DECISION ON ADMISSIBILITY AND MERITS

Case no. CH/00/3922

Živko ŠKRBIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Commission within the Constitutional Court of Bosnia and Herzegovina, sitting in plenary session on 3 November 2004 with the following members present:

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

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

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

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

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

I. INTRODUCTION

1. In the period from 1991 until 1996, the applicant was involved in proceedings before the First Instance Court in Banja Luka for the repossession of land from the Municipality Čelinac, the Republika Srpska. Following the rejection of this claim, the applicant initiated proceedings on 27 February 1996 against the Municipality Čelinac for damage compensation, and these proceedings are still pending. He complains about the length of proceedings, and he alleges that the court was biased against him in the decisions issued to date.

2. The application raises issues under Article 6, paragraph 1 of the European Convention on Human Rights (the "Convention").

II. PROCEEDINGS BEFORE THE CHAMBER AND THE COMMISSION

3. The application was introduced to the Chamber on 4 July 2000 and registered on the same date.

4. On 12 May 2004 the application was transmitted to the Republika Srpska under Article 6 of the Convention in relation to the proceedings initiated by the applicant for the compensation of damages.

5. On 14 June 2004 the Commission received the Republika Srpska's observations on the admissibility and merits.

6. On 5 July 2004 the Commission received the applicant's response to the respondent Party's observations of 14 June 2004.

7. The Commission deliberated on the admissibility and merits of the case on 4 May 2004, 7 September 2004, and 3 November 2004. On the latter date it adopted the present decision.

III. FACTS

8. The applicant obtained the highest scores in a contest held by the Assembly of the Municipality Čelinac on 29 October 1990 for allocation of non-constructed building land to use for construction of a temporary facility. He was allocated a location on a part of cadastral lot (cl.) no. 705/5, of 70 square meters of surface. The applicant paid the total amount due for the use of land, but on 13 March 1991 the Assembly of the Municipality Čelinac changed the urban plan and planned the construction of a health facility on cadastre lot no. 705/5. On 3 March 1992 the applicant was allocated for his permanent use a plot (cadastral lot no. 644/28, of 23 square metres of surface, cadastral municipality Čelinac Donji) in exchange.

9. On 10 July 1991 the applicant, as an investor, concluded a contract with the Public Company "25 November" (*DP 25 Novembar*), and the Municipality Čelinac for construction of business premises in a Čelinac trade centre, on cadastral lot no. 644/28. The contract anticipated construction of business premises of 14.06 square meters of surface, and the applicant, as the investor, obliged himself to make an advance payment of 50 percent of the price to the Municipality Čelinac, and to pay the remainder to the Municipality Čelinac within 15 days of completion. The previous amount the applicant paid to the Municipality Čelinac for the use of plot no. 705/5 was applied towards the amount due for the use of plot no. 644/28 and the remaining part was applied towards the price of construction works.

10. The work contractor, Public Company "25 November", did not complete the work in accordance with the contract because it was determined, after the termination of construction, that three square meters were missing. The applicant, on the other hand, paid the total price due.

11. The applicant filed a claim in 1991 before the First Instance Court in Banja Luka, requesting reinstatement into possession of the portion of cadastral lot no. 705/5 from the Municipality Čelinac. By the 16 September 1992 judgement of the First Instance Court, which was confirmed by the 21 February 1995 judgment of the Second Instance Court in Banja Luka, the applicant's claim was rejected in its entirety. The applicant filed a request for revision against this judgment, and the Supreme Court rejected it on 7 June 1996.

12. On 25 February 1992 the construction works on the plot no. 644/28 were completed, 179 days later than the contractual deadline.

13. On 27 February 1996 the applicant instituted proceedings against the Municipality Čelinac before the First Instance Court in Banja Luka for damage compensation. In his claim he requested payment of 4,625.00 Deutsche Marks ("DEM") as compensation for damages for cadastral lot no.705/5; 8,000.00 DEM as damage compensation for cadastral lot no. 644/28; 3,000.00 DEM as damage compensation for the contracted but uncompleted works on the business premises in the craft trade centre, and 14,400.00 DEM for lost profits from the business facility.

14. On 23 March 2000 the First Instance Court in Banja Luka issued a judgment rejecting the applicant's claim in its entirety due to the defendant's lack of standing to be sued. The Court also found that the applicant was not in a contractual relation with the defendant, the Municipality Čelinac, but with the Public Company "25 November", from which he could have requested damage compensation. The applicant filed an appeal against this judgment.

15. On 16 November 2001 the Second Instance Court in Banja Luka accepted the applicant's appeal, annulled the first instance judgment, and returned the case for retrial. It reasoned that the first instance judgment was unclear and contradictory, and that the operative section of the judgment was contradictory to the reasoning section. Specifically, the First Instance Court had rejected the claim in its entirety due to the defendant's lack of legal standing to be sued, even in relation to the requested damages for excessive amounts paid for cadastral lot nos. 705/5 and 644/28, while it simultaneously established that the applicant had been allocated plot no. 644/28 by the Municipality Čelinac.

16. In renewed proceedings on 20 May 2003, the First Instance Court issued a judgment partially granting the applicant's request and obliging the Municipality Čelinac to pay the applicant 3,900.00 Convertible Marks ("KM") for three square meters missing from the business premises, and 5,780.00 KM as a penalty for the delay in construction. The Court rejected the remainder of the applicant's complaint. The applicant filed an appeal before the Second Instance Court in Banja Luka against this judgment, with regard to the rejected claims. These proceedings are still pending before the Second Instance Court.

IV. RELEVANT LEGAL FRAMEWORK

A. The Law on Civil Proceedings (Official Gazette of SFRY nos. 4/77, 36/80, 69/82, 58/84, 74/87, 27/90, and 35/91; Official Gazette of the Republika Srpska nos. 17/93, 14/94, and 32/94)

17. Article 10, in relevant part, prescribes:

> "The court shall be obliged to strive that the proceedings be conducted with no delays and as little expenses as possible, and to prevent any abuse of rights that parties to the proceedings are entitled to."

18. Article 109, in relevant part, prescribes:

"(1) If the submission is unclear or lacks everything necessary for consideration of it, the court shell instruct the applicant and help him/her to correct or make additions to the submission, and for that purpose the court may invite him/her to the court's premises or return the submission for modifications.

"(2) When the court returns the submission for modifications or additions, it shall determine the time-limit for the re-submission of it.

"(3) If modifications or additions are made in the submission relating to the time-limit and submitted to the court within the time-limit prescribed for modifications or additions, the court shall consider that it was submitted to it on the date of its first submission.

"(4) The submission shall be considered withdrawn if not returned to the court within the prescribed time-limit, and if returned with no modifications or additions it shall be rejected."

19. Article 216, in relevant part, prescribes:

"(1) The stay of proceedings shall begin if both parties agree on it before the end of the main hearing or if both parties fail to appear on the preliminary hearing or hearing for the main trial, or when the parties present to the hearing do not want to discuss issues, and when one of the parties duly summoned fail to appear and the other proposes the stay, or when only the plaintiff appears and fails to propose the issuance of judgement by default."

20. Article 217, in relevant part, prescribes:

"(1) In the case of the stay of proceedings the same legal consequences shall arise as in the case of suspension of proceedings, but the time-limits prescribed by law shall continue to run.

"(2) The proceedings shall stay until one of the parties proposes the proceedings to continue. Such proposal cannot be put before the expiry of three months period from the date the stay of proceedings started to run."

21. Article 311, in relevant part, prescribes:

"(2) The president of the panel shall be obliged to have the subject-matter of dispute thoroughly considered but with no delays because of that, so that, if possible, to finalise the consideration during one hearing."

22. On 1 August 2003 the new Law on Civil Procedure of the Republika Srpska (OGRS no. 58/03) entered into force. This Law contains provisions that should improve the efficiency of Courts.

V. COMPLAINTS

23. In respect of the first set of proceedings initiated in 1991 and concluded in second instance on 21 February 1995 the applicant complains about the length of proceedings and the Courts' decision rejecting his request for reinstatement into possession of cadastral lot no. 705/5, Cadastral Municipality Čelinac. With regard to the second set of proceedings initiated in February 1996 he complains that the 20 May 2003 decision of the First Instance Court in Banja Luka only partly accepting his compensation claim is unfair, and that the Court is biased in favour of the defendant, the Municipality of Čelinac. He also complains that the proceedings have lasted too long. The applicant requests compensation in an unidentified amount.

VI. SUBMISSIONS OF THE PARTIES

A. The Republika Srpska

1. As to the facts

24. The Republika Srpska considers that the applicant's allegations that the proceedings have lasted more than twelve years, since the dispute was initiated on 27 February 1996, are ill-founded. The respondent Party also objects to the allegations that the Court is biased and corrupt, and that it has been purposely delaying and obstructing the proceedings because it is partial to the defendant, the Municipality Čelinac.

25. The respondent Party summarized the facts of the case, emphasizing particularly that the complaint was filed on 27 February 1996 and that, by the Court's order, the applicant specified the claim on five occasions, the last time being 3 February 1998. Thus, two years went by, and the Court could not act upon the claim. Furthermore, on 29 December 1998, the Court issued a stay of proceedings because the applicant, although duly summoned, did not appear at a scheduled hearing. On 20 May 2003 the Court issued a judgement and, subsequently, the applicant filed an appeal against it. The case remains pending before the Second Instance Court in Banja Luka.

2. As to the admissibility

26. The respondent Party considers that the application does not meet the admissibility requirements and recalls that the applicant had the obligation to prove that he had exhausted all effective legal remedies and submitted the application within six months from the date the final decision was issued. It also asserts that the application does not meet the admissibility requirements because the civil proceedings are still pending. The respondent Party points out that the application was submitted on 4 July 2000, while the first instance judgment was issued on 23 March 2000. It follows that the applicant did not wait for the outcome of the appeal proceedings, which is why the application is inadmissible for non-exhaustion of domestic remedies.

27. The respondent Party concludes that the applicant had doubts about the outcome of the proceedings and, dissatisfied with the first instance judgment, submitted an application to the Chamber. The respondent Party refers to the case law of the European Court of Human Rights, which took the position that "a mere doubt of success in the domestic proceedings does not liberate the applicant of the requirement of exhausting domestic remedies" (*Donnelly v. United Kingdom*, no. 55777-5583; *M.K. v. Ireland* no. 1514/89).

3. As to the merits

28. The respondent Party considers that the applicant in this case complains about an alleged violation of his right to a "fair trial" and a violation of his right to a public hearing "within a reasonable time". The respondent Party recalls that, in accordance with the case law of the European Court of Human Rights, the "right to a fair trial" represents the principle of equality before the court ("equality of arms"), and in this particular case all the requirements were met in respect of this principle.

29. As to the "reasonable time" requirement, the respondent Party points out that the applicant himself contributed to the delay of proceedings by specifying his claim on five occasions over a two year period. The applicant's conduct, therefore, led to the delays and was the main reason behind the annulment of the judgment. Moreover, he did not attend the main hearing.

30. For the above-stated reasons, the respondent Party considers that the applicant himself contributed to the delay in proceedings, and he submitted his application because he was dissatisfied with the judgment of the First Instance Court. The respondent Party, therefore, suggests that the application be rejected on the merits as ill-founded.

B. The applicant

31. In his application and submissions, the applicant states that in 1990, upon payment of the required amount, he obtained the use of cadastral lot no. 705/5, and, which was unlawfully taken away from him during the war by members of the Serb Democratic Party ("SDS") who came to power in the Municipality Čelinac. That is why he has been pursuing court proceedings since 1991 against the Municipality Čelinac for reinstatement into the disputed real estate (property) and the compensation of damages. The applicant considers that the court is biased and that it has been purposely delaying the proceedings because it is partial to the defendant, the Municipality Čelinac.

32. The applicant also complains that he paid for the construction of business premises of 14.06 square metres surface within a craft trade centre to the Municipality Čelinac, as the main investor, and the contractor, the Public Company "25 November" from Čelinac, but the area of the constructed facility was three square metres smaller than provided for in the contract.

33. The applicant further alleges that the Municipality Čelinac should have counted the funds he paid for the first allocated site toward the price of construction of the business premises in the craft trade centre site he received in exchange. However, he is not satisfied with the way this was done.

34. The applicant complains particularly about the length of the second set of proceedings before the First Instance Court in Banja Luka and the court's decisions, which he is not satisfied with. He states that during the eight years of proceedings the court requested him to re-formulate his claim nine times, although it had no grounds for such requests. He points out that it is in his interest that the proceedings be concluded as soon as possible.

VII. OPINION OF THE COMMISSION

35. The Commission recalls that the application was introduced to the Human Rights Chamber under the Agreement. As the Chamber had not decided on the application by 31 December 2003, in accordance with Article 5 the 2003 Agreement, the Commission is now competent to decide on the application. In doing so, the Commission shall apply the admissibility requirements set forth in Article VIII(2) of the Agreement. Moreover, the Commission notes that the Rules of Procedure governing its proceedings do not differ, insofar as relevant to the applicant's case, from those of the Chamber, except for the composition of the Commission.

A. Admissibility

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

1. As to the proceedings regarding repossession of the cadastral lot no. 705/5

37. The Commission notes that in 1991 the applicant initiated proceedings for reinstatement into possession of the cadastral lot no. 705/5 of the Cadastral Municipality Čelinac before the First Instance Court in Banja Luka. By its judgement of 16 September 1992, the First Instance Court rejected the applicant's claim. By the judgement of the Second Instance Court in Banja Luka of 21 February 1995, the applicant's appeal was rejected and first instance judgement of 16 September 1992 was confirmed. The applicant submitted a request for revision against this decision, which was rejected by the Supreme Court of the Republika Srpska on 7 June 1996.

38. In accordance with Article VIII(2) of the Agreement, "the [Commission] shall decide which applications to accept.… In so doing, the [Commission] shall take into account the following criteria: (a) … that the application has been filed … within six months from such date on which the final decision was taken."

39. The Commission notes that the application was lodged on 4 July 2000. It finds that the final decision for the purposes of Article VIII(2)(a) of the Agreement, was issued by Supreme Court of the Republika Srpska on 7 June 1996. This date is more than six months before the date on which the application was filed with the Chamber. Accordingly, the application does not comply with the requirements of Article VIII(2)(a) of the Agreement. The Commission therefore decides to declare the application inadmissible.

2. As to the proceedings regarding the compensation claim

a. As to the allegations relating to the impartiality of the Court

40. The Commission recalls that the applicant initiated proceedings against the Municipality Čelinac for damage compensation on 27 February 1996, and that these proceedings are still pending. The applicant is also unsatisfied with the first instance court decisions issued in these proceedings and he considers that the courts are biased because the Municipality Čelinac is the defendant in the case, and that "they are in this together". However, the Commission notes that the applicant did not substantiate his allegations with any evidence of this bias. Therefore, the Commission finds that the claim does not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. It follows that this part of the application is manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement.

b. As to the allegations relating to the length of proceedings

41. The applicant complains that the civil proceedings for damage compensation initiated on 27 February 1996 before the First Instance Court in Banja Luka have lasted for too long. The respondent Party submits that the applicant has failed to exhaust domestic remedies because these proceedings are still pending. As the Chamber has repeatedly held, however, the fact that proceedings are still pending does not prevent it from examining an applicant's complaint in relation to the length of the proceedings (*see, e.g.*, case no. CH/02/8770, *Dobojputevi d.d.*, decision on admissibility and merits of 5 December 2003). The Commission therefore decides not to declare inadmissible the applicant's complaint under Article 6, paragraph 1 concerning the length of the civil proceedings to obtain damage compensation.

3. Conclusion as to admissibility

42. The Commission therefore finds that the application is admissible with regard to the length of proceedings for compensation of damages that has been pending since 27 February 1996. The Commission declares the reminder of the application inadmissible.

B. Merits

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

1. Article 6, paragraph 1 of the Convention

44. The Commission notes that it has declared admissible the part of the applicant's application

relating to the damage compensation lawsuit filed on 26 February 1996. The applicant complains that the length of these proceedings, which are still ongoing, is excessive.

45. Article 6, paragraph 1 of the Convention provides, in relevant part, as follows:

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

46. The European Court of Human Rights has explained that the requirement of Article 6, paragraph 1 of the Convention that cases should be heard "within a reasonable time", "the Convention underlines the importance of rendering justice without delays which might jeopardize its effectiveness and credibility" (Eur. Court HR, *H. v. France*, judgment of 24 October 1989., Series A no. 162, paragraph 58).

47. The Commission recalls that the Chamber, in its case law, held that disputes involving compensation claims relate to "civil rights and obligations", within the meaning of Article 6 of the Convention. The Commission also recalls that the respondent Party has not disputed that the proceedings complained of are protected by Article 6 of the Convention. The Commission finds that the proceedings to obtain damage compensation fall within the ambit of a "civil right" and are therefore protected by Article 6 of the Convention.

a. Length of proceedings

48. In order to establish the validity of the complaint in relation to the length of proceedings, the Commission must first determine the period that should be taken into consideration. In the instant case, the Commission finds that this starts on 27 February 1996, the date the applicant submitted his complaint to the First Instance Court in Banja Luka. Accordingly, these proceedings have already been pending for eight years and eight months and remain unfinished.

49. The reasonableness of length of proceedings is to be assessed having regard to the criteria established by the European Court, the Chamber and the Commission, namely, the complexity of the case, the conduct of the applicant and of the relevant authorities, as well as other circumstances of the case (*see, e.g.*, case no. CH/97/54, *Mitrović*, decision on admissibility of 10 June 1998, paragraph 10, Decisions and Reports 1998, with reference to the corresponding case-law of the European Court). In civil cases, the conduct of the defendant, as well as what is at stake for the plaintiff in the relevant proceedings, are taken into consideration (Eur. Court HR, *Bucholz v. Germany*, judgment of 6 May 1981, Series A no. 42, p. 49).

b. Complexity of the case

50. As to the complexity of the case, the Commission notes that the applicant seeks compensation for the incomplete implementation of the contract on the construction of the business premises (missing three square meters of surface) and requests the return of funds paid for use of the cadastral lots nos. 644/28 and 705/5 in the Cadastral Municipality Čelinac. The facts of this case were not disputed, and the applicant possessed substantial evidence of his payments, so the presentation of evidence could not have required such protracted proceedings. The Court only had to require a financial expert to perform an expert assessment for the valuation of the invested funds. Thus, the Court had only to apply the appropriate legal provisions to the relatively simple factual situation, and to assess whether the applicant's claims are founded. The Commission admits that the case has been partly complicated by the fact that three parties entered into contractual relations (the applicant, the Municipality Čelinac, and the constructor). The Commission finds, however, that the case is not of such a complex nature that it could justify such extended delays.

c. The applicant's conduct

51. The respondent Party asserts that the applicant contributed to the delays by the numerous specifications of his claim, and thus "brought the Court into dilemma", which was the main reason why the Second Instance Court quashed the First Instance Court judgement. The Commission notes that the applicant himself confirmed that the Court ordered him, on a number of occasions, to specify his claim. The respondent Party further asserts that the applicant caused the delay in proceedings by his failure to appear at the main hearing.

52. The Commission notes that the Law on Civil Proceedings regulates the manner of dealing with unclear submissions, or submissions lacking statements necessary for consideration thereof (see paragraph 18 above). Under these provisions, the Court is obliged to request the plaintiff once (not more than that) to specify or regulate his submission. In view of this, the argument that the applicant substantially contributed to the length of proceedings by his numerous specifications of the claim is not well-founded, as the Court should have promptly dealt with an unclear claim in the legally provided for manner. The Court is obliged to be familiar with the law, and the Commission therefore cannot accept the respondent Party's argument that the applicant "brought the Court into dilemma" and that that was the main cause for the annulment of the first instance judgement of 23 March 2000. The Commission acknowledges that the applicant's failure to appear at a main hearing and the subsequent stay of proceedings for a period of three months, contributed somewhat to the delay. This delay, however, is minor in view of the total length of the proceedings. The Commission concludes that the applicant's conduct has not substantially contributed to the delays in the proceedings.

d. The relevant authorities' conduct

53. The Commission recalls that the applicant submitted the complaint to the First Instance Court in Banja Luka on 27 February 1996. After four years, on 23 March 2000, the First Instance Court issued its judgement rejecting the applicant's claim due to lack of standing on the part of the named defendant. Upon the applicant's appeal, on 16 November 2001, the Second Instance Court in Banja Luka quashed the first instance judgement and returned the case for retrial stating that the reasons for rejecting the claim were unclear and contradictory, and that the operative part of the decision contradicted the reasoning part of the decision. In the renewed proceedings, one year and seven months later, on 20 May 2003, the First Instance Court issued its judgement partly accepting the applicant's claim. The applicant appealed the part of judgement in which his claim was rejected. These proceedings are still pending, thus in total the proceedings have been pending for eight years and eight months.

54. As to the conduct of the authorities of the respondent Party, the Commission first notes that the most notable delay was from 27 February 1996, the date the applicant filed the complaint, until 23 March 2000, when the first instance court rejected the complaint, which was four years and 25 days. In this period, the Court requested the applicant to specify his claim five times, the last time being on 3 February 1998. Following this, it took another two years before the Court would reject the applicant's claim. In the renewed proceedings the First Instance Court, irrespective of instructions given by the Second Instance Court, took one year and seven months to issue its decision. The case has now been pending the same period of time before the Second Instance Court in Banja Luka, on appeal. The respondent Party has submitted no reasonable explanation for these delays. The Commission finds that the courts should have decided on the applicant's case with more promptness, and that there are no justified reasons for the delays that have occurred.

3. Conclusion as to the merits

55. For the above reasons, the Commission finds that the delays in the proceedings may be attributed to the inefficiency on the part of the First and Second Instance Court in Banja Luka, delays for which the respondent Party is to be held responsible. Therefore, the Commission concludes that the respondent Party has violated the applicant's right to trial within a reasonable

time as guaranteed by Article 6, paragraph 1 of the Convention.

VIII. REMEDIES

56. Under Article XI(1)(b) of the Agreement, the Commission must next address the question of what steps shall be taken by the respondent Party to remedy the established breaches of the Agreement. In this connection the Commission shall consider issuing orders to cease and desist, monetary relief as well as provisional measures.

57. The applicant requests that a violation of his rights be established and that fair compensation be awarded.

58. The Commission notes that it has found a violation of the applicant's rights protected by Article 6, paragraph 1 of the Convention in respect of the civil proceedings that remain pending after more than eight years and eight months. The Commission finds it appropriate to order the respondent Party to undertake all necessary steps to finalise, with no further delay, the appeal proceedings currently pending before the Second Instance Court in Banja Luka.

59. The Commission will also order the respondent Party to pay the applicant the sum of 1,000.00 KM for non-pecuniary damages in recognition of his suffering as a result of his inability to have his case decided within a reasonable time by the First Instance Court in Banja Luka. This amount is to be paid within two months from the date of receipt of this decision.

60. The Commission will further order the Republika Srpska to pay simple interest at an annual rate of 10% on the sum awarded to the applicant in the preceding paragraph. The interest shall be paid the due date for the payment on the sum awarded or any unpaid portion thereof until the date of settlement in full.

61. The Commission will also order the Republika Srpska to submit to it, or its successor institution, within three months of receipt of the present decision a report on the steps taken by it to comply with the above orders.

IX. CONCLUSIONS

62. For the above reasons, the Commission decides:

1. unanimously, to declare the part of the application relating to the length of the proceedings for damage compensation pending since 27 February 1996 admissible under Article 6, paragraph 1 of the European Convention on Human Rights;

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

3. unanimously, that there has been a violation of the applicant's right to a fair hearing within a reasonable time under Article 6, paragraph 1 of the European Convention on Human Rights relating to the length of the civil proceedings for compensation of damages pending since 27 February 1996, the Republika Srpska thereby being in breach of Article I of the Human Rights Agreement;

4. unanimously, to order the Republika Srpska to take all necessary steps to ensure that the domestic courts issue a final and binding decision without further delay in the applicant's civil case currently pending before the Second Instance Court in Banja Luka;

5. unanimously, to order the Republika Srpska to pay the applicant, within two months from the date of receipt of this decision, the total sum of 1,000.00 Convertible Marks (*konvertibilnih*

maraka), as compensation for non-pecuniary damages;

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

7. unanimously, to order the Republika Srpska to submit to the Commission, or its successor institution, within three months of the date of receipt of the decision, a report on the steps taken by it to comply with the above orders.

(signed)
J. David YEAGER
Registrar of the Commission

(signed)
Jakob MÖLLER
President of the Commission