PRESS RELEASE
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Human Rights Chamber Delivers 13 Decisions on Admissibility and Merits

On **Friday, 10 October 2003 at 9:00 a.m.** in the Cantonal Court building, Šenoina St. 1, Sarajevo, the Human Rights Chamber for Bosnia and Herzegovina delivered the following 13 decisions on admissibility and merits. A summary of each decision follows:

1. CH/98/420, CH/00/5893, CH/02/9315 and CH/02/9852 Azra KUGIĆ, Đulan IVAZOVIĆ, Drago RADOVANOVIĆ and M.M. v. Bosnia and Herzegovina and the Republika Srpska
2. CH/01/9601 G.K. v. Bosnia and Herzegovina, the Republika Srpska and the Federation of Bosnia and Herzegovina
3. CH/99/2315 Suada HADŽISAKOVIĆ v. the Republika Srpska
4. CH/02/12427 Dominik ILIJAŠEVIĆ v. the Federation of Bosnia and Herzegovina
5. CH/02/12016 Enes ČENGIĆ v. the Republika Srpska
6. CH/01/8582 M.J. v. the Federation of Bosnia and Herzegovina
7. CH/02/9834 Miloš ERBEZ v. the Republika Srpska
8. CH/99/1757 Đurđica SEKULIĆ v. the Federation of Bosnia and Herzegovina
9. CH/01/8121 Milan JANKOVIĆ v. the Republika Srpska
10. CH/99/2627 Fehim JUSUFOVIĆ v. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina
11. CH/98/1297 D.B. and J.B. v. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina
12. CH/02/8953 Muhamed HALILOVIĆ v. Bosnia and Herzegovina and the Republika Srpska
13. CH/99/2289 M.G. v. the Federation of Bosnia and Herzegovina

CH/98/420, CH/00/5893, CH/02/9315 and CH/02/9852 Azra KUGIĆ, Đulan IVAZOVIĆ, Drago RADOVANOVIĆ and M.M. v. Bosnia and Herzegovina and the Republika Srpska

Factual background
The decision involves four applicants who are holders of so-called "frozen" old foreign currency savings accounts at bank branches located in what is now the Republika Srpska, and they have been unable to obtain money from these accounts.

Pursuant to privatisation legislation, in particular the Law on Privatisation of State Capital in Enterprises and the Law on Opening Balance Sheets in the Process of Privatisation of State Capital in Banks, liability for citizens' old foreign currency savings was transferred from the banks to the Republika Srpska government, and claims based on those savings were to be resolved in the process of privatisation of state owned property. Under this system, citizens may convert their old foreign currency savings into privatisation coupons which may be used to purchase shares of state-owned companies. Alternatively, old foreign currency savings may be converted into certificates which may be used for up to 60 percent of the purchase price to purchase state-owned apartments by occupancy right holders. This system has been designed to settle old foreign currency savings claims while protecting the banks and the general Republika Srpska economy from bankruptcy. Participation by old foreign currency savings holders is purely voluntary.

A legal secondary market exists in which holders of old foreign currency savings can transfer them to coupons in the privatisation process and then sell them at between approximately 40 to 60 percent of their nominal value. The secondary market is not administered by the Republika Srpska, nor does its Directorate for Privatisation advise old foreign currency savers regarding such transactions.

Participation in the Republika Srpska privatisation process is presently only available to citizens of the Republika Srpska. One of the applicants, the late Đulan Ivazović, was not a citizen of the Republika Srpska.

Only one of the applicants has participated in the privatisation process by using one portion of her old foreign currency savings to purchase a state-owned apartment and selling another portion as privatisation coupons on the "secondary market". The applicants generally desire to have access to their old foreign currency savings as cash, but their attempts to get money from their accounts have been unsuccessful.

The Republika Srpska Law on Postponement, presently in force, prohibits the enforcement of any court judgement involving disbursement of old foreign currency savings deposits.

The amount of old foreign currency savings in the Republika Srpska is approximately KM 1.7 billion — equal to half of the Republika Srpska's gross domestic product and more than one and one-half times the Republika Srpska's annual budget.

Alleged violations of human rights

The applications raise issues in regard to the applicants' right to peaceful enjoyment of their possessions under Article 1 of Protocol No. 1 to the European Convention on Human Rights, as well as discrimination in the enjoyment of that right.

Findings of the Chamber

The Chamber found that the applicants' inability to access cash from their old foreign currency savings or to obtain relief through the court system constituted an interference with their property rights. The Chamber found, however, that a legal basis for the interference existed in the legislation enacted by the Republika Srpska, and that the purpose of the interference — to administer citizens' property claims in a manner designed to protect the economy and the banking system from collapse — served a beneficial purpose that was in the general interest.

The Chamber went on to consider whether the program in the Republika Srpska strikes a fair balance between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights. In so doing, the Chamber recognised that the Republika Srpska enjoys a wide margin of appreciation in determining what is in the general interest in such a complex matter.

The Chamber noted several positive aspects of the Republika Srpska privatisation process as it relates to old foreign currency savers: (1) the program is voluntary; (2) there is little risk of expiration of coupons; and (3) the existence of a secondary market allows savers to obtain cash. The Chamber also noted some potentially negative aspects of the program: (1) persons with small amounts of savings might have difficulty participating, particularly in privatisation of large businesses; (2) cash deposit requirements might also hinder participation; (3) the occupancy right requirement for purchasing an apartment excludes many savers; and (4) the law completely excludes participation by persons who are not citizens of the Republika Srpska.

Having regard to these considerations, the Chamber considered each application individually. The Chamber found no violation in the case of the three applicants who are citizens of the Republika Srpska. In the fourth case, the Chamber noted that neither the applicant, now deceased, nor his son, who has taken over the application before the Chamber, were citizens of the Republika Srpska. As such, under Articles 19 and 20 of the Republika Srpska Law on Privatisation of State Capital in Enterprises, the applicant is currently excluded from participation in the privatisation process. Nor does the applicant hold an occupancy right over an apartment in the Republika Srpska. In these

circumstances, the applicant's son has no possibility of realising any rights in his old foreign currency savings. Thus, the Chamber concluded that that the Republika Srpska had failed to strike a fair balance between the general interest and the applicant's individual rights in this case and therefore violated the applicant's right to peaceful enjoyment of his possessions under Article 1 of Protocol No. 1 to the Convention. The Chamber also concluded that the Republika Srpska had discriminated against the applicant in the enjoyment of his property rights.

The Chamber also considered whether Bosnia and Herzegovina violated the applicants' rights and found that, by failing to take adequate action regarding old foreign currency savings, Bosnia and Herzegovina had interfered with the applicants' property rights. In three cases, the Chamber found that, on balance, Bosnia and Herzegovina had not failed to secure the applicants' rights under Article 1 of Protocol No. 1 to the Convention.

In the case of Đulan Ivazović (CH/00/5893), the Chamber found that the limitations against non-citizens in the Republika Srpska privatisation process operated to deny rights to persons displaced from the Republika Srpska and therefore were not in accordance with Bosnia and Herzegovina's Framework Law on Privatisation of Enterprises and Banks, which requires that Entity laws be non-discriminatory. The Chamber concluded that these circumstances implicated Bosnia and Herzegovina's obligation to secure the applicant's property rights, and its failure to take adequate action provided no justification for the interference with the applicant's property rights. Thus, Bosnia and Herzegovina had violated applicant's rights under Article 1 of Protocol No. 1 to the Convention.

Remedies
In the case of Đulan Ivazović (CH/00/5893), the Chamber ordered the Republika Srpska to take all necessary legislative and administrative actions, within six months from the date of delivery of its decision, to ensure that the applicant, as a non-citizen of the Republika Srpska, is no longer discriminated against in his enjoyment of the rights guaranteed by Article 1 of Protocol No. 1 to the Convention. In particular, the Republika Srpska shall ensure that the applicant enjoys the same rights and options as the other applicants, who are citizens of the Republika Srpska, with regard to his old foreign currency savings.

CH/01/9601 G.K. v. Bosnia and Herzegovina, the Republika Srpska and the Federation of Bosnia and Herzegovina

Factual background
The case concerns the question whether the applicant is obliged to do military service in the Army of the Federation of Bosnia and Herzegovina.

The applicant and his family were detained in a concentration camp in Kula near Sarajevo in the Republika Srpksa for an unspecified time during the war. From January 1995 to March 1996 he was allegedly forced to do compulsory work for the benefit of the military forces of the Republika Srpska. In that time he was not allowed to carry weapons but under the supervision of armed soldiers he had to do labour, e.g. carrying heavy items, carrying wood to the front lines, or removing construction materials from destroyed houses. Since the end of the war the applicant has been involved in voluntary work with various Non Governmental Organisations ("NGOs"). As a consequence of his experiences during the war the applicant feels that as a matter of conscience he cannot accept to do military service at present and be obliged to use weapons. He alleges that his right to be recognised as a conscientious objector is violated. However, he never applied to the competent authority for conscientious objector status. He further claims that his engagement with the forces of the Army of the Republika Srpska and his voluntary work should be taken into account as equivalent to military service so that he is not obliged to do any service whether military or alternative/civilian service again.

Alleged violations of human rights
The applicant alleges a violation of his right to freedom of thought, conscience and religion as protected under Article 9 of the European Convention on Human Rights because his right to perform civilian service instead of military service has not been recognised. He further alleges that he was violated in his right to an effective remedy, because the procedure established in the law of the

Federation of Bosnia and Herzegovina to recognise someone to be a conscientious objector, and in particular the Commission for Civilian Service, were not operational in practise at the relevant time when, in accordance with the law, the applicant should have applied to be recognised as a conscientious objector.

The applicant also alleges a violation of his right under Article 4 of the Convention with regard to the fact that from January 1995 to March 1996 he was forced to work for the armed forces in the Republika Srpska while being supervised by armed soldiers.

In addition, the Chamber, on its own motion, found that there is an apparent issue of discrimination. If compulsory work performed during the war in the Republika Srpska and compulsory work performed during the war in the Federation of Bosnia and Herzegovina for the benefits of the respective Armies are recognised differently when assessing whether someone must perform military service in the Army of the Federation of Bosnia and Herzegovina in the future, an issue might arise as to whether such treatment is discriminatory.

Findings of the Chamber
The Chamber declared the application inadmissible against the Republika Srpska and Bosnia and Herzegovina.

The Chamber also declared the applicant's complaints relating to the refusal of the Federation Ministry of Defence to recognise him as a conscientious objector inadmissible, as the applicant never properly applied to the competent Commission of the Ministry.

The Chamber explained that Article 4 of the Convention prohibiting forced labour expressly states that military service and civilian service required instead of military service do not constitute "forced labour" for the purposes of the Convention. However, in accordance with the jurisprudence of the Strasbourg Court, this does not mean that a complaint of discrimination with respect to military service cannot be considered as discrimination in the right not to be subjected to forced labour.

The Chamber then considered whether the refusal of the Federation authorities to take into account that the applicant had been subject to compulsory work amounted to discrimination with regard to the prohibition of forced labour. The Chamber found that the involvement of young men during the 1992-1995 armed conflict, including the applicant's involvement, no matter whether they were engaged in strictly military activities carrying weapons or forced to support the armed forces in compulsory work units, must be taken into account when deciding whether to call these men again to do military service. The Chamber further found that it should not make any difference whether work units were set up by the municipalities or by the armed forces themselves, as long as the activities carried out by such units are comparable and directly benefited the armed forces. Nor should it make any difference whether compulsory work was performed on the territory of the Republika Srpska or in the Federation. The Chamber found that the Federation of Bosnia and Herzegovina subjected the applicant to differential treatment when they registered him in the military records in order to be called for military service with the Army without taking his pervious engagement in the Republika Srpska into consideration. The Chamber further found that the differential treatment did not pursue a legitimate aim and therefore constitutes an unjustified discrimination of the applicant's right under Article 4 of the Convention.

Remedies
As a remedy the Chamber ordered the Federation of Bosnia and Herzegovina not to call the applicant for compulsory military or civilian service in the future.

CH/99/2315 Suada HADŽISAKOVIĆ v. the Republika Srpska

Factual background
This case concerns the attempts of the applicant, a woman of Bosniak origin, to gain protection from the authorities of the Republika Srpska after she was forcibly and illegally expelled from her pre-war apartment in Banja Luka by a military police officer of the Republika Srpska on 15 September 1995. In response to her myriad requests for protection, including to the local police and the courts, the

authorities of the Republika Srpska took little action. In the end, whilst she regained possession of her pre-war apartment, she was deprived of all her moveable property left in her apartment.

Finally, on 25 September 2000, the First Instance Court in Banja Luka issued a judgment in the applicant's favour awarding her compensation for her alienated moveable property. However, then the applicant learned that the defendant, the illegal occupant of her apartment, had no adequate property for an inventory and auction from which the applicant could gain payment of the judgment. To date none of the applicant's moveable property has been returned to her, she has received no compensation for it, and the authorities of the Republika Srpska have not pursued criminal proceedings against the illegal occupant, whom the civil court declared responsible for alienating her moveable property.

Alleged violations of human rights

The applicant alleges violations of her rights in connection with her forcible eviction from her pre-war apartment. With respect to the loss of her moveable property from her pre-war apartment, the applicant complains in particular about the excessively long period of time her proceedings to recover her moveable property or to obtain compensation for such damage have been pending before the domestic courts. She further complains about the loss of her moveable property. The applicant alleges primarily a violation of her right to peaceful enjoyment of possessions (Article 1 of Protocol No. 1 to the European Convention on Human Rights).

Findings of the Chamber

The Chamber declared admissible the part of the application alleging the respondent Party's failure to secure protection for the applicant's peaceful enjoyment of her moveable property left in her pre-war apartment after 14 December 1995. The Chamber noted that the applicant had pursued every available avenue for protection of her moveable property left in her pre-war apartment. She complained to the local police; she prepared a verified inventory list of her moveable property; she asked the First Instance Court to make an inventory list of her moveable property; she initiated a lawsuit before the First Instance Court seeking a provisional measure and a judgment requiring the illegal occupant of her apartment to return her moveable property; after she was reinstated into her pre-war apartment, she initiated a second lawsuit seeking compensation for her alienated moveable property; she sought enforcement of the judgment against the illegal occupant; and finally, she pursued criminal charges against the illegal occupant. However, despite all these actions, to date the applicant has been deprived of all of her moveable property in the absence of any compensation.

The Chamber noted that there is no dispute that the illegal occupant removed all the applicant's moveable property, as this fact was established by the First Instance Court in its judgment of 25 September 2000 in the applicant's favour. However, the Chamber found that the sum total of the pattern of passivity and delays by the authorities of the Republika Srpska in the exercise of public responsibility to secure protection for the applicant's moveable property constituted an interference by the authorities with her protected possessions. Had the authorities properly carried out their positive obligations, as also set forth in legislation of the Republika Srpska, the illegal occupant would not have been able to so effectively deprive the applicant of all her moveable property, as well as her right to compensation. The illegal occupant's position as a military police officer of the Republika Srpska at the time of the events in question stands out as an aggravating factor in the passivity of the authorities of the Republika Srpska. Moreover, in the Chamber's view, the total failure of the authorities of the Republika Srpska to protect the applicant from brutality and abuse against her property inflicted by the illegal occupant, as well as to act upon her numerous requests for protection, served only to harm the public interest and to contribute to an atmosphere of distrust, criminality and terror. As a result, the Chamber found that the respondent Party failed to comply with its positive obligation to secure protection for the applicant's moveable property after 14 December 1995, thereby violating her rights protected by Article 1 of Protocol No. 1 to the Convention

Remedies
The Chamber ordered the Republika Srpska to pay to the applicant the compensation awarded to her in the final and binding judgment of the First Instance Court in Banja Luka of 25 September 2000, including the legal interest stated therein, by way of compensation for pecuniary damages for the loss of her moveable property. In addition, in recognition of the sense of injustice the applicant has suffered as a result of her inability to obtain protection for her moveable property from the authorities of the Republika Srpska, the Chamber ordered the respondent Party to pay her 2,000 KM by way of compensation for non-pecuniary damages.

CH/02/12427 Dominik ILIJAŠEVIĆ v. the Federation of Bosnia and Herzegovina

Factual background
The applicant is a citizen of Bosnia and Herzegovina of Croat origin. The applicant is charged with committing war crimes against the civilian population under Article 154 paragraph 1 of the Criminal Code of the Federation of Bosnia and Herzegovina. On 9 August 2000, the investigative judge of the Cantonal Court in Zenica issued a procedural decision ordering the pre-trial detention of the applicant on suspicion of committing the criminal offence with which he is charged. The applicant was arrested and initially detained on 28 August 2000. The investigation against the applicant before the Cantonal Court in Zenica lasted 6 months. The trial should have started in February 2001, but due to the unexpected illness of the presiding judge, it was indefinitely postponed. On 9 March 2001, the applicant was jointly indicted, along with five named others, to stand trial before the Cantonal Court in Sarajevo on suspicion of having been involved in the criminal act of terrorism under Article 146 paragraphs 1 and 3 of the Criminal Code of the Federation of Bosnia and Herzegovina concerning the murder of Jozo Leutar, the former Deputy Minister of Interior of the Federation of Bosnia and Herzegovina. The applicant's trial before the Cantonal Court in Sarajevo commenced on 7 June 2001 and lasted until 12 November 2002, whereupon he was acquitted. The applicant's acquittal by the Cantonal Court in Sarajevo is not a final decision and is currently under appeal before the Supreme Court of the Federation of Bosnia and Herzegovina. During the period of the applicant's trial before the Cantonal Court in Sarajevo, the procedure relating to the prosecution of war crimes before the Cantonal Court in Zenica was stayed. The trial before the Cantonal Court in Zenica recommenced on 16 December 2002, and on 7 February 2003, the applicant was released on bail. As of the date of this decision, the applicant's trial before the Cantonal Court in Zenica remains pending.

Alleged violations of human rights
The case raises issues under Article 5 paragraph 1(c) (lawfulness of detention), Article 5 paragraph 3 (right to be brought promptly before a judge or other officer authorised by law to exercise judicial power and reasonable length of detention) and Article 5 paragraph 4 (the right to judicial review of the lawfulness of detention) of the European Convention on Human Rights.

Findings of the Chamber
The Chamber found that the applicant's detention had been in accordance with domestic law. However, from 28 August 2000 until the issuance of the procedural decision of 12 November 2001, the Criminal Procedure Law did not give the judges deciding on whether to extend the applicant's pre-trial detention sufficient discretion to consider whether detention was really necessary. The Chamber found, in accordance with its previous decisions on the same question, that this was in violation of Article 5(3) of the Convention. The Chamber also found that the length of the applicant's detention from 28 August 2000 until 7 February 2003 constituted a violation of his right to be tried within a reasonable time or released pending trial as guaranteed by Article 5(3) of the Convention. The Chamber found that the applicant was prevented from taking proceedings by which the lawfulness of his detention could be decided speedily by a court, thus violating Article 5(4) of the Convention.

Remedies
The Chamber ordered the Federation of Bosnia and Herzegovina to pay to the applicant compensation for moral damages and legal costs.

CH/02/12016 Enes ČENGIĆ v. the Republika Srpska

Factual background
The applicant is a citizen of Bosnia and Herzegovina of Bosniak origin. Prior to the outbreak of the armed conflict in Bosnia and Herzegovina, the applicant's family had resided for many centuries in Rataj, a village in the Municipality Foča-Srbinje in the Eastern Republika Srpska. The applicant complains that the Serb Orthodox Church and local residents in Rataj have repeatedly interfered with the peace of the Čengić family cemetery in Rataj. The applicant complains that the graves, in which members of his family have been buried, and their tombstones have been partially or completely destroyed. The surrounding fence and gate to the cemetery has been torn down repeatedly and during 2002 an Orthodox cross was engraved into a "Turbe" or "Mausoleum", a cylindrically shaped rock located in the centre of the cemetery. Additionally, archaeological research aimed at proving that the graveyard is on the site of an ancient Serb Orthodox shrine has been carried out with the support of the Republika Srpska authorities. Finally, on 1 August 2002, the Serb Orthodox Church issued a public proclamation that was displayed at several locations in Rataj, informing the local residents that on 18 August 2002 a liturgy would take place on the grounds of the Čengić family cemetery.

Alleged violations of human rights
The applicant alleges that these actions and their toleration by the RS authorities amount to violations of his right to respect for private and family life (Article 8 of the European Convention on Human Rights), right to freedom of religion (Article 9 of the Convention) and that he has been discriminated against in the enjoyment of these rights because of his Muslim religion.

Arguments of the respondent Party
The Republika Srpska objects that the destruction of the graves occurred before the entry into force of the Dayton Peace Agreement. It also argues that it cannot be held responsible for the actions of the local residents and of the Serb Orthodox Church. The Republika Srpska further submits that the graveyard is the former site of an Orthodox church, which justifies the attempts of the Serb Orthodox Church to reclaim it and the archaeological research.

Findings of the Chamber
The Chamber found that, although it cannot be said that the local residents and the Serb Orthodox Church have been acting on behalf of the Republika Srpska, the respondent Party is nonetheless responsible for the facts complained of. This is so because the laws of the Republika Srpska provide for the responsibility of the Municipality for the maintenance of the cemetery, because the authorities have tolerated the interferences with the graveyard and because the competent Ministry has supported the archaeological research.

The Chamber considered that the toleration of acts of vandalism on the Muslim graveyard cannot be justified and amounts to discrimination in the enjoyment of the applicant's rights to respect for family life and to freedom of religion. Regarding the attempts to prove by archaeological research that the graveyard used to be an Orthodox sacred site and the attempts to carry out an Orthodox liturgy on the graveyard, the Chamber found that these activities have a legitimate aim. The Chamber considered, however, that these activities have to be judged against the background of the crimes committed against the Bosniak population of the Foča Municipality during the 1992-95 armed conflict, in particular the fact that, as the ICTY has found, "As a consequence of the concerted effect of the attack upon the civilian population of Foča and surrounding municipalities, all traces of Muslim presence in the area were effectively wiped out." Against this background, the Chamber found that the Republika Srpska has failed to strike the right balance between the rights of the applicant as a Muslim returnee to the Foča Municipality and the rights of the Serb Orthodox Church and believers. The Chamber therefore found that also in this regard the Republika Srpska has discriminated against the applicant in the enjoyment of his rights to respect for family life and to freedom of religion.

Remedies:
The Chamber ordered the Republika Srpska to:
- ensure that the competent enterprise properly fences in, cleans and maintains the Rataj Muslim graveyard;
- prevent the Serb Orthodox Church from carrying out any further activities on the Rataj Muslim graveyard;
- ensure that no other party takes such steps that constitute a continued interference with the applicant's rights;
- pay compensation for pecuniary and moral damage suffered by the applicant.

CH/01/8582 M.J. v. the Federation of Bosnia and Herzegovina

Factual background
The applicant, who is of Serb origin, was employed by the Company DD "Frizer" in Sarajevo. During the armed conflict in Bosnia and Herzegovina, "Frizer" terminated her employment. After the cessation of the armed conflict, the applicant initiated court proceedings requesting reinstatement into her work. In 1998 the court issued a judgement, ordering her reinstatement, which subsequently became final and binding. The employer refused to comply with the judgement, however, and the applicant initiated enforcement proceedings. To date, the court judgement has not been enforced.

Alleged violations of human rights
The applicant alleges violations of her right to a fair trial within a reasonable time (Article 6 of the European Convention on Human Rights) and her right to work (Article 6 of the International Covenant on Social, Economic and Cultural Rights), as well her right to be free from discrimination in the enjoyment of those rights.

Findings of the Chamber
The Chamber found that the failure of the Municipal Court I in Sarajevo to enforce the court judgment ordering the applicant's reinstatement from 1998 until today was in violation of the requirement of "a fair hearing within a reasonable time". Therefore, the Chamber found that the Federation of Bosnia and Herzegovina had violated the applicant's right under Article 6 of the Convention. As to the discrimination claim**,** the Chamber found that the applicant failed to substantiate her complaint of discrimination in the enjoyment of her right to work.

Remedies
The Chamber ordered the Federation to ensure the full enforcement of the 28 October 1998 judgment of the Municipal Court I in Sarajevo in the applicant's proceedings against DD "Frizer" Sarajevo without further delay, and in any case not later than 30 November 2003. Also, the Federation was ordered to pay to the applicant compensation for lost salaries and for non-pecuniary damages. Further, the respondent Party was ordered to pay all due contributions for pension and disability fund for the applicant that were accrued from the day the judgement became final and binding until the judgement is fully enforced. Finally, in case the judgement is not fully enforced until 30 November 2003 the Federation was ordered to pay to the applicant at the end of each month 350 KM until the judgement of the Municipal Court I in Sarajevo is enforced and the applicant is fully reinstated to work.

CH/02/9834 Miloš ERBEZ v. the Republika Srpska

Factual background
The applicant is a citizen of Bosnia and Herzegovina of Serb origin. On 22 October 2001, he was arrested by members of the Doboj Municipality Police Force and held in police custody until 25 October 2001, on which date the Public Prosecutor filed a request for investigation. On the same day, 25 October 2001, the investigative judge issued the decision opening an investigation and ordering pre-trial detention. On 19 April 2002, an indictment was filed. The applicant is accused of committing the criminal offences of fraud, illicit commerce and forgery of documents. On 26 June 2002, the First Instance Court in Doboj issued a decision terminating the applicant's detention, and he was released. The criminal proceedings are still pending before the First Instance Court in Doboj.

Alleged violations of human rights
The applicant complains of various violations of his rights in relation to his arrest, his police detention, his detention ordered by the court, and the prolongation of his detention. The case raises issues under Article 5 paragraphs 1, 3 and 4 of the European Convention on Human Rights and Article 6 of the Convention.

Findings of the Chamber
The Chamber found that the length of the applicant's pre-trial detention constituted a violation of his right to be tried within a reasonable time or released pending trial as guaranteed by Article 5(3) of the Convention. The Chamber also found that the Republika Srpska violated the applicant's right to take proceedings by which the lawfulness of his detention could be decided speedily by a court, thus violating Article 5(4) of the Convention. The Chamber declared the complaint of a violation of the right to a fair trial manifestly ill-founded.

Remedies
The Republika Srpska was ordered to pay compensation for non-pecuniary damages.

CH/99/1757 Đurđica SEKULIĆ v. the Federation of Bosnia and Herzegovina

Factual background
The applicant, who is of Serb origin, was employed by the Željezničko Građevinsko Preduzeće in Sarajevo. The applicant complains that during the war she was put on the waiting list and later, after the war, her employment was terminated *ex lege* due to the employer's decision not to invite her to work. In 1998 the applicant initiated court proceedings requesting annulment of the employer's decisions putting her on the waiting list, and later terminating her employment. In March 2001, the court suspended the proceedings and referred the applicant's case to the Cantonal Commission for the Implementation of Article 143 of the Law on Labour. The applicant appealed this decision. As of today, the appeal against the suspension has not been decided, so that the court proceedings are suspended but those before the Cantonal Commission cannot begin.

Alleged violations of human rights
The applicant alleges primarily a violation of her right to a fair hearing within a reasonable time (Articles 6 of the European Convention on Human Rights) and discrimination in the enjoyment of the right to work provided in Article 5(e)(i) of the International Convention on Elimination of All Forms of Racial Discrimination.

Findings of the Chamber
The Chamber found that the domestic courts have to decide on the applicant's claim that she was discriminated against in the enjoyment of her right to work, on the ground of her national origin. As the courts have not yet decided on this claim and the case is still pending before them, the Chamber found that the application to the Chamber is premature in this part. On the other hand, the Chamber noted that the applicant's case has been pending before the courts for more than five years, and the proceedings are currently suspended, because the Municipal Court has decided to refer her case to the Cantonal Commission, which is not competent to decide on the applicant's claim that her labour relation was discriminatorily terminated. Therefore, the Chamber found that the Federation of Bosnia and Herzegovina has violated the applicant's right to a fair hearing within a reasonable time as guaranteed by Article 6 of the Convention.

Remedies
The Federation was ordered to take all necessary steps to ensure that the applicant's claim of discrimination is decided before the court by a final and binding decision in a reasonable time. Further, the respondent Party was ordered to pay the applicant the sum of 1,000 KM by way of compensation for non-pecuniary damages.

CH/01/8121 Milan JANKOVIĆ v. the Republika Srpska

Factual background
The case concerns the applicant's compensation claim for the fact that he was captured as a soldier of the Republika Srpska Army by the Army of the Republic of Bosnia and Herzegovina and then held in detention on the territory of the Federation of Bosnia and Herzegovina until 24 December 1995. In August 1999 he applied to the courts in the Republika Srpska and in October 1999 to the courts in the Federation of Bosnia and Herzegovina for compensation. On 10 February 2000 the Municipal Court II in Sarajevo refused to decide on the claims and declared itself incompetent. The First Instance Court in Banja Luka did not deal with the applicant's case until May 2003 when it held a first hearing in the case. Up to date the case is still pending before the First Instance Court in Banja Luka.

Alleged violations of human rights
The applicant complains of violations of his rights as protected by Articles 3 (right not to be tortured and prohibition of inhuman and degrading treatment), 4 (prohibition of slavery and forced labor), 5 (liberty and security of person), 6 (the right to a fair and public hearing), 13 in conjunction with Articles 3, 4, 5 and 6 (right to effective remedy) and 14 (right not to be discriminated against) of the European Convention on Human Rights.

Findings of the Chamber
The Chamber declared admissible the applicant's complaint under Article 6, paragraph 1 of the Convention as directed against the Republika Sprska regarding the length of the applicant's proceedings before the First Instance Court in Banja Luka. The Chamber declared inadmissible the remainder of the application.

The Chamber found the Republika Sprska to have violated the applicant's rights under Article 6 paragraph 1 of the European Convention on Human Rights with regard to the length of proceedings. In particular, the Chamber considered that the conduct of the First Instance Court, delaying a first hearing for almost four years in what appears to be an uncomplicated dispute about a compensation claim, was primarily responsible for the fact that the proceedings in the applicant's case before the First Instance Court are still in an initial phase and not concluded.

Remedies
The Republika Srpska was ordered to pay the applicant the sum of 500 KM by way of compensation for non-pecuniary damages and to conduct the proceedings before the First Instance Court in Banja Luka without any further unnecessary delay.

CH/99/2627 Fehim JUSUFOVIĆ v. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina

Factual background
The case concerns the attempts of the applicant to settle his rights with respect to a plot of land situated in Lukavac. In 1957 the applicant and two of his brothers were given several plots of land by his father and grandmother. Central to the applicant's complaints is the refusal of the competent administrative authority to register him as the owner of the piece of land in question on the ground that the applicant had no established rights over the land. In 1991, the applicant filed a claim to that end, and despite orders of the second instance administrative body, to date the applicant's claim has neither been rejected nor accepted.

Alleged violations of human rights
The applicant claims that his property rights (Article 1 of Protocol No. 1 to the European Convention on Human Rights) as well as to a determination of this right within a reasonable time (Article 6(1) of the Convention) have been violated.

Findings of the Chamber
The Chamber considered the application only admissible insofar as directed against the Federation of Bosnia and Herzegovina and relating to events after 14 December 1995 with regard to the complaint

that the administrative proceedings in the applicant's case have not been conducted within a reasonable time. It found that the Federation's authorities violated the applicant's rights as guaranteed by Article 6(1) of the Convention to have his civil rights determined in a reasonable time because the Municipal Administration for Geodetic and Real Estate Affairs – Municipal Cadastral Office in Lukavac never issued a decision, be it positive or negative, on the applicant's request to be registered as the owner of the disputed piece of land.

Remedies
The Chamber ordered the Federation of Bosnia and Herzegovina to take all necessary steps in order to ensure that the applicant's case, currently pending before the Municipal Administration in Lukavac, is determined in an expeditious manner. In addition, the Chamber awarded the sum of 1,000 KM to the applicant in recognition of the sense of injustice he has suffered as a result of his inability to have his case decided within a reasonable time.

CH/98/1297 D.B. and J.B. v. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina

Factual background
The applicants, a married couple of Serb origin, own a house in Sanski Most, in which they used to live before the outbreak of the armed conflict. In autumn 1995, when hostilities approached the region, the applicants left their house and fled to Banja Luka, where they still live today. On an unknown date after their departure, the house in Sanski Most was devastated. The applicants have attempted to initiate civil proceedings against the Federation of Bosnia and Herzegovina with a view to obtaining compensation before the Municipal Court in Sanski Most. However, that Court refused to register the applicant's lawsuit until they advance court fees in the amount of 7,500 KM, which the applicants declined to do.

Alleged violations of human rights
The applicants allege a violation of their right of access to a court (Article 6(1) of the European Convention on Human Rights), as well as their right to peacefully enjoy their possessions (Article 1 of Protocol No. 1 to the Convention).

Findings of the Chamber
The Chamber decided to consider the application only insofar as it is directed against the Federation of Bosnia and Herzegovina relating to events after 14 December 1995. It found that the Federation violated the applicants' right of access to a court as guaranteed under Article 6(1) of the European Convention on Human Rights, because the refusal to deal with their claim unless the amount of 7,500 KM is paid in advance not only violated the applicable domestic law, but also failed to strike a fair balance between, on the one hand, the Federation's own interest in collecting court fees for dealing with claims and, on the other hand, the applicants' interest in vindicating their claim through the courts. The Chamber decided that it was, at this stage, not necessary to separately examine the application under Article 1 of Protocol No. 1 to the European Convention on Human Rights.

Remedies
The Chamber ordered the Federation of Bosnia and Herzegovina to take all necessary action to provide the applicants with access to a court, thereby ensuring that their claim for compensation can be determined.

CH/02/8953 Muhamed HALILOVIĆ v. Bosnia and Herzegovina and the Republika Srpska

Factual background
The applicant in this case is a person of Bosniak origin from Brčko. The case concerns the seizure from him of several plots of city construction land by the Municipality of Brčko in 1997. At the time the land was seized, the applicant was a displaced person and, due to his absence, he did not take part in the proceedings on seizure. Subsequently, the land was re-allocated to an individual of Serb origin who later became the Mayor of Brčko. The applicant never received any compensation for the land taken from him. Efforts made by the applicant trying to challenge the seizure of the land before domestic institutions and to regain possession of it were not successful.

Alleged violations of human rights
The applicant complains of a violation of his right to peaceful enjoyment of his possessions as protected by Article 1 of Protocol No. 1 to the European Convention on Human Rights and seeks to be returned the entire land he was in possession of before it was seized in 1997.

Findings of the Chamber
The Chamber found that the Republika Srpska, being the entity in control of Brčko at the relevant time, not only failed to comply with its own domestic law when it seized the land from the applicant, but also that the seizure was evidently not in the public interest. Accordingly, the Chamber found that the Republika Srpska violated the applicant's right as guaranteed under Article 1 of Protocol No. 1 to the European Convention on Human Rights.

Remedies
The Chamber ordered Bosnia and Herzegovina, being the entity now in control of Brčko, to allocate to the applicant and to reinstate him into full possession of the full size of the plots used by him before the seizure and to register his rights thereto in the land books. In addition, the Republika Srpska was ordered to pay to the applicant a lump sum of 2,000 KM as due compensation for the fact that he was prevented to use his land for more than six years.

CH/99/2289 M.G. v. the Federation of Bosnia and Herzegovina

Factual background
The case deals with the attempts of the applicant, who is of Serb origin, to regain possession of his pre-war home in Sarajevo, an apartment that had never been officially declared abandoned. The applicant's request for return of April 1998 was initially denied for the reason that his apartment had not been declared abandoned, but in February 2000, the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) confirmed the applicant's rights. In November 2000, the competent administrative body also issued a decision in favour of the applicant. Soon thereafter, the applicant died. His son, Z.G., is now continuing all domestic proceedings and the application before the Chamber on his own behalf. However, the administrative decision of November 2000 remains unimplemented until to date. Moreover, since 1997 there are court proceedings pending that deal with the validity of the applicant's occupancy right over the apartment. This dispute, now pursued by Z.G., is still not settled until the present day.

Alleged violations of human rights
The applicant alleges a violation of his right to a home (Article 8 of the European Convention on Human Rights) and to property (Article 1 of Protocol No. 1 to the Convention). Furthermore, he complains of the unreasonable length of the administrative and judicial proceedings he initiated in pursuance of his rights (Article 6 of the Convention). His son Z.G. maintains these complaints.

Findings of the Chamber
The Chamber found that the non-enforcement of the CRPC decision of February 2000 and of the administrative decision of November 2000 constituted a violation of the right of the applicant and Z.G. to respect for their home and their right to property. Moreover, the ongoing court proceedings as to the validity of the applicant's occupancy right over the apartment violated the applicant's and Z.G.'s right to a determination of their civil rights within a reasonable time.

Remedies
The Chamber ordered the Federation of Bosnia and Herzegovina to take all necessary steps to ensure the enforcement of the CRPC decision of February 2000 and of the administrative decision of November 2000 without further delay. In addition, it ordered the Federation to pay to Z.G. compensation for the sense of injustice he suffered and for the loss of use of the apartment. In addition, the respondent Party shall pay to Z.G. 100 KM for each further month that he continues to be forced to live in alternative accommodation as from 1 November 2003 until the end of the month in which he is reinstated.