Establishment and mandate of the Human Rights Chamber

The Human Rights Chamber for Bosnia and Herzegovina (the Chamber) was established by Annex 6 to the General Framework Agreement for Peace, signed in Paris on 14 December 1995, (the Dayton Peace Agreement) that ended the conflict in Bosnia and Herzegovina (BiH). The Chamber was established as one of the two parts of the Commission on Human Rights, which has assisted the State and the two Entities of BiH – the Republika Srpska (RS) and the Federation of BiH – in honouring their obligations under the Dayton Peace Agreement. While the Office of the Ombudsman was expected to investigate allegations of human rights violations, the Chamber was to issue final and binding decisions in a judicial procedure on cases referred to it by the Office of the Ombudsman or directly from any Party to the Dayton Peace Agreement or individual. The Chamber had jurisdiction to consider alleged or apparent violations of the European Convention on Human Rights (ECHR)1 and the discrimination with regard to those rights guaranteed by international instruments referred to in the Appendix to the Dayton Peace Agreement.2

At the end of its mandate, the Chamber had registered 15,191 applications and resolved 6,242. The Chamber had passed 2,667 separate decisions,3 thereby implementing

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the obligation of the State and the Entities under the Dayton Peace Agreement to ensure the highest standard of internationally recognised human rights and fundamental freedoms. As these decisions are final and binding upon all powers of a respondent Party, i.e. judiciary, executive and legislative power, the application by the Chamber of international human rights standards to situations in BiH has served as an important precedent for the implementation of human rights obligations in the country in general.

The mandate of the Chamber was rather unique for several reasons. First, the Chamber could be considered a judicial organ *sui generis* as it was established as an institution of BiH, while, at the same time, its membership included international judges appointed by the Council of Europe. Secondly, the Chamber fulfilled the function of the European Court of Human Rights on the national level of a State not a Member of the Council Europe at that time. Third, the mandate of the Chamber included the application of a list of international human rights treaties that had not entered into force at that time, like the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, nor did it foresee individual complaints procedures, like the purposed protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR).

**Key challenges for the implementation of the mandate of the Human Rights Chamber**

In order to exercise its jurisdiction effectively, it was important for the Chamber to establish an effective distribution of work with the Ombudsman, explain the limits of its mandate in an environment overwhelmed by past and ongoing human rights violations and to be able to show that its decisions were respected and implemented.

**The relationship with the Ombudsman for Bosnia and Herzegovina**

The relationship with the Ombudsman, expected to fulfil a function similar to the European Commission of Human Rights at that time, developed differently than expected. Rather than using its extensive investigative powers and transmitting cases for precedent decision to the Chamber, the Ombudsman provided legal opinions on the interpretation of the ECHR in reports on individual applications and thematic reports. A close cooperation with the Chamber was not established, and the two institutions developed quite independently.

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4 See for details Article VII of Annex 6 to the Dayton Peace Agreement.
5 BiH joined the Council of Europe on 24 April 2002.