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Meeting: 1288th meeting (June 2017) (DH)

Item reference: Action plan (16/03/2017)

Communication from Serbia concerning the case of ALISIC AND OTHERS v. Serbia and Slovenia (Application No. 60642/08)

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Réunion : 1288e réunion (juin 2017) (DH)

Référence du point : Plan d'action

Communication de la Serbie concernant l'affaire ALISIC ET AUTRES c. Serbie et Slovénie (Requête n° 60642/08) ***(anglais uniquement)***

Belgrade, 16 March 2017

REVISED ACTION PLAN

Ališić and Others v. Serbia and Slovenia

Application number 60642/08

Grand Chamber judgment final on 16 July 2014

I CASE DESCRIPTION

1. The case concerns violations of the applicant Mr Šahdanović's right to peaceful enjoyment of his property on the account of his inability to recover his "old" foreign-currency savings deposited in Bosnian-Herzegovinian branch of a bank with head offices in Serbia (violation of Article 1 of the Protocol No. 1).

2. "Old" foreign-currency savings are the savings deposited in banks on the territory of the Socialist Federal Republic of Yugoslavia ("SFRY") prior to its dissolution. Following the collapse of the SFRY and its banking system, many depositors lost access to their foreign-currency savings. The new successor States of the SFRY subsequently introduced different repayment schemes aimed at reimbursing depositors for these lost savings. These schemes made repayment subject to different conditions, such as territoriality of deposits or nationality of depositors.

3. Serbia, in particular, offered to repay the "old" foreign-currency savings deposited with the Serbian banks in Serbia or abroad if the depositor had a qualifying nationality. The nationals of other States which emerged from the SFRY were unable to obtain repayment under this scheme. Since Mr Šahdanović, a national of Bosnia and Herzegovina, did not hold the qualifying nationality for the Serbian repayment scheme, he could not

recover his "old" foreign-currency savings deposited in a Belgrade-based bank Investbanka in its branch located in Bosnia and Herzegovina.

4. The European Court observed, in this respect, that the bank in question – Investbanka Belgrade – was state-owned and controlled by the Serbian Government (§ 117 of the judgment). The Court therefore found that there were sufficient grounds to deem Serbia responsible for this debt.

5. The case also concerns the lack of an effective remedy in respect of the applicant's claims (violations of Article 13).

6. Under Article 46 of the Convention the European Court held that the failure of the Serbian Government to include the applicant Mr Šahdanović, and all others in his situation, in their respective schemes for the repayment of "old" foreign-currency savings represented a systemic problem (§ 9 of the operative part of the judgment).

7. The Court therefore applied the pilot judgment procedure and requested Serbia to make all necessary arrangements, including legislative amendments, within one year (i.e. by 16 July 2015) 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).

8. At the same time, the Court decided to adjourn for one year its examination of all similar cases against Serbia (§ 12 of the operative part of the judgment).

II INDIVIDUAL MEASURES

9. It is recalled in this respect that the European Court did not award the applicant Mr Šahdanović just satisfaction in respect of pecuniary damage

sustained, notably in the amount of his outstanding "old" foreign-currency savings (§152 of the judgment). The Government would however like to indicate that the individual measures allowing Mr Šahdanović to recover his "old" foreign currency savings would be taken within the framework of the repayment scheme to be set up in accordance with the European Court's indications in this case (§ 146 of the judgment). These measures will therefore be capable of redressing the applicant Mr Šahdanović in respect of pecuniary damage sustained and bringing the violation at hand to an end.

10. The authorities would like to indicate that the European Court has awarded the applicant Mr Šahdanović just satisfaction in the amount of EUR 4,000 in respect of non-pecuniary damage sustained. This amount has been paid within the deadline set by the European Court. The applicant has therefore been redressed in respect of non-pecuniary damage sustained.

III GENERAL MEASURES

11. In response to the European Court's judgment, the Ministry of Finance prepared a draft law aimed at introducing a repayment scheme for the "old" foreign-currency savings in line with the European Court's indications. Its provisions reflected the European Court's indications to ensure that eligible depositors are able to recover their "old" foreign-currency savings under the same conditions as Serbian citizens who had such savings in the domestic branches of Serbian banks (§ 146 of the judgment).

12. On 28 December 2016, the Serbian Parliament adopted the above-mentioned draft law introducing the repayment scheme for outstanding "old" foreign-currency deposits (a) held by nationals of the successor States in branches of Serbian banks 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 following day, on 29 December 2016, the President of the Republic signed and promulgated this law. The

same day, the law has been published in the Official Gazette of the Republic of Serbia. It entered into force on 30 December 2016.

13. It is estimated that the savings concerned amount up to EUR 310 million.

14. The Government would like to recall that in its last decision from March 2017 the Committee of Ministers noted with satisfaction that on 28 December 2016 the Serbian Parliament had adopted the law introducing a repayment scheme with a view to allowing the applicants and all others in their situation (including those whose applications are pending before the European Court) to recover "old" foreign-currency savings under the same conditions as Serbian citizens who had such savings in domestic branches of Serbian banks.

15. In the same decision, the Committee noted that the Serbian authorities had taken measures to ensure the effective implementation of the law, such as securing premises and staff for the treatment of applications from depositors, and invited them to make an additional effort to ensure the proper functioning of the repayment scheme in line with the Convention standards, and under the same conditions as Serbian citizens who had such savings in domestic branches of Serbian banks, as well as to provide information regularly to the Committee in this respect.

16. The authorities would now like to inform the Committee of Ministers on the developments following the last examination of this case in March 2017.

17. On 3 February 2017 the Government adopted the Regulation governing the procedure for establishment of the right to payment of foreign-currency savings. The Regulation prescribed, *inter alia*, an application form for claims and the procedure to be followed when registering claims and processing the documentation to be attached to the application. This Regulation was published in the Official Gazette of the Republic of Serbia on the same day.

18. On 23 February 2017 the Ministry of Finance, in charge of the application of law, also issued a public call inviting depositors to lodge their claims with the Public Debt Administration. This public call was published in a major daily in each of the former Yugoslav Republics as well as on the official webpage of the Ministry of Finances. The following day, on 24 February 2017 this public call was also published in the Official Gazette of the Republic of Serbia. This public call includes, *inter alia*, all necessary information concerning the method of registration, the documentation to be attached to the application, and the deadline for registration of claims.

19. The authorities would furthermore like to recall that the Public Debt Administration will establish the amount of the "old" foreign-currency savings payable the administrative procedure upon a proposal of an *ad hoc* committee. This *ad hoc* committee is to be set up shortly and will include representatives of the Ministry of Finance, the Public Debt Administration, the Deposit Insurance Agency, the National Bank of Serbia and State Attorney's Office.

20. Lastly, the authorities would like to recall that the Ministry of Finance and the Public Debt Administration have already taken measures to secure adequate premises and staff to handle the applications for repayment of the deposits concerned.

IV JUST SATISFACTION

21. The just satisfaction awarded to the applicant Mr Šahdanović in respect of non-pecuniary damage has been disbursed within the deadline set by the European Court.

V CONCLUSIONS

22. The authorities consider that the law and repayment scheme introduced complies with the European Court's indications and will be capable of preventing similar violations stemming from unsettled "old" foreign-currency savings. In line with its primary obligation to secure everyone within Serbian jurisdiction his/her Convention rights, the authorities hold the view that that the envisaged repayment scheme will ensure full and effective execution of the European Court's judgment and will resolve a broader spectrum of potential violations in this respect.

23. In this respect, the authorities would like to highlight that they have been taking all necessary measures to ensure the proper functioning of the repayment scheme in line with the Convention standards, and under the same conditions as Serbian citizens who had such savings in domestic branches of Serbian banks.

24. The authorities will keep the Committee of Ministers informed on its experience in the implementation of the repayment scheme.