



DECISION ON ADMISSIBILITY

**Case nos. CH/02/8833, CH/02/8834, CH/02/8835, CH/02/8962,
CH/02/8963, CH/02/8964, CH/02/8965, CH/02/8966,
CH/02/8967, CH/02/9428, CH/02/9430 and CH/02/9568**

**Semija BAJRIĆ, Munira BRADARIĆ, Hana BRADARIĆ, Senada BAŠIĆ,
Edin BRADARIĆ, Elvin BRADARIĆ, Mediha BAJRIĆ, Mevla MEHINAGIĆ,
Ćamila BAJRIĆ, Pašekada BEGIĆ, Sevada HRNJČIĆ and Alija BRADARIĆ**

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 2 July 2003 with the following members present:

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

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

Having considered the aforementioned applications 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 Article VIII(2)(c) of the Agreement and Rule 34, 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. These twelve applications were filed by the immediate family members (wives, mothers, and children) of Bosniak men missing from the village Jablanica, Maglaj Municipality, since June 1992. In all but one case, the missing persons were imprisoned at Hangar Camp in Doboj by the Army of the Republika Srpska ("RS Army"). In all cases the alleged victims were registered as missing persons with the State Commission for Tracing Missing Persons (the "State Commission"). All but one of the alleged victims/missing persons were declared dead by the Municipal Court in Maglaj on the basis of witness testimony from Safet Salkić and/or Jasmin Hasanić, who were also imprisoned in the Hangar Camp but survived. Although the witnesses did not see the missing persons executed, they did see them being sent for execution and in some cases they heard the machine gun fire, as described in more detail below. In the remaining case (no. CH/02/8967), the Municipal Court in Maglaj declared the alleged victim/missing person dead because he was captured by the RS Army in Jablanica and there has been no trace of him for almost 5 years since the cessation of the armed conflict. Before issuing the individual procedural decisions, the Court published a notice and request for information about the respective missing person in the Official Gazette of the Federation of Bosnia and Herzegovina, but neither the missing person nor anyone else responded.

2. All the applicants seek compensation for their missing relatives and for their own pain and suffering, and they request that the perpetrators of the crimes be punished. None of the applicants complain that they do not know the fate and whereabouts of their loved ones.

3. Considering the similarity between the facts of the cases and the complaints of the applicants, the Chamber decided to join the present applications in accordance with Rule 34 of the Chamber's Rules of Procedure on the same day it adopted the present decision.

II. FACTS OF THE INDIVIDUAL CASES

1. CH/02/8833 Semija BAJRIĆ (for Naim BAJRIĆ)

4. The application was submitted to the Chamber on 8 February 2002.

5. The applicant is the wife of Naim Bajrić, who is indicated in the application form as the alleged victim and a missing person. The applicant's husband was a member of the Army of the Republic of Bosnia and Herzegovina (the "RBiH Army") from 12 May 1992 until 15 June 1992, when he disappeared.

6. According to a certificate issued on 8 February 2002, the applicant's husband was registered with the State Commission as a missing person since 10 June 1992.

7. According to a certificate issued by the Federal Ministry of Defence, Section Doboj, of 30 January 2002, the applicant's husband was declared dead by a procedural decision of the Municipal Court in Maglaj of 11 August 1998. The applicant's husband was declared dead as of 16 June 1992 (see paragraph 27 below for witness testimony concerning the death of Naim Bajrić).

2. CH/02/8834 Munira BRADARIĆ (for Mujo BRADARIĆ)

8. The application was submitted to the Chamber on 8 February 2002.

9. The applicant is the wife of Mujo Bradarić, who is indicated in the application form as the alleged victim and a missing person. The applicant states that her husband was a member of the RBiH Army from 12 May 1992 until 16 June 1992, when he disappeared.

10. According to a certificate issued on 8 February 2002, the applicant's husband was registered with the State Commission as a missing person since 10 June 1992.

11. On 11 August 1998, the Municipal Court in Maglaj, in extra-judicial proceedings initiated by the applicant, issued a procedural decision declaring Mujo Bradarić dead as of 16 June 1992. The applicant alleged that her husband was taken prisoner in Jablanica on 10 June 1992 and taken to the Hangar Camp in Doboje, and since then, he disappeared without a trace. The Court heard testimony from two witnesses, Safet Salkić and Jasmin Hasanić, who were also captured by the RS Army in Jablanica and imprisoned in the Camp, but they survived. They testified that Mujo Bradarić was shot along with other captured members of the MZ Jablanica when, during the night, the RS Army took the prisoners to a bridge and started shooting at them with machine guns.

3. CH/02/8835 Hana BRADARIĆ (for Muhamed BRADARIĆ)

12. The application was submitted to the Chamber on 8 February 2002.

13. The applicant is the wife of Muhamed Bradarić, who is indicated in the application form as the alleged victim and a missing person. The applicant states that her husband was a member of Army of RBiH and has been missing ever since military action on an unspecified date.

14. According to a certificate issued on 8 February 2002, the applicant's husband was registered with the State Commission as a missing person since 10 June 1992.

15. On 11 June 1998, the Municipal Court in Maglaj, in extra-judicial proceedings initiated by the applicant, issued a procedural decision declaring Muhamed Bradarić dead as of 16 June 1992. The Court heard testimony from two witnesses, Safet Salkić and Jasmin Hasanić, who were also captured by the RS Army in Jablanica and imprisoned in the Camp, but they survived. They testified that Muhamed Bradarić was shot along with other captured members of the MZ Jablanica when, during the night, the RS Army took the prisoners to a bridge and started shooting at them with machine guns.

4. CH/02/8962 Senada BAŠIĆ (for Samir BAŠIĆ)

16. The application was submitted to the Chamber on 20 February 2002.

17. The applicant is the mother of Samir Bašić, who is indicated in the application form as the alleged victim and a missing person. The applicant states that her son was taken to Doboje on 18 June 1992.

18. According to a certificate issued on 20 February 2002, the applicant's son was registered with the State Commission as a missing person since 6 June 1992.

19. On 11 August 1998, the Municipal Court in Maglaj, in extra-judicial proceedings initiated by the applicant, issued a procedural decision declaring Samir Bašić dead as of 18 June 1992. As above, the Court heard the testimony of two witnesses, Safet Salkić and Jasmin Hasanić, who were also captured by the RS Army in Jablanica and imprisoned in the Camp, but they survived. The witnesses testified that on 18 June 1992, they saw Samir Bašić, Delija Mehinagić, and Ibrišim Begić (see case nos. CH/02/8966 and CH/02/9428 below) taken out of a van. The witnesses said they heard machine gun fire and then never saw these men again.

5. CH/02/8963 Edin BRADARIĆ (for Ekrem BRADARIĆ) and CH/02/8964 Elvin BRADARIĆ (for Ekrem BRADARIĆ)

20. The applications were submitted to the Chamber on 20 February 2002. The applications are exactly the same, apart from the different applicants, who are siblings.

21. The applicants are the children of Ekrem Bradarić, who is indicated in the applications as the alleged victim and a missing person. The applicants state that their father has been missing since military action occurring on 10 June 1992 at Plane, near Jablanica.

22. According to a certificate issued on 8 February 2002, the applicants' father was registered with the State Commission as a missing person since 10 June 1992.

23. On 9 June 1998, the Municipal Court in Maglaj, in extra-judicial proceedings initiated by the applicants, issued a procedural decision declaring Ekrem Bradarić dead as of 10 June 1992. The decision was based on the statement of his wife that he was arrested by the Army of the Republika Srpska on 10 June 1992 and has been missing ever since (see paragraph 27 below for witness testimony concerning the death of Ekrem Bradarić).

6. CH/02/8965 Mediha BAJRIĆ (for Mustafa BAJRIĆ)

24. The application was submitted to the Chamber on 20 February 2002.

25. The applicant is the wife of Mustafa Bajrić, who is indicated in the application form as the alleged victim and a missing person. The applicant states that her husband was a member of the RBiH Army and has been missing since military action occurring on 15 June 1992.

26. According to a certificate issued on 20 February 2002, the applicant's husband was registered with the State Commission as a missing person since 10 June 1992.

27. On 9 June 1998, the Municipal Court in Maglaj, in extra-judicial proceedings initiated by the applicant, issued a procedural decision declaring Mustafa Bajrić dead as of 15 June 1992. The decision states that Mustafa Bajrić was arrested on 10 June 1992 at Mlinska kosa (hills near Jablanica). He was taken to Hangar Camp in Doboj. The Court heard testimony from Safet Salkić, who said that on 15 June 1992 in the evening, he saw Mustafa Bajrić, Naim Bajrić, and Ekrem Bradarić (see case nos. CH/02/8833, CH/02/8963, and CH/02/8964 above) taken out of the van and put in front of the bridge. The witness then heard machine gun fire and never saw these men again.

7. CH/02/8966 Mevla MEHINAGIĆ (for Delija MEHINAGIĆ)

28. The application was submitted to the Chamber on 20 February 2002.

29. The applicant is the mother of Delija Mehinagić, who is indicated in the application form as the alleged victim and a missing person. The applicant states that her son has been missing since an unidentified date when he was captured by the Serb enemy army.

30. According to a certificate issued on 20 February 2002, the applicant's son was registered with the State Commission as a missing person since 10 June 1992.

31. On 11 August 1998, the Municipal Court in Maglaj, in extra-judicial proceedings initiated by the applicant, issued a procedural decision declaring Delija Mehinagić dead as of 18 June 1992. As above, the Court heard the testimony of two witnesses, Safet Salkić and Jasmin Hasanić, who were also captured by the RS Army in Jablanica and imprisoned in the Hangar Camp, but they survived (see paragraph 19 above). The witnesses testified that on 18 June 1992, Delija Mehinagić was taken to the river for execution, along with Samir Bašić, Ibrišim Begić, Salih Bradarić, and Asim Bašić (see case nos. CH/02/8962, CH/02/9428, CH/02/9568 above and below). These men were never seen again.

8. CH/02/8967 Ćamila BAJRIĆ (for Almir BAJRIĆ)

32. The application was submitted to the Chamber on 20 February 2002.

33. The applicant is the mother of Almir Bajrić, who is indicated in the application form as the alleged victim and a missing person. The applicant states that her son has been missing since 10 June 1992, when he was last seen in Jablanica.

34. According to a certificate issued on 20 February 2002, the applicant's son was registered with the State Commission as a missing person since 10 June 1992.

35. On 20 September 2000, the Municipal Court in Maglaj, in extra-judicial proceeding initiated by the applicant, issued a procedural decision declaring Almir Bajrić dead as of 22 December 1996. The decision states that Almir Bajrić was captured by the Serb Army in Jablanica and taken with other captured Bosniaks in the direction of Doboj. He was never seen again. The decision contains no other information or witness testimony concerning the circumstances of his presumed death but is based on the fact that the missing person had not appeared within almost 5 years since the end of the armed conflict. The decision notes that in accordance with Article 61 of the Law on Extra-judicial Proceedings of the Federation of Bosnia and Herzegovina, a person who disappeared during the armed conflict and for whom no trace exists for a period of one year from the date of the end of the armed conflict shall be declared dead, and for this reason the court declared Almir Bajrić dead as of 22 December 1996.

9. CH/02/9428 Pašekada BEGIĆ (for Ibrišim BEGIĆ)

36. The application was submitted to the Chamber on 6 March 2002.

37. The applicant is the mother of Ibrišim Begić, who is indicated in the application form as the alleged victim and a missing person. The applicant states that her son has been missing since 18 June 1992, when he was captured together with seventeen other men from Jablanica.

38. According to a certificate issued on 6 March 2002, the applicant's son was registered with the State Commission as a missing person since 10 June 1992.

39. On 11 August 1998, the Municipal Court in Maglaj, in extra-judicial proceedings initiated by the applicant, issued a procedural decision declaring Ibrišim Begić dead as of 18 June 1992. As above, the Court heard the testimony of two witnesses, Safet Salkić and Jasmin Hasanić, who were also captured by the RS Army in Jablanica and imprisoned in the Hangar Camp, but they survived (see paragraphs 19 and 31 above). The witnesses testified that on 18 June 1992, Ibrišim Begić was taken to the river for execution, along with Samir Bašić, Delija Mehinagić, Salih Bradarić, and Asim Bašić (see case nos. CH/02/8962, CH/02/8966, and CH/02/9568 above). These men were never seen again.

10. CH/02/9430 Sevada HRNJIČIĆ (for Sead HRNJIČIĆ)

40. The application was submitted to the Chamber on 6 March 2002.

41. The applicant is the wife of Sead Hrnjičić, who is indicated in the application form as the alleged victim and a missing person. The applicant states that her husband has been missing since 10 June 1992, when he was captured together with seventeen other men from Jablanica.

42. According to a certificate issued on 6 March 2002, the applicant's husband was registered with the State Commission as a missing person since 10 June 1992.

43. On 11 August 1998, the Municipal Court in Maglaj, in extra-judicial proceedings initiated by the applicant, issued a procedural decision declaring Sead Hrnjičić dead as of 13 June 1992. As above, the Court heard the testimony of two witnesses, Safet Salkić and Jasmin Hasanić, who were also captured by the RS Army in Jablanica and imprisoned in the Hangar Camp, but they survived. The witness Safet Salkić stated that while in prison in the Hangar Camp, he met other prisoners from Kotorsko and Grapska, who told him about two prisoners from Jablanica with the nicknames Sejo (*i.e.*, Sead) and Hakim Salkan. The witness heard that both of these men were taken away during the previous night and were never seen from again. He further stated that he found a jacket belonging to Sead Hrnjičić, about which he was certain because the jacket was unique. The second witness Jasmin Hasanić confirmed this testimony.

11. CH/02/9568 Alija BRADARIĆ (for Salih BRADARIĆ)

44. The application was submitted to the Chamber on 18 March 2002.

45. The applicant is the wife of Salih Bradarić, who is indicated in the application form as the alleged victim and a missing person. The applicant states that her husband has been missing since 18 June 1992, when he was captured together with other men from Jablanica by paramilitary of the aggressors.

46. According to a certificate issued on 14 March 2002, the applicant's husband was registered with the State Commission as a missing person since 10 June 1992.

47. On 11 August 1998, the Municipal Court in Maglaj, in extra-judicial proceedings initiated by the applicant, issued a procedural decision declaring Salih Bradarić dead as of 18 June 1992. As above, the Court heard the testimony of two witnesses, Safet Salkić and Jasmin Hasanić, who were also captured by the RS Army in Jablanica and imprisoned in the Hangar Camp, but they survived (see paragraphs 19, 31, and 39 above). The witnesses testified that on 18 June 1992, Salih Bradarić was taken to the river for execution, along with Samir Bašić, Delija Mehinagić, Ibrišim Begić, and Asim Bašić (see case nos. CH/02/8962, CH/02/8966, and CH/92/9428 above). These men were never seen again.

III. COMPLAINTS

48. With respect to alleged violations of human rights, the applicants all allege the violation of “a fundamental human right, *i.e.*, the right to life” because “an innocent human life has been destroyed for no reason”. “Only the thought of this tragedy speaks for itself.” This appears to raise issues under Article 2 of the European Convention on Human Rights (the “Convention”), which protects the right to life, although no specific Articles of the Convention are specified in any of the application forms.

49. The applicants seek compensation for their missing husband, son, or father, respectively in an unspecified amount. They leave it to the Chamber to determine just compensation “for one destroyed human life”, as well as for the applicants’ pain and suffering due to the disappearance of his/her husband, son, or father, respectively.

50. The applicants further request that the perpetrators of the crimes against their loved ones be punished.

IV. OPINION OF THE CHAMBER

51. In accordance with Article VIII(2) of the Agreement, “the Chamber shall decide which applications to accept.... In so doing, the Chamber shall take into account the following criteria: ... (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.”

52. The Chamber notes that the present applications appear to raise issues under Article 2 of the Convention, but there is no evidence in any of the cases that the alleged victims were alive after 14 December 1995, nor do any of the applicants allege so. All the applicants have received procedural decisions declaring their loved ones dead in June 1992. All but one of these decisions were based upon witness testimony, and in the remaining case (no. CH/02/8967), the court pronounced the missing person dead based on the fact that there has been no trace of him for a period of almost 5 years since the end of the armed conflict.

53. The Chamber observes that the facts complained of by the applicants relate to a period prior to 14 December 1995, which is the date on which the Agreement entered into force. However, the

Agreement is only applicable to human rights violations alleged to have occurred subsequent to its entry into force (see, *e.g.*, case no. CH/97/74, *Balić*, decision on admissibility of 10 September 1998, paragraph 18, Decisions and Reports 1998). Thus, in accordance with the Chamber's previous practice, claims on behalf of missing persons directly related to acts exclusively occurring prior to 14 December 1995 (and in the absence of a continuing violation) are inadmissible as outside the Chamber's competence *ratione temporis* (case no. CH/96/15, *Grgić*, decision on admissibility of 5 February 1997, at section IV, and decision on the merits of 5 August 1997, paragraph 19, Decisions on Admissibility and Merits March 1996-December 1997). This includes the arrest, detention, and killing of alleged victims prior to 14 December 1995. It follows that the applications are incompatible *ratione temporis* with the provisions of the Agreement, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare the applications inadmissible.

IV. CONCLUSION

54. For these reasons, the Chamber, unanimously,

**JOINS THE APPLICATIONS and
DECLARES THE APPLICATIONS INADMISSIBLE.**

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Mato TADIĆ
President of the Second Panel