

The Constitutional Court of Bosnia and Herzegovina, sitting, in accordance with Article VI(3)(b) of the Constitution of Bosnia and Herzegovina, Article 59(2) line (2), Article 61(1) and (2) and Article 64(1) of the Rules of the Constitutional Court of Bosnia and Herzegovina (*Official Gazette of Bosnia and Herzegovina* Nos. 60/05 and 64/08), in Plenary and composed of the following judges:

Ms. Seada Palavrić, President

Mr. David Feldman, Vice-President

Mr. Miodrag Simović, Vice-President

Ms. Valerija Galić, Vice-President

Mr. Tudor Pantiru

Mr. Mato Tadić

Ms. Constance Grewe

Mr. Krstan Simić

Mr. Mirsad Ćeman

Having deliberated on the appeal of **Imad Al Husin** in case No. **AP-41/09**

At its session held on 28 March 2009, adopted the following

DECISION ON ADMISSIBILITY AND MERITS

The appeal of **Imad Al Husin** is granted.

A violation of Article II(3)(f) of the Constitution of Bosnia and Herzegovina and Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms is hereby established.

The verdict of the Court of Bosnia and Herzegovina, No. U-749/08 of 17 November 2008 is hereby quashed.

The case shall be referred back to the Court of Bosnia and Herzegovina for renewed proceedings in which the Court of Bosnia and Herzegovina shall consider the evidence and establish whether the removal of Imad Al Husin from the country would be justified within the meaning of Article II(3)(f) of the Constitution of Bosnia and Herzegovina and Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The Court of Bosnia and Herzegovina is ordered to inform the Constitutional Court of Bosnia and Herzegovina, within 60 days as from the date of delivery of this Decision, about the measures taken to execute this Decision as required by Article 74 para 5 of the Rules of the Constitutional Court of Bosnia and Herzegovina.

Pursuant to Article 77, paragraph 6 of the Rules of the Constitutional Court of Bosnia and Herzegovina, the Decision on interim measure No. AP 49/09 of 31 January 2009 shall remain in force until the Court of Bosnia and Herzegovina considers evidence and establishes whether the forced removal of Imad Al Husin from the country would be justified within the meaning of Article II(3)(f) of the Constitution of Bosnia and Herzegovina and Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

This Decision shall be published in the *Official Gazette of Bosnia and Herzegovina*, the *Official Gazette of the Federation of Bosnia and Herzegovina*, the *Official Gazette of the Republika Srpska* and the *Official Gazette of the Brčko District of Bosnia and Herzegovina*.

REASONING

I. Introduction

1. On 8 January 2009, Imad Al Husin (“the appellant”) from Sarajevo, represented by Osman Mulahalilović, lawyer practicing in the Brčko District, lodged an appeal with the Constitutional Court of Bosnia and Herzegovina (“the Constitutional Court”) against the verdict of the Court of Bosnia and Herzegovina (“the Court of BiH”), No. U-749/08 of 17 November 2008. The appellant also submitted the request for an interim measure whereby the Constitutional Court of BiH would “forbid the deportation of the appellant from Bosnia and Herzegovina” pending the adoption of a decision on the appeal.

II. Procedure before the Constitutional Court

2. On 31 January 2009, the Constitutional Court adopted a Decision on interim measure No. AP 41/09 whereby the public authorities of Bosnia and Herzegovina were ordered to refrain from any action aimed at forced removal of the appellant from Bosnia and Herzegovina pending a final decision of the Constitutional Court on the appeal.

3. Pursuant to Article 22(1) of the Rules of the Constitutional Court, on 19 January 2009, the Court of BiH was requested to submit its reply to the appeal.

4. Constitutional Court received the reply to the appeal from the Court of BiH on 28 January 2009.

5. Pursuant to Article 26, paragraph 2 of the Rules of the Constitutional Court, the reply to the appeal was communicated to the appellant on 6 March 2009.

III. Facts of the case

6. The facts of the case, drawn from the appellant's statements and the documents submitted to the Constitutional Court, may be summarized as follows.

7. On 30 January 2008, the Ministry of Human Rights and Refugees - Office of the Agent of the BiH Council of Ministers for representation before the European Court of Human Rights informed the Constitutional Court that on 22 January 2008 the appellant filed an application with the European Court of Human Rights No. Ap.3727/08 against Bosnia and Herzegovina and that on 29 January 2008 the

European Court of Human Rights issued an interim measure suggesting to Bosnia and Herzegovina that the appellant should not be removed from Bosnia and Herzegovina pending the final decision of the Constitutional Court on Appeal No. *AP-1222/07*, or within 7 days from the date of notifying the appellant about the decision.

8. On 4 October 2008, the Constitutional Court of BiH adopted a Decision on Admissibility and Merits No. *AP 1222/07*, whereby it partially granted the appellant's appeal and established that there were the violation of Article II (3)(f) of the Constitution of Bosnia and Herzegovina ("the BiH Constitution") and Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms ("the European Convention"). In the above decision the Constitutional Court quashed the verdicts of the Court of BiH No. U-1172/07 of 21 January 2008 and No. Uvl-03/08 of 14 March 2008. Both cases were referred back to the Court of BiH for renewed proceedings in which the Court of Bosnia and Herzegovina was ordered to consider the evidence and establish whether the removal of the appellant from the country would be justified within the meaning of Article II(3)(f) of the BiH Constitution and Article 8 of the European Convention (see, the Constitutional Court, Decision No. *AP-1222/07* of 4 October 2008, *Official Gazette of Bosnia and Herzegovina* No. 91/08, paragraphs 77-94).

9. On 22 October 2008, the Decision of the Constitutional Court of BiH, No. *AP-1222/07* of 4 October 2008 was delivered to Mr. Osman Mulahalilović, the appellant's lawyer.

10. The Court of BiH conducted the renewed proceedings and adopted Verdict No. U-749/08 of 17 November 2008 dismissing the appellant's lawsuit against the Ruling of the Ministry of the Security of Bosnia and Herzegovina ("the Ministry") No. UP-2-07-07-2-69/07 of 27 July 2007 as ill-founded. In the said ruling the appellant's complaint against the Ruling of the Foreigners' Department ("the Department"), No. 19.4.1-UP-1-1-498/07 of 18 May 2007 rejecting the appellant's application for temporary stay in Bosnia and Herzegovina had been dismissed as ill-founded and the time-limit of 15 days from the day of submitting a final ruling had been given to the appellant to voluntarily leave the territory of BiH.

11. In the reasons for the referred verdict, the Court of BiH stated that based on the presented evidence during the proceedings it was established that the competent authorities placed the appellant's name on the list of persons designated as constituting a threat to the public order and security of BiH. Accordingly, during the proceedings in which the decision was to be made in regards to the request for

temporary stay in BiH, the Court of BiH established that the appellant, as a foreigner, had given the false information, in other words that he had purposely hid circumstances which were important for the procedure of granting a temporary stay since he stated that he has never been registered with the BiH enforcement authorities.

12. The Court of BiH concluded that in the relevant proceedings the appellant “was not entitled to make an objection as to stating that by the challenged ruling his right to family life has been violated” and the Court further stated that “the decision on the said right is not to be taken in the course of the procedure of issuance of the BiH temporary stay permit” and finally concluded that the challenged Ruling of the Ministry is correct and lawful for it is based on the provisions of Article 41, paragraph 1, items b), d) and f) of the Law on Movement and Stay of Aliens and Asylum.

IV. Appeal

a) Allegations from the appeal

13. The appellant complains that by the challenged decision his rights have been violated which are protected under Article II(3) (a), (b), (e), (f), (g), (h), (i) and Article II (4) of the Constitution of Bosnia and Herzegovina, as well as the rights protected under Articles 2, 3, 6, 8, 9, 10, 11 and 14 of the European Convention. The appellant claims that the mentioned rights have been violated because the challenged judgment was based on the “reasons” indicating that the appellant constitutes a threat to the public order and national security of BiH. However, during the proceedings he was deprived of the possibility to give his opinion in regards to the said allegations. As for the violation of the right to family life under Article 8, paragraph 1 of the European Convention, the appellant pointed out that during his stay in BiH he had entered into marriage with a BiH citizen and that he has three children who are also BiH citizens. The appellant considers that he, his wife and children are entitled to complete family, i.e. that they have right to live together. Further, the appellant infers that by the challenged decision his right to family life has been violated for several times, which means that not only the appellant’s right has been violated but also the right of his wife and children since the expulsion of the appellant would mean that the members of his family as citizens of BiH would be expelled as well. The appellant is of the opinion that the legislator’s intention was not to expel its own citizens. Given that by the challenged decision the administrative proceedings was dully completed, which had been initiated upon his request for issuance of permit for

temporary stay in BiH, and that in this decision it was decided that the appellant was to voluntarily leave the territory of Bosnia and Herzegovina, the appellant holds that there is a threat of his expulsion from Bosnia and Herzegovina and therefore he requested that the Constitutional Court adopt an interim measure and thus “forbid the deportation of the appellant from Bosnia and Herzegovina”. He also suggested that the Constitutional Court adopt a decision on admissibility and merits whereby it would be established that his rights have been violated.

b) Reply to the appeal

14. In its reply to the appeal concerning the appellants’ allegations about the violation of Article 6 of the European Convention, the Court of BiH stated that if a particular country has denied such a right to an alien on the grounds prescribed by law, it is considered an act of the state falling within its public-legal domain and it does not enjoy protection of Article 6 of the European Convention. Therefore, the Court of BiH concluded that Article 6 of the European Convention is not applicable to this specific case. Furthermore, in the opinion of the Court of BiH, the objection of the appellant about the violation of Article 8 of the European Convention is not justified since by the challenged decision of the Court of BiH and final administrative act of the competent institution it was finally and validly decided about the movement of an alien in the territory of BiH, in other words no decision was taken as to expulsion of the appellant from BiH and therefore the challenged decision of the Court of BiH could in no way be considered as a decision violating the appellant’s right to private and family life. As to other appellant’s allegations about violation of his rights, the Court of BiH considers that those allegations are arbitrary and unjustified because an alien who is illegally residing in the territory of certain state “is not entitled to complain about violation of human rights that are granted to citizens of certain state and to aliens legally residing in the territory of that respective state”. The Court of BiH suggested that the Constitutional Court dismiss the appeal as ill-founded.

V. Relevant law

15. **The Law on Movement and Stay of Aliens and Asylum** (*Official Gazette of Bosnia and Herzegovina*, No. 29/03 of 6 October 2003), as relevant reads:

Article 34
(General conditions for issuing a residence permit)

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1. *Temporary residence shall be granted to an alien on the condition that:*
 - a) *he/she has evidence justifying the existence of the grounds required for granting temporary residence,*
 - b) *he/she has funds to support himself/herself, including the funds for his/her health care,*
 - c) *he/she has a medical certificate issued not more than three months following the date of submitting the application, showing that he/she does not suffer from a disease of high risk for the community and/or that he/she is capable for work.*

 2. *Evidence referred to in item a) of this Article shall refer to:*
 - a) *marriage certificate or other relevant evidence of the marriage concluded,*
 - b) *work permit issued by the competent employment agency,*
 - c) *registration with the competent Pension and Invalidity of paragraph 1 Insurance Fund,*
 - d) *decision on registration of the legal entity into the court registry, accompanied with the evidence of their solvency,*
 - e) *attestation of enrolment into an educational institution for the current year,*
 - f) *medical report accompanied with the recommendation of a health institution confirming the necessity of a long-term medical treatment in BiH,*
 - g) *documents on completed education and qualifications acquired,*
 - h) *other evidence required to support the justified stay of the alien in the country whose validity shall be assessed by the competent organisational unit of the Ministry based on Article 55 of this Law.*

 2. *Evidence referred to in item a) of paragraph 1 of this Article shall refer to:*
 - a) *marriage certificate or other relevant evidence of the marriage concluded,*
 - b) *work permit issued by the competent employment agency,*
 - c) *registration with the competent Pension and Invalidity Insurance Fund,*
 - d) *decision on registration of the legal entity into the court registry, accompanied with the evidence of their solvency,*
 - e) *attestation of enrolment into an educational institution for the current year,*

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- f) *medical report accompanied with the recommendation of a health institution confirming the necessity of a long-term medical treatment in BiH,*
 - g) *documents on completed education and qualifications acquired,*
 - h) *other evidence required to support the justified stay of the alien in the country whose validity shall be assessed by the competent organisational unit of the Ministry based on Article 55 of this Law.*

Article 35

(Temporary residence on humanitarian grounds)

1. *Temporary residence on humanitarian grounds shall be exceptionally granted to an alien who does not fulfil the requirements for granting temporary residence prescribed in this Law, as follows:*

- a) *to an alien who has been a victim of an organised crime and/or trafficking of human beings, for the purpose of providing protection and assistance for his/her rehabilitation and repatriation into the country of his/her habitual residence,*

(...)

- d) *to an alien with respect to whom it is determined that the requirements referred to in Article 60 of the present Law have been met and to whom asylum has not been granted in accordance with this Law,*

(...)

Article 41

(Refusal of the application for a residence permit)

An alien, who fulfils the conditions for granting residence prescribed in the present Law, shall have his/her application for a temporary or permanent residence permit refused if:

- a) *he/she has entered the BiH territory while not complying with the entry requirements set out in this Law, unless there exist reasons for issuance of a residence permit on humanitarian grounds in the sense of Article 35 of this Law, or*

(...)

(f) his/her presence, based on the information available to the Ministry, constitutes a threat to public order and national security of BiH.

Article 43

(Appeal against the decision of the organisational unit of the Ministry)

- 1. An appeal against the decision upon the application for a residence permit may be filed with the Ministry within 15 days from the date of notification of the decision.*
- 2. An applicant for a residence permit cannot be expelled or forcibly removed from the BiH territory pending the expiration of a deadline for the appeal and/or pending the decision to be taken in the appellate procedure.*
- 3. An alien must remain at the address he/she has registered as his/her residence and every day report to the authority at the territory of which he/she resides pending a final and binding decision to be taken in the appellate procedure.*
- 4. An alien shall be temporarily deprived of his/her passport and provided with an attestation, pending the conclusion of the procedure, unless he/she has voluntarily agreed to leave the country before the completion of the procedure referred to in paragraph 2 of this Article.*

Article 44

(Appeal against the decision of the Seat Office of the Ministry)

- 1. No appeal is allowed against the decision of the Ministry on issuing a residence permit on humanitarian grounds in the sense of Article 35 paragraph 1 item d) of this Law.*

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2. *An alien cannot be expelled or forcibly removed from the BiH territory pending a final and binding decision taken in the sense of Article 35 paragraph 1 item d) of this Law.*

*Article 60
(Principle of non-refoulement)*

Aliens shall not be returned or expelled in any manner whatsoever to the frontier of territories where their life or freedom would be threatened on account of their race, religion, nationality, membership of a particular social group or political opinion, regardless of whether or not they have formally been granted asylum. The prohibition of return or expulsion shall also apply to persons in respect of whom there is a reasonable suspicion for believing that they would be in danger of being subjected to torture or other inhuman or degrading treatment or punishment. Aliens may not be sent to a country where they are not protected from being sent to such a territory either.

16. **Law on Administrative Disputes of Bosnia and Herzegovina** (*Official Gazette of Bosnia and Herzegovina*, No. 19/02) as relevant reads:

Article 8

An administrative dispute may only be conducted against the final administrative act.

The final administrative act, in terms of this Law, shall be the act by which the competent institution referred to in Article 4 of this Law decides on a certain right or duty of a citizen or legal person in some administrative issue (hereinafter: the final administrative act).

Article 10

An administrative dispute cannot be conducted:

- 1) *against final administrative acts issued in matters in which judicial protection is provided apart from the administrative dispute;*

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- 2) *against acts issued in the matters that, according to the strict stipulation of the law, cannot be the subject of the administrative dispute;*
 - 3) *in matters in which the Parliamentary Assembly of Bosnia and Herzegovina or Presidency of Bosnia and Herzegovina directly bring decisions based on the constitutional authorizations.*

Article 37, paragraph 2

The judgement shall grant the law suit or dismiss as ill-founded. If the law suit is granted the court shall annul the challenged administrative act.

17. **Book of Rules on Conditions and Procedures for Entry of Aliens** (*Official Gazette of Bosnia and Herzegovina*, No. 4/05), as relevant reads:

(2) An application for temporary or permanent residence in Bosnia and Herzegovina shall be refused if the alien is recorded at the BiH authorities competent to implement laws, particularly if the alien has international criminal record at the Office for Cooperation with the Interpol of the Ministry of Security.

(3) The basis for refusing the application referred to in para 2 of this Article are the facts in the records at the disposal of the aforementioned authorities, taken decisions and operative information at the disposal of the aforementioned authorities while dealing with the application for residence in Bosnia and Herzegovina.

VI. Admissibility

18. According to Article VI(3)(b) of the Constitution of Bosnia and Herzegovina, the Constitutional Court shall also have appellate jurisdiction over issues under this Constitution arising out of a judgment of any other court in Bosnia and Herzegovina.

19. According to Article 16 para 1 of the Rules of the Constitutional Court, the Constitutional Court shall examine an appeal only if all effective legal remedies available under the law against a

judgment/decision challenged by the appeal are exhausted and if the appeal was lodged within a time-limit of 60 days as from the date on which the decision on the last effective legal remedy used by the appellant was served on him/her.

20. In the case at hand the subject challenged by the appeal is the verdict of the Court of BiH No. U-749/08 of 17 November 2008, against which no other effective legal remedies are available under the law. The appellant received the challenged verdict on 1 December 2008. The appeal was lodged on 8 January 2009, i.e. within 60 days as prescribed by Article 16 paragraph 1 of the Rules of the Constitutional Court. Finally, the appeal has met the requirements under Article 16, paragraphs 2 and 4 of the Rules of the Constitutional Court for it is not manifestly (*prima facie*) ill-founded, nor is there any other formal reason rendering the appeal inadmissible.

21. In view of the provisions of Article VI(3)(b) of the Constitution of Bosnia and Herzegovina, Article 16 paras 1, 2 and 4 of the Rules of the Constitutional Court, the Constitutional Court established that the appeal meets the admissibility requirements.

VII. Merits

22. The appellant complains that the challenged decision has violated his rights protected under Article II(3) a), b), e), f), g), h) and i) and Article II(4) of the Constitution of Bosnia and Herzegovina, as well as his rights protected under Article 2, 3, 6, 8, 9,10, 11 and 14 of the European Convention.

Right to respect for private and family life

23. Article II (3)(f) of the Constitution of Bosnia and Herzegovina reads as follows:

Enumeration of rights – “All persons within the territory of Bosnia and Herzegovina shall enjoy the human rights and fundamental freedoms referred to in paragraph 2 above; these

i n c l u d e :

(...)

f) The right to private and family life, home, and correspondence

24. Article 8 of the European Convention reads as follows:

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1. *Everyone has the right to respect for his private and family life, his home and his correspondence.*
 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.*

25. The Constitutional Court recalls that on 29 January 2008, and the European Court of Human Rights issued the interim measure suggesting to Bosnia and Herzegovina that the appellant should not be expelled from Bosnia and Herzegovina pending the final decision of the Constitutional Court on Appeal No. AP-1222/07, as well as within 7 days after the date on which the appellant was informed about the decision. Also, on 4 October 2008 the Constitutional Court adopted a decision on Appeal No. AP 1222/07 whereby the violation of rights under Article II (3)(f) of the Constitution of BiH and Article 8 of the European Convention was established and whereby the verdicts of the Court of BiH No. U-1172/07 of 21 January 2008 and Uvl-03/08 of 14 March 2008 were quashed and both cases referred back to the Court of BiH to conduct the renewed proceedings with an order to consider the evidence and establish whether the forced removal of the appellant from the country would be justified within the meaning of Article II (3)(f) of the Constitution of BiH and Article 8 of the European Convention.

26. The Constitutional Court notes that in Decision No. AP-1222/07, which is related to the administrative proceedings and the proceedings of administrative dispute in course of which the appellant's request for issuance of temporary stay permit was rejected and whereby he was also ordered to leave the territory of BiH voluntarily, it has taken the following position: "The Constitutional Court holds that the effect of the challenged decisions is that it subjects the appellant to an interference with his right to respect to private and family life, and bearing in mind the severity of that interference and its impact on both the appellant and his family, the justifications suggested in the proceedings so far do not establish that the interference is proportionate to a legitimate aim. The challenged decisions may therefore violate the appellant's rights under Article II(3)(f) of the Constitution of Bosnia and Herzegovina and Article 8 of the European Convention on Human Rights. However, the Constitutional Court recognizes that the unfortunate way in which these proceedings have come before it, make it difficult, and perhaps impossible, for it to decide whether the interference is justifiable. In particular, the relevant authorities and the Court of

BiH have not given reasons assessing evidence establishing possible constitutional justifications for interfering with the appellant's rights. The relevant authorities and the Court of BiH have not given reasons assessing evidence establishing possible constitutional justifications for interfering with the appellant's rights. Nor have they conducted an inquiry into the grounds for removing the appellant from Bosnia and Herzegovina. Where removal may violate a constitutional right or a right under the European Convention, the courts must carefully examine the grounds for removal and consider whether the interference with the right can be justified in the circumstances of the case. Where some evidence offered to justify the interference may affect national security, the courts must establish a procedure to ensure that the evidence can be assessed giving the greatest possible opportunity to the appellant to confront and rebut that evidence: see *Chahal v. United Kingdom* (1996) 23 European Court OF Human Rights 413. The Court of BiH did not conduct such an inquiry, so the Constitutional Court has been deprived of the evidence on the basis of which it might assess whether the interference with the appellant's constitutional right is justified. The Constitutional Court has therefore decided to remit the case to the Court of BiH for that Court to conduct an appropriate inquiry and make necessary findings in the light of this Decision" (op.cit, *AP-1222/07*, paragraph 93).

27. However, the Constitutional Court further notes that although in the renewed proceedings the Court of BiH rendered Verdict No. U-749/08 of 17 November 2008 whereby it dismissed the appellant's lawsuit as ill-founded, the Court concluded in the reasoning of the said verdict that the appellant "is not authorized to make an objection as to stating that by the challenged ruling his right to family life has been violated since the decision on the said right is not to be taken in the course of the procedure of issuance of the BiH temporary stay permit".

28. According to the opinion of the Constitutional Court it is evident that in the renewed proceedings the Court of BiH failed to consider whether the forced removal of the appellant from the country would be justified within the meaning of Article II (3)(f) of the Constitution of BiH and Article 8 of the European Convention, in other words the Court of BiH failed to comply with the order of the Constitutional Court given in the mentioned Decision No. *AP-1222/07*. Given the aforesaid, this important issue remained pending. Being guided by the reasons which the European Court of Human Rights had also taken into its consideration when it issued the interim measure and by the fact that the issue of implications of the decision, which was adopted upon the appellant's application for temporary stay, must be resolved in this proceedings with respect to his constitutional right to family life as it has been already emphasized in the

decision of the Constitutional Court No. *AP-1222/07*, the Constitutional Court concludes that by rendering the challenged judgment the Court of BiH failed to deal with and decide the justification of interference with the appellant's constitutional right under Article II(3)(f) of the Constitution of Bosnia and Herzegovina and Article 8 of the European Convention, which was ordered in the Decision of the Constitutional Court No. *AP-1222/07* and thus eliminate the violation of rights as established in the said decision and that is the reason why there is still a violation of the right to private and family life referred to in Article II(3)(f) of the Constitution of Bosnia and Herzegovina and Article 8 of the European Convention.

Other allegations

29. Taking into account that the Constitutional Court has referred back Case No. U 749/08 to the Court of BiH to conduct renewed proceedings in the light of the conclusions relating to violation of Article II(3)(f) of the Constitution of Bosnia and Herzegovina and Article 8 of the European Convention, the Constitutional Court concludes that it is not necessary to separately examine other allegations of the appeal.

VIII. Conclusion

30. The Constitutional Court concludes that there is a violation of the appellant's right to private and family life, since in the course of administrative dispute proceedings it was not established whether the forced removal of the appellant from the country would be justified within the meaning of Article II(3)(f) of the Constitution of Bosnia and Herzegovina and Article 8 of the European Convention.

31. As the Constitutional Court has established that the important issue of possible violation of the appellant's constitutional rights under Article II(3)(f) of the Constitution of Bosnia and Herzegovina and Article 8 of the European Convention remains pending and that it ordered the Court of BiH to consider evidence and establish whether the removal of Imad Al Husin from the country would be justified within the meaning of Article II(3)(f) of the Constitution of Bosnia and Herzegovina and Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Constitutional Court has decided, in accordance with Article 77, paragraph 6 of the Rules of the Constitutional Court, that the Decision on interim measure, No. AP 39/09 of 31 January 2009 remains in force until the Court of BiH acts upon this order.

32. Having regard to Article 61(1) and (2) and Article 64(1) of the Rules of the Constitutional Court, the Constitutional Court decided as set out in the enacting clause of the decision.

33. According to Article VI (4) of the Constitution of Bosnia and Herzegovina, the decisions of the Constitutional Court shall be final and binding.

Seada Palavrić
President
Constitutional Court of Bosnia and Herzegovina