

Press release issued by the Registrar

**GRAND CHAMBER JUDGMENT
KOVAČIĆ AND OTHERS v. SLOVENIA**

The European Court of Human Rights has today delivered at a public hearing its Grand Chamber judgment¹ in the case of *Kovačić and Others v. Slovenia* (application nos. 44574/98, 45133/98 and 48316/99).

The Court decided unanimously to **strike the cases out of its list** as two of the three applicants had obtained reimbursement in full of their foreign-currency accounts with interest and the third had issued proceedings in the Croatian courts which were still pending. (The judgment is available in English and French.)

1. Principal facts

The applicants are three Croatian nationals: Ivo Kovačić (now deceased), who was born in 1922 and lived in Zagreb; Marjan Mrkonjić, who was born in 1941 and lives in Zurich; and Dolores Golubović (now deceased), who was born in 1922 and lived in Karlovac (Croatia). Mr Kovačić's and Ms Golubović's applications have been taken up by their heirs with the Court's agreement.

The applications concern the freezing of the applicants' hard-currency savings accounts at the Zagreb office of a Slovenian bank, the Ljubljana Bank (*Ljubljanska banka*), prior to the dissolution of the Socialist Federal Republic of Yugoslavia (SFRY) in 1991.

The applicants and their relatives had previously deposited foreign currencies in savings accounts with the Ljubljana Bank's Zagreb office (in Croatia). Some of the applicants and their relatives also held term accounts which matured in the late 1980s and early 1990s. The system in operation at the time was that foreign-currency deposits at SFRY commercial banks were transferred to the National Bank of Yugoslavia in Belgrade ("NBY"). Foreign-currency accounts earned interest at rates of 10 % or even higher and were guaranteed by the SFRY.

However, as an emergency response to the hyper-inflation suffered by the SFRY in the 1980s, the withdrawal of foreign currency was progressively restricted by legislation and in 1988 the Ljubljana Bank froze all its foreign-currency accounts. Almost all the applicants' attempts to withdraw the money from their accounts failed.

The applicants and the Croatian Government considered that since 1991, the year Slovenia and Croatia became independent, liability for the debts owed to the customers of the Croatian branch of the Ljubljana Bank should have been assumed by that bank or by the Slovenian

¹ Grand Chamber judgments are final (Article 44 of the Convention).

State. Conversely, the Slovenian Government took the view that they should be divided among the successor States to the SFRY under the State succession arrangements.

On 29 June 2001 Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia, the Former Yugoslav Republic of Macedonia and Slovenia signed the Vienna Agreement on Succession Issues, which entered into force on 2 June 2004.

In 2004 the Parliamentary Assembly of the Council of Europe adopted Resolution 1410 (2004) concerning ‘Repayment of the deposits of foreign exchange made in the offices of the Ljubljanska Banka not on the territory of Slovenia, 1977-1991’. Among other matters, it considered that “the matter of compensation for so many thousands of individuals would best be solved politically, between the successor States...”.

In 2003, 42 account holders, including Mr Kovačić and Mr Mrkonjić, lodged applications in Croatia for the seizure and sale of real estate owned by the Ljubljana Bank there. This resulted in the Zagreb Main Branch’s assets being liquidated. On 20 July 2005 Mr Kovačić and Mr Mrkonjić received payment of their savings deposits in full together with their legal costs.

Ms Golubović did not bring proceedings in Croatia to recoup her foreign currency savings. However, in 2007 her heir brought an action in the Croatian courts for the recovery of her foreign-currency savings accounts plus interest. The proceedings are still pending in the Zagreb Municipal Court.

2. Procedure and composition of the Court

The applications were lodged with the European Court of Human Rights on 17 July 1998, 2 June 1997 and 24 December 1998 respectively.

The Croatian Government had exercised its right to intervene (Article 36 § 1 of the Convention and Rule 44 § 1 (b)).

A hearing on the admissibility and merits took place in public in the Human Rights Building, Strasbourg, on 9 October 2003. After the deliberations, which were held in private, the Court unanimously declared the applications admissible. In its Chamber judgment of 6 November 2006, the Court unanimously decided to strike out the case on the grounds that two of the applicants had received payment in full of their foreign-currency deposits and that it was still open to the third applicant to bring proceedings in Croatia.

The case was referred to the Grand Chamber in accordance with Article 43¹ of the Convention (referral to the Grand Chamber) at the applicants’ request. A hearing took place

¹ Under Article 43 of the Convention, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

in public in the Human Rights Building, Strasbourg, on 14 November 2007. Judgment was given by the Grand Chamber of 17 judges, composed as follows:

Jean-Paul **Costa** (French), *President*,
Nicolas **Bratza** (British),
Peer **Lorenzen** (Danish),
Françoise **Tulkens** (Belgian),
Georg **Ress** (German),
Giovanni **Bonello** (Maltese),
Karel **Jungwiert** (Czech)
Boštjan M. **Zupančič** (Slovenian),
Rait **Maruste** (Estonian),
Snejana **Botoucharova** (Bulgarian),
Antonella **Mularoni** (San Marinese),
Stanislav **Pavlovski** (Moldovan),
Lech **Garlicki** (Polish),
Khanlar **Hajiyev** (Azerbaijani),
Sverre Erik **Jebens** (Norwegian),
Dragoljub **Popović** (Serbian),
Mark **Villiger** (Swiss)¹, *judges*,

and also Erik **Fribergh**, *Registrar*.

3. Summary of the judgment²

Complaints

The applicants complained of a violation of Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights in that they had been prevented by Slovenian law from withdrawing foreign currency which they had deposited with “the Ljubljana Bank – Zagreb Main Branch” before the dissolution of the SFRY. Mr Kovačič also complained that he had been a victim of discrimination in relation to the enjoyment of his property rights, contrary to Article 14 of the Convention.

Decision of the Court

Article 1 of Protocol No. 1 taken alone and in conjunction with Article 14

It was noted as a preliminary point that the applicants, the respondent Government and the intervening Government had in effect requested the Court to go into a number of issues pertaining to the circumstances of the break-up of the SFRY, its banking system and those of the successor States and the redistribution of liability for old foreign-currency savings among the successor States of the SFRY.

The Court observed at the outset that it had received applications against all of the SFRY successor States Parties to the Convention from applicants who had been affected by these matters. Several thousand such applications were currently pending. Even though such issues

¹ Judge elected in respect of Liechtenstein.

² This summary by the Registry does not bind the Court.

fell within the Court's jurisdiction as defined in Article 32 of the Convention, the Court could only subscribe to the view of the Parliamentary Assembly in Resolution 1410 (2004) that the matter of compensation for so many thousands of individuals had to be solved by agreement between the successor States. In that respect, the Court noted that several rounds of negotiations had already been held between the successor States, at different levels, with a view to reaching an agreement on the solution of the issues which remained unsettled. It called on the States concerned to proceed with these negotiations as a matter of urgency, with a view to reaching an early resolution of the problem.

The Court noted that it was common ground that Mr Kovačić's heirs and Mr Mrkonjić had received the full amount of their foreign-currency deposits plus accrued interest. As regards them, the matter had therefore been resolved.

The Court further noted the special circumstances of Mrs Golubović's case, which were the consequence of the break-up of the SFRY, its banking system and, ultimately, the redistribution of liability for old foreign-currency savings among the successor States of the SFRY. In such a context, the Court considered that claimants could reasonably be expected to seek redress in fora in one of the successor States where other claimants had been successful.

The Court noted in that respect that Mrs Golubović's heir had recently brought proceedings in Croatia with a view to recovering his late aunt's foreign-currency savings with interest. These proceedings are now pending before the Zagreb Municipal Court.

The Court found no justification for continuing with the examination of a case where proceedings were simultaneously pending in a court of a Contracting Party to recover foreign-currency deposits which were the very subject-matter of the application.

Being satisfied that respect for human rights as defined in the Convention and its Protocols did not require it to continue the examination of the applications, it decided to strike the cases out of the list.

The Court made no award for costs and expenses.

Judge Ress expressed a concurring opinion, which is annexed to the judgment.

The Court's judgments are accessible on its Internet site (<http://www.echr.coe.int>).

Press contacts

Adrien Raif-Meyer (telephone: 00 33 (0)3 88 41 33 37)

Tracey Turner-Tretz (telephone: 00 33 (0)3 88 41 35 30)

Sania Ivedi (telephone: 00 33 (0)3 90 21 59 45)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.