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Meeting: 1362nd meeting (December 2019) (DH)

Communication from a NGO (19/09/2019) (Association for the Protection of Hard Currency Depositors in Bosnia and Herzegovina) and reply from the authorities (30/09/2019) in the case of ALISIC AND OTHERS v. Serbia and Slovenia (Application No. 60642/08)

Information made available under Rules 9.2 and 9.6 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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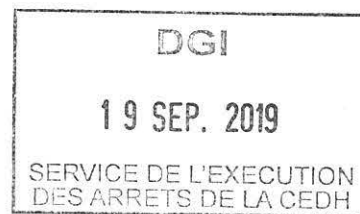
Réunion : 1362^e réunion (décembre 2019) (DH)

Communication d'une ONG (19/09/2019) (Association for the Protection of Hard Currency Depositors in Bosnia and Herzegovina) et réponse des autorités (30/09/2019) dans l'affaire ALISIC ET AUTRES c. Serbie et Slovénie (requête n° 60642/08) (**anglais uniquement**).

Informations mises à disposition en vertu des Règles 9.2 et 9.6 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

**ASSOCIATION FOR PROTECTION OF
HARD CURRENCY SAVINGS DEPOSITORS
IN BOSNIA AND HERZEGOVINA
71000 Sarajevo. Ćemaluša 6**

**COUNCIL OF EUROPE
COMMITTEE OF MINISTERS
Department for the Execution of the Judgment
Mr. Fredrik Sundberg
Head of Department for Execution of Judgments**



Sarajevo, September 10, 2019.

**The Judgment of the European Court of Human Rights in Case No. 60642/08 Ališić v. Serbia
1363. Meeting (3-5. December 2019.)**

NGO Association for Protection of Hard Currency Savings Depositors in Bosnia and Herzegovina, in accordance with the Rule 9.2 of the Rules of the Committee of Ministers, is submitting this communication on behalf of its members, savers with Investbaka a.d. Belgrade and JIK Banka a.d. Belgrade, who are still not recognized their right to "old" foreign currency savings by the Republic of Serbia.

I

1. As a reminder, back in time of the SFR Yugoslavia, branch offices of Investbanka a.d. Belgrade and JIK Banka a.d. Belgrade, located in the territory of Bosnia and Herzegovina, concluded the foreign currency savings contract on behalf of those banks. Foreign currency assets deposited as savings were transferred to Belgrade at the bank's order.

In their data centers in Belgrade, those banks have kept the accounting records on foreign currency accounts holders, balances and foreign currency transactions taking place on those accounts and calculated the interest in accordance with the savings contracts. In early 1992, due to the war in Bosnia and Herzegovina, the branch offices ceased to operate. The records of the foreign currency accounts of the savers from Bosnia and Herzegovina are now held by the banks in Belgrade.

2. In 2002, the Republic of Serbia adopted the Law on Settlement of the Public Debt of the Republic of Serbia in relation to the unpaid foreign currency savings of citizens ("Official Journal of the SRJ" No. 36/02). It assumed from the banks, having their registered offices in Serbia, the obligations toward the citizens of Serbia who had concluded their savings contracts prior to April 27, 1992 (so-called "old foreign currency savings").

3. The Agreement on Succession of the SFR Yugoslavia – Annex G that came into force on June 4, 2004 confirmed the obligations of the Serbian banks with regard to the "old" foreign

currency savings contract for all the clients of the bank. However, the authorities of the Republic of Serbia still prevent the savers-citizens of Bosnia and Herzegovina to recover their foreign currency savings.

4. The authorities of Bosnia and Herzegovina have made it possible for Investbanka Belgrade and JIK Banka Belgrade to recover their real estate in Bosnia and Herzegovina.

5. In 2006, Bosnia and Herzegovina adopted the Law on Settlement of the Obligations in relation to old foreign currency savings ("Official Journal of BiH" 28/6) defining the repayment of the savings deposited with the banks having their offices in Bosnia and Herzegovina.

6. Citizens of Bosnia and Herzegovina, savers of Investbanka a.d. Belgrade and JIK Banka a.d. Belgrade, have filed their applications to the European Court of Human Rights.

7. European Court, in the Case of Ališić and others v. 5 successor states of the SFR Yugoslavia (No. 60642/08 of July 16, 2014), ordered Serbia to undertake, in one year time, all measures required, including the amendments to the law defining the payment of the "old" foreign currency savings to its own citizens, in order to provide for equal treatment of the non-citizens of Serbia when it comes to their savings refund, since they deposited their savings with the Serbian banks or their branch offices outside Serbia. According to the Judgment (Item 147), Republic of Serbia could reduce the claims registered on the foreign currency accounts of Investbanka and JIK Banka by the amount of savings with these banks that were used by the savers in Bosnia and Herzegovina, in accordance with the regulations passed in Bosnia and Herzegovina.

II

Implementation of the Ališić Judgment

8. Republic of Serbia failed to comply with the one-year term adjudged. It was only at the end of 2016, two and half year after the Ališić Judgment, that it passed the special Law on Settlement of the Public Debt of the Republic of Serbia in relation to the unpaid foreign currency savings of citizens deposited with the banks having their office in the territory of the Republic of Serbia and their branch offices in the territories of the former SFRY republics ("Official Journal of the RS" No. 108/16 of December 29, 2016) – (Hereinafter referred to as: Law). It assumed all the banks' obligations towards to non-citizens of Serbia as a public debt of the Republic of Serbia (Article 2 of the Law). As for the savers, it imposed a complicated and unreliable procedure of the recognition and payment of their claims (Article 12, 15 and 17). It assumed the obligation to make the refund in 10 semi-annual installments for payments to be made between August 31, 2018 and February 28, 2023 (Article 5 of the Law). It also appointed the Ministry of Finance – Public Debt Directorate to make payments to the savers' accounts which will be, based on the effective decisions on the claim recognitions, opened by the banks in Serbia.

9. The right to the savings refund is not supposed to be recognized by the bank the savers have concluded contract with and who is responsible for the accuracy of data on the foreign currency account holder and the amount claimed in currency as of December 31, 1997. The authorities of the Republic of Serbia have delegated this assignment to the Ministry of Finance of the Serbian Government – Public Debt Directorate, who shall, based on the documents submitted by the refund applicant (either saver or his/her heir) approve or reject the application. (Article 12 of the Law).

10. Attached to the application, the saver/heir must submit to the Public Debt Directorate the original foreign currency savings booklet. In the course of the war in Bosnia and Herzegovina, many savers were killed or expelled. They were left without their foreign currency booklets and the records on the amount of their foreign currency deposits. Therefore the savers/heirs asked Investbanka and/or JIK Banka to issue them their foreign currency booklets including the foreign currency savings balance as of December 31, 1997. Those banks rejected their requests. They invoked the Law by saying that the Law does not impose the obligation onto the banks to issue a foreign currency booklet. They informed the savers on the insolvency proceedings commenced against the Bank, and as a result, the Bank ceased to deal with banking operations (see Letter of the Investbanka a.d. in liquidation No. 900/76 of February 20, 2017 attached).

11. The Law prescribes that, in case **no original savings booklet is supplied or if there is some other reason to reasonably doubt** the claims requested and the amount thereof, the Public Debt Directorate shall refer the applicant to the appropriate court in the Republic of Serbia to launch a procedure to establish the claims and the amount claimed. **The applicant shall supply the competent court with the documentation that undoubtedly proves the claims originating from the savings deposit and the amount thereof** (Article 13, par. 3 and 4 of the Law).

The authorities of the Republic of Serbia enabled the Public Debt Directorate to **doubt the existence of the claims**, reject the application and refer the applicant to the court in Serbia to prove the amount claimed. When doing this, the applicant must supply the court with the documentation that undoubtedly prove the claim and the deposit amount as of December 31, 1997, **but this documentation is currently in possession of the authorities of the Republic of Serbia who do not allow the saver/heir access to such documentation.**

Authorities of the Republic of Serbia made it possible for the Public Debt Directorate to misuse the documentation of tens of thousands of Investbanka and JIK Banka savers, all aimed at dispossessing them of their foreign currency savings (See Items 17 and 18 below).

12. The Republic of Serbia requests (Article 12, par. 3 and 4 of the Law) the applicant to attach to the application the certificate issued by the competent authorities of all SFRY successor states the savings holder or his/her heir lived/resided in following April 27, 1992 affirming they did not exercise their right to foreign currency savings with the Serbian banks. If the SFRY

successor state completely or partially settled the obligations toward the savers on behalf of the Serbian banks, in accordance with its own regulations, it has to provide the saver with the certificate stating the amount of the funds paid and the date of payment.

13. Council of Ministers of Bosnia and Herzegovina has established that the savers whose savings were deposited with the banks having their main offices in Serbia and the branch offices of Investbanka a.d. Belgrade and JIK Banka a.d. Belgrade operating in the territory of Bosnia and Herzegovina, did not exercise their right to refund of such foreign currency savings in Bosnia and Herzegovina. The Council adopted the form of application and certificate the Entities and District Brčko are going to provide the savers with (See Decision No. VM 2018/17 published in the "Official Journal of BiH" No. 69/18 of September 26, 2017 attached).

14. The Government of the Federation of Bosnia and Herzegovina in whose territory most of the foreign currency savings were deposited with Investbanka a.d. Belgrade and JIK Banka a.d. Belgrade, appointed the Financial-Information Agency (FIA) as a body in charge of verification of the "old" foreign currency savings in the territory of the Federation of Bosnia and Herzegovina (See Decision V. No. 1333/2017 published in the "Official Journal of F BiH" No. 78/17 of October 13, 2017).

15. One day after the publication of the decision of the Government of the Federation of BiH, all savers who deposited their savings in the territory of the BiH Federation, could make their applications to the FIA Agency along with the copy of the foreign currency savings booklets of Investbanka and JIK Banka, or the certificate issued by the bank after April 27, 1992. The FIA was required to issue the certificate requested within 8 days, so that the savers could timely (by February 13, 2018) submit the documentations to the Public Debt Directorate (The sample of the FIA's certificate attached).

16. On December 17, 2017 the Republic of Serbia passed the amended Law ("Official Journal of RS" No. 113/17). It postponed the application filing date to February 13, 2019 and the actual payment date to the term between August 31, 2019 and February 28, 2024.

17. The Public Debt Directorate was tasked to decide upon all applications filed within 120 days from the closing date for application, February 13, 2019 (Article 16, par. 1 of the Law). However, not a single decision has been made yet.

Since February 2019, all savers of Investbanka and JIK Banka whose savings were deposited in the territory of the entity of the Federation of Bosnia and Herzegovina have been requested by the Public Debt Directorate to submit additional documentation not required by the Law and which contains personal information of the savers/heirs protected by the Law of Personal Information Protection in Bosnia and Herzegovina, the abuse of which constitutes a criminal act in Bosnia and Herzegovina. It threatened to reject the application if the applicant fails to submit the documentation required within 30 days (See the application wording No. 401-2872/2017-001 of May 30, 2019 attached).

In March 7, 2019, the Association for Protection of Hard Currency Depositors notified through the Embassy of the Republic of Serbia in Sarajevo the Prime Minister of the Republic of Serbia Ms. Ana Brnabić on the request imposed by the Public Debt Directorate and potential abuse of personal information of the savers not only with regard to the savings refund, but their personal security as well, given the documentation required includes the information on their membership in the Army of the Republic of Bosnia and Herzegovina during the war, the data sought by the security agencies of our neighboring states.

Government of the Republic of Serbia failed to prevent the abuse of personal information of the savers/heirs from the Federation of Bosnia and Herzegovina and to order the Public Debt Directorate to suspend sending such requests to the savers, neither it ordered the Public Debt Directorate to return such documentation to the savers.

18. In their request for submission of additional documentation, Public Debt Directorate states that, based on the foreign currency savings booklet, it established that the saver some time ago (????) transferred his/her deposit onto the bank (???) having its main office in Bosnia and Herzegovina, which is incorrect because no such order given by the saver to the Investbanka a.d. Belgrade and/or JIK Banka a.d. Belgrade actually exist. The statement of the Public Debt Directorate that the savings deposit claimed by the saver/heir from Investbanka Beograd and/or JIK Bank Belgrade was, in accordance with the effective regulations in Bosnia and Herzegovina, transferred onto the Unique Citizen's Account (JRG) in order to use such savings according to the BiH regulations defining the determination and exercising the right to refund in the privatization process, is absolutely incorrect. Such statements contravene the Decision of the Council of Ministers of Bosnia and Herzegovina and the certificate issued by the FIA Agency (See Items 13, 14 and 15 above).

Pursuant to Article 14, par. 2 of the Law, the banks the savers have deposited their foreign currency savings with, shall, at the request of the Directorate, provide the information on foreign currency accounts and deposits. Pursuant to Article 8 of the Ordinance on the procedure for establishing the right to the citizens' foreign currency savings refund ("Official Journal of RS" No. 8 of February 3, 2017), the Public Debt Directorate had to, **for the sake of verification of the accuracy of information contained in the documents attached to the application, ask the banks where the foreign currency savings were actually deposited to provide it with the information on the foreign currency deposits available** (Article 8, par. 1 of the Ordinance). Along with the request to the banks, the Directorate should have submitted the foreign currency savings booklet and the certificate issued by FIA affirming that the savers had not exercised his/her right to foreign currency savings refund in Bosnia and Herzegovina. The Bank who is responsible for the truthfulness of the information on foreign currency accounts and the deposit amounts recognized by the Law (Article 4 of the Law), should have, within 30 days from the request receipt, provided the Public Debt Directorate with the certificate of the foreign currency savings balance and the transactions that took place for this foreign currency account, on the Form 2 and 3 attached to the Ordinance (Article 8 of the

Ordinance). for establishing the right to the citizens' foreign currency savings refund ("Official Journal of RS" No. 8 of February 3, 2017)

The Public Debt Directorate has abused the Bank submitted information on the saver's foreign currency deposits and the Directorate actually hides those data from the applicants. It was not allowed to ask the savers to submit the additional documentation (Extract from the JRG), because such documentation is not required by the Law, neither is it relevant for the claim verification. It was particularly not allowed to act in this manner because the documentation required includes the protected personal information of the saver/heir. All savers of Investbanka and JIK Banka from the Federation of Bosnia and Herzegovina who were members of the Army of the Republic of Bosnia and Herzegovina in the war have their security compromised in this way.

19. It seems the authorities of the Republic of Serbia have no intention of making refund of the savings to the savers from Bosnia and Herzegovina. Once the Public Debt Directorate received the additional documentation (Extract from JRG of all savers and their heirs in the Federation of BiH), the Parliament of the Republic of Serbia passed on July 22, 2017 new amendments to the Law ("Official Journal of RS" No. 52/19). It prescribed that the Public Debt Directorate may, by December 23, 2019, decide on the applicants' claims, but could not receive the applications of those savers who failed to lodge the applications. Obviously, the authorities of the Republic of Serbia wait to see the outcome of the 1363rd meeting of the Committee of Ministers (December 3-5, 2019).

20. The refund that was supposed to be made in 8 semi-annual installments starting from February 28, 2020 and ending with August 31, 2023, was postponed by the Government of the Republic of Serbia (See amended Article 15 of the Ordinance on the procedure for establishing the right to the citizens' foreign currency savings refund). The banks who are, based on the decisions by which the Directorate recognized the claims, obliged under the Law to open, on behalf of the saver, a foreign currency account to which the refund will be made at the order of the Public Debt Directorate through the Central Register of Securities against the mature bonds, will inform the Public Debt Directorate on the saver's account not earlier than April 2020 by the 5th day of the month for previous month, and the Directorate shall make the refund to the saver's account 60 days from the receipt of the account opening notification.

21. The Serbian authorities failed to meet the obligations under the Judgment Ališić and others v. Serbia. Their respective acts and workings constitute the injury of the savers' rights under Article 8. and 6. of the European Convention, as well as Article 1 of the Protocol 1 to the Convention.

Yours sincerely,

Amila Omersoftić,



Chairwoman of the Association's Steering Board

Attachments:

- 1- Letter of Investbanka A.D. in liquidation No. 900/76 of Feb. 20, 2017
- 2- Decision No. VM 2018/17 published in the "Official Journal of BiH" No. 69/18 of Sep. 26, 2017
- 3- Decision V. No. 1333/2017 published in the "Official Gazette of the F BiH" No. 78/17 of Oct. 13, 2017
- 4- Sample of the FIA Agency's certificate
- 5- Request of the Public Debt Directorate No. 401-2872/2017-001 of May 30, 2019

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| Investbanka Stockholding company Belgrade – in bankruptcy 11001 Belgrade Sremska 3-5, P.O. Box 13 Telefax: (011) 3281-932 | INVESTBANKA A.D. -IN BANKRUPTCY – Ref. No: 900/76 Date: Feb. 20, 2017 |
| | Zineta Tahmišćić Nerkeza Smajlagića 1 71000 Sarajevo Bosnia and Herzegovina |

RE: Response to the letter of Feb. 13, 2017

Dear Sir/Madam,

On Feb. 13, 2017 we received your letter requesting the issuance of the saving booklet for the foreign currency account No. 1003-03-0124-7 with the balance statement as of Dec. 31, 1997 (including all contracted interests), all in accordance with Article 4 and Article 12 of the Law on Settlement of Public Debt of the Republic of Serbia in relation to the unpaid foreign currency savings of the citizens deposited with the banks having their registered office in the territory of the Republic of Serbia and their branch offices in the territory of former SFRY Republics („Official Journal of the Republic of Serbia“ No. 108/16 of Dec. 28, 2016).

In view of the aforesaid letter, please find our response below:

Article 4 of the Law on Settlement of Public Debt of the Republic of Serbia in relation to the unpaid foreign currency savings of the citizens deposited with the banks having their registered office in the territory of the Republic of Serbia and their branch offices in the territory of former SFRY Republics (hereinafter referred to as: Law), defines the obligations of the Republic of Serbia in relation to the unpaid foreign currency savings, as well as the calculation and interest rate taking into consideration the bond maturity deadlines.

Article 12 of the Law defines the way of making the refund applications, as well as the documents that need to be attached to the application in order to create preconditions for foreign currency savings recovery.

The aforesaid provisions do not impose any legal obligations onto the banks to issue foreign currency savings booklets.

As a reminder, at the time the aforesaid foreign currency accounts were opened with the legal predecessor of the INVESTBANKA A.D. BELGRADE – in bankruptcy, the Bank issued a savings booklet to you as a depositor, in accordance with the provisions of Article 1043 of the Law of Obligations, once they got your deposited savings funds.

By a Decision of the Commercial Court in Belgrade, Office No. IC St. 10/2002 of Jan. 3, 2002 insolvency proceedings were commenced against the Bank, and as a result, the Bank ceased to deal with any banking operations even since.

Having in mind the aforesaid facts, INVESTBANKA A.D. BEOGRAD – in liquidation, cannot meet your request to issue a foreign currency savings booklet.

Belgrade, Feb. 20, 2017

Yours sincerely,
Trustee of the Bankruptcy Administrator
Deposit Insurance Agency
Gordana Dinić
Seal and signature

Pursuant to Article 17 of the Law of the Council of Ministers of Bosnia and Herzegovina („Official Journal of BiH“ No. 30/03, 42/03, 81/06, 76/07, 81/07, 94/07 and 24/08), Article 1, par. (4) of the Law on Settlement of the Obligations related to old foreign currency savings („Official Journal of BiH“ No. 28/06, 76/06 and 72/07), as related to the Conclusion of the Council of Ministers of Bosnia and Herzegovina adopted at the 43rd session held on Feb. 17, 2016, the Council of Ministers of Bosnia and Herzegovina made at its 112th Session held on Aug. 30, 2017 the following

DECISION

ON PROCEDURE FOR ISSUANCE OF THE CERTIFICATE FOR DETERMINING OF THE RIGHT TO REFUND OF THE FOREIGN CURRENCY SAVINGS IN ACCORDANCE WITH THE THE LAW ON SETTLEMENT OF PUBLIC DEBT OF THE REPUBLIC OF SERBIA IN RELATION TO THE UNPAID FOREIGN CURRENCY SAVINGS OF THE CITIZENS DEPOSITED WITH THE BANKS HAVING THEIR REGISTERED OFFICE IN THE TERRITORY OF THE REPUBLIC OF SERBIA AND THEIR BRANCH OFFICES IN THE TERRITORIES OF FORMER SFRY REPUBLICS

Article 1 (Scope)

This Decision defines the bodies and institutions of Bosnia and Herzegovina, entities and Brčko District of Bosnia and Herzegovina who are going to issue the certificates confirming that the saver has not exercised his/her right to recover his/her foreign currency savings in Bosnia and Herzegovina, neither this right was recognized to him/her by any level of authorities in Bosnia and Herzegovina, as related to the foreign currency savings deposited with the branch offices of the Investbanka A.D. Beograd and Yugoslav Export and Credit Bank AD Beograd (JIK Bank) in the territory of Bosnia and Herzegovina.

Article 2 (Competent authorities)

(1) The certificate under Article 1 of the Decision shall be issued by the Ministry of Finance and Treasury of Bosnia and Herzegovina, bodies appointed by the Government of the Federation of Bosnia and Herzegovina, Government of the Republic of Srpska and the Government of the Brčko District of Bosnia and Herzegovina.

(2) The authorities under par. (1) of this Article shall within 15 days from coming into force of this Decision, appoint the bodies in charge with issuance of this certificate.

Article 3 (Application and Certificate)

(1) The application for the Certificate of the foreign currency savings deposited outside the territory of Bosnia and Herzegovina shall be filed with the Ministry of Finance and Treasury of Bosnia and Herzegovina.

(2) If the foreign currency savings were deposited in the territory of Bosnia and Herzegovina, the application for issuance of the certificate is to be filed with the Entity, or Brčko District of Bosnia and Herzegovina the foreign currency savings were deposited in.

(3) The certificate application shall be filed in person or by mail.

(4) The certificate shall be issued by the competent authority or institution under par. (1) and (2) of this Article within eight days from the date of duly received application.

Article 4
(Forms)

The application and certificate are made or issued on the forms making the integral part of this Decision.

Article 5
(Coming into force)

This Decision comes into force of the day of issue and is to be published in the „Official Journal of BiH“.

VM No. 208/17
Aug. 30, 2017
Sarajevo

Chairman
of the Council of Ministers
Dr. Denis Zvizdić

APPLICATION

For issuance of the certificate under Article 12, par. 2 of the Law on Settlement of the Public Debt of the Republic of Serbia in relation to the unpaid foreign currency savings of citizens deposited with the banks having their office in the territory of the Republic of Serbia and their branch offices in the territories of the former SFRY republics

(body or institution the application is filed with)

I. Particulars of the beneficiary:

(name and surname) Personal ID No: _____
(or other applicable ID designation)

(residential address) (P.O.Box) (City) (State)

II. Particulars of the legal heir/attorney

(name and surname) (or other applicable ID designation)

(residential address) (P.O.Box) (City) (State)

III. Particulars of the changes of foreign currency savings holder as a result of inheritance
Foreign currency savings holder on April 27, 1991 was:

(name and surname of holder) Personal ID No. _____
(or other applicable ID designation)

IV. Claims in relation to the foreign currency savings account with:

foreign currency savings booklet/account number _____

foreign currency savings booklet/account number _____

V. Attachments

Copy of foreign currency savings booklet No. _____ with the bank _____
Copy of the Inheritance Decision No. _____
Copy of the Power of Attorney No. _____ authenticated by _____

I do hereby affirm, under penalty of perjury, that the aforesaid particulars are true and correct.
I do hereby provide my consent for the bodies and institutions of Bosnia and Herzegovina to handle my personal particulars with the purpose of establishing the identity of the applicant and foreign currency savings holder.

At.....dated:.....

Applicant's signature

(Official body and institution)

Ref. No. _____

PURSUANT TO THE DECISION ON PROCEDURE FOR ISSUANCE OF THE CERTIFICATE FOR DETERMINING OF THE RIGHT TO REFUND OF THE FOREIGN CURRENCY SAVINGS IN ACCORDANCE WITH THE LAW ON SETTLEMENT OF PUBLIC DEBT OF THE REPUBLIC OF SERBIA IN RELATION TO THE UNPAID FOREIGN CURRENCY SAVINGS OF THE CITIZENS DEPOSITED WITH THE BANKS HAVING THEIR REGISTERED OFFICE IN THE TERRITORY OF THE REPUBLIC OF SERBIA AND THEIR BRANCH OFFICES IN THE TERRITORIES OF FORMER SFRY REPUBLICS, VM NO. _____/OF.....2017 ("OFFICIAL JOURNAL OF BIH") No./17, CONCLUSION OF THE BIH FEDERATION GOVERNMENT NO.....OF....., CONCLUSION OF THE REPUBLIC OF SRPSKA GOVERNMENT NO...../17 AND CONCLUSION OF THE GOVERNMENT OF THE BRČKO DISTRICT OF BOSNIA AND HERZEGOVINA NO.OF, ACTING UPON THE REQUEST OFNO.....DATED.....WE DO HEREBY ISSUE

CERTIFICATE

It is hereby certified that _____ Personal ID No. _____
(name and surname)

(type and number of ID documents, issued by) (address) (city) (state)

As: _____ Owner: _____ Heir: _____ Donee _____

Has not exercised his/her rights related to foreign currency savings in Bosnia and Herzegovina:

(foreign currency booklet)

(bank and its registered office)

(foreign currency booklet)

(bank and its registered office)

Neither was he/she recognized such rights by:

This Certificate is issued at the applicant's request for establishing the right to refund of the foreign currency savings in accordance with Article 12, par. 3 of the Law on settlement of public debt of the Republic of Serbia in relation to the unpaid foreign currency savings of the citizens deposited with the banks having their registered office in the territory of the Republic of Serbia and their branch offices in the territories of former SFRY republics („Official Journal of the RS“ No. 108/16) and shall not be used otherwise.

At _____ dated: _____

Copy to:

-Applicant

-a/a

(seal and signature)

Pursuant to Article 19, par. (2) of the Law on the Government of the Federation of Bosnia and Herzegovina („Official Gazette of the BiH Federation“ No. 1/94, 8/95, 58/02, 19/03, 2/06 and 8/06), as related to Article 12, par. (1) of the Decision on the procedure for issuance of the certificate for determining the right to refund of the foreign currency savings in accordance with the Law on Settlement of the Public Debt of the Republic of Serbia in relation to unpaid foreign currency savings of citizens deposited with the banks having their offices in the territory of the Republic of Serbia and their branch offices in the territory of former SFRY republics („Official Journal of BiH“ No. 69/17), Government of the Federation of Bosnia and Herzegovina made at its 122nd session held on Oct. 6, 2017 the following

DECISION

ON APPOINTING THE BODIES IN CHARGE WITH THE PROCEDURE OF ISSUANCE OF THE CERTIFICATES TO THE FOREIGN CURRENCY SAVERS OF INVESTBANKA A.D. BELGRADE AND YUGOSLAV EXPORT AND CREDIT BANK A.D. BELGRADE (JIK BANK).

I.

This Decision appoints the bodies in the Federation of Bosnia and Herzegovina in charge with issuance of the certificates to the savers of Investbanka A.D. Belgrade and Yugoslav Export and Credit Bank A.D. Belgrade (JIK Bank), for issuance of the certificate to the foreign currency savings and supervision of the implementation of this decision.

II.

Issuance of the certificate to the foreign currency savers under Item I. of this Decision shall be made by the Financial Information Agency (hereinafter referred to as FIA).

The FIA shall issued the certificates under Item I of this Decision to the foreign currency savers free of charge, in accordance with the Decision on procedure of issuance of the certificates for determining the rights to refund of the foreign currency savings in accordance with the Law on Settlement of the Public Debt of the Republic of Serbia in relation to the unpaid foreign currency savings of citizens deposited with the banks having their office in the territory of the Republic of Serbia and their branch offices in the territories of the former SFRY republics („Official Journal of BiH“ No. 69/17).

III.

In the course of the procedure for issuance of the certificates under Item II, par. (1) of this Decision, FIA shall:

- Set up and maintain the register of received applications for certificates,
- Set up and maintain the register of the certificates issued,
- Set up and maintain the register of the rejected applications for certificates,
- Furnish the Federal Ministry of Finance with the monthly reports of the number of the received and rejected applications, as well as the number of certificates issued.

IV.

FIA is entitled to remuneration for the operations it undertakes under Item II, par. (1) of this Decision, all in accordance with the Law of Financial Information Agency („Official Gazette of the BiH Federation“ No. 80/11).

The remuneration under par. (1) of this Article shall be paid from the budget of the Federation of Bosnia and Herzegovina up to the amount envisaged for this purpose.

V.

The supervision of the implementation of this Decision shall be done by the Federal Ministry of Finance.

VI.

This Decision comes into force on the date of issue and shall be published in the „Official Gazette of the BiH Federation“.

V. No. 1333/2017

Oct. 10, 2017

Prime Ministers

Fadil Novalić

Financial Information Agency

Pursuant to the Decision on procedure of issuance of the certificates for determining the rights to refund of the foreign currency savings in accordance with the Law on Settlement of the Public Debt of the Republic of Serbia in relation to the unpaid foreign currency savings of citizens deposited with the banks having their office in the territory of the Republic of Serbia and their branch offices in the territories of the former SFRY republics, VM No. 208/17 of Aug. 30, 2017 ("Official Journal of BiH" No. 69/17) and Decision on appointing the bodies in charge with the procedure of issuance of the certificates to the foreign currency savers of Investbanka A.D. Belgrade and Yugoslav Export and Credit Bank A.D. Belgrade (JIK Bank) of the Government of the Federation of Bosnia and Herzegovina V. No. 1333/2017 of Oct. 10, 2017 ("Official Gazette of the BiH Federation" No. 78/17), acting upon the application No. FIA-10355/2019SR lodged by.....on Aug. 28, 2018, we hereby issue

CERTIFICATE

To affirm thatPersonal ID No....., residing at....., City: SARAJEVO, State: BOSNIA AND HERZEGOVINA

| | | | | | |
|-------|-------------------------------------|------|--------------------------|-------|--------------------------|
| Owner | <input checked="" type="checkbox"/> | Heir | <input type="checkbox"/> | Donee | <input type="checkbox"/> |
|-------|-------------------------------------|------|--------------------------|-------|--------------------------|

has not exercised his/her right related to his/her foreign currency savings in Bosnia and Herzegovina.

| | |
|---|---|
| Number of foreign currency booklet: 1003-03-01875-6 7271005-1513400 | Bank Invest banka AD Belgrade Yugoslav export and credit bank AD Belgrade |
|---|---|

neither was he/she recognized his/her right by the Federation of Bosnia and Herzegovina in relation to Invest banka AD Belgrade or Yugoslav Export and Credit Bank AD Belgrade.

This certificate is issued based on the data on record and against the applicant's request for establishing the right to foreign currency savings refund in accordance with Article 12, par. 3. of the Law on Settlement of the Public Debt of the Republic of Serbia in relation to the unpaid foreign currency savings of citizens deposited with the banks having their office in the territory of the Republic of Serbia and their branch offices in the territories of the former SFRY republics ("Official Journal of the Republic of Serbia" No. 108/16) and shall not be used otherwise.

At Sarajevo, Aug. 28, 2019

Copy to:

-Applicant
-a/a

Signature illegible _____
As authorized by the director: Aida Ćerimagić
(Signature and authentication)

REPUBLIC OF SERBIA
MINISTRY OF FINANCE
PUBLIC DEBT DIRECTORATE
May 30, 2019
Belgrade

ZINETA TAHMIŠČIĆ
71000 SARAJEVO
NERKEZA SMAJLAGIĆA 1
BOSNIA AND HERZEGOVINA

RE: Request for additional documents to the foreign currency savings refund application

Ministry of Finance – Public Debt Directorate, received on Oct. 30, 2017 a refund application lodged in relation to the foreign currency savings deposits/accounts deposited with Investbanka, Account No. 1003-03-01124-7.

The aforesaid application was entered under No. 401-2872/2017 dated Oct. 30, 2017.

In the procedure of verification of compliance with the conditions required for exercising the right to foreign currency savings refund, in accordance with the Law on Settlement of the Public Debt of the Republic of Serbia in relation to the unpaid foreign currency savings of citizens deposited with the banks having their office in the territory of the Republic of Serbia and their branch offices in the territories of the former SFRY republics ("Official Journal of the Republic of Serbia" No. 108/16 and 113/17 – hereinafter referred to as: Law), and Ordinance on procedure for establishing the right to the citizens' foreign currency savings refund ("Official Journal of the Republic of Serbia" No. 8/17 and 9/18 – hereinafter referred to as: Ordinance), and based on the refund application filed along with the attached documentation, the Public Debt Directorate has found that the documentation submitted is not sufficient for establishing of the compliance with the prescribed conditions, i.e. right to refund and the amount of claims related to the aforesaid foreign currency savings.

As a matter of fact, the foreign currency savings booklet attached to the refund application shows that some time ago you transferred your deposited savings onto the bank having its office in Bosnia and Herzegovina, following which, in accordance with the regulations in effect at that time in Bosnia and Herzegovina, you transferred it onto the so-called privatization account – Unique Account of Citizens (JRG) with the intent of using those savings, according to the regulations that used to regulate and define acquisition of the citizens claims in the privatization process in Bosnia and Herzegovina. With this regard, pursuant to Article 14 of the Law, the Directorate may undertake additional activities to verify the authenticity of the data and documents submitted along with the application, so the following needs to be furnished:

- The certificate issued by the Privatization Agency of the BiH Federation on the account balance at the Unique Citizens Account (JRG) with your identification particulars,
- Extract from your account (JRG) not older than 30 days that could help clearly establish the balance of the unused funds originating from the aforesaid foreign currency savings, as well as the transactions made over the time period under question.

This documents need to be furnished, pursuant to Article 13 of the Law, within 30 days from the date of receipt of this letter, to the address of the Ministry of Finance – Public Debt Directorate, Pop Lukina 7-9, P.O.Box 570, 11000 Belgrade 6, including the number of your refund application and wording: "dopuna dokumentacije po osnovu devizne štednje" (additional documents related to foreign currency savings).

If, by the aforesaid date you fail to furnish us with the documents requested, Ministry of Finance – Public Debt Directorate shall, pursuant to Article 16, par. 2. Of the Law, reject your refund applications.

Also, we take this opportunity to let you know that in accordance with the provisions of Article 69 of the Law on General Administrative Procedure (“Official Journal of RS” No. 18/6), you may appoint a person – your attorney to receive the notifications, and who will on your behalf receive in the Republic of Serbia all written documents addressed to you. This in case you notify the Directorate in writing or orally, accordingly.

Additional information with this regard may be obtained via telephone numbers: +381 11 2927 653 and +381 11 2927 654.

ACTING DIRECTOR
Ana Trinović
Seal and signature

Response of the Government of Serbia
to the communication made by the Association for Protectors of Hard
Currency Depositors in Bosnia and Herzegovina

in respect of the case

Ališić and Others v. Serbia and Slovenia

application number 60642/08

Grand Chamber judgment of 16 July 2014

1. In response to the communication dated 19 September 2019 received from the Association for Protectors of Hard Currency Depositors in Bosnia and Herzegovina ("the Association"), the Government of Serbia presents its compliments to the Committee of Ministers and has the honour to submit the following clarifications.
2. In the case *Ališić and Others v. Serbia and Slovenia* the European Court applied the pilot judgment procedure and requested Serbia to make all necessary arrangements, including legislative amendments, within one year, in order to allow the applicant and all others in his situation to recover their "old" foreign-currency savings under the same conditions, respectively, as Serbian citizens who had such savings in domestic branches of Serbian banks (§ 10 of the operative part of the judgment).
3. In response to the European Court's judgment on 28 December 2016, the Serbian Parliament adopted the law (the Ališić Implementation Act) introducing the repayment scheme for outstanding "old" foreign-currency deposits (a) held by nationals of the successor States in branches of Serbian banks both inside or outside Serbia; or (b) held by the Serbian nationals in Serbian branches of the banks with head offices in other former Yugoslav Republics. The Law entered into force on *30 December 2016*.
4. On *30 March 2017* in the *Muratović* decision, the European Court found within the context of the above law that:
 - those who no longer have original contracts or bankbooks may pursue civil proceedings in order to prove the existence and the amount of their claims;
 - all verification decisions are subject to judicial review;
 - the Ališić Implementation Act fulfils criteria from the pilot judgment (see §§ 10 and 11 in *Muratović*).

- the applicant and all others in his position must use the remedy introduced by that Act, namely, a request for verification (see § 17 in *Muratović*).
5. The Association made comments which appear to be in contravention with the European Court's indications and findings in *Muratović*. In this light, the Government will now provide clarifications to specific concerns raised by the NGO at issue, many of which have already been responded roughly a year ago:
- The original booklets are not kept by the banks but are held by depositors. The Government cannot substitute itself for a (defunct) commercial bank and issue bank booklets in its stead.
 - It is not an obligation of Republic of Serbia to provide the original booklets but it is rather an obligation for depositors to attach the evidence in their possession to substantiate their claim and to comply with requirements of verification procedure in line with the European Courts indications in the pilot judgment and in *Muratović* inadmissibility decision.
 - Documentation of the banks which do not exist because of the bankruptcy has been transferred to the Deposit Insurance Agency. According to Articles 29 and 30 of the Law on Administrative Procedure there is possibility for depositors to request from Deposit Insurance Agency to issue the certificate on which official records are kept or not kept, including certificates on savings.
 - No claim will be rejected only because of a lack of original contracts of bankbooks, provided that the persons concerned are able to prove their claims by other means, as already found by the European Court in *Muratović*.
 - In line with the European Court's indications in the pilot judgment, the law ensured that all decisions concerning the amounts payable are subject to judicial review. The Court itself indicated in *Muratović* that the fact that the judicial review is introduced is compliant with the pilot judgment.
 - Concerning the NGO comments that "[t]he authorities of the Republic of Serbia enabled the Public Debt Directorate to doubt the existence of the claims", it is recalled that the European Court indicated that "[t]o allow the Serbian ... authorities to verify the balance in their accounts, the [depositors] must comply with the requirements of any *verification procedure* to be set up..." (§148, *Ališić*). It is therefore the European Court which made such indications providing that the respondent States are entitled to carry out verification procedure to verify the existence of claims. The NGO is reminded that a comparable verification procedure was set up in Slovenia and positively assessed by the Committee of Ministers.

- The Government thanks the NGO for presenting English translation of the form provided by the authorities of Bosnia and Herzegovina, stating in each case that no deposits were used in privatisation process. Such situation is making the verification procedure more complex and time consuming, as it is not possible on the basis of such flat zero forms to verify the amounts used in the privatisations, in particular in a large number of cases where the depositors themselves indicated that they actually used certain amounts in the privatisation despite the fact that the form issued by the authorities of Bosnia and Herzegovina is indicating the zero amount to this effect.
- The challenges faced by the depositors from Bosnia and Herzegovina are also attributable to the fact that its authorities failed to designate the form and issuing authority until October 2017, three years after the initial request by the Serbian authorities to do so. Once designated it turned out that all forms indicated the zero amount was used in the privatisation process in the Federation of Bosnia and Herzegovina.
- In a number of cases it was found from the records in the bankbooks presented by the depositors that the deposits were transferred to other domestic banks in Bosnia and Herzegovina. The deposits transferred to other domestic banks in Bosnia and Herzegovina ceased to be a liability of the Serbian banks. Similar approach was taken by Slovenia when facing zero amounts recorded in the Ljubljanska Banka bankbooks following their transfer and accepted by the Committee of Ministers.
- The extracts from the privatisation accounts are crucial to establish in a reliable fashion the amounts of deposits concerned used in the privatisation and the amounts payable to the depositors. The NGO is reminded that the Slovenian authorities also used this avenue and that the Committee of Ministers accepted it.
- The Government intends to provide the revised action plan to the Committee of Ministers shortly. The NGO could find more information in this document.

6. In view of the above clarifications, the Government recalls that the European Court found that the verification procedure set out in the law complies with the European Court's indications.
7. Last but not least, the Government would like to indicate that it remains attached to the values of inclusive democracy and constructive dialogue with the civil sector. In this respect, the Government continues to be standing ready to maintain dialogue with the depositors and their associations with a view to attending to their concerns and providing the necessary clarifications. It goes

without saying that the Government will continue investing its best efforts to
secure efficient verification and repayment procedures.

Zorana Jadrijević Mladar

Acting State Attorney Deputy
Government Agent of the
Republic of Serbia before the
European Court of Human Rights