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Meeting: 1243 meeting (8-10 December 2015) (DH)

Item reference: Communication from a NGO (Udruženje Za Zaštitu Deviznih Štediša u Bosni I Hercegovini) (16/10/2015) in the case of Ališić and others against Serbia and Slovenia (Application No. 60642/08) and reply from the Slovenian authorities (26/10/2015)

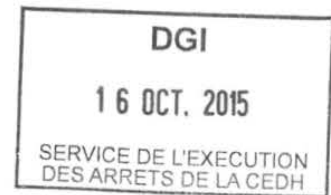
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Réunion : 1243 réunion (8-10 décembre 2015) (DH)

Référence du point : Communication d'une ONG (Udruženje Za Zaštitu Deviznih Štediša u Bosni I Hercegovini) (16/10/2015) dans l'affaire Ališić et autres contre Serbie et Slovénie (Requête n° 60642/08) et réponse des autorités slovènes (26/10/2015) (**anglais uniquement**)

Informations mises à disposition en vertu des Règles 9.2 et 9.3 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



UDRUŽENJE ZA ZAŠTITU DEVIZNIH ŠTEDIŠA U BOSNI I HERCEGOVINI
71000 Sarajevo. Ćemaluša 6
**ASSOCIATION FOR PROTECTION OF HARD CURRENCY SAVINGS DEPOSITORS
IN BOSNIA AND HERZEGOVINA**

Sarajevo, 12 October 2015

**COUNCIL OF EUROPE/CONSEIL de L'EUROPE
COMMITTEE OF MINISTERS
Department for the Execution of the Judgment**

**The Judgment of the European Court of Human Rights in case No. 60642/08 Ališić v.
Slovenia**

Let us emphasize again that the Act adopted by the Slovenian Parliament precludes the rights of the depositors from the Federation of Bosnia and Herzegovina to have their savings recovered, whereby Slovenia continues to violate Article 1 of the Protocol to the European Convention. We are referring here to 6,000 deprived people and their claims amounting to 25 million EUR.

The Judgment in the Case of Ališić and others defines that the old hard currency savings from the banks having their registered office in Slovenia and Serbia could be reduced only by the payments made in Bosnia and Herzegovina from the hard currency accounts on humanitarian grounds or by the amount of hard currency savings used in the process of privatization in the Federation of Bosnia and Herzegovina. The right to use hard currency savings in the privatization process in the Federation of Bosnia and Herzegovina was abolished by the judgment of the Constitutional Court of the BiH Federation No. U 10/00 of January 8, 2001. Slovenia surely cannot reestablish this right by its own Act.

As of December 1, 2015, the depositors are going to make their application to Slovenia for execution of the Judgment Ališić. The refusal to act upon these applications shall be considered a refusal to execute the Judgment and the Committee of Ministers will be asked to order Slovenia recover these savings.

Yours sincerely,

Amila Omersović
Chairwoman of the Association





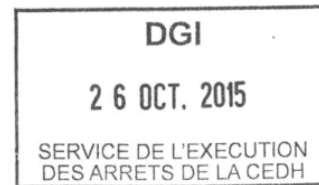
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Number: 112/2015 - MŠP
Date: 26 October 2015



Ms Geneviève Mayer
Head of Department for Execution of Judgements
COUNCIL OF EUROPE

Subject: Letter from the Association for the Protection of Hard Currency Savings Depositors in Bosnia and Herzegovina concerning the case Ališić – Reply of the Republic of Slovenia

Dear Ms Mayer,

We would like to thank you for sharing with us the latest letter of the Association for Protection of Hard-Currency Savings Depositors in Bosnia and Herzegovina (the Association) of 12 October, 2015 which presents the Association's comments on the Act on the Method of the Execution of the Judgement of the European Court of Human Rights in case No. 60642/08 (Official Gazette of the Republic of Slovenia, No. 48/15, the Act), that came into force on 4 July, 2015, regarding the treatment of the hard currency savings used in the privatization process in the Federation of Bosnia and Herzegovina.

Slovenia has several times provided extensive explanations to the issue raised in the letter. To the president of the Association they were conveyed in the meeting with the Embassy of the Republic of Slovenia in Sarajevo soon after the adoption of the Act and by the Minister of Foreign Affairs in his response to the president of the Association letter dated 28 May 2015, which was also sent to several institutions. Lastly, the issue was also addressed in the response of the Republic of Slovenia to the letter that the Association addressed to the Committee of Ministers on 12 August, 2015.

Nevertheless, we will once again explain the reason, why the old foreign-currency savings that were transferred from the accounts in Sarajevo Main branch of Ljubljanska banka to the single accounts of citizens for the purpose of privatization in accordance with the legislation of Bosnia and Herzegovina are excluded from the definition of the unpaid old foreign-currency savings as defined by the Act. Namely, the legislation of Bosnia and Herzegovina (Federation of Bosnia and Herzegovina and Republika Srpska) from the late 1990s explicitly defines that by transferring the old foreign currency savings to the single accounts of citizens the claims are being transferred against the Federation of Bosnia and Herzegovina and against Republika Srpska accordingly. The claims from the old foreign currency savings (or their part) were

transformed into certificates/coupons for the use in the privatization process. The relevant legislation of Federation of Bosnia and Herzegovina determines that the unused certificates expire after a certain date (which has been prolonged several times), which further confirms the view that the transfers were not meant as temporary. The above mentioned legislation of Republika Srpska, on the other hand, explicitly defines that the coupons obtained on the basis of old foreign currency savings may be used during the privatization process and that the entitlement to the part of the old foreign currency savings, for which the coupons have been issued, may not be restored. Furthermore, the transfers were made by the Agency for Privatisation of the Federation of Bosnia and Herzegovina, but only on the basis of two important data, that had to be provided to the Agency by the owner of the old foreign-currency saving; that they are citizens and that they live on the territory of Bosnia and Herzegovina. An active role of the savers was thus required in this process. To our knowledge the transfers of savings from these accounts to single accounts of citizens in the full amount caused that the accounts at the Ljubljanska banka Main branch in Sarajevo ceased to exist and were never reconstructed. Claims for the unused transferred amounts therefore exist against both Bosnian entities and not towards Ljubljanska banka Main Branch Sarajevo and the performance of the liability cannot be assumed by the Republic of Slovenia within the scope of the judgment.

With regard to the constitutional review of the regulations on the privatization process in the Federation of Bosnia and Herzegovina in 2001, the responsibility for securing constitutionality of national legislation lies with the Bosnian authorities. Furthermore, according to the judgement of the Constitutional Court of the Federation of Bosnia and Herzegovina, the regulation established as unconstitutional had no effect on the transfers already executed up to the date of the entry into force of the judgement.

The Fund of the Republic of Slovenia for the Succession Issues, authorized by the Act to perform the verification process, will accept and process all the requests for the verification that will be filled in the period determined by the Act and will decide on each request for verification in line with the Act and all the relevant legislation of the Republic of Slovenia, governing the verification process.

Extensive explanations on the solutions provided by the Act were provided and broadly supported by the Committee of Ministers on 23 September, 2015. Slovenia is committed to and is pursuing the timely execution of the judgement.

Yours sincerely,




Eva Tomič
Ambassador

Permanent Representative of
Slovenia to the Council of Europe