamber determined that the interference with the applicant's freedom of expression was "prescribed by law", pursued a legitimate aim, and was "necessary in a democratic society", within the meaning of paragraph 2 of Article 10. Accordingly, the Chamber concluded that the respondent Party had not violated the applicant's rights guaranteed under Article 10.

Article 1 of Protocol No. 1 to the Convention

For the reasons explained above with respect to Article 10, the Chamber concluded that the respondent Party had not violated the rights of the applicant protected by Article 1 of Protocol No. 1 because the CRA's suspension and later revocation of the applicant's provisional broadcasting license were

"subject to the conditions provided by law" and "in the public interest". The CRA was acting to enforce laws "necessary to control the use of property" for the "general interest". In reaching this conclusion, it was not necessary for the Chamber to decide whether the applicant's provisional broadcasting license constituted a protected "possession" or "property", within the meaning of Article 1 of Protocol No. 1. Chamber expressly left this question open.

Article 6 of the Convention

The Chamber found that Bosnia and Herzegovina had violated the right of the applicant to a public hearing by an independent and impartial tribunal, as protected by paragraph 1 of Article 6. The Chamber concluded that the challenged proceedings before the CRA involving the suspension and revocation of the applicant's provisional broadcasting license had involved the determination of "civil rights and obligations"; therefore, Article 6 was applicable to those specific proceedings. The Chamber further concluded that the CRA was "established by law", but considered the CRA not an "independent and impartial tribunal", and it did not provide a "public hearing", within the meaning of paragraph 1 of Article 6. The Chamber highlighted, however, that if there had been a court (i.e., the Court of Bosnia and Herzegovina) which had had proper procedural guarantees, had functioned during the relevant time period in Bosnia and Herzegovina, and could have decided upon an appeal filed against the challenged final administrative decisions of the CRA, then the Chamber would have been satisfied that the CRA, as an administrative body, had acted within the scope of its competence and its proceedings had been entirely proper and fair.

Article 13 of the Convention

Taking into consideration its conclusion that the respondent Party had violated the applicant's rights protected by Article 6 of the Convention, the Chamber decided that it was not necessary to examine the application under Article 13 of the Convention, as the requirements of Article 13 are less strict than, and in the context of this case were absorbed by, the requirements of paragraph 1 of Article 6.

Dissenting/Concurring Opinions

In his concurring opinion Mr. Andrew Grotrian added some further thoughts to the Chamber's reasoning that the challenged proceedings before the CRA involved the determination of the applicant's "civil rights and obligations" within the meaning of Article 6 paragraph 1 of the Convention, and that Article 6 was therefore applicable to those proceedings. Furthermore he pointed out that it does not necessarily follow from the Chamber's decision that Article 6 would apply to other functions of the CRA, such as the allocation of licences.

Mme. MichŁle Picard attached a concurring opinion, joined by Mr. Andrew Grotrian, in which she states that she found the reasoning of the majority not very clear. In her opinion, it is the whole system that lacks the appearance of independence and impartiality. She argued that the confusion of powers in the same organ was sufficient to give the whole institution an appearance of partiality.

Mr. Manfred Nowak argued in his partly dissenting opinion, joined by Mr. Dietrich Rauschning, that the provisional license did not grant any civil right. Consequently, Article 6 was not applicable in the proceedings regarding the granting or the revocation of both provisional and long-term broadcasting licenses. He also explained why he disagreed with the reasoning of the majority that the CRA did not qualify as an independent and impartial tribunal as required by Article 6 (if this provision was deemed to be applicable).

Mr. Miodrag Pajić attached a dissenting opinion, in which he concluded that there was a violation of Article 10 of the Convention. He did not find the revocation of the provisional license by the CRA proportionate to the pursuit of the legitimate aim of protecting the rights of others nor to the purpose of protecting the public safety. In addition he found that the provisional license constituted a "possession" protected by Article 1 of Protocol No. 1 to the Convention and found a violation of this article. Lastly, he could not agree that the sole finding of a violation of human rights guaranteed by Article 6 of the Convention was sufficient satisfaction.

Mr. Vitomir Popović reasoned in his dissenting opinion that the Chamber should have issued a decision finding a violation of Article 10 of the Convention, and, moreover, should have earlier issued an order for provisional measures to render out of force the CRA's suspension and later revocation of the applicant's provisional broadcasting license. With respect to the ordered remedy he concluded that the finding of a violation of paragraph 1 of Article 6 of the Convention was manifestly disproportionate to the established violation.

Decision adopted 3 June 2002
Decision delivered 5 July 2002

Case No.:	CH/01/7488
Applicant:	Vlatko BUZUK
Respondent Party:	Federation of Bosnia and Herzegovina
Date Delivered:	5 July 2002

DECISION ON ADMISSIBILITY AND MERITS

Factual background

The applicant is a citizen of Bosnia and Herzegovina of Croat origin. During the armed conflict he was a member of the Croatian Defence Council for Kreševo. On 1 September 2000 he was arrested for offences of genocide and war crimes against the civilian population. The indictment against him alleged that during 1993 he had participated in the ethnic cleansing, frightening, persecution, maltreatment, robbery of property, forced labour of citizens, hostage taking and illegal imprisonment of Bosniaks. He was held on remand until 17 January 2002 whereupon he was acquitted of all charges and released.

Admissibility

The Chamber declared the application inadmissible as manifestly ill-founded in relation to the complaints under Articles 7 and 17 of the Convention, Article 2 of Protocol No. 7 to the Convention, and in relation to alleged discrimination.

Regarding Article 7 of the Convention (*nullum crimen sine lege, nulla poena sine lege*) the Chamber noted that the acts on account of which the applicant was tried constituted criminal offences under national law and furthermore, the applicant was acquitted of all charges.

With regard to Article 17 of the Convention (misuse of power) the Chamber found that the applicant failed to substantiate the allegations of misuse of power.

Regarding the right to appeal in criminal matters under Article 2 of Protocol No. 7 to the Convention, the Chamber noted that the applicant was acquitted of all charges.

Regarding the discrimination complaint the Chamber found that the facts of this case did not indicate that the applicant has been the victim of discrimination on any of the grounds set forth in Article II paragraph 2(b) of the Agreement.

As to the complaint that there had been violations of the applicant's rights under the Universal Declaration of Human Rights, the Chamber concluded that it was not competent to consider allegations of violations of provisions of the Universal Declaration of Human Rights. It followed that this part of the application was incompatible *ratione materiae* with the provisions of the Human Rights Agreement.

The Chamber found that no other ground for declaring the case inadmissible had been established. Accordingly, the Chamber declared the part of the application concerning alleged violations of Articles 5, 6, 9 and 13 of the Convention admissible.

Merits

Article 5 of the Convention

The Chamber found that the applicant's detention was lawful as complying with the six-month rule under domestic law (concerning the length of pre-trial detention prior to indictment) and found it lawful as complying with the Rules of the Road since the respondent Party was acting under the authority of the ICTY Prosecutor. Therefore, the Chamber concluded that there has been no violation of Article 5 paragraph 1.

Regarding the alleged violation of Article 5 paragraph 2, the Chamber found that the applicant was furnished with the relevant information to challenge the lawfulness of his detention. Therefore, the Chamber found that for the period from the applicant's arrest until he was charged, there had been no violation.

The Chamber further found that the investigative judge was not a "judge or other officer authorised by law to exercise judicial power" within the meaning of Article 5 paragraph 3 and that the length of the applicant's detention from 1 September 2000 until his release on 17 January 2002 exceeded the limits of reasonableness. Consequently, the Chamber concluded that the respondent Party violated the applicant's rights as guaranteed by Article 5, paragraph 3.

Article 6 of the Convention

With regard to Article 6, paragraph 1 the Chamber found that there had been no violation of the reasonable time requirement. However, the Chamber found that the investigating judge's disregard for the provisions of the Code of Criminal Procedure and his refusal of the applicant's request to be given the opportunity to prove his innocence at the pre-trial stage violated the principle of equality of arms under Article 6, paragraph 1. This violation as to the fairness at the pre-trial stage had not been sufficiently remedied by the applicant's acquittal.

With regard to Article 6, paragraph 3(a) the Chamber found that the applicant had failed to show any grounds for a violation. The Chamber found that the indictment of 16 May 2001 was sufficiently clear and detailed in nature to permit the applicant to prepare a defence to the charges that he was subsequently acquitted of.

Article 9 of the Convention

The applicant complained that his right to freedom of religion had been violated by a refusal to allow him access to a Catholic priest of his own choosing during the Easter Holidays in the year 2001. The Chamber found that the obligation on the respondent Party was to provide the applicant with a Catholic priest and not to impose restrictions contrary to Article 9, paragraph 2. It concluded that there is no right under the Convention to be given access to a priest of one's own choosing. The Chamber therefore found that the interference with the applicant's rights was proportionate to the aims pursued and therefore not a violation of the applicant's right of freedom to manifest his religion under Article 9.

Article 13 of the Convention

Due to the finding of violations under Articles 5 and 6 of the Convention, the Chamber considered it unnecessary to separately examine the complaint under Article 13.

Remedies

The Chamber ordered the Federation of Bosnia and Herzegovina to pay to the applicant the sum of KM 5,000 by way of compensation for non-pecuniary damages and the sum of KM 1,800 by way of compensation for legal costs and expenses.

Decision adopted 3 July 2002
Decision delivered 5 July 2002

Case Nos.:	CH/97/104, CH/97/106, CH/97/107, CH/98/374, CH/98/386, CH/99/2997, and CH/00/4358
Applicants:	Brankica TODOROVIĆ, Smaila HODŽIĆ, Azra HADŽIĆ, Remsa MULALIĆ-PAPO, Žanka ILIĆ, Milenko VIŠNJEVAC and Mihailo JANKOVIĆ
Respondent Parties:	Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina
Date Delivered:	11 October 2002

DECISION ON ADMISSIBILITY AND MERITS

Factual background

The applicants are citizens of Bosnia and Herzegovina. Before the dissolution of the Socialist Federal Republic of Yugoslavia, they deposited foreign currency with commercial banks in that country. Because of a growing shortage of such currency and other economic problems, the withdrawal of money from these "old" foreign currency savings accounts was progressively restricted by legislation enacted during the 1980s and early 1990s.

Following the war in Bosnia and Herzegovina, the applicants' requests to withdraw money from their foreign currency savings accounts were all rejected, either without stated reasons or with reference to legislation enacted by the SFRY, the Republic of Bosnia and Herzegovina, or the Federation of Bosnia and Herzegovina. Some of the applicants initiated court proceedings to obtain access to their foreign currency savings, but these actions have all been unsuccessful so far. Although one applicant did obtain a judgement in his favour, he was subsequently informed by the Minister of Finance of the Federation of Bosnia and Herzegovina that the judgement could not be enforced.

According to legislation enacted by the Federation of Bosnia and Herzegovina in 1997 and 1998, in particular the Law on Determination and Settlement of Citizen's Claims in the privatisation Process, claims based on the old foreign currency savings accounts were to be resolved in the process of privatisation of socially and publicly owned property. Under this law, the Federation issued certificates that could be used in the privatisation process to purchase apartments, municipal business premises, shares of enterprises, or other assets. This procedure was designed to settle citizen's claims in a way that would protect the public debt payment system and the banking system from collapse.

On 9 June 2000, in case no. CH/97/48 et al., *Poropat and Others v. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina*, involving similarly situated applicants, the Chamber previously decided that, with regard to frozen foreign currency savings accounts, Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina had violated the applicants' rights to peaceful enjoyment of their possessions under Article 1 of Protocol No. 1 to the European Convention on Human Rights. The Chamber ordered, among other remedies, that the Federation of Bosnia and Herzegovina should "amend the privatisation programme so as to achieve a fair balance between the general interest and the protection of the property rights of the applicants as holders of old foreign currency savings accounts."

Between 2 November 2000 and 8 February 2002, the Federation amended various provisions of the Citizens' Claims Law in an effort to comply with the Chamber's order in *Poropat and Others*. On 8 January 2001, the Constitutional Court of the Federation of Bosnia and Herzegovina determined that Articles 3, 7, 11, and 18 of the Citizens' Claims Law -provisions essential to the scheme of conversion of old foreign currency savings into certificates -were not in accordance with the Constitution of Bosnia and Herzegovina.

The applicants complained that their right to peaceful enjoyment of their possessions, as guaranteed by Article 1 of Protocol No. 1 to the European Convention on Human Rights, and their right to a fair hearing within a reasonable time before an independent and impartial tribunal, as guaranteed by Article 6 of the Convention, had been violated.

Admissibility

The Chamber held that the applications were admissible against Bosnia and Herzegovina insofar as they related to Article of Protocol No. 1 to the Convention, but declared the complaints as directed against Bosnia and Herzegovina concerning the lack of access to the courts as guaranteed by Article 6 of the Convention inadmissible *ratione personae.* The Chamber held that it was competent *ratione personae* to consider the applications against the Federation in their entirety.

Having regard to the attempts by the applicants to achieve redress through the court system, the Chamber considered that there were no effective remedies available that the applicants should be required to exhaust. Additionally, the failure of Ms. Mulalić-Papo, Ms. Ilić, and Mr. Janković to initiate proceedings, and the withdrawal by Ms. Hodžić of her action, do not preclude the Chamber from examining their applications.

The respondent Parties raised the objection *res judicata* as the claims were substantially the same as a matter which had already been examined by the Chamber. The Chamber concluded that its decision in *Poropat and Others* did not involve any of the present applicants; thus, the principle of *res judicata* could not attach to it. Additionally, the Chamber considered that the current state of the law affecting old foreign currency savings, following the decision of the Federation Constitutional Court, raised new issues that have neither been considered nor resolved by the Chamber.

Finally, the Chamber considered whether the application in respect of Mr. Višnjevac was inadmissible under the six-month rule. The Chamber concluded that as the alleged violation consists of a continuing situation, the six-month limit can have no application until the situation comes to an end, which it has not.

Merits

The Chamber recognized the Federation of Bosnia and Herzegovina's amendments to the relevant laws in an effort to comply with the Chamber's earlier decision in *Poropat and Others.* However, due to the 8 January 2001 decision of the Federation Constitutional Court declaring some of these laws unconstitutional, the continued application of the laws, the lack of a legislative response, and the apparent unavailability of relief in the domestic courts, the Chamber found a state of legal uncertainty causing an ongoing interference with the applicants' property rights. While noting that the Federation's legislative measures had been pursued in accordance with the general interest, the Chamber found no justification for the respondent Parties' failure to address the prevailing legal uncertainty and the resulting interference with the applicants' property rights. The current situation places a disproportionate burden on individual account holders, and the Federation of Bosnia and Herzegovina has therefore violated the applicants' rights guaranteed by Article 1 of Protocol No. 1 to the Convention. Because of its general responsibility for issues related to old foreign currency savings, the Chamber also found a violation of Article 1 of Protocol No. 1 to the Convention by Bosnia and Herzegovina.

The Chamber also found a violation of Article 6 of the Convention by the Federation of Bosnia and Herzegovina because of the *de facto* denial of access to court to the applicants. In the case of Milenko Višnjevac, the Chamber found a specific violation of Article 6 of the Convention for the Federation's failure to enforce the applicant's valid court judgment.

Remedies

The Chamber ordered the Federation of Bosnia and Herzegovina to remove the prevailing legal uncertainty surrounding old foreign currency savings accounts by enacting, within six months from the date of delivery of its decision, relevant and binding laws or regulations that clearly address this problem in a manner compatible with Article 1 of Protocol No. 1 to the Convention, as interpreted in the Chamber's decision in *Poropat and Others* and the present decision. The actual method of resolving the situation and eliminating the prevailing legal uncertainty shall be determined by the Federation. The Chamber also reserved the right to order additional remedies in these cases six months after the date of its decision.

Decision adopted 7 October 2002
Decision delivered 11 October 2002

Case Nos.:	CH/02/8679, CH/02/8689, CH/02/8690 and CH/02/8691
Applicants:	Hadž BOUDELLAA, Boumediene LAKHDAR, Mohamed NECHLE and Saber LAHMAR
Respondent Parties:	Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina
Date Delivered:	11 October 2002

DECISION ON ADMISSIBILITY AND MERITS

Factual background

The applicants Boudellaa, Lakhdar, and Nechle obtained citizenship of Bosnia and Herzegovina and of the Federation of Bosnia and Herzegovina on 2 January 1995, 20 December 1997, and 25 August 1995, respectively. The applicant Lahmar was granted a permit for permanent residence in Bosnia and Herzegovina on 4 April 1997. In October 2001 the applicants were arrested and taken into custody on the suspicion of having planned a terrorist attack on the Embassies of the United States and the United Kingdom in Sarajevo. In November 2001 the Federal Ministry of Interior issued decisions revoking the citizenship of Bosnia and Herzegovina and of the Federation of Bosnia and Herzegovina of the applicants Boudellaa, Lakhdar and Nechle. They initiated an administrative dispute before the Supreme Court of the Federation against these decisions. The proceedings were still pending at the time of adoption of the Chamber's decisions. Also in November 2001 the Ministry of Human Rights and Refugees issued a decision terminating the permit for permanent residence of the applicant Lahmar in Bosnia and Herzegovina and banishing him from the country for a period of ten years. The applicant Lahmar appealed against this decision. The appeal was still pending at the time of adoption of the Chamber's decision. On 17 January 2002 the applicants were ordered to be released from pre-trial detention. However, instead of being released, they were immediately taken into the custody of the Federation Police, and the following day they were handed over to the military forces of the United States of America based in Bosnia and Herzegovina as part of the NATO led Stabilization Forces ("SFOR"). At that time, the applicants Boudellaa, Lakhdar and Nechle received decisions on "refusal of entry" ordering them to leave the territory of Bosnia and Herzegovina immediately. Within hours, they were transferred to the U.S. military detention facility at Guantanamo Bay, Cuba.

The expulsion of the applicants raised issues under Article 1 of Protocol No. 7 to the European Convention on Human Rights, which provides for procedural safeguards in relation to the expulsion of aliens. In case that the applicants were still to be considered citizens of Bosnia and Herzegovina the cases raise issues under Article 3 of Protocol No. 4 to the Convention which prohibits the expulsion of nationals. The cases also raised issues under Article 5 and 8 of the Convention.

The delivery of the applicants to U.S. authorities and their subsequent detention in Guantanamo Bay, Cuba, might give rise to a violation of Article 3, the prohibition of torture or inhuman or degrading treatment, to a violation of Article 1 of Protocol No. 6 to the Convention which contains the abolition of the death penalty, and to a violation of Article 6 of the Convention as the applicants claimed that any trial that they may face by U.S. authorities might not be a fair trial.

Admissibility

Bosnia and Herzegovina raised the objection that it could not be considered a respondent Party as the applications were directed solely against the Federation and that it could not be held responsible for possible violations in the present cases. The Chamber held that in accordance with its previous jurisprudence, recalling *Zahirović v. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina,* it was not precluded from examining the potential responsibility of Bosnia and Herzegovina for the events complained of, as it is not restricted by the applicants' choice of respondent Party.

As regards exhaustion of domestic remedies, the Chamber held that the applicants had complied with their requirement to make normal use of effective domestic remedies. However, as regards the applicants' complaints concerning the right to have one's status as a citizen determined within a reasonable time, the Chamber declared this complaint inadmissible *ratione materiae* as it is not a right which is included among the rights and freedoms guaranteed under the Agreement.

The Chamber declared the remainder of the applications admissible.

Merits

Article 1 of Protocol No. 7 to the Convention

The Chamber found with respect to the expulsion of all four applicants that both respondent Parties failed to act in accordance with the domestic laws