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Meeting: 1355th meeting (September 2019)

Item reference: Action report (11/06/2019)

Communication from Bosnia and Herzegovina concerning the case of Panorama Ltd and Miličić (Application Nos. 69997/10 and 74793/11)

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Réunion : 1355^e réunion (septembre 2019) (DH)

Référence du point : Bilan d'action

Communication de la Bosnie-Herzégovine concernant l'affaire Panorama Ltd et Miličić (Requête n° 69997/10 et 74793/11) **(anglais uniquement)**

BOSNA I HERCEGOVINA

*Ministarstvo za ljudska prava i izbjeglice
Ured zastupnika/agenta Vijeća ministara BiH
pred Europskim sudom za ljudska prava*

SARAJEVO



BOSNIA AND HERZEGOVINA

*Ministry for Human Rights and Refugees
Office of the Agent of the Council of Ministers
before the European Court of Human Rights*

SARAJEVO

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SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

**Mr Fredrik Sundberg,
Head of the Department**

**Directorate General I Human Rights and Rule of Law
Department for the Execution of Judgments of the European
Court of Human Rights
Council of Europe
Strasbourg**

ACTION REPORT

Panorama Ltd and Miličić

app. nos. 69997/10 and 74793/11, judgment of 25 July 2017, final on 25 October 2017

I CASE DESCRIPTION

1. This case concerns violations of the applicants' right to fair trial and enjoyment of their property rights on account of the authorities' failure to fully enforce the domestic court decisions ordering payment of war damages, notably their failure to pay default interest awarded (violations of Article 6 § 1 and Article 1 of Protocol No. 1).
2. The Court ordered Bosnia and Herzegovina to secure payment of default interest ordered by final domestic judgments under consideration in the present case, within three months of the date on which the judgment becomes final (i.e. before 25 January 2018) (§5, operative part of *Panorama Ltd. and Miličić*).

II INDIVIDUAL MEASURES

3. Individual measures have been taken or envisaged with a view to putting violations to an end and redressing the applicants for their negative consequences. They are set out below.

A. Measures taken to secure payment of default interest ordered by domestic judgments

4. At the outset, the authorities would like to recall that pursuant to provisions of the War Damage Act of 2001 the claims in respect of war damage were declared a part of the public debt of the Federation to which default interest did not apply (§40, *Panorama Ltd. and Miličić*). The domestic courts in civil proceedings however did not taken into account the above provisions of the *lex specialis* but decided on under the general rules of tort law. Respective domestic decisions thus provided for the payment of certain sums to the applicants, together with the default interest.
5. Prior to the present judgment the applicants were paid certain sums in respect of principal debts. The interest due had not been paid and the Court therefore ordered Bosnia and Herzegovina to secure its payment until 25 January 2018. The authorities of Bosnia and Herzegovina would like to inform the Committee of Ministers that the statutory default interest, as ordered by the domestic court decisions, was made on 16 July 2018.

B. Redress for the applicants

6. At the outset, it is recalled that the applicants did not submit a claim for just satisfaction. Accordingly, the Court considered that there was no call to award them any sum on that account (§76 of the judgment).
7. The Court however noted under Article 41 that a judgment in which the Court finds a violation of the Convention or of its Protocols imposes on the respondent State a legal obligation not just to pay those concerned the sums awarded by way of just satisfaction, but also to choose, subject to supervision by the Committee of Ministers, the general and/or, if appropriate, individual measures to be adopted in its domestic legal order to put an end to the violation found. Having regard to its finding in the instant case, the Court considered that the respondent State must secure full enforcement of the judgments of 10 and 28 May 2007 by way of paying the applicants default interest awarded by these judgments.
8. The authorities therefore consider that full enforcement of respective domestic judgments ensured that the applicants are redressed.

III GENERAL MEASURES

9. At the outset, it is recalled that the violations in the present case occurred due to inadequate case-law of enforcement courts which failed to ensure full enforcement of final decisions rendered in the applicants' favour. These decisions were decided under the general rules of tort law and provided for the payment of certain sums to the applicants, together with the default interest. The enforcement courts however took into account the provisions of the War Damage Act of 2001 declaring that war damage constituted a part of public debt to which default interest did not apply.
10. In this respect, the authorities would like to note that even prior to the present judgment, in its decisions dated 14 September 2004, 20 December 2005 and 7 October 2014 the

Constitutional Court followed the Court's approach in the cases similar to the present one while upholding the enforcement court's conclusion that the debtor's (State's) objections based on provisions concerning default interest were manifestly ill-founded (§45-47, *Panorama Ltd. and Miličić*).

11. The authorities therefore consider that publication and dissemination of the Court's findings to the domestic courts will be sufficient to ensure that the Constitutional Court continue implementing its above-mentioned case-law in line with the Convention requirements. These measures will be also capable of ensuring that enforcement courts secure full enforcement of the domestic judgments in their parts concerning the default interest in cases in which the competent civil courts already established that the State should pay the default interest under the general rules of tort law.
12. To this end, the authorities have taken publication and dissemination measures. In particular, the Government ensured that the European Court's judgment has been translated and published on the Government Agent's official web page and in the Official Gazette of Bosnia and Herzegovina, no. 12/18. The Government Agent ensured that the Court's judgment was transmitted with a note on the violation found to the Federal Ministry of Finance and the Sarajevo Municipal Court, the bodies vested with competence to execute the individual measures in this case. It was also disseminated to the Constitutional Court.
13. The authorities consider that these measures will be capable of preventing similar violations. This is demonstrated by the fact that no applications alleging similar violations are currently pending before the Court. Likewise, to the best knowledge of the authorities, there are no similar cases at domestic level in which the parties are awaiting for the enforcement of the domestic judgments rendered in their favour in their parts concerning default interest.

IV JUST SATISFACTION

14. It is recalled that the applicants did not submit a claim for just satisfaction. Accordingly, the Court considered that there was no call to award them any sum on that account.

V CONCLUSIONS

15. The authorities consider that the individual measures are capable of bringing the violations at hand to an end and providing redress to the applicants.
16. The authorities furthermore consider that publication and dissemination taken are capable of preventing similar violations.

Agent of the Council of Ministers of Bosnia and
Herzegovina before the European Court of Human Rights

Belma Skalonjić