

*Coordination mechanisms with respect to the execution of  
the European Court's judgments in Bosnia and Herzegovina*

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## **The Constitution of BiH (Annex IV of the Framework Agreement for Peace, Dayton 14 Dec 1995)**

- Constitutional status of the European Convention of Human Rights;
- The Constitutional Court of BiH – appellate jurisdiction, the last instance of defence.

## **Specific and complex constitutional and legal system of BiH – 14 Governments on territory of BiH**

- **State level - the Council of Ministers of BiH;**
- **two entites – own legislation and jurisdiction**
  - **the Federation of BiH – The Office for the Representation of the Government of the Federation of BiH;**
  - **Republika Srpska – the Office of the Legal Representative of the Government of the Republike Srpska;**
- **the Entities' Offices coordinate the activities of the relevant Entities institutions**
- **Brčko District – the Government of BD;**

*Jeličić v. BiH, app.no. 41183/02, judgment of 31 October 2006.*

- Non-enforcement of the final domestic judgments ordering the RS to pay in cash the foreign currency savings;
  - recognized as the systemic problems on whole territory of BiH → final domestic judgments to be fully executed;
- Individual measures – full payment in cash;
- General measures – legislation amendments and elimination of violation in all similar cases;

*Jeličić v. BiH, app.no. 41183/02, judgment of 31 October 2006.*

- Initial problems due to the complexity of the legal system, the lack of appropriate legislation and discrepancies of the case law of the Entities' courts;
- the Federation of BiH 4 judgments – no AP required;
- the Republika Srpska:
  - continuous and intensive cooperation Agent ↔ Ministry of Finance of RS;
  - the Action plan adopted by the Government of RS on 3 April 2009 upon the proposal of the Ministry of Finance of RS;
  - continuous and regular updates on the implementation of Action plan.

## ***Čolić and others v. BiH*, app.nos. 1218/07 et al., of 10 November 2009, final on 28 June 2010**

- Non-enforcement of the final domestic judgments ordering the RS to pay war damage in cash;
- Recognized as the systemic problems on whole territory of BiH → final domestic judgments to be fully executed;

### The role of the Agent:

- the judgments disseminated to the both Entities' Government and BD – invited to prepare to take the activities on the execution of general measures;
- the FBiH and RS Government invited to draft the Action plans, the Agent offered full support in defining, drafting and implementing the Action plan;
- the Agent instructed the Entities' Offices with the guidelines on the measures that need to be included in the AP ;
- the Agent requests to be fully informed in time about all the activities undertaken;
- the Agent provided the opinions on request of the Ministry of Finance of RS.

***Čolić and others v. BiH*, app.nos. 1218/07 et al., of 10 November 2009,  
final on 28 June 2010**

**The individual measures**

- required further interpretation and meetings with the relevant actor, the Ministry of Finance of RS;
- implemented in November 2010 – the Government of RS resisted for 2 months;

**Continuous role of Agent - further interpretation, letters of urgency, requests for the info., strict deadlines, meetings;**

**The general measures - deadline for the Action plan 28 December 2010**

- the Republika Srpska – the Ministry of Finance of RS made the proposal of AP- Government of RS adopted the Action plan on 16 December 2010., published in the “Official Gazette of RS” no. 136/10;
- the Federation of BiH – the Ministry of Finance of FBiH made the proposal of AP- the Government of the FBiH adopted the Action plan on 22 December 2010., published “Official Gazette of FBiH ”, no. 2/11.

- **Action plans – translated and forwarded to the Committee of Ministers, published at the web site of the CM;**
- **the Information doc. CM/Inf/DH(2010)37 forwarded to the relevant actors of the Entities, other relevant document of the Committee of Ministers published at the web site of the Office of the Agent;**
- **Continuous exchange of the information about the implementation of the activities prescribed by the Action plan;**
- **Agent → Committee of Ministers – Action Reports**



Pilot judgment *Suljagić v. BiH*, app.no. 27912/02, of 3 November 2009  
- 1 350 similar applications lodged at the ECtHR on behalf of more than  
13 500 applicants

- **Relevant domestic legislation of the FBiH, RS and BD and its implementation - under consideration;**
- **“foreign currency savings” presents the systemic problem;**
- **the respondent State ordered to ensure that the both Entities’ and BD extend the relevant deadlines for at least six months from the date on which the present judgment became final;**
- **the orders relating to the implementation of domestic legislation in the FBiH (to issue the bonds, to pay the outstanding instalments, to undertake to pay the interests in the event of future late payments).**

## *Suljagić v. BiH*, pilot judgment of 3 November 2009

- **Essential role of the Agent**
  - **provided full info., the interpretation of the judgment and the orders of the Court to all relevant institution of BiH, the Entities and BD (after the judgment is published and after the judgment become final);**
  - **Agent ↔ relevant actors (Entities Offices and relevant authorities) coordination of the process of execution (further interpretation, letters of urgency, requests for the info., strict deadlines, meetings)**
- **Relevant authorities – primary responsibility for execution**
  - **the F BiH started the implementation before the judgments became final, general measures fully implemented till July 2011;**
  - **the RS and BD implemented the order in March 2010;**

**No Action plan required**

## **Suljagić v. BiH, pilot judgment of 3 November 2009**

**Zadrić v. BiH [dec.], app.br. 18804/04, of 16 November 2010, the ECtHR:**

- **Decided to close the pilot judgment procedure applied in respect of the applications concening the old foreign-currency savings in the case of *Suljagić v. Bosnia and Herzegovina* (no. 27912/02).**

**Resolution CM/ResDH(2011)44 19**

**Suljagić against Bosnia and Herzegovina**

## Conclusion

- **BiH tries to fulfill the criterias prescribed by the Recommendation (2008)2 in its full requirements through effective coordination amongst all state actors concerned, effective dialogue, transmission of doc. (particular importance in case of peculiar and complex constitutional and legal system as in BiH);**
- ***Jeličić, Čolić, Suljagić*, – proof of the existence of good coordination mechanisms among different level of authorities, the awareness, determination.**