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Contact: Zoë Bryanston-Cross
Tel: 03.90.21.59.62

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Meeting: 1419th meeting (December 2021) (DH)

Communication from the applicant (23/09/2021) in the case of Gosovic v. Croatia (Application No. 37006/13) (Statileo group)

Information made available under Rule 9.1 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 : 1419^e réunion (décembre 2021) (DH)

Communication du requérant (23/09/2021) relative à l'affaire Gosovic c. Croatie (requête n° 37006/13) (groupe Statileo) **[anglais uniquement]**

Informations mises à disposition en vertu de la Règle 9.1 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

Gojko Gošović
Sukošanska 19
21000 Split, Croatia
gojko.gosovic@st.htnet.hr
Mob: +385 91 546 13 13

DGI

23 SEP. 2021

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

DGI - Directorate General of Human Rights and Rule of Law
Department for the Execution of Judgments of the ECHR
Just Satisfaction Section
F-67075 Strasbourg Cedex
FRANCE

To whom It May Concern,

I sent you my case report about Gošović v. Croatia and about rejecting decision Court in Strassbourg by Split's Municipal Court.

Gošović Gojko, owner of the flat vs Radan Natalija, tenant - Review of the civil procedure due to the action for the conclusion of contract and counterclaim for eviction.

a/

Natalija Radan brought a civil action on 16 October 1997 under p 1454/97 in the Split Municipal Court in order to conclude a lease contract. Rent is around 114 kn (around 15 euros) for a 100 square metres flat in the centre of Split. At that time, N.R. has a habitable house in Rogoznica area.

b/

By a judgement on 25 May 2002, the Split Municipal Court P 1454/97 ruled in favour of N.R and imposed a lease contract stipulating rent in the amount of 15 euros for a 100 square metres flat and dismissed counter-claim seeking to obtain eviction.

c/

The County Court in Koprivnica set aside the judgement on 13 December 2005 in order to *review the applicant's house in Rogoznica and to establish if it is habitable*, the value of the house is above 100.000,00 euros.

e/

The Split Municipal Court delivered a judgement on 27 February 2008 p 47/06 and upheld the action in its entirety because they found that the N.R's summer home did not constitute a habitable house. The summer house of 100.000,00 euros was not a sufficient reason for the counter-applicant to enjoy his right to property.

f/

The County Court in Split with the judgement gž 3474/08 in principle dismissed the appeal and adopted that it is normal to pay 15 euros rent for a 100 square metres flat and that the owner of the flat consumes its property rights in its entirety with 15 euros.

g/

The flat owner, Gojko Gošović brought an action before the Constitutional Court RH 10 3 2009 for the protection of his constitutional right to property.

h/

The Constitutional Court under III 1139/2009 on 21 November 2012 found that the owner was not deprived of his right to the peaceful enjoyment of his possessions in its entirety because he still received 15 euros for 100 square metres flat in the center of Split. As usual, the Constitutional Court defends the rights of the socialist institute of especially protected tenancy from SFRY because all members of the Court consumed that right so they understand it. The emphasis in the Constitution is also that the property is not only a right but entails obligation and holders of proprietary rights and its users shall contribute to the common good.

i/

Gojko Gošović brought an action in Strassbourg on 22 May 2013 due to violation of his right to peaceful enjoyment of his possessions.

j/

The Court in Strassbourg found on 4 April 2017 that there has been a violation to the Convention in this case.

k/

Gojko Gošović brought the application for revision on 27 April 2017 in the Split Municipal Court 47/2006 based on the decision made by the Court in Strassbourg. In the meantime, based on the previous decisions, legislator changed the law in favour of respect for property rights, but the Constitutional Court changed it back to the initial position as in 1997 by its judgement and for 100 square metres flat in Split 15 euros rent is just fine.

l/

In compliance with the general points of Rechtstat, the Court applied the law and dismissed the application for revision on 11 July 2019 p 47/2006 finding that by paying the compensation to the applicant for the past period, violation of property rights disappeared forever while also denying the existing relationship that Gojko Gošović for a 100 square metres flat receives 15 euros for the whole flat, considering it an affirmation of property rights and repeats the obligation to contribute to the common good.

m/

The County Court in Osijek dismissed the appeal on 11 July 2019 gž 2291/2020 considering that, although the court in Strassbourg found there has been a violation of peaceful enjoyment of his possessions because for 100 square metres flat in the centre of Split he receives 15 euros after the judgement as well today and moving forward, there is a final judgement under e/ of this review and it is not the reason for revision of the judgement where Gojko Gošović receives 15 euros for the 100 square metres flat.

n/

Gojko Gošović raised constitutional action against the order of the Court in Osijek due to the violation of his constitutional rights. Application to the Court in Strassbourg is expected again due to the violation of peaceful enjoyment of possessions

Respectfully,



Gojko Gošović

Split, September 23, 2021