DECISION ON ADMISSIBILITY AND MERITS
(delivered on 10 December 1999)

Case no. CH/98/394

Ivo JURIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 3 November 1999 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK

Mr. Anders MÅNSSON, Registrar
Ms. Olga KAPIĆ, Deputy Registrar

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

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

I. INTRODUCTION

1. The applicant lived until March 1993 in an apartment in Tuzla, Bosnia and Herzegovina, over which he held an occupancy right. In March 1993 he left his apartment for a business trip abroad from which he did not return within the month allotted in his travel permission. In November 1993 the apartment was temporarily allocated to the D. family. It was declared abandoned in November 1996. At the end of the hostilities, the applicant initiated proceedings before the competent administrative and judicial authorities to regain possession of his apartment. After about two years of proceedings and several negative decisions, the applicant's occupancy right was eventually confirmed on 4 July 1998 by a decision under the 1998 Law on the Cessation of the Application of the Law on Abandoned Apartments. However, this decision has not been enforced up to date.

2. This case involves issues under Article 8 of the European Convention on Human Rights and under Article 1 of Protocol No. 1 to the Convention.

II. PROCEEDINGS BEFORE THE CHAMBER

3. The application was submitted to the Chamber on 3 March 1998 and was registered on the same day. The applicant is represented by Ms. Vesna Šehić, a lawyer practising in Tuzla.

4. Upon request of the Chamber, the applicant submitted further information and documents on 22 February 1999.

5. On 17 June 1999 the Chamber invited the Federation of Bosnia and Herzegovina to submit observations in writing on the admissibility and merits of the case. The Federation submitted its observations on 17 August 1999.

6. In accordance with the Chamber's order for the proceedings, the applicant was afforded the possibility of replying to the respondent Party's observations and, in that connection, to claim compensation. On 30 September 1999 the Chamber received the applicant's reply, which did not contain any claim for compensation.

7. On 3 November 1999 the Chamber deliberated on the admissibility and merits of the case and adopted the present decision.

III. ESTABLISHMENT OF THE FACTS

A. The particular facts of the case

8. The facts of the case, as they appear from the application, the respondent Party's submissions and the documents in the case-file, are in essence not in dispute and may be summarised as follows.

9. The applicant holds the occupancy right over an apartment located at Radojke Lakić Street No. 5 in Tuzla. On 21 March 1993 he left Tuzla for a business trip to Austria and Germany having obtained the approval of the Croat Defence Council ("HVO") in Tuzla. The travel approvals issued by the HVO authorised him to travel to Austria and Germany from 16 March to 15 April 1993 in order to collect financial aid. The applicant did not return to Tuzla before 1996.

10. On 5 November 1993 the Department for Housing and Public Affairs of Local Communities of the Municipality Tuzla ("the Department for Housing") allocated the apartment for temporary use to the D. family.

11. On 12 November 1996 the Department for Housing issued a procedural decision declaring the apartment abandoned under the 1994 Law on Abandoned Apartments (see paragraphs 17-21 below) and terminating the applicant's occupancy right. On the same day the Department for

Housing issued another procedural decision denying the applicant's request to resume occupancy of the above apartment as ill-founded.

12. On 11 June 1997 the Ministry of Urbanism, Environmental Planning and Protection of Environment of the Canton Tuzla ("the Ministry") denied the applicant's appeal against the above procedural decisions as ill-founded. The Ministry explained that the applicant had been sent abroad for a mission from 16 March 1993 to 15 April 1993 and that there were no letters of approval in the case-file for this trip, which the applicant was obliged to obtain - and actually had obtained (see paragraph 9 above).

13. On 26 September 1997 the applicant instituted an administrative dispute before the Cantonal Court in Tuzla against the above procedural decision of the Ministry.

14. On 26 December 1997 the Cantonal Court issued a decision denying the above complaint against the procedural decision of the Ministry as ill-founded.

15. On 4 July 1998 the Department for Housing eventually confirmed the applicant's occupancy right by a decision under the Law on the Cessation of the Application of the Law on Abandoned Apartments (see paragraphs 22-28 below), which had entered into force on 4 April 1998. The applicant initiated proceedings for the enforcement of the decision on 9 October 1998.

16. According to a letter of the applicant's lawyer of 27 September 1999, there have not been any developments in the enforcement proceedings.

B. Relevant legislation

1. The Law on Abandoned Apartments

17. The Law on Abandoned Apartments ("the old law"), originally issued on 15 June 1992 as a decree with force of law, was adopted as law on 1 June 1994. It was amended on several occasions (Official Gazette of the Republic of Bosnia and Herzegovina – hereinafter "OG RBiH" – nos. 6/92, 8/92, 16/92, 13/94, 36/94, 9/95 and 33/95). It governed the re-allocation of occupancy rights over socially-owned apartments that had been abandoned.

18. According to the old law, an occupancy right expired if the holder of the right and the members of his or her household had abandoned the apartment after 30 April 1991 (Article 1). An apartment was considered abandoned if, even temporarily, it was not used by the occupancy right holder or members of the household (Article 2). There were, however, certain exceptions to this definition. For example, an apartment was not to be considered abandoned if the occupancy right holder or members of the household had left for a private or business journey within the country or abroad for any of the following reasons: 1) to act as a representative of a state authority, company, institution or other organisation or association at the request or with the approval of the competent state authority; 2) to receive medical treatment in accordance with conditions approved by a medical institution; or 3) to join the armed forces of the Republic of Bosnia and Herzegovina (Article 3 paragraph 4).

19. Proceedings aimed at having an apartment declared abandoned could be initiated by a state authority, a holder of an allocation right (i.e. a juridical person authorised to grant permission to use an apartment), a political or a social organisation, an association of citizens or a housing board. Except for certain exceptions not relevant to the present application, the competent municipal housing authority was to decide on a request to this end within seven days and could also *ex officio* declare an apartment abandoned (Article 4). Failing a decision within this time-limit, it was to be made by the Ministry for Urban Planning, Housing and Environment. Interested parties could challenge a decision by the municipal organ before the same ministry but an appeal had no suspensive effect (Article 5).

20. An apartment declared abandoned could be allocated for temporary use to "an active participant in the fight against the aggressor of the Republic of Bosnia and Herzegovina" or to a person who had lost his or her apartment due to hostilities (Article 7). Such temporary use could last

up to one year after the date of the cessation of the imminent threat of war. A temporary user was obliged to vacate the apartment at the end of that period and to place it at the disposal of the authority that had allocated it (Article 8).

21. The occupancy right holder was to be regarded as having abandoned the apartment permanently if he or she failed to resume using it either within seven days (if he or she had been staying within the territory of the Republic of Bosnia and Herzegovina) or within fifteen days (if he or she had been staying outside that territory) from the publication of the Decision on the Cessation of the State of War (OG RBiH no. 50/95, published on 22 December 1995). The resultant loss of the occupancy right was to be recorded in a decision by the competent authority (Article 10 compared to Article 3 paragraph 3).

2. The Law on the Cessation of the Application of the Law on Abandoned Apartments

22. The old law was repealed by the Law on the Cessation of the Application of the Law on Abandoned Apartments ("the new law") which entered into force on 4 April 1998 and has been amended on several occasions thereafter (Official Gazette of the Federation of Bosnia and Herzegovina – hereinafter "OG FBiH" – nos. 11/98, 38/98, 12/99, 18/99, 27/99 and 43/99).

23. According to the new law, no further decisions declaring apartments abandoned are to be taken (Article 1). All administrative, judicial and other decisions terminating occupancy rights based on regulations issued under the old law are invalid. Nevertheless, decisions establishing a right of temporary occupancy shall remain effective until revoked in accordance with the new law. Until 14 April 1999, also all decisions which had created a new occupancy right pursuant to regulations issued under the old law were valid unless revoked. However, on that date, the High Representative decided that any occupancy right or contract on use made between 1 April 1992 and 7 February 1998 is cancelled. A person occupying an apartment on the basis of a cancelled occupancy right or decision on temporary occupancy is to be considered as a temporary user (Article 2). Also contracts and decisions made after 7 February 1998 on the use of apartments declared abandoned are invalid. Any person using an apartment on the basis of such a contract or decision is considered to be occupying the apartment without any legal basis (Article 16).

24. The occupancy right holder of an apartment declared abandoned has a right to return to the apartment in accordance with Annex 7 of the General Framework Agreement (Article 3 paragraphs 1 and 2). Persons using the apartment without any legal basis shall be evicted immediately or at the latest within 15 days (Article 3 paragraph 3). A temporary user who has alternative accommodation is to vacate the apartment within 15 days of the date of delivery (before 1 July 1999 within 90 days of the date of issuance) of the decision on repossession (Article 3 paragraph 4). A temporary user without alternative accommodation is given a longer period of time (at least 90 days) within which to vacate the apartment. In exceptional circumstances, this deadline may be extended for up to one year if the municipality or the allocation right holder responsible for providing alternative accommodation submits detailed documentation regarding its efforts to secure such accommodation to the cantonal administrative authority for housing affairs and that authority finds that there is a documented absence of available housing, as agreed upon with the Office of the High Representative. In such a case, the occupancy right holder must be notified of the decision to extend the deadline and the basis therefor 30 days before the original deadline expires (Article 3 paragraph 5 compared with Article 7 paragraphs 2 and 3).

25. With a few exceptions not relevant to the present application, the time-limit for an occupancy right holder to file a claim for repossession expired 15 months after the entry into force of the new law, i.e. on 4 July 1999 (Article 5 paragraph 1). If no claim was submitted within that time-limit, the occupancy right is cancelled (Article 5 paragraph 3).

26. Upon receipt of a claim for repossession, the competent authority, normally the municipal administrative authority for housing affairs, had 30 days to issue a decision (Article 6) containing the following parts (Article 7 paragraph 1):

1. a confirmation that the claimant is the occupancy right holder;
2. a permit for the occupancy right holder to repossess the apartment, if there was a

temporary user in the apartment or if it was vacant or occupied without a legal basis;
3. a termination of the right of temporary use, if there was a temporary user in the apartment;
4. a time-limit during which a temporary user or another person occupying the apartment should vacate it; and
5. a finding as to whether the temporary user was entitled to accommodation in accordance with the Law on Taking Over the Law on Housing Relations.

27. Following a decision on repossession, the occupancy right holder is to be reinstated into his apartment not earlier than 90 days, unless a shorter deadline applies, and no later than one year from the submission of the repossession claim (Article 7 paragraphs 2 and 3). Appeals against such a decision could be lodged by the occupancy right holder, the person occupying the apartment and the allocation right holder and should be submitted to the cantonal ministry for housing affairs within 15 days from the date of receipt of the decision. However, an appeal has no suspensive effect (Article 8).

28. If the person occupying the apartment refuses to comply with an order to vacate it, the competent administrative body shall forcibly evict him or her at the request of the occupancy right holder (Article 11). If the occupancy right holder, without good cause, fails to reoccupy the apartment within certain time-limits, his or her occupancy right may be terminated in accordance with the procedures established under the new law and its amendments (Article 12).

3. The Law on Administrative Proceedings

29. Under Article 275 of the Law on Administrative Proceedings (OG FBiH no. 2/98) the competent administrative organ has to issue a decision to execute an administrative decision within 30 days upon receipt of a request to this effect. Article 216 paragraph 3 provides for an appeal to the administrative appellate body if a decision is not issued within this time limit (appeal against "silence of the administration").

4. The Law on Administrative Disputes

30. Article 1 of the Law on Administrative Disputes (OG FBiH no. 2/98) provides that the courts shall decide in administrative disputes on the lawfulness of second instance administrative acts concerning rights and obligations of citizens and legal persons.

31. Article 22 paragraph 3 provides that an administrative dispute may be instituted also if the administrative second instance organ fails to render a decision within the prescribed time limit, whether the appeal to it was against a decision or against the first instance organ's silence.

IV. COMPLAINT

32. The applicant complains that his rights guaranteed by Article 8 of the Convention and Article 1 of Protocol No. 1 to the Convention have been violated.

V. SUBMISSIONS OF THE PARTIES

1. The respondent Party

33. As to the admissibility of the case, the Federation states that the applicant has not yet exhausted the available domestic remedies. It points out that, as provided by Article 216 paragraph 3 of the Law on Administrative Proceedings (see above paragraph 29), the applicant could have appealed against the failure of the Department for Housing to act upon his request for execution of the procedural decision recognising his occupancy right over the apartment. The respondent Party further submits that, under Article 22 paragraph 3 of the Law on Administrative Disputes (see above paragraph 31), the applicant could have initiated court proceedings against the inactivity of the administration upon his request for execution.

34. The Federation also argues that the application should be declared inadmissible on the

ground that it was not submitted within six months of the final decision in the applicant's case, as provided by Article VIII(3)(a) of the Agreement.

35. As for the merits, the Federation argues that the procedural decision of 4 July 1998 demonstrates that it fully recognises the applicant's right to his home. It adds that the fact that the applicant was not enabled to actually regain possession of his apartment does not contradict the respondent Party's commitment to take all necessary steps to enable him to do so, and to the return of refugees and internally displaced persons in general.

36. With regard to Article 1 of Protocol No. 1 to the Convention, the respondent Party submits that the applicant abandoned his possessions on his own motion. Therefore, it is argued that the interference with the applicant's possessions was justified, given the need to provide alternative accommodation to a temporary occupant, who could no longer inhabit his dwelling due to the hostilities.

2. The applicant

37. The applicant maintains his complaint. As to the exhaustion of domestic remedies, he argues that he has received a decision in his favour in the administrative procedure and that his complaint before the Chamber refers to the respondent Party's failure to enforce this decision. The applicant submits that the Federation authorities systematically fail to reinstate pre-war occupancy right holders into their apartments and that, as a consequence, the remedies referred to by the respondent Party are not effective.

VI. OPINION OF THE CHAMBER

A. Admissibility

38. Before considering the merits of this case the Chamber must decide whether to accept it, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement.

39. According to Article VIII(2)(a) of the Agreement, the Chamber must consider whether effective remedies exist and whether the applicant has demonstrated that they have been exhausted. In the *Blentić* case (case no. CH/96/17, decision on admissibility and merits delivered on 3 December 1997, paragraphs 19-21, Decisions on Admissibility and Merits 1996–1997, with further references) the Chamber considered this admissibility criterion in the light of the corresponding requirement to exhaust domestic remedies in Article 26 of the Convention (presently Article 35 of the Convention, as amended by Protocol No. 11 to the Convention). The European Court of Human Rights has found that such remedies must be sufficiently certain not only in theory but in practice, failing which they will lack the requisite accessibility and effectiveness. The Court has, moreover, considered that in applying the rule on exhaustion it is necessary to take realistic account not only of the existence of formal remedies in the legal system of the Contracting Party concerned but also of the general legal and political context in which they operate as well as of the personal circumstances of the applicants.

40. In the present case the Federation objects to the admissibility of the application on the ground that the domestic remedies provided by the Law on Administrative Proceedings and by the Law on Administrative Disputes have not been exhausted. Whilst these laws afford remedies which might in principle qualify as effective ones within the meaning of Article VIII(2)(a) of the Agreement in so far as the applicant is seeking to return to his apartment and faced with the authorities' inaction, the Chamber must ascertain whether, in the case now before it, these remedies can also be considered effective in practice.

41. The Chamber first notes that the applicant indeed initiated proceedings under the new law with a view to being reinstated into his apartment. However, as far as the Chamber is aware, the resultant decision confirming his occupancy right and ordering the temporary occupant to vacate the apartment within 90 days has not been executed despite the applicant's enforcement request which has been pending since October 1998. Nor has the respondent Party shown the documented

existence of any exceptional circumstances within the meaning of Article 7 paragraph 3 of the new law which have warranted an extension of the temporary occupant's deadline for vacating the apartment. At any rate, it has not been shown that the applicant was notified within the time-limit stipulated in Article 7 paragraph 3 of any decision to that end.

42. In these particular circumstances the Chamber is satisfied that the applicant could not be required to exhaust, for the purposes of Article VIII(2)(a) of the Agreement, any further remedy provided by domestic law.

43. The Federation also objects to the admissibility on the ground that the application was not filed within six months from the date of the final decision in the applicant's case. The Chamber notes that the application was lodged on 3 March 1998, little more than three months after the decision of the Cantonal Court of 26 December 1997, which at that time was the last domestic decision taken in the applicant's case. This objection against the admissibility of the application is therefore ill-founded.

44. As no other ground for declaring the case inadmissible has been established, the Chamber declares the application admissible.

B. Merits

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

1. Article 8 of the Convention

46. Article 8 of the Convention reads, as far as relevant, as follows:

> "1. Every one has the right to respect for... his home...
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

47. It is the Federation's assertion that it was necessary in the public interest to declare the apartment abandoned and to allocate it temporarily to another person, whose dwelling had been badly damaged during the war.

48. The Chamber notes that at the end of the hostilities the applicant was prevented from returning to his pre-war apartment as it had been temporarily allocated to the D. family. On 12 November 1996 the apartment was also declared abandoned. As from 1996 the applicant repeatedly contested these decisions but was unable to obtain any decision in his favour. In these circumstances the Chamber cannot but find that after 14 December 1995 up to the entry into force of the new law the authorities, by applying the old law, continued to consider the applicant's apartment abandoned, thereby refusing to allow him to return to it.

49. The Chamber has already found that the links which an applicant facing similar difficulties retained to his dwelling sufficed for this to be considered his "home" for the purposes of Article 8 paragraph 1 of the Convention (see, *inter alia*, the decisions in case no. CH/97/46, *Kevešević*, decision on the merits delivered on 10 September 1998, paragraphs 39-42, Decisions and Reports 1998, and case no. CH/97/58, *Onić*, decision on admissibility and merits delivered on 12 February 1999, paragraph 48, Decisions January-July 1999, with ample reference to the jurisprudence of the European Court of Human Rights). The Chamber furthermore considers that there has been an ongoing interference with the present applicant's right to respect for his home.

50. In order to determine whether this interference has been justified under the terms of paragraph 2 of Article 8, the Chamber must examine whether it was "in accordance with the law", served a legitimate aim and was "necessary in a democratic society" (see the aforementioned *Kevešević* decision, paragraphs 47-58). There will be a violation of Article 8 if any one of these conditions is not satisfied.

51. The Chamber has already found that the provisions of the old law, as applied also in the present case, failed to meet the standards of "law" as this expression is to be understood for the purposes of Article 8 of the Convention (see the *Kevešević* decision, paragraphs 50-58). Accordingly, this provision was violated already by virtue of the authorities' effective refusal after 14 December 1995 to allow the applicant to return to his apartment.

52. In so far as the present case relates to the application of the new law, the Chamber recalls its above findings relating to the admissibility of the case (see paragraph 41). It is true that the applicant received a decision pursuant to the new law, confirming his occupancy right. The current occupants of his apartment were ordered to vacate the apartment within 90 days but were considered entitled to alternative accommodation. In spite of the applicant's enforcement request pursuant to Article 11 of the new law the decision in the applicant's favour has not been executed. As the Chamber has already noted, it has not been shown that the applicant was notified, at least 30 days before the end of the current occupants' 90-day period for vacating the apartment, of any documented exceptional circumstances warranting an extension of the latter time-limit. It follows that, in addition to the violation of Article 8 of the Convention due to the fact that the application of the old law was not "in accordance with the law", there is an ongoing violation of the same provision as the procedure under the new law has not been "in accordance with the law" either (see case no. CH/97/42, *Eraković*, decision on admissibility and merits delivered on 15 January 1999, paragraph 51, Decisions January-July 1999). On this point the Chamber would add that under Article 3 paragraph 9 of the new law it is explicitly stipulated that a failure of, for example, the cantonal authorities to meet their obligations under Article 3 shall not hamper the possibility of an occupancy right holder (such as the applicant) to reclaim an apartment.

53. Accordingly, the Chamber concludes that Article 8 of the Convention has been violated, given both the refusal under the old law to allow the applicant to return to his apartment and the failure after the entry into force of the new law to execute the decision of 4 July 1998 effectively entitling him to return to that dwelling.

2. Article 1 of Protocol No. 1 to the Convention

54. The applicant complains that his right to peaceful enjoyment of his possessions has been and continues to be violated as a result of the decision declaring his apartment abandoned and, following the procedural decision of 4 July 1998, of the effective prevention of his return into the apartment. Article 1 of Protocol No. 1 to the Convention provides as follows:

> "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
>
> The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

55. The Federation argues that there has been no violation of Article 1 of Protocol No. 1, as the temporary allocation of the applicant's apartment to the D. family was necessary in the public interest so as to solve an urgent housing problem.

56. In previous cases, the Chamber has already found that an occupancy right can indeed be regarded as a "possession", it being a valuable asset giving the holder the right, subject to the conditions prescribed by the law, to occupy an apartment indefinitely (see case no. CH/96/28, *M.J.*, decision on admissibility and merits delivered on 3 December 1997, paragraph 32, Decisions on

Admissibility and Merits 1996–1997, and the aforementioned *Kevešević* decision, paragraph 73). In those cases the Chamber recalled, *inter alia*, that the European Court of Human Rights has given a wide interpretation to the concept of "possessions", holding that this notion covers a wide variety of rights and interests with an economic value (see, e.g., Eur.Court HR, *Van Marle v. the Netherlands* judgment of 26 June 1986, Series A no. 101, page 13, paragraph 41; and *Pressos Compania Naviera S.A. v. Belgium* judgment of 20 November 1995, Series A no. 332, page 21, paragraph 31).

57. The Chamber has further found that a decision declaring abandoned an apartment over which someone enjoyed an occupancy right and the allocation thereof to another person amounted to a *de facto* expropriation. The Chamber has also established that the rule contained in the second sentence of the first paragraph of Article 1 of Protocol No. 1, subjecting the deprivation of possessions to certain conditions, applies to such a *de facto* expropriation (see the above-mentioned *Kevešević* decision, paragraphs 73 to 78).

58. The Chamber has finally found that, as the old law does not meet the standards of a "law" in a democratic society, this deprivation was not "subject to the conditions provided for by law" and thereby in violation of Article 1 of Protocol No. 1 (see paragraph 51 above and the above-mentioned *Kevešević* decision, paragraph 80). The Chamber finds no reason to differ in the present case. Accordingly, this provision was violated already by virtue of the authorities' effective refusal after 14 December 1995 up to 4 July 1998 to recognise the applicant's occupancy right and to allow him to return to his apartment.

59. The applicant's grievance under this provision extends to the failure of the authorities to enforce the decision entitling him to return to his apartment. The Chamber has already noted (in paragraphs 41 and 51 above) that this non-enforcement is not in compliance with the new law. In addition to the violation stemming from the refusal to allow the applicant to return to his apartment for want of recognition of his occupancy right, there has thus been a continuing violation of his right to the peaceful enjoyment of his possessions within the meaning of Article 1 of Protocol No. 1 in so far as the procedure under the new law has not been "subject to the conditions provided for by law" either (cf. the aforementioned *Eraković* decision, paragraph 60).

60. Accordingly, the Chamber concludes that Article 1 of Protocol No. 1 has been violated, given both the refusal under the old law to allow the applicant to return to his apartment and the failure after entry into force of the new law to enforce the decision of 4 July 1998 effectively entitling him to return to that dwelling.

VII. REMEDIES

61. Under Article XI paragraph 1 (b) of the Agreement the Chamber must address the question what steps shall be taken by the respondent Party to remedy the established breaches of the Agreement. In this connection the Chamber shall consider issuing orders to cease and desist, monetary relief (including pecuniary and non-pecuniary injuries) as well as provisional measures.

62. The Chamber recalls that in accordance with its order for the proceedings in this case the applicant was afforded the possibility of claiming compensation within the time limit fixed for any reply to observations submitted by a respondent Party. The applicant has not lodged any such claim, nor has he specified any other remedy he requests the Chamber to order.

63. The Chamber considers it appropriate to order the Federation to take all necessary steps to enable the applicant, whose occupancy right has already been confirmed under the new law, to return to his apartment swiftly, and in any case not later than one month after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure.

VIII. CONCLUSIONS

64. For the above reasons, the Chamber decides,

1. unanimously, to declare the application admissible;

2. unanimously, that the refusal to allow the applicant to return to his apartment and the failure to enforce the decision of 4 July 1998 confirming his occupancy right constitute a violation by the Federation of Bosnia and Herzegovina of his right to respect for his home within the meaning of Article 8 of the European Convention on Human Rights, the Federation thereby being in breach of Article I of the Human Rights Agreement;

3. unanimously, that the refusal to allow the applicant to return to his apartment and the failure to enforce the decision of 4 July 1998 confirming his occupancy right also constitute a violation by the Federation of Bosnia and Herzegovina of his right to peaceful enjoyment of his possessions within the meaning of Article 1 of Protocol No. 1 to the Convention, the Federation thereby being in breach of Article I of the Agreement;

4. unanimously, to order the Federation of Bosnia and Herzegovina to take all necessary steps to enable the applicant to return to his apartment swiftly, and in any case not later than one month after the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure; and

5. unanimously, to order the Federation of Bosnia and Herzegovina to report to it, within three months from the date on which the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure, on the steps taken by it to comply with the above order.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel