

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF LANDIKA v. SLOVENIA

(Application no. 45987/22)

JUDGMENT

Art 1 P1 • Peaceful enjoyment of possessions • Respondent State not responsible for the applicants' inability to recover "old" foreign-currency savings deposited in Ljubljana Bank (Sarajevo branch) converted into privatisation certificates administered by the Bosnia and Herzegovina authorities after the SFRY's dissolution • Repayment scheme under new legislation enacted after *Ališić and Others v. Bosnia and Herzegovina, Croatia, Serbia, Slovenia and the former Yugoslav Republic of Macedonia* [GC], excluded recovery of "old" foreign-currency savings subject to the transfer of claims • Distinct factual and legal circumstances from *Ališić and Others* in which the relevant claims had not been transferred • Relevant domestic decisions based on sound grounds

Prepared by the Registry. Does not bind the Court.

STRASBOURG

3 March 2026

FINAL

21/09/2026

This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.



In the case of Landika v. Slovenia,

The European Court of Human Rights (Third Section), sitting as a Chamber composed of:

Ioannis Ktistakis*, President*,
Peeter Roosma,
Erik Wennerström,
Lətif Hüseynov,
Darian Pavli,
Diana Kovatcheva,
Vasilka Sancin*, judges*,
and Milan Blaško, *Section Registrar,*

Having regard to:

the application (no. 45987/22) against the Republic of Slovenia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by three nationals of Bosnia and Herzegovina, Ms Kata Landika, Mr Damjan Jugo Landika and Mr Vjekoslav Landika ("the applicants"), on 29 September 2022;

the decision to give notice to the Slovenian Government ("the Government") of the complaints concerning Article 1 of Protocol No. 1 and to declare inadmissible the remainder of the application;

the observations submitted by the Government and the observations in reply submitted by the applicants;

the comments and information submitted by the Government of Bosnia and Herzegovina under Article 36 § 1 of the Convention and Rule 44 § 1 of the Rules of Court, and the comments submitted by the Association for the Protection of Foreign-Currency Depositors in Bosnia and Herzegovina, who were granted leave to intervene by the President of the Section under Rule 44 § 3 (a) of the Rules of Court;

Having deliberated in private on 10 February 2026,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The present case concerns the applicants' inability to recover, under legislation enacted in Slovenia following the Court's judgment in *Ališić and Others v. Bosnia and Herzegovina, Croatia, Serbia, Slovenia and the former Yugoslav Republic of Macedonia* ([GC], no. 60642/08, ECHR 2014), their predecessor's "old" foreign-currency savings deposited in the Sarajevo branch of Ljubljana Bank Ljubljana, the claim relating to those savings having been transferred in 1998 to a privatisation account administered by the authorities of the Federation of Bosnia and Herzegovina.

THE FACTS

2. The applicants were born in 1941, 1964 and 1971 respectively. All are residents of Bosnia and Herzegovina, with Mr Damjan Jugo Landika living in Mostar and the remaining two applicants in Bugojno. The applicants were represented by Čeferin and Partners, a law firm based in Grosuplje, Slovenia.

3. The Government were represented by their Agent, Ms N. P. Gosenca, Senior State Attorney.

4. The facts of the case may be summarised as follows.

I. BACKGROUND CONCERNING THE SITUATION IN THE SFRY

5. Details concerning the commercial banking situation in the Socialist Federal Republic of Yugoslavia ("the SFRY") and the related reforms are set out in *Ališić and Others* (cited above, §§ 12-22). A summary, with additional information where appropriate, is provided below.

A. Dissolution of the SFRY, its banking system and related reforms

6. Prior to the breakdown of the SFRY and the economic reforms carried out in 1989-90, the commercial banking system in the SFRY consisted of basic and associated banks. Basic banks had their own legal personality, but were integrated into the organisational structure of one of the nine associated banks. As a rule, basic banks were founded and controlled by socially owned companies based in the same territorial unit (that is, in one of the republics of the SFRY, namely Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia and Slovenia, or autonomous provinces, Kosovo and Vojvodina).

7. Ljubljana Bank (*Ljubljanska banka*) was founded in 1955 and subsequently underwent several changes in status and name. From 1978 until 1 January 1990 Ljubljana Bank Ljubljana ("LBL") operated as an "associated bank" (*Ljubljanska banka – združena banka*) and was composed of Ljubljana Basic Bank Sarajevo and a number of other basic banks. On 19 December 1989 LBL was re-registered as a joint-stock company (*Ljubljanska banka d.d. Ljubljana* – hereinafter likewise referred to as "LBL") in the then Socialist Republic of Slovenia. The change was entered in the register of commercial companies on the same date and became effective on 1 January 1990 (see *Slovenia v. Croatia* (dec.) [GC], no. 54155/16, §§ 8 and 10, 18 November 2020).

8. Within the framework of the reforms carried out in 1989-90, the SFRY abolished the system of basic and associated banks. This shift in the banking regulations allowed some basic banks to opt for independent status, while other basic banks became branches (without legal personality) of the former associated banks to which they had formerly belonged. In January 1990

Ljubljana Basic Bank Sarajevo became a branch of LBL, namely the Sarajevo Main Branch (*Ljubljanska banka d.d. Ljubljana – Glavna filijala Sarjevo* – hereinafter "the Sarajevo branch of LBL"). The latter assumed the former's rights, assets and liabilities.

9. The dissolution of the SFRY took place between 1991 and 1992, with its constituent republics declaring independence during this period. Slovenia declared independence from the SFRY on 25 June 1991. Bosnia and Herzegovina (hereinafter also "BiH") declared its independence on 3 March 1992, triggering an armed conflict starting in April 1992 and ending with the General Framework Agreement for Peace in Bosnia and Herzegovina ("the Dayton Peace Agreement"), which entered into force on 14 December 1995. It confirmed the continuation of Bosnia and Herzegovina's legal existence as a State, while changing its internal structure, which now consist of two Entities – the Federation of Bosnia and Herzegovina (hereinafter also "the FBH") and Republika Srpska. An additional self-governing unit, the Brčko District, was established in 2000 (see *Suljagić v. Bosnia and Herzegovina*, no. 27912/02, § 15, 3 November 2009).

10. Following the entry into force of the post-Dayton constitutional framework, which allocated primary responsibility for economic restructuring and the transformation of socially owned capital to the Entities, the process of privatisation in Bosnia and Herzegovina began. In the FBH, it was formally initiated by means of a series of privatisation laws in 1996 to 1998, establishing the legal basis for transferring State and socially owned assets into private ownership (see paragraphs 15 and 46-48 below).

B. "Old" foreign-currency savings

11. Individuals were allowed to open foreign-currency savings accounts in the SFRY from 1965 onwards. Annual interest on savings accounts was comparatively high, reaching levels of 10% or more. From 25 December 1969 until the dates on which each successor State declared its independence, all foreign-currency deposits were covered by the SFRY's statutory guarantee (see *Kovačić and Others v. Slovenia* [GC], nos. 44574/98 and 2 others, § 34, 3 October 2008). This guarantee was to be activated in the event of a bank's bankruptcy or "manifest insolvency", at the bank's request.

12. In the 1970s the global economic crisis hit the SFRY particularly hard. The SFRY turned to international capital markets and soon became one of the most indebted countries in the world. When the international community backed away from the loose lending practices of the 1970s, the SFRY resorted to the foreign-currency savings of its citizens to pay foreign debts and finance imports. The Parliamentary Assembly of the Council of Europe has established that, as a result, a significant portion of the original deposits ceased to exist before the dissolution of the SFRY (see *Suljagić*, cited above, § 51, with further references). From the mid-1970s onwards, virtually all

foreign currency was redeposited with the National Bank of Yugoslavia, most often through an "accounting" or "pro forma" method. In late 1988 the redepositing system was stopped, and the banks were given permission to open accounts with foreign banks.

13. In 1990 the dinar was declared convertible, which led to a massive withdrawal of foreign currency. The SFRY therefore resorted to emergency measures, further restricting the withdrawal of foreign-currency deposits. Following the dissolution of the SFRY (see paragraph 9 above), foreign-currency savings deposited in the successor States of the SFRY prior to the dissolution were governed by a special regime and are commonly referred to as "old" or "frozen" foreign-currency savings. An overview of the relevant domestic law and practice concerning such savings in Bosnia and Herzegovina, Croatia, Serbia, Slovenia and North Macedonia is provided in *Ališić and Others* (cited above, §§ 24-52). Information specifically relevant to the circumstances of the present case is provided below.

II. MEASURES RELEVANT TO THE PRESENT CASE TAKEN BY BOSNIA AND HERZEGOVINA AND SLOVENIA FOLLOWING THE DISSOLUTION OF THE SFRY

A. Bosnia and Herzegovina

1. Relevant legislative changes and implementing measures concerning "old" foreign-currency savings

14. In 1992 Bosnia and Herzegovina took over the statutory guarantee for "old" foreign-currency savings from the SFRY (see paragraph 11 above), which remained frozen during the war, with only limited withdrawals allowed on humanitarian or other exceptional grounds. The guarantee appears to have covered such savings in domestic banks only (*see Ališić and Others*, cited above, §§ 24 and 25). Furthermore, the concept of "social ownership" was abandoned with the introduction of the Transfer of Assets from Social to State Ownership Act (*Zakon o prenosu sredstava društvene u državnu svojinu*) in 1993 and the Social Ownership Transformation Act (*Zakon o pretvorbi društvene svojine*) in 1994 (see *Suljagić*, cited above, § 14).

15. Following the enactment of the Privatisation Agency Act (*Zakon o Agenciji za privatizaciju*) in 1996, on 28 November 1997 the FBH enacted the Privatisation of Companies Act (see paragraph 46 below). On the same date the Law on the Settlement of Claims in the Privatisation Process (see paragraph 48 below – hereinafter "1997 Claims Settlement Act") was enacted, under which the FBH assumed liability for "old" foreign-currency savings deposited in banks and branches situated within its territory in order to prepare them for privatisation (see *Suljagić*, cited above, § 16). Pursuant to the Act, an individual acquired a claim against the FBH for the balance of his or her foreign-currency savings as of 31 March 1992, provided that three

cumulative conditions were met: (i) the person held more than 100 convertible marks in foreign-currency savings on deposit in a bank or branch located within the territory of what became the FBH; (ii) he or she was a citizen of the former Socialist Republic of Bosnia and Herzegovina; and (iii) on 31 March 1991 the person was permanently residing in the territory which, following the dissolution of the SFRY, formed part of the FBH. Such claims were registered in special accounts (*Jedinstveni račun* – hereinafter "special privatisation account" or "privatisation account"), which were opened *ex officio* by the authorities on the basis of each citizen's personal identification number. Upon the transfer of a claim to the privatisation account, the individual was entitled to a certificate corresponding to the claim registered therein. While cash withdrawal remained practically impossible, residents of the FBH could use their "old" foreign-currency savings to purchase the State-owned flats in which they lived (where this was the case) or shares in certain State-owned companies during privatisation (see *Suljagić*, cited above, § 16, and paragraph 46 below). Until 23 August 2004 it was possible to pay the full price of a State-owned company during privatisation with "old" foreign-currency savings. After 23 August 2004 it was possible to use such savings to purchase certain (mainly smaller) State-owned companies, on condition that at least 90% of the price was paid in cash (see *Suljagić*, cited above). This option remained available until 30 June 2006. The relevant provisions of the 1997 Claims Settlement Act (and its subsequent amendments) are summarised in paragraphs 47 and 50-53 below.

16. On 29 December 1997 the Director of the Privatisation Agency for the Federation of Bosnia and Herzegovina (hereinafter "the FBH Privatisation Agency") issued instructions concerning the registration and realisation of citizens' claims in special privatisation accounts. These instructions were later amended to extend the deadline for banks to submit information. The most relevant parts provided as follows:

Section 12

"1. The records of the persons referred to in section 3(1) of the [1997 Claims Settlement Act] ... are determined on the basis of data from the banks ...

2. The banks referred to in subsection 1 of this section are obliged to submit to the [Federal Payment] Bureau (*Zavod za platni promet*)[1], no later than 7 August 1998, by electronic means, information on the foreign-currency savings of the persons referred to in subsection 1 of this section, including the amount of interest accrued as of 31 March 1992, calculated in [German marks] and reduced by payments made until 31 December 1997.

[1] On 1 January 2001 the Federal Payment Bureau was replaced by the FBH Privatisation Agency.

3. The information ... shall include (i) the surname, name of one parent and first name; (ii) the [personal identification number]; and (iii) the amount of foreign-currency savings on 31 December 1997, expressed in [convertible marks].

... "

Section 52

"1. The banks referred to in section 12 of these instructions are obliged, within 15 days from the date of entry into force of these instructions, to publicly invite depositors to submit to banks information on their [personal identification number] and to verify the amounts of foreign-currency savings in their accounts, within 90 days of the date of the first announcement of the invitation.

...

3. The bank will mark the verified foreign-currency savings amounts, expressed in [convertible marks], in the passbook as the amount of the claim to be transferred to the special privatisation account of the depositor.

4. Savings account holders who do not verify the amount of their foreign-currency savings account in accordance with subsection 1 of this section and subsection 2 of section 12 may do so within an additional period of 30 days from receipt of the [statement from the special privatisation account] ...."

17. On 4 August 1998 Bosnia and Herzegovina authorised its constituent entities to privatise State-owned banks in their respective territories and to manage the proceeds acquired through such privatisation (sections 2 and 4 of the Privatisation of Companies and Banks Framework Act (*Okvirni zakon o privatizaciji preduzeća i banaka u Bosni i Hercegovini*) Official Gazette of BiH no. 14/98 of 27 July 1998, with subsequent amendments). Furthermore, liability for claims against State-owned banks, including those arising from "old" foreign-currency accounts, was transferred to the entity carrying out privatisation (section 4).

18. Legislation providing for the use of "old" foreign-currency savings in the privatisation process had limited appeal and, moreover, led to abuses: an unofficial market emerged on which such savings were sometimes sold for no more than 3% of their nominal value (see *Suljagić*, cited above, § 19). In 2004, in an attempt to remedy the situation, the Entities and the Brčko District agreed to recompense holders of "old" foreign-currency savings in cash and government bonds and set up repayment schemes to this effect. However, in 2006, pursuant to decision no. U-14/05 of the Constitutional Court of Bosnia and Herzegovina of 2 December 2005 (see paragraph 66 below), the three repayment schemes were replaced by one for the entire territory of Bosnia and Herzegovina. However, the State's liability for such savings at the local branches of LBL and Investbanka was expressly excluded (ibid., and see paragraph 54 below).

19. At the end of 1991 foreign-currency savings at the Sarajevo branch of LBL amounted to around 250 million German marks (DEM) (see *Ališić and Others*, cited above, § 29). In the present proceedings, the Government of

Bosnia and Herzegovina submitted a document from the FBH Ministry of Finance dated 16 April 2013 providing additional information concerning the registration of these savings in the privatisation accounts administered by the FBH authorities. Claims based on "old" foreign-currency savings in LBL were registered in 6,476 special privatisation accounts (one for each saver), with a total value of 36,614,621.19 convertible marks.[2] Of the aforementioned individuals, 967 used some or all of their LBL foreign-currency savings in the FBH privatisation process, amounting to 8,369,035.75 convertible marks.

2. *Incorporation of Ljubljana Bank Sarajevo and related subsequent events*

20. On 2 July 1993 Ljubljana Bank Sarajevo (*Ljubljanska banka d.d. Sarajevo*), located in Sarajevo, was incorporated under the law of Bosnia and Herzegovina on the basis of a ruling by the Higher Court in Sarajevo. According to the order for the entry of that bank in the court register of companies, issued by the same court on the same date, Ljubljana Bank Sarajevo assumed, *inter alia*, unilateral liability for "old" foreign-currency savings at the Sarajevo branch of LBL. These changes had previously been agreed in decisions by the government and the National Bank of BiH, issued on 22 and 24 June 1993 respectively.

21. In 1994 the National Bank of BiH carried out an inspection of the new Ljubljana Bank Sarajevo, which revealed many shortcomings. First, the management of the new Ljubljana Bank Sarajevo had not been properly appointed and it was not clear who its shareholders were. The National Bank, for that reason, appointed a director to take control. Secondly, the National Bank noted that, as a domestic bank, Ljubljana Bank Sarajevo could not assume a foreign bank's liability for "old" foreign-currency savings, as this would impose new financial obligations on BiH as the statutory guarantor for "old" foreign-currency savings in all domestic banks. The National Bank of BiH ordered that a closing balance sheet for the Sarajevo branch of LBL as of 31 March 1992 be drawn up urgently and that its relations with the "parent bank" be defined. However, according to the companies register, the newly founded Ljubljana Bank Sarajevo administrated and remained liable for "old" foreign-currency savings deposited at the Sarajevo branch of LBL until late 2004 (see paragraph 22 below). In the meantime, on 30 January 1998, pursuant to section 52(1) of the Director of the FBH Privatisation Agency's instructions (see paragraph 16 above), Ljubljana Bank Sarajevo published a notice in the Bosnian-Herzegovinian newspaper *Dnevni Avaz* stating that savers were obliged to provide the necessary information for the transfer of their claims relating to savings to privatisation accounts under the 1997

[2] The convertible mark uses the same fixed exchange rate to the euro that the German mark has (1 convertible mark = 0.51129 euros)

Claims Settlement Act (see paragraphs 15, 47 and 50-53). In one case, a civil court ordered Ljubljana Bank Sarajevo to repay a client of the Sarajevo branch of LBL (see *Ališić and Others*, cited above, §§ 31 and 32, and *Višnjevac v. Bosnia and Herzegovina* (dec.), no. 2333/04, 24 October 2006).

22. On 11 November 2004 the Sarajevo Municipal Court, in judgment no. Ps-595/03-III, ruled that Ljubljana Bank Sarajevo was not liable for "old" foreign-currency savings deposited at the Sarajevo branch of LBL and was not its legal successor. It was also established that the FBH Ministry of Finance was obliged, pursuant to that judgment, to arrange for the amendment of the 1993 entry in the companies register (see paragraph 20 above) by removing the parts concerning the change in status of the Sarajevo branch of LBL and the transfer of "assets, rights, and obligations of [the Sarajevo branch of LBL] as the legal predecessor ... to Ljubljana Bank Sarajevo as the legal successor". The court explained that the Sarajevo branch of LBL, in its legal transactions with third parties, acted in the name of and for the account of LBL and had therefore never been responsible for "old" foreign-currency savings. The court further noted that Ljubljana Bank Sarajevo could not, through its change in status and registration, assume greater rights and liabilities than the previous Sarajevo branch of LBL. The proceedings leading to the judgment of 11 November 2004 were instituted against the FBH (Ministry of Finance) by Ljubljana Bank Sarajevo. In those proceedings, the FBH did not dispute the claim and did not propose any evidence.

23. In 2003 the FBH Banking Agency placed the Ljubljana Bank Sarajevo under provisional administration on the grounds that it had undefined relations with LBL, a foreign bank located in Slovenia.

24. As stated in *Ališić and Others* (cited above, §§ 36 and 37), in 2006 Ljubljana Bank Sarajevo sold its assets to a Croatian company which, in return, undertook to pay the bank's debts. At the same time, the premises that originally belonged to the Sarajevo branch of LBL, under the administration of the FBH government pending the final determination of the status of that branch, were leased to the same Croatian company on behalf of and for the account of LBL. In 2010 the appropriate court opened bankruptcy proceedings against Ljubljana Bank Sarajevo in Bosnia and Herzegovina. On the basis of publicly available information, the Sarajevo Municipal Court issued a decision in 2016 concluding the bankruptcy proceedings and ordering that the bankruptcy debtor, Ljubljana Bank Sarajevo, be deleted from the court register.

B. Slovenia

25. Following its declaration of independence (see paragraph 9 above) Slovenia assumed the statutory guarantee from the SFRY for "old" foreign-currency savings in domestic branches of all banks, regardless of the citizenship of the depositor concerned, and converted the banks' liabilities

towards depositors into public debt. Depositors were entitled to obtain either government bonds or cash from the banks in which their money was held, under conditions set out in the domestic legislation.

1. *Prior to the Grand Chamber's judgment in* Ališić and Others

26. During this period, Slovenia nationalised and then, in 1994, restructured LBL. Most of its assets and part of its liabilities were transferred to a new bank, New Ljubljana Bank (*Nova Ljubljanska Banka*). The old bank retained liability for "old" foreign-currency savings in its branches in the other successor States and related claims against the National Bank of Yugoslavia. The (old) LBL was initially administered by the Bank Rehabilitation Agency. It was subsequently controlled by the Succession Fund, a Slovenian government agency.

27. By 2013 the Slovenian courts had issued a number of decisions ordering LBL to pay "old" foreign-currency savings to customers of its Sarajevo branch, while at the same time holding that the State itself had no liabilities in this regard. According to the Government, these decisions did not concern claims that had been transferred to special privatisation accounts under the 1997 Claims Settlement Act.

28. For further details, see *Ališić and Others* (cited above, §§ 48-51).

2. *The Grand Chamber's judgment in* Ališić and Others *and subsequent developments in Slovenia*

29. On 16 July 2014 the Grand Chamber adopted a pilot judgment in *Ališić and Others* (cited above) regarding "old" foreign-currency savings held, *inter alia*, in the Sarajevo branch of LBL. It found, with respect to Slovenia, a violation of Article 1 of Protocol No. 1 to the Convention and Article 13 of the Convention, and held that Slovenia was required to make all necessary arrangements, including legislative amendments, to allow two of the applicants and all others in their position to recover their "old" foreign-currency savings under the same conditions as those who had such savings in domestic branches of Slovenian banks (ibid., points 3, 6 and 11 of the operative part). The Court further indicated that no claim should be rejected simply because of a lack of original contracts or passbooks, and that any and all verification decisions had to be subject to judicial review. Lastly, the Court held that all those concerned had to comply with the requirements of any verification procedure, as long as it met the above criteria (ibid., § 148).

30. On 4 July 2015 the Act on the Implementation of the Judgment of the European Court of Human Rights in Case No. 60642/08 (see paragraph 46 below – hereinafter "the Ališić Implementation Act") entered into force. It introduced a repayment scheme for the deposits held in the Sarajevo and Zagreb branches of LBL. Entitled beneficiaries were the original holders of

"old" foreign-currency savings and, *inter alia*, their heirs. The Ališić Implementation Act set up a procedure to verify entitlements and the balance of unpaid savings. The filing period was open from 1 December 2015 to 31 December 2017. The verification process was carried out by the Succession Fund. A beneficiary could challenge the decision of the Succession Fund in proceedings before the Administrative Court and, if unsuccessful, in further appeals available in court proceedings. The relevant provisions of the Ališić Implementation Act are set out in paragraph 45 below.

31. According to the Government's submissions, requests for the verification of funds were in principle determined by reference to an individual saver's passbook and information provided by the FBH Privatisation Agency and other authorities of the FBH. According to these submissions, which were made on 16 June 2023, Slovenia had paid more than 34,000 beneficiaries a total of 302.4 million euros since March 2016.

32. On 15 March 2018, at the 1310th meeting of the Ministers' Deputies, the Committee of Ministers adopted Resolution CM/ResDH(2018)111, finding that all the measures required of Slovenia by Article 46 § 1 of the Convention had been adopted, declaring that it had exercised its functions under Article 46 § 2 in the *Ališić* case as far as Slovenia was concerned, and deciding to close the examination thereof in respect of Slovenia. The Committee of Ministers also made the following observation:

> "... in its inadmissibility decision in the *Zeljković* case (33805/17, 5 September 2017) the European Court held that the depositors whose deposits were transferred to privatisation accounts and whose requests for repayment were rejected on the basis of Slovenian law, were in principle required to exhaust remedies before the Slovenian courts and ultimately to lodge a constitutional claim;
>
> ... the Committee of Ministers' final resolution in this case is entirely without prejudice to the European Court's conclusions in other cases brought before it, including those addressing the issue of responsibility for repayment of deposits held in [the Sarajevo branch of LBL] which were transferred to restricted privatisation accounts in accordance with the legislation of Bosnia and Herzegovina;
>
> ..."

III. CIRCUMSTANCES SPECIFIC TO THE APPLICANTS

A. Mr Vladimir Landika's foreign-currency deposit and the transfer of related claims

33. The applicants are the legal successors of the late Vladimir (Franjo) Landika ("Mr Vladimir Landika"), who died on 21 April 2019. Prior to the dissolution of the SFRY, Mr Vladimir Landika deposited foreign-currency savings at what was, at the time, Ljubljana Basic Bank Sarajevo (see

paragraph 7 above). His passbook appears to have been issued on 27 March 1981, with the first deposit made on that date.

34. On 24 April 1998 Mr Vladimir Landika's entitlement to 6,626.92 Swiss francs (CHF), the entire amount of savings in his "old" foreign-currency account at that time, was transferred to a special privatisation account in his name by the competent FBH authorities (see paragraphs 15 and 17 above and 47 below – a process hereinafter referred to as the "transfer of claims").

35. The transfer of claims regarding Mr Vladimir Landika is evidenced by a photocopy of his passbook, which records the amount of CHF 6,626.92 as having been transferred out of his account on 24 April 1998, with the transfer bearing the stamp: "Ljubljana Bank Sarajevo transferred to the [individual account at the Federal Payment Bureau] (*jedinstveni RN Z.P.P-a*)". The last row on that page records a zero balance next to the same date.

36. A statement dated 5 May 1999 from the FBH Privatisation Agency, which subsequently administered privatisation accounts,[3] shows that Mr Vladimir Landika held a claim in his privatisation account in the amount of CHF 6,626.92.

B. Relevant decisions by the Slovenian authorities

37. On 1 December 2015 Mr Vladimir Landika applied to the Succession Fund, requesting verification of his "old" foreign-currency savings in accordance with the Ališić Implementation Act.

38. On 12 January 2017 the Succession Fund issued a decision rejecting Mr Vladimir Landika's request, providing the following explanation:

> "The client attached foreign-currency [passbook] no. 5363918, which shows that [he] transferred all funds from [his] foreign-currency [passbook], in the amount of CHF 6,626.92 on 24 April 1998, to a special privatisation account and that the foreign-currency deposit was settled (*da je bila devizna vloga saldirana*), as its balance on the same date was CHF [zero]. Also enclosed is a poor-quality photocopy of a certificate from the [Federal Payment Bureau] of the Federation of Bosnia and Herzegovina, dated 5 May 1999, showing a balance of 7,391.22 [convertible marks] resulting from the transfer of the client's funds from Ljubljana Bank Sarajevo to a special privatisation account in the client's name and under personal identification number ...
>
> On the basis of the information and documents obtained by the [Succession] Fund in accordance with section 9(4) of the [Ališić Implementation Act], it was established that [Mr Vladimir Landika] transferred the foreign-currency savings in question to a special privatisation account with the Privatisation Agency in the FBH, which confirms the accuracy of the supporting documents attached to the request.
>
> In accordance with section 2(1) of the [Ališić Implementation Act], the unpaid old foreign-currency savings reflect the claim of a natural person against [the Sarajevo

[3] See footnote 1.

branch of LBL] in respect of foreign-currency accounts and on the basis of foreign-currency savings on 31 December 1991, including contractual interest calculated up to that date, reduced by payments of an individual branch, [LBL] or any other branch after that date, by the saver's outstanding liabilities to the branch or [LBL] and by amounts paid or settled after 31 December 1991 on any other basis. Under section 2(2) of the [Ališić Implementation Act] unpaid old foreign-currency savings are not old foreign-currency savings or parts thereof that have been transferred to special privatisation accounts for the purpose of special use under the regulations of the country of operation of the branch. These savings are, *inter alia*, old foreign-currency savings transferred by savers of [the Sarajevo branch of LBL] to special privatisation accounts for use in the privatisation process, in accordance with the regulations of Bosnia and Herzegovina.

...

Since it is already evident from [Mr Vladimir Landika's] application that he had fully transferred the savings in old foreign-currency [account] no. 5363918 to his special privatisation account, which is also confirmed by the data from the FBH Privatisation Agency, obtained by the [Succession] Fund in accordance with [section 9(4)] of the [Ališić Implementation Act], it was established that the present request for verification does not relate to old unpaid foreign-currency savings and should therefore be rejected."

39. Mr Vladimir Landika challenged the Succession Fund's decision before the Administrative Court of Slovenia, seeking an order that the amount of his "old" foreign-currency savings be paid to him. On 2 December 2019 the court dismissed his action, finding as follows:

"Where, prior to the entry into force of the [Ališić Implementation Act], there has been a transfer of funds from [LBL] accounts to accounts of other legal entities ... [old] foreign-currency savings with [LBL] or its Sarajevo branch are no longer old foreign-currency savings, that is, the creditor no longer has a claim against [LBL], and [LBL] has no obligation to pay it. The [Ališić Implementation Act] explicitly excludes the obligations of [Slovenia] to repay those foreign-currency savings of holders with [LBL] or its Sarajevo (and Zagreb) branch[es] that have been transferred to other entities or accounts under the regulations of the countries in which those branches operated.

...

The only relevant fact for resolving the present dispute is the balance on the bank's foreign-currency account (passbook) at the time the claim was lodged. If the balance on the foreign-currency [passbook] is [zero] ... as in the present case, then there is no debt owed by [LBL] (and no liability on the part of [Slovenia] to pay such a debt). Accordingly, [Mr Vladimir Landika] does not seek verification of unpaid old foreign-currency savings, as they were transferred to a special privatisation account for use in the privatisation process in accordance with the regulations of the FBH. This means that, in the present case, the situation is precisely that referred to in section 2(2) of the [Ališić Implementation Act]. Since the old foreign-currency savings from the claimant's old foreign-currency [passbook] were validly transferred to his special privatisation account for use in the privatisation process and, therefore, on the date of the decision the claimant did not have a claim against the bank referred to in section 2(1) of the [Ališić Implementation Act], [Slovenia], in accordance with section 5 of the [Ališić Implementation Act], is not in a position to assume the obligation to pay the claimant's non-existent claim."

40. On 27 January 2020 the applicants, as Mr Vladimir Landika's successors (see paragraph 33 above), requested leave to appeal on points of law with respect to the Administrative Court's decision. On 1 July 2020 the Supreme Court denied that request.

41. On 11 September 2020 the applicants lodged a constitutional complaint with the Slovenian Constitutional Court. They alleged that the Administrative Court had arbitrarily interpreted section 2 of the Ališić Implementation Act, which, in their opinion, should have been understood as concerning only transfers resulting from depositors' active conduct and free choice. They further complained that the Administrative Court's interpretation of the Ališić Implementation Act had breached their rights protected by Article 1 of Protocol No. 1 to the Convention, arguing that the question of choice in transferring savings from their savings account or lack thereof should have been decisive for the assessment of proportionality of the interference with their property rights.

42. On 5 May 2022 the Constitutional Court, in decision no. Up-960/20, ruled that the constitutional complaint was unfounded and upheld the Administrative Court's judgment. The Constitutional Court adopted its decision by six votes to two. The court first considered that the semantic and systemic interpretation of section 2 of the Ališić Implementation Act allowed for the conclusion that a claim did not fall within the repayment scheme if the assets in question had been transferred from a foreign-currency account to a special privatisation account under the legislation of the FBH. It further held as follows:

> "31. Undoubtedly, with the 1997 [Claims Settlement] Act, the FBH assumed responsibility for resolving the issue of old foreign-currency deposits in banks and branches based in the territory of the FBH, including foreign-currency deposits in the [Sarajevo branch of LBL], for a certain period of time. Section 2 of the 1997 [Claims Settlement] Act provided that claims settled on the basis of that Act also included claims arising from old foreign-currency deposits ... The 1997 [Claims Settlement] Act did not ... regulate the position of savers who did not have their residence in the territory of the FBH. Since the 1997 [Claims Settlement] Act did not regulate the position of the applicants in the case of *Ališić and Others*, the [Court] did not take it into account when assessing the existence of a claim between the applicants and [LBL].
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> ...
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> 33. At the time of the entry into force of the 1997 [Claims Settlement] Act, Ljubljana Bank Sarajevo was responsible for old foreign-currency deposits. For savers at this bank who were citizens of BiH on 31 March 1991 and had their residence in BiH on 28 November 1997, their foreign-currency deposits were transferred to [special privatisation accounts] *ex officio* within 60 days of the [Act's] entry into force (see section 5, section 7(1) and section 11 of the 1997 [Claims Settlement] Act). The saver's foreign-currency deposit was converted into a certificate, that is, into another type of asset ...
>
> 34. The question at issue is therefore whether the aforementioned transfer terminated the creditor-debtor relationship between the complainants' predecessor and [LBL]. Until the end of 2004, Ljubljana Bank Sarajevo managed old foreign-currency deposits,

meaning that at that time it was still managing old foreign-currency deposits that had not been transferred to special privatisation accounts under the 1997 [Claims Settlement] Act. Upon the transfer of funds from the foreign-currency account to the special privatisation account, Ljubljana Bank Sarajevo ceased managing these foreign-currency deposits, and the Federal Payment Bureau took over the management of these assets. A certificate of the balance on the special privatisation account was issued by the Federal Payment Bureau (section 12(1) of the 1997 [Claims Settlement] Act). The Federal Payment Bureau was required to issue a new copy of the certificate after each change in the account balance (section 12(3) of the 1997 [Claims Settlement] Act). In accordance with section 16 of the 1997 [Claims Settlement] Act, the transfer of the claim registered in the special privatisation account was carried out on the basis of an order from the Federal Payment Bureau. In accordance with section 17 of the 1997 [Claims Settlement] Act, payment of the purchase price in the privatisation process was executed at the moment the claim was transferred from the special privatisation account to the seller's account. It is clear from these provisions that, after the transfer of foreign-currency deposits to the special privatisation account, these accounts were managed by the Federal Payment Bureau and later by the [FBH Privatisation] Agency, and not by Ljubljana Bank Sarajevo or [LBL].

35. ... In its judgment in the case of *Propat and Others* (CH/97/48 and Others) of 9 June 2000, the Human Rights Chamber took the view that, following the privatisation of banks, savers no longer had any claims against banks. It held that the relationship between the bank and the depositor did not remain unchanged with the entry into force of the 1997 [Claims Settlement] Act. It found that banks no longer had any obligations towards depositors. The 1997 [Claims Settlement] Act also obliged them not to pay out these deposits for an undetermined period of time. The Constitutional Court sees no reason not to agree with the views of the Human Rights Chamber on the interpretation and effects of the 1997 [Claims Settlement] Act.

36. In its assessment, the Constitutional Court must take into account that the Constitutional Court of the FBH, in judgment no. U-I-10/00 of 8 January 2001, found that sections 3, 7, 11 and 18 of the 1997 [Claims Settlement] Act were inconsistent with Article 1 of Protocol [No. 1 to the Convention] and the Constitution of the FBH. The Constitutional Court of the FBH thus declared unconstitutional the provisions establishing the FBH's responsibility for resolving the issue of old foreign-currency deposits, the transfer of claims from foreign-currency accounts to special privatisation accounts, the opening of special privatisation accounts *ex officio*, the conversion of assets into certificates, and the possibility of using claims from special privatisation accounts in the privatisation process. However, the judgment did not provide any reasons for this decision, and, above all, the Constitutional Court of the FBH did not specify any method for implementing its decision or any transitional regime under which the relevant sections of the 1997 [Claims Settlement] Act could be applied. The mere finding that the Act was unconstitutional did not automatically re-establish the creditor-debtor relationship between the saver and [LBL]. The finding of unconstitutionality, which could only take effect from the date of publication of the Constitutional Court's decision, meant only that the Act could not be applied from that date onwards. Since the Constitutional Court of the FBH did not specify any method of implementation, the decision could not affect the transfers of claims to special privatisation accounts that had already been carried out.

37. The Human Rights Chamber found that, despite being declared unconstitutional, the 1997 [Claims Settlement] Act continued to be applied. Banks rejected claims for the payment of old foreign-currency deposits on the basis of FBH legislation.

38. ... The legislator regulated the situation of savers whose claims had already been transferred in section 4 of the [2003 Amendment – see paragraph 51 below], which inserted a new section 20a into the 1997 [Claims Settlement] Act [see paragraph 50-52 below]... Between 21 November 2003 and 21 August 2004 savers had the opportunity to request the return of funds to their account with [LBL], thereby re-establishing a creditor-debtor relationship with [LBL].

39. The legislator in the FBH and BiH stipulated in the 2004 [Settlement of Domestic Debt Act – see paragraph 66 below], the 2006 [Old Foreign-Currency Savings Act – see paragraph 54 below] and the 2009 [Settlement of Obligations Arising from Old Foreign-Currency Savings Accounts Act – see paragraph 54 below] that savers' old foreign-currency deposits at [the Sarajevo branch of LBL] would not be settled within the framework of internal debt. However, the fact that the legislator excluded the obligation to repay savers' old foreign-currency deposits at [the Sarajevo branch of LBL] within the framework of public debt does not mean that the creditor-debtor relationship between [LBL] and the holder of the old foreign-currency deposit could be re-established. The legislator did not repeal the legal provisions governing the settlement of old foreign-currency deposits in the privatisation process, nor did it regulate the situation of these savers through any legislative measure ... [N]either the [Human Rights] Commission nor the Constitutional Court of BiH addressed the legal consequences of the implementation of the 1997 [Claims Settlement] Act, the subsequent finding of its unconstitutionality by the Constitutional Court of the FBH, the later legislative amendments to the 1997 [Claims Settlement] Act, or the enactment of the 2004 and 2006 Acts from the perspective of the existence of a creditor-debtor relationship between savers at the [Sarajevo branch of LBL] and [LBL] ...

40. The transfer of funds from the account at [LBL] to the special privatisation account was carried out on the basis of a law enacted by the FBH. The transferred assets were first placed under the management of the Federal Payment Bureau and later the [FBH Privatisation] Agency, and never again came under the management of Ljubljana Bank Sarajevo, nor, after its deletion from the court register, under the management of [LBL]. By transferring funds to the special privatisation account, the form of the assets changed from a claim to a certificate, on the basis of an act of the FBH. BiH did not regulate the relationship between the holder of the foreign-currency deposit and [LBL] through subsequent legislative measures either. The complainants also failed to demonstrate that this relationship was re-established by requesting the transfer of funds from the special privatisation account to [LBL] under section 20a of the 1997 [Claims Settlement] Act. Since [LBL] was unable to manage these claims from the moment the funds were transferred until the entry into force of the Ališić Implementation Act, owing to measures outside its sphere of influence, it cannot be considered that the creditor-debtor relationship between the saver and [LBL] still existed. The [Court] found that during the period when Ljubljana Bank Sarajevo managed old foreign-currency deposits, some old foreign-currency deposits were used in the privatisation process, referring specifically to the 1997 [Claims Settlement] Act. It should also be noted that in its *Ališić and Others* judgment, the [Court] concluded, precisely on the basis that the applicants' claims had not been transferred to the special privatisation account, that the applicants had not used their old foreign-currency deposits in the privatisation process. The [Court's] position that the Republic of Slovenia could not be held liable for paying old foreign-currency deposits that were used in the privatisation process implies that the [Court] considered that, in such cases, the creditor-debtor relationship between the saver and [LBL] had ceased to exist.

41. The Administrative Court's position ... does not contradict the positions taken by the [Court] in the *Ališić and Others* judgment. The [Court's] judgment does not imply

that the Republic of Slovenia was liable for the repayment of all claims that existed between [LBL] and savers on 31 December 1991; rather, the [Court] limited the Republic of Slovenia's liability to a certain extent. The [Court] took the view that the Republic of Slovenia could not be liable for the repayment of claims that savers had used in the privatisation process. The [Court] therefore held that, in such cases, the creditor-debtor relationship between the saver and [LBL] had ceased to exist. It does not follow from the reasoning in the *Ališić and Others* judgment that the [Court] expressly addressed the legal effects of the implementation of the 1997 [Claims Settlement] Act, the finding of its unconstitutionality and other legislative measures of the FBH or BiH, which are, however, important for the present case. The applicants in *Ališić and Others* belonged to a group of savers whose claims had not been transferred to a special privatisation account under the 1997 [Claims Settlement] Act. Therefore, the question of whether the measures adopted by the FBH and BiH after the break-up of the SFRY led to the termination of the creditor-debtor relationship between the complainants and [LBL] did not even arise. Taking into account the views of the [Court] in the *Ališić and Others* judgment, the only relevant factor for assessing the extent of the Republic of Slovenia's liability is therefore whether the debt between the complainants' predecessor and the Bank still existed at the time the Ališić Implementation Act entered into force and whether the debt was terminated as a result of actions [for which] Republic of Slovenia [is responsible]. The Constitutional Court can therefore follow the position of the Administrative Court that, in assessing the Republic of Slovenia's obligation to redress the established violation of Article 1 of Protocol [No. 1 to the Convention], it cannot accept the complainants' argument that the transfer took place without their consent. The measure that deprived the complainants' predecessor of the ability to choose how to manage the old foreign-currency deposit is not related to the conduct of [LBL] or its [Sarajevo branch], nor to the conduct of the authorities in the Republic of Slovenia. Since the measures that caused the termination of the creditor-debtor relationship between [LBL] and the saver were adopted by another sovereign State, the Constitutional Court does not have jurisdiction to assess them from the perspective of compliance with Article 33 of the Constitution [Right to Private Property and Inheritance]."

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. LEGISLATION IN SLOVENIA AND BOSNIA AND HERZEGOVINA

43. For the relevant law regarding the status of and measures taken with respect to "old" foreign-currency savings in the banks in the SFRY and subsequent legislation enacted in the successor States concerning this issue, see *Ališić and Others* (cited above, §§ 24-28, 48 and 53-58).

44. As regards claims relating to "old" foreign-currency savings held in the Sarajevo branch of LBL that were transferred to special privatisation accounts in the FBH (that is to say, those subject to the "transfer of claims"), the following provisions are relevant.

A. Legislation in Slovenia

45. Following the *Ališić and Others* judgment (cited above), Slovenia enacted the Act on the Implementation of the Judgment of the European Court

of Human Rights in Case No. 60642/08 (*Zakon o načinu izvršitve sodbe Evropskega sodišča za človekove pravice v zadevi številka 60642/08*, Official Gazette of Slovenia no. 48/15 – "the Ališić Implementation Act"), which entered into force on 4 July 2015. Its provisions are reproduced in *Hodžić v. Slovenia* ((dec.), no. 3461/08, § 4, 4 April 2017). The parts most relevant to the present case are restated below:

Section 1 – Purpose and scope of the Act

"(1) ... The measures under this Act shall not apply to those old foreign-currency savings or their parts that have been paid in any manner or transferred to other legal entities or for special purposes in accordance with the regulations of the successor States of the former Socialist Federal Republic of Yugoslavia (hereinafter 'SFRY') or on any other basis.

..."

Section 2 – Definition of unpaid old foreign-currency savings

"(1) Unpaid old foreign-currency savings (*neizplačana stara devizna vloga*) under this Act are the savings of natural persons held in foreign-currency accounts at [the Sarajevo and Zagreb branches of LBL] as of 31 December 1991, including contractual interest accrued up to the aforementioned date (hereinafter 'balance as of 31 December 1991'), reduced by the payments of individual branches, [LBL] ... or any other party after this date, by unpaid debts of savers towards branches or [LBL], and by paid or settled amounts after 31 December 1991 on any basis.

(2) The unpaid old foreign-currency savings defined in subsection 1 above are not old foreign-currency savings or their parts which were transferred, under the regulations applicable in the countries where both branches referred to in subsection 1 above were operating, to another legal entity or to special privatisation accounts for special purposes. These savings include, *inter alia*, old foreign-currency savings which the savers of [the Zagreb branch of LBL] transferred to another legal entity in accordance with the regulations of the Republic of Croatia on the transfer and assumption of a guarantee for old foreign-currency savings, and old foreign-currency savings which the savers of [the Sarajevo branch of LBL] transferred to special privatisation accounts for the purpose of the privatisation process in accordance with the regulations of Bosnia and Herzegovina.

..."

Section 9 – Provision of data

"...

(4) Data referring to the unpaid old foreign-currency savings of [the Sarajevo branch of LBL] shall be obtained in a form and manner as determined in the memorandum governing cooperation between the Government of the Republic of Slovenia and the Council of Ministers of Bosnia and Herzegovina for the execution of the judgment of the European Court of Human Rights in case no. 60642/08 of 16 July 2014.

..."

Section 12 – Deciding on the request for verification

"(1) The [Succession] Fund shall decide on the request for verification on the basis of the data referred to in section 9 of this Act and the data and documentary evidence submitted by the beneficiary. If such data and documentary evidence are insufficient

for a decision, the Fund may ask the beneficiary to submit additional documentary evidence within a specified time-limit. The Fund may also establish the facts with other forms of evidence, excluding witness [testimony] and visits.

(2) If the beneficiary fails to submit additional documentary evidence within the time-limit referred to in subsection 1, the Fund shall decide on the basis of the data and evidence referred to in that subsection."

B. Legislation in Bosnia and Herzegovina

46. On 28 November 1997 the Privatisation of Companies Act (*Zakon o privatizaciji preduzeća*, Official Gazette of the FBH no. 27/97, with subsequent amendments) was enacted in the FBH. It has been in force since 6 December 1997. It provides that certificates based on foreign-currency savings should be issued to citizens for their foreign-currency savings accounts whose balance on 31 March 1992 exceeded DEM 100. The determination and realisation of such citizens' claims in the privatisation process were further regulated by specific legislation enacted on the same date (see paragraph 47 below).

47. On 28 November 1997 the FBH also enacted the Law on the Settlement of Claims in the Privatisation Process (*Zakon o utvrđivanju i realizaciji potraživanja građana u postupku privatizacije*, Official Gazette of the FBH no. 27/97, as amended on 5 March 1999, Official Gazette of the FBH no. 8/99 – "the 1997 Claims Settlement Act"), under which it assumed full liability for "old" foreign-currency savings in locally based commercial banks in order to prepare them for privatisation. The relevant parts read as follows:

Section 2

"Claims by citizens that are settled in accordance with this Act are considered claims based on old foreign-currency savings, claims for compensation for denationalised property that cannot be returned to ownership and possession, claims based on unpaid wages of members of the army of the Republic of [BiH], the Croatian Defence Council and the police, as well as general claims of citizens established by the [Privatisation of Companies Act]."

Section 3

1. A person who has foreign-currency savings in banks or business units based in the territory of [FBH] in an amount exceeding 100 [convertible marks], and who was a citizen of the former Socialist Republic of Bosnia and Herzegovina and, on 31 March 1991, had permanent residence in the territory that now belongs to the [FBH], acquires a claim against the [FBH] as of 31 March 1992.

..."

Section 5

"Claims by citizens on all grounds under section 2 of this Act shall be recorded in a special privatisation account (*jedinstvenom računu građanina*) at the organisational

unit of the Federal Payment Bureau (*Federalnog zavoda za platni promet*)[4], according to the citizen's place of residence.

..."

Section 7

"The claims referred to in section 3 of this Act shall be transferred by the bank to the special privatisation account of the depositor.

The manner of transferring claims ... of individuals whose accounts are held in banks whose organisational units in the territory of the [FBH] have ceased to operate shall be determined by a separate regulation passed by the Federal Ministry of Finance.

..."

Section 11

"Special privatisation accounts shall be opened *ex officio* on the basis of the [personal identification number] of the citizen who is the holder of a claim under this Act.

Each individual's certificate shall correspond to the respective special privatisation account."

Section 12

"The [Federal Payment] Bureau shall issue the citizen an account statement regarding the balance on the special privatisation account.

The [Federal Payment] Bureau is obliged to issue a new statement after each change in the special privatisation account.

..."

Section 16

"Claims registered in the special privatisation account are transferable.

The transfer of claims is carried out by a transfer order at the [Federal Payment] Bureau."

Section 17

"Payment based on a purchase shall be considered executed at the moment the claim is transferred from the special privatisation account to the seller's account."

Section 18

"Claims registered in the special privatisation account may be used in the privatisation process for a period of two years from the date of issuance of the special privatisation statement, and following the registration of a claim according to the specific categories.

Upon expiry of the period referred to in subsection 1 of this section, the claims in the special privatisation accounts shall be extinguished."

48. On 8 April 1998 the FBH enacted the Initial Balance Sheet of Companies and Banks Act (*Zakon o početnom bilansu stanja preduzeća i banaka*, Official Gazette of the FBH no. 12/98, with subsequent amendments), which regulated the procedure and method for preparing initial balance sheets of companies and banks for the purposes of privatisation and

[4] See footnote 1.

the settlement of obligations and claims in the mutual relations between companies, banks and the FBH. Pursuant to section 35, assets, rights, capital, and liabilities recorded in a bank's passive sub-balance sheet (including claims related to "old" foreign-currency savings) were, upon execution of the approved privatisation programme, transferred to the Ministry of Finance in accordance with the provisions of the legislation on external debt of the FBH. The Privatisation of Banks Act was enacted on the same date (*Zakon o privatizaciji banaka Federacije Bosne i Hercegovine*, Official Gazette of the FBH no. 12/98). It established the normative framework for transforming banks with majority State or socially owned capital into privately owned financial institutions operating in accordance with market-economy principles.

49. On 30 October 1999 the FBH adopted the Regulation on the realisation of claims of persons who had foreign-currency savings in banks on the territory of the Federation but did not have residence in the territory of the Federation (*Uredba o ostvarivanju potraživanja lica koja su imala deviznu štednju u bankama na teritoriju Federacije, a nisu imala prebivalište na teritoriju Federacije*, Official Gazette of the FBH no. 44/99), the relevant parts of which read as follows:

Section 1

> "This regulation governs the realisation of claims by citizens who, on 31 March 1991, were citizens of the former Socialist Republic of Bosnia and Herzegovina but did not have residence in the territory of the [FBH], as well as other persons holding foreign-currency claims in banks in the territory of the [FBH].

Section 2

> A person who was a citizen of the former Socialist Republic of Bosnia and Herzegovina on 31 March 1991 and who did not have residence in the territory of the [FBH] on that date, but who had "old" foreign-currency savings in banks or business units based in the territory of the [FBH] exceeding [DEM] 100, acquires a claim against the [FBH] in an amount equal to the savings balance on 31 March 1992, reduced by any payments made since that date."

50. On 21 November 2003, following a decision by the Constitutional Court of the FBH declaring certain provisions of the 1997 Claims Settlement Act unconstitutional (see paragraph 61 below), the FBH amended that Act (*Zakon o izmjenama i dopunama zakona o utvrđivanju i realizaciji potraživanja građana u postupku privatizacije*, Official Gazette of the FBH no. 57/03 – "the 2003 Amendment"). With respect to claims which had still not been transferred to special privatisation accounts, the amended section 7 provided as follows:

Section 7

"The claims referred to in section 3 of the [1997 Claims Settlement Act] shall be transferred by the bank, upon a request by the saver submitted within six months from the date of entry into force of this Act, to the special privatisation account of the depositor."

51. Additionally, the 2003 Amendment added section 20a, which read as follows:

Section 20a

"The [FBH Privatisation] Agency shall return unused claims based on old foreign-currency savings that have been transferred to the special privatisation account to the holder's account within 30 days from the date of submission of the depositor's request."

52. The possibility of requesting the "return of unused claims" as stipulated in section 20a above had been open to "old" foreign-currency savers from 21 November 2003 to 21 August 2004, when a further amendment to the 1997 Claims Settlement Act was introduced. This amendment (*Zakon o izmjenama i dopunama Zakona o utvrđivanju i ostvarivanju potraživanja građana u postupku privatizacije*, Official Gazette of the FBH no. 44/04 – hereinafter "the 2004 Amendment") provided that section 5 of the Act (see paragraph 47 above) was no longer applicable to "old" foreign-currency savings, unless the saver submitted a statement to the contrary to the FBH Ministry of Finance by 23 November 2004. Any such statement was considered irrevocable. The 2004 Amendment also amended sections 18 and 20a to read as follows:

Section 18

"Claims registered in the special privatisation account may be used in the privatisation process:

- for the purchase of company shares, company assets and other assets being sold in the privatisation process until 30 June 2006, provided that the participation of an individual offer does not exceed 10% of the total purchase price;

- for the purchase of apartments subject to tenancy rights until 30 June 2007, up to 100% of the total price.

Upon expiry of the deadlines referred to in subsection 1 of this section, claims registered in the special privatisation account shall be extinguished.

By way of exception to the provision of subsection 2 of this section, the deadline for purchasing apartments subject to tenancy rights may be changed depending on the adoption and amendments of restitution regulation."

Section 20a

"The [FBH] Privatisation Agency shall provide the Federal Ministry of Finance with a database on the status of unused claims based on old foreign-currency savings in the special privatisation account within 30 days from the date of entry into force of this Act."

53. The 1997 Claims Settlement Act was subsequently amended several more times to extend the period during which savers were able to use the claims registered in their special privatisation accounts. Notably, from 30 June 2006 savers no longer had the possibility of using their claims to purchase company shares, company assets and other assets being sold in the privatisation process. According to the latest amendment (*Zakon o izmjeni Zakona o utvrđivanju i ostvarivanju potraživanja građana u postupku privatizacije*, Official Gazette of the FBH no. 81/23), savers were able to use their claims for the purchase of apartments subject to tenancy rights until 30 June 2025.

54. On 14 April 2006, following an unsuccessful attempt to regulate the issue of "old" foreign-currency savings at the level of the Entities and the Brčko District (see paragraph 66 below), Bosnia and Herzegovina enacted the Old Foreign-Currency Savings Act (*Zakon o izmirenju obaveza po osnovu stare devizne štednje*, Official Gazette of BiH nos. 28/06, 76/06 and 72/07). Under the Act, Bosnia and Herzegovina undertook to repay citizens' original deposits in locally based banks, together with interest accrued by 31 December 1991 at the original rate, less any funds already used (see section 2, cited in *Ališić and Others*, cited above, § 57). All claimants who obtained verification certificates were entitled to a cash payment up to a specified limit, with the remaining amount reimbursed in the form of government bonds (see *Suljagić v. Bosnia and Herzegovina*, no. 27912/02, §§ 27-30, 3 November 2009). The Old Foreign-Currency Savings Act expressly excluded liability for such savings at the local branches of LBL, Investbanka or other foreign banks. However, BiH was required to assist clients of those branches in obtaining payment of their savings from Slovenia and Serbia respectively. Subsequently, the FBH's obligation to settle claims arising from "old" foreign-currency savings accounts was regulated in the Old Foreign-Currency Savings Settlement Act (*Zakon o izmirenju obaveza na osnovu računa stare devizne štednje u Federaciji Bosne i Hercegovine*, Official Gazette of the FBH nos. 62/09, 42/11 and 91/13). Banks headquartered in other successor republics of the former SFRY, such as LBL and its Sarajevo branch, were excluded from the repayment scheme established by that Act.

II. CASE-LAW OF THE DOMESTIC COURTS

A. Relevant decisions of the Supreme Court of Slovenia

55. In judgment no. X Ips 5/2019 (*Krezić v. Succession Fund of the Republic of Slovenia*) of 9 October 2019, the Slovenian Supreme Court examined an appeal on points of law concerning a refusal for verification and consequently repayment of a claim regarding old foreign-currency savings transferred to a special privatisation account and held as follows:

"14. The reason for the transfer of foreign-currency funds to the [FBH Privatisation Agency] arose outside the sphere of the banks and was enabled by means of an act, that is, an authoritative act of the [FBH], which the banks were unable to oppose. Since the foreign-currency funds were transferred outside the sphere of the bank, the Republic of Slovenia also cannot provide a guarantee for foreign-currency funds transferred in this manner. Following the transfer, the debtor-creditor relationship between the former saver and the bank no longer existed regarding the transferred portion of the foreign-currency funds, and the saver, as the former (repaid) creditor, no longer had any claim against the bank for the transferred portion of the foreign-currency funds, from which it can be logically concluded that such a saver cannot have any such claim against the Republic of Slovenia as the owner of [LBL].

...

16. Due to the transfer of funds and subsequent offsetting of the foreign-currency account (passbook) in the present case, the bank's debt to the former holder of the foreign-currency deposit ceased to exist. If the bank no longer owes the saver because the debtor-creditor relationship ceased to exist on the basis of a regulation (authoritative act) of the [FBH], which the bank was unable to oppose, the Republic of Slovenia also cannot be held responsible for such a non-existent debt. The only relevant fact is what the saver had in his foreign-currency account (passbook) at the time of filing the claim. If the balance in the foreign-currency passbook is ... [zero], as in the present case, then the bank's debt (and the Republic of Slovenia's liability for payment of such a debt) is non-existent."

56. The Supreme Court followed the same line of reasoning in judgment no. X Ips 10/2020 (*Trepić v. Succession Fund of the Republic of Slovenia*) of 25 November 2020, finding as follows:

"12. Due to the transfer of the claimant's assets to the privatisation account of the [FBH Privatisation Agency] under the regulation (authoritative act) of the [FBH], which the bank was unable to oppose, the debtor-creditor relationship between the claimant and the bank ceased to exist. As this is a non-existent debt of the bank, the Republic of Slovenia is not responsible for it and the consequences of the possible unconstitutional situation caused by the [1997 Claims Settlement Act] must be redressed by the country which caused this situation with its regulation, that is, the FBH and not the Republic of Slovenia."

B. Relevant decisions of the domestic courts in Bosnia and Herzegovina

57. The Human Rights Chamber for Bosnia and Herzegovina (hereinafter "the Human Rights Chamber") delivered its first decision in connection with "old" foreign-currency savings on 9 June 2000 in *Poropat and Others v. Bosnia and Herzegovina* (nos. CH/97/48, CH/97/52, CH/97/105, and CH/97/108). It concerned the transfer of the applicants' claims relating to "old" foreign-currency savings from commercial banks located in the FBH (Unionbanka, the former Jugobanka; Central Profit Banka; and the former Privredna Banka Sarajevo) to special privatisation accounts under the 1997 Claims Settlement Act (see *Suljagić v. Bosnia and Herzegovina* (dec.), no. 27912/02, 20 June 2006). In particular, the applicants claimed that the

refusal to disburse their "old" foreign-currency savings and the conversion of those savings into privatisation certificates had violated their property rights. The Human Rights Chamber noted as follows:

> "The [FBH] argues that the [1997 Claims Settlement Act] only provides foreign-currency savers with the possibility of using their funds in a certain manner and that the banks' obligation towards the saver remains unchanged."

58. The Human Rights Chamber made the following findings in this regard:

> "[T]here are no provisions in the [1997 Claims Settlement Act] indicating that an individual is free to dispose of his or her savings in any way other than to have them converted into privatisation certificates. Instead, the [1997 Claims Settlement Act] provides for the compulsory transfer of foreign-currency savings from the bank to the special privatisation account. This conclusion is reinforced by sections 12 and 13 of the [instructions concerning the registration and settlement of citizens' claims in special privatisation accounts – see paragraph 16 above], which stipulate that the bank is obliged to submit information on the identity of the individual saver and the amount of savings to the Federal Payment Bureau, which will then register the amount in the special privatisation account."
>
> ...
>
> 177. While not overlooking the fact that the apparent compulsory provisions of the [1997 Claims Settlement Act] and related legislation have not been applied comprehensively in practice, the [Human Rights] Chamber considers the decisive factor to be that the banks have refused to pay out the savings in question, finding themselves prevented from doing so under this legislation, and the courts have upheld the banks' decisions and therefore confirmed their conclusions. It therefore appears that, whether or not individual savers will be able to claim any money from the Federal Ministry of Finance under section 35 of the [Initial Balance Sheet of Companies and Banks Act – see paragraph 48 above], their savings are frozen at least until the privatisation of banks has been completed. The [1997 Claims Settlement Act] and the related privatisation laws not only relieve the banks of their contractual obligations towards their savers but, in fact, oblige them not to make any payments for an undetermined period of time. Having regard to the above, the [Human Rights] Chamber concludes that the measures contained in the legislation enacted by the [FBH] have interfered with the property rights of individual savers, including the present applicants."

59. Additionally, the Human Rights Chamber pointed out several shortcomings in the privatisation programme, including the limited two-year validity of privatisation certificates, the more favourable treatment in the privatisation process of those who were buying property with cash as compared to buying it with certificates, the uncertainty regarding the future status of claims relating to foreign-currency savings not registered in special privatisation accounts and claims registered but not used in the privatisation process. It found as follows:

> "Having regard to the above circumstances, the [Human Rights] Chamber considers that the measures applied by the [FBH] in respect of old foreign-currency savings, taken as a whole, place an individual and excessive burden on many individual savers, including the present applicants. While not overlooking the general interest involved, including the need to regulate the settlement of these savings in the context of economic

> difficulties of the [FBH] and the banks, the [Human Rights] Chamber finds that the measures do not strike a 'fair balance' between that interest and the protection of the applicants' property rights, and that they therefore fall outside the [FBH's] margin of appreciation."

60. The Human Rights Chamber ordered, *inter alia*, that the FBH amend the privatisation programme to strike a fair balance between the general interest and the protection of the applicants' property rights as holders of "old" foreign-currency savings accounts.

61. Following a request by members of the House of Representatives of the Parliament of the FBH, the Constitutional Court of the FBH reviewed sections 3, 7, 11 and 18 of the 1997 Claims Settlement Act. The request alleged that the transfer of "old" foreign-currency savings to special accounts represented by certificates, which could be used in the privatisation process in a two-year period, interfered with citizens' right to peacefully enjoy and freely dispose of their possessions. It also alleged that, following the two-year period, citizens would lose the right to their property, in violation of the Constitution of the FBH. On 8 January 2001 the Constitutional Court of the FBH, in decision no. U-10/00 (hereinafter "the 2001 decision"), determined that sections 3, 7, 11 and 18 of the 1997 Claims Settlement Act (see paragraph 47 above) were incompatible with the Constitution of the FBH. The court found as follows:

> "On 22 July 1998 the High Representative in Bosnia and Herzegovina issued the [Privatisation of Companies and Banks Framework Act], which entered into force the following day on a provisional basis (Official Gazette of BiH no. 14/98) and was finally adopted by the Parliamentary Assembly of Bosnia and Herzegovina on 19 July 1999 (Official Gazette of BiH no. 12/99). As regards citizens' old foreign-currency savings, it provides that claims in the privatisation process against companies and banks undergoing privatisation shall be considered the responsibility of the entity in charge of privatisation (section 4(2)).
>
> The [FBH], as one of the entities of Bosnia and Herzegovina, as regards the matter of citizens' old foreign-currency savings ... enacted the [1997 Claims Settlement Act], as well as [a subsequent law] on amendments to [that Act] ...
>
> The [Act] regulates the verification and realisation of citizens' claims against the [FBH], the manner and procedure for realising such claims in the privatisation process, and, among other claims by citizens, it also includes claims based on citizens' old foreign-currency savings.
>
> The contested provisions of the [Act] prescribe what are considered 'old foreign-currency savings' and which persons are the holders thereof (section 3); that banks shall transfer these claims to [special privatisation accounts] opened ex officio on the basis of the personal identification number (matičnog broja) of citizens who hold such claims (section 7); and that the citizen's individual account represents a citizen's certificate (section 11). Section 18 of the same [Act] specifies that claims registered in [special privatisation accounts] may be used in the privatisation process within two years from the date of their transfer to the individual account and shall be extinguished upon expiry of that period.

The Constitution of the [FBH], in Article II.A.2(1)(k) and Amendment V, provides that the [FBH] shall ensure the application of the highest level of internationally recognised rights and freedoms set forth in the documents listed in the Annex to this Constitution.

...

In assessing the constitutionality of sections 3, 7, 11, and 18 of the [1997 Claims Settlement Act] against the above-mentioned constitutional provisions and Article 1 § 1 of Protocol No. 1 to the [Convention] ... the Constitutional Court finds that the provisions of sections 3, 7, 11, and 18 are not in accordance with the Constitution of the [FBH]."

62. On 11 October 2002, in *Todorović v. Bosnia and Herzegovina* (nos. CH/97/104, CH/97/106, CH/97/107, CH/98/374, CH/98/386, CH/99/2997, and CH/00/4358), the Human Rights Chamber delivered another decision in connection with the transfer of "old" foreign-currency savings from banks located in the FBH (Ljubljana Bank Sarajevo; Unionbanka, the former Jugobanka; Central Profit Banka; and the former Privredna Banka Sarajevo) to privatisation accounts (see *Suljagić v. Bosnia and Herzegovina* (dec.), no. 27912/02, 20 June 2006). The Human Rights Chamber stated as follows:

"129. Despite the pronouncement in the [2001 decision] of the Constitutional Court of the [FBH], the relevant provisions of the [1997 Claims Settlement Act] continue to be applied in the [FBH].

...

131. In *Poropat and Others*, the [Human Rights] Chamber found interference with the applicants' rights under Article 1 of Protocol No. 1 to the Convention, on the basis of legislation that relieved the banks of their contractual obligations towards the applicants and made it impossible for [them] to withdraw their money (*Poropat and Others*, §§ 170-77). As a practical matter, the same situation remains today. The [Human Rights] Chamber notes that, following the amendments, there are still no provisions in the [1997 Claims Settlement Act] indicating that an individual is free to dispose of his or her savings in any way other than to have them converted into privatisation certificates. The [Act], as amended, continues to provide for the compulsory transfer of foreign-currency savings from the bank to the special privatisation account. The applicants, and presumably other depositors, have been, and continue to be, unable to withdraw their money from their accounts. Therefore, the interference found in *Poropat and Others* continues, at least *de facto*, even though *de jure* the relevant legislation is no longer in force ...

...

137. The [Human Rights] Chamber notes first that the Constitutional Court of the [FBH] has declared unconstitutional sections 3, 7, 11, and 18 of the [1997 Claims Settlement Act] – the provisions essential to the scheme of conversion of old foreign-currency savings into certificates. Therefore, the laws on which the [FBH's] control of use of the applicants' property is based are *de jure* no longer in force, but *de facto* continue to be applied.

138. There is ample authority in domestic law and court procedural rules to support the conclusion that, following the [2001] decision of the Constitutional Court of the

[FBH], the [1997 Claims Settlement Act] is no longer in effect. Section 12(b) of part IV(c) of the Federation Constitution provides that any law deemed not in accordance with the Constitution shall not remain in force 'unless the [Constitutional Court] specifies some transitional arrangements which may not extend to a period in excess of six months'. The Constitutional Court of the [FBH], in its [2001] decision, did not specify any transitional arrangements regarding its decision on the [1997 Claims Settlement Act]. Under the circumstances, the [Act] should have been deprived of its effect *ex nunc* – from the moment of the [Constitutional Court's] decision.

141. If, as the plain text of Article 12(b) of the Constitution of the [FBH] suggests, the relevant provisions of the [1997 Claims Settlement Act] ceased to be in effect from the time of the decision of the Constitutional Court of the [FBH], the ongoing interference with the applicants' property rights [must be considered] without basis in law and cannot be justified.

142. If, on the other hand, as the respondent Party appears to argue, the relevant provisions of the [1997 Claims Settlement Act] continued in effect after the decision of the Constitutional Court of the [FBH], other relevant factors undermine the lawfulness of the interference. First, even if one assumes, *arguendo*, that the Constitutional Court of the [FBH] silently intended to allow for transitional arrangements, the six-month time limit placed on those arrangements by Article 12(b) of Part IV(c) of the Constitution of the [FBH] has long since expired. Moreover, the [FBH] has indicated that, following the proposal of the Federal Ministry of Finance, it intends to amend only two of the four sections of the [1997 Claims Settlement Act] found unconstitutional. In any case, more than twenty-one months after the decision of the Constitutional Court of the [FBH], no corresponding legislative changes have been enacted.

143. The inaction following the [2001] decision of the Constitutional Court of the [FBH] has created a protracted state of legal uncertainty and confusion that cannot provide a legal basis for the continuing interference with the applicants' property rights. The failure to address the issue serves no legitimate public purpose, and it does not fall within the [FBH's] considerable margin of appreciation, no matter how compelling the public interest involved may be.

...

148. The [Human Rights] Chamber notes again that, taken together, the [2001] decision of the Constitutional Court of the [FBH], the lack of required legislative action, and the continued application of the [1997 Claims Settlement Act] have led to a state of legal uncertainty with regard to the applicants' old foreign-currency savings accounts. There is no justification for the current uncertainty, which leaves the applicants' claims to their property in a state of oblivion and neglect ...

149. Having regard to the above circumstances, the [Human Rights] Chamber considers that the situation in the [FBH] in respect of old foreign-currency savings, taken as a whole, places an individual and excessive burden on many depositors, including the present applicants. The [Human Rights] Chamber recognises the [FBH's] efforts to strike a "fair balance" through amendments to the applicable laws. Those efforts, however, comprise only part of the picture. Whatever the potential impact of those amendments, their efficacy has been called into question by the decision of the Constitutional Court of the [FBH]. The [Human Rights] Chamber finds that the resulting state of legal uncertainty – the continued application of the laws contrary to the [2001] decision of the Constitutional Court of the [FBH], the lack of any timely required amendment to those laws, and the apparent unavailability of relief in the domestic courts – creates a disproportionate interference with the applicants' property rights.

...

153. The [Human Rights] Chamber considers, as it did in *Poropat and Others*, that Bosnia and Herzegovina remains generally responsible for issues related to old foreign-currency savings accounts, and that the State's earlier failure to take adequate action left foreign-currency savings holders with no legal basis to claim reimbursement of their savings (see *Poropat and Others*, §§ 164-69). Following the same reasoning, Bosnia and Herzegovina bears responsibility for the violations of Article 1 of Protocol No. 1 to the Convention alleged in the present cases. And, although not directly involved in the actions that have created the current state of legal uncertainty, Bosnia and Herzegovina remains involved in State-level negotiations regarding matters that may affect the applicants, such as the responsibilities of foreign-based banks (like Ljubljanska Banka and Unionbanka) and economic succession rights generally. The [Human Rights] Chamber further notes that Bosnia and Herzegovina has submitted no observations in these cases to argue why it should no longer bear responsibility."

63. On 4 July 2003 the Human Rights Chamber issued a second decision in the *Poropat and Others* case, entitled *Poropat (Further Remedies)* (nos. CH/97/48, CH/97/52, CH/97/104, CH/97/105, CH/97/106, CH/97/107, CH/97/108, CH/98/374, CH/98/386, CH/99/2997 and CH/00/4358) concerning "old" foreign-currency savings in banks located in the FBH. All the applicants concerned by that decision had tried to obtain money from their "old" foreign-currency savings accounts, either through requests to the banks, court action, or both, but had been unsuccessful. In its decision, the Human Rights Chamber reaffirmed that the FBH and Bosnia and Herzegovina had violated the applicants' rights under Article 1 of Protocol No. 1 to the Convention and reasoned, *inter alia*, as follows:

"39. On the basis of the [FBH's] April 2003 observations to the [Human Rights] Chamber ... the [Human Rights] Chamber can only conclude that the [FBH] has not taken any relevant steps to comply with the *Todorović and Others* decision. Instead, it appears that the [FBH] has continually delayed taking any substantive legislative action to remedy the violations, blaming its inactivity on government changes brought about by the 2002 elections ...

40. At the same time, Bosnia and Herzegovina has provided no observations regarding attempted compliance with the [Human Rights] Chamber's decision in *Todorović and Others*, and the [Human Rights] Chamber can only conclude that the State has taken no action ...

41. Meanwhile, the human rights violations found in *Poropat and Others* and *Todorović and Others* continue. Since the Constitutional Court of the [FBH] has declared that sections 3, 7, 11, and 18 of the [1997 Claims Settlement Act] – provisions essential to the scheme of conversion of old foreign-currency savings into certificates – are not in accordance with the Constitution of the [FBH], there is no legal basis for denying these applicants access to their old foreign-currency savings accounts. Nonetheless, the [FBH] persists in doing so. Bosnia and Herzegovina's failure to address the problem in any significant respect has also allowed these ongoing violations to persist."

64. The Human Rights Chamber expressly reiterated the findings from *Poropat and Others* in its decision of 7 November 2003 in *Đurković and Others v. Bosnia and Herzegovina* (nos. CH/98/377, CH/98/410, CH/98/416,

CH/98/417, CH/98/418, CH/98/422, CH/98/427, CH/98/428, CH/98/429, CH/98/431, CH/98/435, CH/98/446, CH/98/447, CH/98/448, CH/98/449, CH/98/472, CH/98/473, CH/98/498, CH/98/584, CH/98/585, CH/98/622, CH/98/626, CH/98/784, CH/98/785, CH/98/1084, CH/98/1092, CH/98/1305, CH/99/1729, CH/99/2025, CH/99/2207, CH/99/2215, CH/99/2682, CH/99/2998, CH/00/4801, CH/00/4832, CH/00/5105, and CH/01/7301), which also concerned "old" foreign-currency savings deposited in banks located in the FBH and their branches, including that of "Ljubljana Bank Sarajevo (Ljubljana Bank)":

> "213. ... The [Human Rights] Chamber notes that, following the amendments, there are still no provisions in the [1997 Claims Settlement Act] indicating that an individual is free to dispose of his or her savings in any way other than to have them converted into a privatisation certificate ...
>
> ...
>
> 242. No curative legislative amendments have been enacted, and no other specific actions have been taken to resolve the old foreign-currency savings situation since the [2001 decision].
>
> ...
>
> 269. The [Human Rights] Chamber considers, as it did in *Poropat and Others* and *Todorović and Others*, that Bosnia and Herzegovina remains generally responsible for issues related to old foreign-currency savings accounts, and that the State's earlier failure to take adequate action left [old] foreign-currency savings holders with no legal basis to claim reimbursement of their savings ...
>
> 270. Like the [FBH], Bosnia and Herzegovina, through its statements and inactivity, has contributed to the legal uncertainty surrounding this issue. Although the Succession Agreement has not entered into force and succession negotiations have not yielded any results, public statements that the old foreign-currency savings problem will be resolved through public debt or succession funds have undoubtedly produced some public disturbance ...
>
> ...
>
> 278. As the [Human Rights] Chamber has explained in *Poropat and Others* and *Todorović and Others*, what the applicants are entitled to under Article 1 of Protocol No. 1 to the Convention is a clear legal framework that takes into account the general interest without placing an excessive individual burden on the applicants. The applicants have the right to know, from the respondent Parties [Bosnia and Herzegovina and the FBH], whether the use of certificates in the privatisation process is the only way they can obtain something of value for their old foreign-currency savings. The applicants are entitled, under the Convention, to know whether Bosnia and Herzegovina and the [FBH] intend to comply with the statements made by officials, which were even reflected in the laws, that the issue of old foreign-currency savings will be solved through the public debt of the respondent Parties. If so, the applicants are entitled to know what percentage of their savings they can expect to get back and within what time frame.
>
> 279. The respondent Parties have failed, over the last seven and a half years, to provide a clear answer to these questions, and they have also failed to act upon the decisions of the [Human Rights] Chamber and the Constitutional Court of the [FBH]. Under the

circumstances, the [Human Rights] Chamber finds it appropriate to order the respondent Parties to finally provide a clear legislative solution ..."

65. On 12 May 2005 the Human Rights Commission within the Constitutional Court of Bosnia and Herzegovina, which in the meantime took over the cases of the former Human Rights Chamber, issued a judgment in *Halilović v. Bosnia and Herzegovina* (no. CH/98/366 et al.) concerning the inability of the 100 applicants to recover their "old" foreign-currency savings deposited in commercial banks based in Bosnia and Herzegovina and in the Sarajevo branch of LBL and Investbanka Belgrade, based in the former Socialist Republic of Serbia. It appears that most of the applicants' savings were transferred to special privatisation accounts under the 1997 Claims Settlement Act. As regards savings deposited in LBL, the Human Rights Commission concluded that Bosnia and Herzegovina could not be considered responsible for the obligations towards the applicants, because they had been incurred in the territory of other countries. The Human Rights Commission reasoned as follows:

"466. The [Human Rights] Commission notes that the earlier relevant decisions, which concern old foreign-currency savings ... also cover the applicants who had foreign-currency savings in [the Sarajevo branch of LBL], and Investbanka Belgrade ... In the above-mentioned decisions, the [Human Rights] Chamber established the responsibility of Bosnia and Herzegovina on the basis that the Republic of Bosnia and Herzegovina had adopted laws and other regulations dealing with the issue of foreign-currency savings and 'thereby recognised responsibility for these savings'. Also contributing to the responsibility of Bosnia and Herzegovina was the fact that the State was involved in State negotiations on the succession of the assets of the former SFRY. However, it should be noted that these decisions did not deal with the issue of the existence or non-existence of the right of foreign-currency savers to payment. Moreover, the same conclusion can also be made in the case of other banks whose head offices were in Bosnia and Herzegovina. The [Human Rights] Commission concludes that the violation lay in the fact that the State did not clearly define the issue of the legal position of foreign-currency savers. It only made a declarative and generalised statement about foreign-currency savings and did not decisively establish a legal basis from the aspect of procedural and substantive law, and an institutional framework which, in accordance with the relevant laws, Article 6 of the [Convention] and Article 1 of Protocol No. 1 to the [Convention], would provide an answer to the question of whether the applicants have the right to be disbursed the foreign-currency savings in [LBL] and Investbanka, and if they have, in what way they can exercise it. In a certain way, the State created a chaotic situation, contrary to the principle of legal certainty within the meaning of Article I.2 of the Constitution of Bosnia and Herzegovina.

467. The correctness of the [Human Rights] Chamber's position regarding legal uncertainty is supported by facts concerning the status of [Ljubljana Bank Sarajevo] at the time the relevant decisions of the [Human Rights] Chamber were made, that is, prior to ruling no. Ps-595/03-III of the Municipal Court of 11 November 2004. As mentioned earlier in this decision, by decision no. UF/I-748/93 of the Higher Court of 2 July 1993, the entry was made in the court register of the Cantonal Court of the [Ljubljana Bank Sarajevo], as a legal entity created by a change in status of the [Sarajevo branch of LBL]. In accordance with the aforementioned decision, the [Ljubljana Bank Sarajevo], as the legal successor, took over the rights and obligations of the old [Sarajevo branch of LBL], as the legal predecessor. As long as this kind of registration was not found to

be unlawful and changed, there was an obligation to respect the formal legal situation, as dictated by the principle of the rule of law.

468. However, relevant legislative, judicial and international law activities have taken place from the time of submission of the applications in question and the adoption of the above-cited decisions of the [Human Rights] Chamber until today, which the [Human Rights] Commission must take into consideration, because they directly or indirectly concern the category of old foreign-currency savings in question.

...

478. On the basis of the above, the [Human Rights] Commission concludes that until the entry into force of the [Settlement of Domestic Debt Act – see paragraph 66 below], Bosnia and Herzegovina was responsible for the legal uncertainty of holders of old foreign-currency savings, including those at [the Sarajevo branch of LBL], and with Investbanka Belgrade. With the new [Act], Bosnia and Herzegovina excluded its *ratione personae* liability in relation to foreign-currency savings with respect to [the Sarajevo branch of LBL] and Investbanka Belgrade. The [Human Rights] Commission supports this legislative solution, by which Bosnia and Herzegovina cannot be considered responsible for the obligations towards the applicants, because they were incurred in the territory of other countries. It follows that the applications are *ratione personae* incompatible with the provisions of the Agreement, in the sense of Article VIII(2)(c). The [Human Rights] Commission therefore decides to declare the applications inadmissible."

66. On 2 December 2005 the Constitutional Court of Bosnia and Herzegovina (decision no. U-14/05), acting on a request for a review of constitutionality, declared unconstitutional the Law on the Determination and Method of Settlement of Domestic Debt of the Federation of Bosnia and Herzegovina of 27 November 2004 (*Zakon o utvrđivanju i načinu izmirenja unutarnjih obveza Federacije Bosne i Hercegovine*, Official Gazette of the FBH no. 66/04 – "the Settlement of Domestic Debt Act"), which provided that the FBH assumed obligations based on "old" foreign-currency savings held in banks located in its territory, except for those related to "old" foreign-currency savings deposited in [LBL] and Investbanka. It reached a similar finding with respect to two other acts regulating the same issue of "old" foreign-currency savings in Republika Srpska and Brčko District. The court found that the constituent entities of BiH did not have jurisdiction to enact laws concerning "old" foreign-currency savings. Therefore, their legislation was declared null and void. The court ordered that the issue be regulated by law at State level by 17 April 2006 (see paragraph 54 above), reasoning as follows:

"53. Bosnia and Herzegovina, in the light of its obligations under Annex 6 of the General Framework Agreement to 'ensure to all persons within its jurisdiction the highest level of internationally recognised human rights and fundamental freedoms,' was not permitted to rely on the [Entities] and the Brčko District to effectively and efficiently resolve [the issue of 'old' foreign-currency savings] within their respective competencies in the area of monetary policy. The Constitutional Court considers that, by enacting the [Privatisation of Companies and Banks Framework Act], Bosnia and Herzegovina gave the 'green light' for the initiation of the privatisation process in the

country, without ensuring clear and unified guidelines for resolving the issue of old foreign-currency savings through that process ...

...

56. The Constitutional Court considers that Bosnia and Herzegovina ... is responsible for adopting a legislative framework for resolving the issue of old foreign-currency savings, and that this must be done in a unified manner for all citizens of Bosnia and Herzegovina ... Only after this condition is fulfilled may the [Entities] and the Brčko District, within their delegated powers, regulate this issue in accordance with the principles previously established by unified legislation at the level of Bosnia and Herzegovina."

67. Decision no. AP-164/04 of the Constitutional Court of Bosnia and Herzegovina of 1 April 2006 (*Hadžiabdić v. Bosnia and Herzegovina*) concerned the appellants' claim for payment of "old" foreign-currency savings deposited at the Sarajevo branch of LBL and Investbanka Belgrade. Claims relating to the savings of some of the appellants were transferred to special privatisation accounts under the 1997 Claims Settlement Act. The court concluded that Bosnia and Herzegovina was not *ratione personae* responsible as regards foreign-currency savings deposited in the Sarajevo branch of LBL and Investbanka Belgrade and therefore could not be considered liable for the obligation to pay the appellants since they had occurred in the territory of other States. In particular, it found that LBL bore the same liability towards persons who had deposited their foreign-currency savings with banks in Slovenian territory as towards those who had done so abroad.

68. In the same decision, the court ruled that Bosnia and Herzegovina was responsible for failing to effectively protect individuals' rights to the peaceful enjoyment of their property. The court held, in the operative part, as follows:

"The appeals lodged ... against Bosnia and Herzegovina, the [FBH] and Republika Srpska in order to realise their claims based on foreign-currency savings deposited with [LBL], [the Sarajevo branch of LBL] and Investbanka Belgrade are rejected as inadmissible as being *ratione personae* incompatible with the Constitution of Bosnia and Herzegovina.

The appeals lodged ... with regard to the positive obligation of Bosnia and Herzegovina are granted, and a violation of the right to property under Article II.3(k) of the Constitution of Bosnia and Herzegovina and Article 1 of Protocol No. 1 to the [Convention] is hereby established."

69. In establishing the facts of the case, the court stated as follows:

"8. Some of the appellants initiated court proceedings in order to realise their claims based on old foreign-currency savings. However, none of these court proceedings have resulted, to date, in the payment of their claims. In case no. AP-164/04, regarding the appeal by [D.] and [M.] Hadžiabdić, the appellants initiated court proceedings and, by a final judgment of the Mostar Municipal Court, no. P-243/91 of 12 July 1991, the [Sarajevo branch of LBL] was required to pay the appellants the amount of ATS 4,106.52, DM 2,858.32, SHV 87.08 and DM 2,577.47, with the related interest and litigation. By a Decision on Enforcement of the Municipal Court I in Sarajevo ('the Municipal Court'), no. I-905/02 [*sic*] of 6 August 2001, enforcement was ordered

against the [Sarajevo branch of LBL] ... Deciding on the action then brought by [the Sarajevo branch of LBL], the Municipal Court, by judgment no. P-2278/02 of 14 October 2004, declared inadmissible the enforcement ordered by the Municipal Court's Decision on Enforcement no. I-905/01 of 6 August 2001. In the reasoning of the judgment, the Municipal Court stated that the appellants had deposited their foreign-currency funds in foreign-currency passbooks before the war, meaning before the independence of Bosnia and Herzegovina and the establishment of the [FBH]. According to the applicable regulations at the time the legal relationship arose, all foreign-currency savings of citizens were deposited with the National Bank of Yugoslavia and foreign-currency savings could only be disbursed in the cases prescribed by law, as provided in section 71 of the Foreign-Currency Operations Act (Official Gazette of the SFRY Nos. 66/85, 71/86, 3/88, 59/88, 82/90 and 96/91). Moreover, the Municipal Court emphasised that foreign-currency funds that were the subject of enforcement were transferred to the [privatisation] accounts of the appellants, and therefore the appellants, as creditors, lost the enforceable right to realise their claims against [LBL], as the debtor, on the basis of the invalidated enforcement decision. The Cantonal Court has not yet decided the appeal lodged against the Municipal Court's judgment no. P-2278/02 of 14 October 2004."

70. Regarding admissibility, the Constitutional Court reasoned as follows:

"55. ... In [*Todorović and Others* and *Đurković and Others*], the [Human Rights] Chamber held that Bosnia and Herzegovina was responsible on the basis that the Republic of Bosnia and Herzegovina adopted laws and other regulations dealing with the issue of foreign-currency savings and 'thereby acknowledged responsibility for those savings'. Bosnia and Herzegovina's responsibility was further reinforced by the fact that it was included in inter-State negotiations on the succession of property of the former SFRY. In a certain way, the State itself created a chaotic situation, contrary to the principle of legal certainty, within the meaning of Article I.2 of the Constitution of Bosnia and Herzegovina.

...

61. ... The domestic courts, in deciding on the status of Ljubljana Bank Sarajevo, ascertained that this bank had been established, in accordance with the legal regulations, as an independent new bank that had no rights or liabilities within [LBL] ... Since the headquarters of [LBL] were in Ljubljana, the Constitutional Court emphasises, and it has also been ascertained by the domestic courts, that the main [branch in] Sarajevo worked on behalf of and for the account of [LBL] and was never responsible for foreign-currency savings deposited at the above-mentioned bank. Therefore, Ljubljana Bank Sarajevo, which was established by a change in status of [the Sarajevo branch of LBL], cannot be considered responsible, as it could not assume greater rights and liabilities than the branch office in Sarajevo.

...

65. ... the Constitutional Court emphasises that the problem with the former [LBL] does not exist only in the territory of Bosnia and Herzegovina. Foreign-currency depositors from the Republic of Croatia have initiated legal proceedings against the Republic of Slovenia before the [Court]. [The Court] issued a decision declaring the applications admissible against the Republic of Slovenia (see [*Kovačić and Others v. Slovenia* (dec.), nos. 44574/98, 45133/98 and 48316/98, 9 October 2003 and 1 April 2004]). The aforementioned case concerns requests by Croatian nationals who deposited their savings in convertible foreign-currency at [the Zagreb branch of LBL].

71. In judgment no. Ap-533/07 of 13 May 2008 the Constitutional Court of Bosnia and Herzegovina affirmed that Bosnia and Herzegovina was not responsible *ratione personae* with regard to "old" foreign-currency savings in relation to the Sarajevo branch of LBL.

THE LAW

ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

72. The applicants complained that, despite the entry into force of the Ališić Implementation Act, the "old" foreign-currency deposits made by their predecessor, Vladimir (Franjo) Landika ("Mr Vladimir Landika"), had still not been returned, in breach of Article 1 of Protocol No. 1 to the Convention, which reads as follows:

> "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
>
> The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

A. Admissibility

1. The Government

73. The Government argued that the applicants had not complained in their application form about their inability to access the funds deposited by Mr Vladimir Landika 30 years earlier, having raised that argument only in their later observations, which had been too late. The Government further contended that the applicants' argument had not formed part of the subject matter of the domestic proceedings, which had concerned the interpretation of the Ališić Implementation Act rather than the broader issue of savers' inability to access their funds in the period prior to its enactment.

74. The Government made two further preliminary objections. First, they argued that the applicants had not had an existing "possession" in the form of "old" foreign-currency savings representing a claim against LBL, either at the time of the Slovenian Succession Fund's decision in January 2017 or when they had lodged their application. Their claim had ceased to exist by operation of the legislation of the FBH. This legislation had transformed the prior claim against LBL into a new "possession" in the form of a legal claim against the FBH (alone), that is, entitlement to a certificate that could be used in the FBH privatisation process – this process is hereinafter also referred to as the "transfer of claims".

75. The Government referred to the position of the authorities in Bosnia and Herzegovina, which they said confirmed that the effect of the transfer of claims was to relieve the bank of its obligations towards the depositor, that is, to terminate the creditor-debtor relationship between the depositor and the bank. The Government further argued that, as a result of the transfer, Mr Vladimir Landika and the applicants were in a materially different situation from that of the applicants in *Ališić and Others* (cited above), whose entitlement to "old" foreign-currency savings had not been transferred to privatisation accounts, and who had therefore continued to have a claim, under Bosnian-Herzegovinian law, against the bank with which they had deposited those savings or its successor.

76. The Government also argued that the Ališić Implementation Act had likewise not given rise to a "possession" within the meaning of Article 1 of Protocol No. 1, since the applicants' savings were excluded from its scope.

77. Secondly, the Government argued that as the applicants only had a claim against the FBH, the matter was not within the respondent State's jurisdiction, but within the exclusive jurisdiction of Bosnia and Herzegovina. In that connection, they alleged that, unlike in *Ališić and Others* (cited above), where the applicants had been within the jurisdiction of all the respondent States because those States had accepted that "old" foreign-currency savings were part of the SFRY's financial liabilities which they should share, the present case concerned a new right created by FBH law, which extinguished and replaced the entitlement to "old" foreign-currency savings. They also referred to the FBH Privatisation Agency's notice to a certain former saver of Ljubljana Bank Sarajevo whose entitlement to funds had been transferred to a "privatisation account" in 2000, which stated that "the institution responsible for the refund of old foreign-currency savings [was] the Federal Ministry of Finance". They also submitted a copy of this notice.

2. The applicants

78. The applicants disputed the Government's arguments. They maintained that the claim to "old" foreign-currency savings amounted to a "possession", which had already been established by the Court in *Ališić and Others* (cited above). In their opinion, the legislation of the FBH enacted following the war in Bosnia and Herzegovina had not had the effect of depriving Mr Vladimir Landika – and them as his legal successors – of a claim against Slovenia. The applicants submitted that the notion of "property" under Article 1 of Protocol No. 1 did not refer only to the classical notion of "existing property" but had been interpreted by the Court extensively as also including "legitimate expectations".

3. The Court

(a) Objections relating to compliance with the four-month time-limit and the exhaustion of domestic remedies

79. The Government raised objections relating to compliance with the four-month time-limit and the exhaustion of domestic remedies, both of which relate to the scope of the case before the Court and that before the domestic courts (see paragraph 73 above). The two objections are closely intertwined and will be examined below.

80. The Court notes that at the heart of the present application lies the inability of Mr Vladimir Landika, and subsequently the applicants, to recover "old" foreign-currency savings originally deposited in Ljubljana Basic Bank Sarajevo, which was subsequently transformed into the Sarajevo branch of LBL (for simplicity, only the latter name will be used hereinafter). In their application, the applicants clearly set out this grievance, alleging that the non-payment of "old" foreign-currency savings had placed a disproportionate burden on them (see paragraph 91 below). They further developed that argument by addressing the findings of the domestic courts, which had considered their claim for repayment of the savings in question to fall outside the scope of the Ališić Implementation Act (see paragraphs 92 and 93 below).

81. The formulation of the application leaves no room for doubt that the applicants complained about their inability to recover their predecessor's "old" foreign-currency savings. Accordingly, this complaint cannot be regarded as having been raised for the first time in their observations (compare and contrast *Grosam v. the Czech Republic* [GC], no. 19750/13, §§ 90-97, 1 June 2023).

82. In this connection, the Court also notes that the applicants cannot be blamed for having lodged their application with the Court after exhausting the remedies available under the Ališić Implementation Act. Indeed, the Court has previously declared inadmissible applications by other applicants who had been unable to recover their "old" foreign-currency savings deposited in the Sarajevo branch of LBL, whose related claims were transferred to privatisation accounts, finding that they were first required to make use of the remedies under the Ališić Implementation Act (see, for example, *Zeljković v. Slovenia* (dec.) [Committee], no. 33805/17, 5 September 2017). In the present case, the applicants followed precisely that course of action and obtained reasoned decisions, including one from the Constitutional Court. While it is true, as the Government argued, that the domestic proceedings concerned the interpretation of the Ališić Implementation Act, that interpretation was intrinsically linked to the applicants' claim for repayment of their predecessor's "old" foreign-currency savings and was made in the course of assessing that claim. By way of illustration, had the Constitutional Court concluded that the applicants should have been included in the repayment scheme and ordered that this issue be

remedied, such a decision could have rendered a complaint to the Court unnecessary – which is the very purpose of the rule on the exhaustion of domestic remedies. Even in the present situation, where the Constitutional Court did not ultimately reach that conclusion, it nevertheless provided reasoned arguments for its position which – in line with the principle of subsidiarity – must be duly taken into account in the Court's examination of the case.

83. In view of the foregoing considerations, the Government's objections relating to compliance with the four-month time-limit and the exhaustion of domestic remedies must be dismissed.

(b) Other admissibility issues

84. The Court notes that in *Ališić and Others*, it found that the applicants, who had deposited their "old" foreign-currency savings in the Sarajevo branch of LBL and the Tuzla branch of Investbanka (Serbia), were within the jurisdiction of all the respondent States in that case (that is, Bosnia and Herzegovina, Croatia, Serbia, Slovenia and the then "former Yugoslav Republic of Macedonia*"*, see *Ališić and Others*, cited above, §§ 77 and 79), although it ultimately found a violation of Article 1 of Protocol No. 1 only with respect to Slovenia and Serbia. The arguments advanced by the respondent Government in the present case (see paragraph 77 above) do not justify departing from the conclusion regarding jurisdiction reached in *Ališić and Others*. In so far as the Government have disputed the respondent State's responsibility for the applicants' alleged financial loss or the imputability thereof (see paragraph 77 above), this is a matter that needs to be examined with the merits of the applicants' complaint (see *Ališić and Others*, cited above, §§ 112-16 and 120, and *Georgia v. Russia (II)* [GC], no. 38263/08, § 162, 21 January 2021).

85. The Court further notes that it has not been disputed that the applicants are the lawful heirs of Mr Vladimir Landika, who deposited "old" foreign-currency savings in the Sarajevo branch of LBL (see paragraph 33 above). Following Mr Vladimir Landika's death, the applicants continued the domestic proceedings in his place and pursued subsequent remedies (see paragraphs 40 and 41 above). The Government did not contest their complaint under Article 1 of Protocol No. 1 on the basis that they were not the original holders of the "old" foreign-currency savings account in question.

86. However, the Government argued that the applicants had no legitimate claim against Slovenia, as that claim had been, in their view, extinguished in 1998 by operation of the legislation of the FBH. Moreover, they argued that the Ališić Implementation Act had likewise not given rise to a "possession" within the meaning of Article 1 of Protocol No. 1 on the applicants' part (see paragraphs 74-76 above).

87. The Court reiterates that under its settled case-law, "possessions" can be "existing possessions" or assets, including claims, in respect of which an

applicant can argue that he has at least a "legitimate expectation" (which must be more solid than a mere hope) that they will be realised, that is, that he or she will obtain effective enjoyment of a property right (see *Gratzinger and Gratzingerova v. the Czech Republic* (dec.) [GC], no. 39794/98, § 69, ECHR 2002-VII, and *Kopecký v. Slovakia* [GC], no. 44912/98, § 35, ECHR 2004-IX). A claim may be regarded as an asset only when it is sufficiently established to be enforceable (see *Kopecký,* cited above, § 49, and *Stran Greek Refineries and Stratis Andreadis v. Greece*, 9 December 1994, § 59, Series A no. 301-B). In this connection, the Court further reiterates that no legitimate expectation that a claim will be realised can be said to arise where there is a dispute as to the correct interpretation and application of domestic law and the applicant's submissions are subsequently rejected by the national courts (see *Galakvoščius v. Lithuania* (dec.), no. 11398/18, § 59, 7 July 2020, and *Kopecký,* cited above, § 50).

88. The Court notes that neither the legislator of the respondent State nor its courts recognised that former clients of the Sarajevo branch of LBL had, at least, a potentially enforceable claim against LBL based on "old" foreign-currency savings which had been subject to the transfer of claims (see paragraph 27 above; compare and contrast *Ališić and Others*, cited above, §§ 79 and 112). This category of savings was also excluded from the repayment scheme under the Ališić Implementation Act as applied and interpreted by Slovenian courts (see paragraph 122 below). The claim by Mr Vladimir Landika, and subsequently the applicants, was precisely for that reason rejected by the domestic courts (see paragraphs 37-42 above). Therefore, under domestic law, the applicants neither had a right nor a claim amounting to a legitimate expectation of obtaining the repayment of the savings in question from LBL or Slovenia following their transfer to the privatisation account in the FBH (see *Bata v. the Czech Republic* (dec.), no. 43775/05, §§ 77-80, 24 June 2008).

89. In so far as the applicants may be understood as relying on other circumstances that they claim conferred upon them a right or legitimate expectation that their claim arising from "old" foreign-currency savings would be paid by Slovenia (see paragraphs 78 above and 91-97 below, and compare, *mutatis mutandis*, *Beyeler v. Italy* [GC], no. 33202/96, § 100, ECHR 2000-I; *Kosmas and Others v. Greece*, no. 20086/13, § 69, 29 June 2017; and *Bata*, cited above, § 81), the Court considers that this aspect is closely linked to the substance of the present case and should be joined to the examination on the merits.

(c) Conclusion

90. The Court notes that the application is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicants

91. In their application form, the applicants argued that their predecessor had been in an identical position to the applicants in the case of *Ališić and Others*, as he had neither used his foreign-currency deposits in the privatisation process nor received payment by any other means. The applicants referred to the Court's findings that the resolution of the issue of unpaid foreign-currency savings had been excessively delayed. They complained that in view of this and as a result of the domestic proceedings, their right under Article 1 of Protocol No. 1 had been violated because the non-payment of their "old" foreign-currency savings had placed a disproportionate burden on them. These savings remained unpaid without any legitimate aim or justification.

92. The applicants also challenged the reasoning of the Administrative Court and the Constitutional Court in their case, arguing that these courts had misinterpreted the Court's findings in its *Ališić and Others* judgment, particularly paragraph 147, which, in their opinion, clarified that only those whose deposits had already been fully paid or used in the privatisation process could be excluded from the repayment scheme. The applicants pointed out that their predecessor had had no control over the transfer, nor had he used the funds in any way in the privatisation process. In their view, the debtor-creditor relationship could not be considered to have been terminated.

93. In the annex to their application, the applicants stated that the transfer of funds to the privatisation account had been on an authoritative act of the FBH. They defined the core issue of the dispute before the Court as whether the transfer of claims relating to "old" foreign-currency savings from a foreign-currency account to the privatisation account precluded the saver from claiming repayment of the funds from Slovenia. They considered the following two points to be key in this regard: (a) the transfer occurred without the consent or against the will of the applicant (in their case, their predecessor), and (b) the funds from the "old" foreign-currency deposit were not used in the privatisation process.

94. Furthermore, in their observations, the applicants disputed the Government's conclusion that Mr Vladimir Landika had somehow participated in the transfer of claims (see paragraph 101 below). They submitted in this connection that the special privatisation account had been opened *ex officio*, maintaining that Slovenia's liability could only be excluded in cases where the transfer of funds from the savings account to other accounts had been a result of the individual's voluntary action. They argued that Slovenia had failed to uphold the principle of lawfulness because the domestic courts had interpreted section 2(2) of the Ališić Implementation Act

arbitrarily, extending its meaning beyond the statutory text. In their view, that provision implied that a transfer of funds – relieving Slovenia of any liability – had to be voluntary and actively initiated by the depositor.

95. The applicants also argued that section 2(2) of the Ališić Implementation Act and its contested interpretation did not pursue a legitimate aim, as they were based on the premise that savers could supposedly, under unconstitutional legislation of the FBH, acquire "contrary to their will and only for a certain short period, an unenforceable 'possibility' of obtaining property in the privatisation process". They further referred to paragraphs 120 to 125 of the judgment in *Ališić and Others* (cited above), arguing that by excluding this category of savers from the repayment scheme, the respondent State had failed to respect its positive obligations and the requirement of a "fair balance".

96. The applicants further argued that the Government's assertion that Slovenia had been relieved of any obligations towards them failed to take into account all the relevant circumstances. Referring to the 2001 decision (see paragraph 61 above), the applicants argued that the 1997 Claims Settlement Act – enacted in violation of the Constitution of the FBH and Article 1 of Protocol No. 1 – could not have had the effect of completely excluding Slovenia's liability for the payment of "old" foreign-currency savings. They disputed the Government's reference to the decisions of the Human Rights Chamber, arguing that the relevant position was that of the Constitutional Court of Bosnia and Herzegovina in its 2006 decision (see paragraph 67 above). In their opinion, the aforementioned decision supported their argument that Slovenia was liable for the payment of "old" foreign-currency savings, and that by rejecting their request for verification, Slovenia had violated their rights enshrined in Article 1 of Protocol No. 1.

97. The applicants maintained that a violation of Article 1 of Protocol No. 1 in the present case stemmed from the refusal of their request for verification and their predecessor's inability to access the funds deposited over 30 years.

(b) The Government

98. The Government reiterated their arguments regarding the alleged lack of "possession", arguing that the Ališić Implementation Act could not have interfered with the applicants' rights protected by Article 1 of Protocol No. 1. They also submitted that the transfer of claims had been carried out by a Bosnian-Herzegovinian entity, namely Ljubljana Bank Sarajevo. In their view, Mr Vladimir Landika's claim had been extinguished by virtue of this transfer by the time the Bosnian-Herzegovinian courts had found Ljubljana Bank Sarajevo not to be responsible for claims arising from "old" foreign-currency savings in the Sarajevo branch of LBL.

99. They further argued that the Ališić Implementation Act complied with the principle of lawfulness and pursued a legitimate public interest in

accepting "financial liability only for interference with the rights of deposit-holders whose claim against [LBL] and/or [the Sarajevo branch of LBL] (for which Slovenia was responsible) had survived".

100. As to the principle of a "fair balance", the Government raised the following arguments.

(i) Slovenia had enacted and implemented legislation with a view to providing redress as required by the *Ališić and Others* judgment in a timely manner and to the satisfaction to the Committee of Ministers. In this connection, the Government also referred to the Court's findings in *Hodžić v. Slovenia* ((dec.), no. 3461/08, § 4, 4 April 2017) and *Zeljković* (cited above) that the Ališić Implementation Act met the criteria set out in the pilot judgment.

(ii) Section 2(2) of the Ališić Implementation Act reflected the findings of the domestic courts in Bosnia and Herzegovina and the legal consequences of the transfer of claims, which meant that the claims of depositors against LBL had ceased to exist. Slovenia had acted proportionately by not assuming liability for a debt that had been assumed by a Bosnian-Herzegovinian bank and extinguished under FBH legislation. Subsequent legislative changes and the Sarajevo Municipal Court's ruling of 2004 (see paragraph 23 above) had not affected the legal validity, under Bosnian-Herzegovinian law, of earlier transfers effected under the 1997 Claims Settlement Act. The Government pointed out that these arguments did not rest on any allegation that Mr Vladimir Landika had consented to the transfer of claims. In this connection, they also argued that, even though certain provisions of the 1997 Claims Settlement Act had been declared unconstitutional in 2001, they had continued to be applied for a number of years. There was no evidence suggesting that Mr Vladimir Landika had taken any steps to reverse the transfer of claims within the time allowed under Bosnian-Herzegovinian law (see paragraph 51 above).

(iii) The *Ališić and Others* judgment did not address claims relating to savings transferred to privatisation accounts, as none of the applicants in that case had had such savings. This was evident from paragraph 99 of that judgment, which stated that "the legislation of the respondent States did not extinguish the applicants' claims or otherwise deprive them of legal validity..." The judgment in that case, finding that there was a creditor-debtor relationship between the applicants and LBL, referred to LBL's debt, which did not include the claims of the present applicants. They and other savers in their situation had a claim against BiH and/or the FBH, not against Slovenia. In this connection, the Government further submitted that at the time of the restructuring of LBL, to which the Court referred in paragraph 116 of the *Ališić and Others* judgment, Mr Vladimir Landika's claim related to the "old" foreign-currency savings had already been transferred to Ljubljana Bank Sarajevo, a Bosnian-Herzegovinian bank for which Slovenia was not

responsible, and in 1998 had been extinguished by operation of Bosnian-Herzegovinian law.

(iv) The measures adopted in Serbia to implement the *Ališić and Others* judgment with regard to claims transferred to privatisation accounts in BiH were largely aligned with those of Slovenia.

(v) Mr Vladimir Landika and the applicants had been afforded adequate procedural guarantees and could challenge the Succession Fund's decision. Their arguments had been carefully examined by the Slovenian courts, including the Constitutional Court, and the decisions were consistent and properly reasoned.

101. The Government also submitted that Mr Vladimir Landika must have provided Ljubljana Bank Sarajevo with his personal information for the purposes of the transfer of claims, as the transfer could not have otherwise been completed.

102. In reply to the third-party association (see paragraphs 110 to 113 below), the Government argued that its submissions were partisan and exceeded the scope of the case. They maintained that the Succession Fund had been authorised to rely on data provided by the authorities in Bosnia and Herzegovina. In the present case, Mr Vladimir Landika himself had submitted evidence showing that the entitlement to his savings had been transferred to a privatisation account administered by the FBH authorities.

103. The Government also disputed the third-party association's argument that, as a result of the 2001 decision (see paragraph 61 above), earlier transfers to privatisation accounts had been rendered null and void (see paragraph 112 below), arguing that this claim was unsupported by any authority.

(c) Third-party observations of the Government of Bosnia and Herzegovina

104. The Government of Bosnia and Herzegovina argued that the situation of the applicants in the present case was no different from that of the applicants in *Ališić and Others*, and that Slovenia had failed to fully implement the judgment in that case. In their opinion, the arguments of the Slovenian Government had already been rejected by the Court in *Ališić and Others*.

105. Relying on paragraph 147 of the *Ališić and Others* judgment, the Government of Bosnia and Herzegovina submitted that the judgment was based on the principle of equivalence, according to which only those individuals who, on the basis of "old" foreign-currency savings, had acquired other property in the equivalent amount could be excluded from the repayment scheme. In this connection, they argued that at the time of the *Ališić and Others* judgment, the Court had been aware that around 14.5% of "old" foreign-currency savings with LBL had been recorded in special privatisation accounts. However, the figure referred to in paragraph 32 of that judgment (3%) had been the amount which had actually been used in the

privatisation process, not the percentage of the total amount of savings recorded in special privatisation accounts (14.5%). They further submitted that paragraph 147 of *Ališić and Others*, which referred to persons "who [had] used" their savings in the privatisation process, should therefore be understood with reference to the figure stated in paragraph 32.

106. In view of the foregoing, the Government of Bosnia and Herzegovina submitted that section 2(2) of the Ališić Implementation Act (see paragraph 57 above), which excluded from the repayment scheme all savings recorded in special privatisation accounts, regardless of whether they had been used in the privatisation process, was in complete contradiction to paragraph 147 of the *Ališić and Others* judgment.

107. The Government of Bosnia and Herzegovina further pointed out that the 2001 decision of the Constitutional Court of the FBH (see paragraph 60 above) had abrogated the provisions of the 1997 Claims Settlement Act concerning, *inter alia*, the transfer of savings to privatisation accounts, and that the legislation adopted by Bosnia and Herzegovina in 2006 (see paragraph 54 above) specifically excluded from its liability debt related to foreign-currency savings in, *inter alia*, the Sarajevo branch of LBL, liability for this debt being with the State on whose territory the headquarters were located. In support of their argument that Bosnia and Herzegovina had no obligation to repay "old" foreign-currency savings deposited in the Sarajevo branch of LBL, the Government of Bosnia and Herzegovina also referred to the position of the Constitutional Court of Bosnia and Herzegovina in its 2006 and 2008 decisions (see paragraphs 66-70 above).

108. In reply to the Court's request for information regarding the implications of section 20a of the 2003 Amendment (see paragraph 51 above), the Government of Bosnia and Herzegovina submitted that, because of the impossibility of implementing that provision, it had been amended by the 2004 Amendment (see paragraph 52 above). The Government of Bosnia and Herzegovina further noted that, pursuant to the Initial Balance Sheet of Companies and Banks Act (see paragraph 48 above), banks had de-registered obligations arising from citizens' claims based on "old" foreign-currency savings against claims based on foreign-currency savings deposited with the National Bank of Yugoslavia. As regards the Sarajevo branch of LBL, it had no legal successor in the territory of Bosnia and Herzegovina, in accordance with the Sarajevo Municipal Court's ruling in 2004 (see paragraph 23 above). Consequently, it had been legally impossible to apply section 20a of the 2003 Amendment.

109. The Government of Bosnia and Herzegovina also maintained the view that Slovenia had misinterpreted the relevant domestic law and the circumstances related to Bosnia and Herzegovina. They reiterated their arguments presented in the case of *Ališić and Others*, namely that they had not assumed the obligation to pay the debt arising from foreign-currency savings deposited in branches of foreign banks. They further emphasised that

the "old" currency savings in question were never actually transferred to special privatisation accounts, but rather recorded as "claims" arising from such savings. The records of such claims merely served to show whether they had been used in the privatisation process.

(d) Third-party observations of the Association for the Protection of Foreign-Currency Depositors in BiH (*Udruženje za zaštitu deviznih štediša u Bosni i Hercegovini*)

110. The Association for the Protection of Foreign-Currency Depositors in BiH ("the third-party association") argued that the relevant provisions of the Ališić Implementation Act were incompatible with paragraphs 146 and 147 of the *Ališić and Others* judgment.

111. Referring to section 9(4) of the Ališić Implementation Act (see paragraph 45 above), the third-party association submitted that depositors' personal data (including data related to funds registered in privatisation accounts) had been mishandled and misused in the verification process and before the Slovenian courts.

112. The third-party association criticised the Slovenian courts for reaching the "wrong" conclusion that foreign-currency deposits had been transferred from accounts at LBL to special privatisation accounts. Referring to the 2001 decision of the Constitutional Court of the FBH (see paragraph 61 above), the third-party association maintained that any transfer of claims that had taken place before 2001 had become null and void on 9 March 2001 when the decision of the Constitutional Court of Bosnia and Herzegovina became final. In this connection, the third-party association referred to the reasoning of the Human Rights Chamber of Bosnia and Herzegovina in paragraph 41 of *Poropat (Further Remedies)* (see paragraph 63 above).

113. The third-party association also submitted that, further to the 2003 Amendment (see paragraph 51 above), the FBH should have passed implementing legislation and set out a procedure for determining savings that had not been used in the privatisation process, but that it had not done so. Similarly, following the 2004 Amendment, no legislation had been passed to implement section 20a in its amended form (see paragraph 52 above).

2. The Court's assessment

(a) Introduction

114. In the present case, the parties essentially disagreed on whether the matter complained of by the applicants had already been addressed by the Grand Chamber in its pilot judgment in *Ališić and Others* (see paragraphs 75, 91, 100 and 104 above). In that case, the Court found a violation of, *inter alia*, Article 1 of Protocol No. 1 with respect to Slovenia and Serbia for their failure to repay the applicants' "old" foreign-currency savings deposited at the Sarajevo branch of LBL and the Tuzla branch of Investbanka respectively.

The Court must first address this disagreement, and depending on the outcome of that assessment, subsequently proceed to examine the merits of the complaint.

115. Before proceeding, the Court finds it appropriate to highlight two key factual elements of the present case. First, in 1998 Mr Vladimir Landika's claim to "old" foreign-currency savings previously deposited at the Sarajevo branch of LBL was *ex officio* transferred to a special privatisation account administered by the relevant authorities of the FBH. This transfer of claims was carried out under the 1997 Claims Settlement Act, enacted by the legislative body of the FBH at the start of the privatisation process in the FBH (see paragraphs 15, 16, 21 and 47 above). Neither Mr Vladimir Landika nor the applicants used the savings in the privatisation process (see paragraphs 92 and 94 above). Secondly, following the judgment in *Ališić and Others*, Slovenia enacted the Ališić Implementation Act in 2015, establishing a mechanism for recovering unpaid "old" foreign-currency savings previously deposited in the Sarajevo and Zagreb branches of LBL (see paragraph 54 above) subject to the conditions set out therein. Mr Vladimir Landika made a request under the Ališić Implementation Act to recover his "old" foreign-currency savings, but his request was refused on the grounds that savings subject to the transfer of claims were excluded from the repayment scheme under that Act.

(b) Whether the present case should be distinguished from *Ališić and Others*

116. The Court notes that the present applicants, like the two applicants in *Ališić and Others*, who had "old" foreign-currency savings in the Sarajevo branch of LBL, complained that they had been unable to have the savings deposited by their predecessor (Mr Vladimir Landika) repaid to them. However, Mr Vladimir Landika's savings fell within the scope of the 1997 Claims Settlement Act, which provided for the transfer of claims (paragraphs 15 and 47 above). This was not the case for the savings of the applicants in *Ališić and Others*. Unlike the present applicants' predecessor, the applicants in *Ališić and Others* had never acquired a claim in the privatisation process in the FBH based on their "old" foreign-currency savings, and they maintained the amount of their savings as the balance on their bank accounts throughout (see *Ališić and Others*, cited above, §§ 10 and 79). Following the implementation of *Ališić and Others* judgment in Slovenia, savings such as those of the applicants in *Ališić and Others* were included in the repayment scheme (see *Hodžić v. Slovenia* (dec.), no. 3461/08, 4 April 2017, and paragraph 32 above). However, savings subject to the transfer of claims, including those of the applicants' predecessor, were not.

117. The applicants and the third-party interveners argued that it had been the Court's view in *Ališić and Others* – when considering the general measures under Article 46 of the Convention – that the "old" foreign-currency savings at the Sarajevo branch of LBL subject to the transfer

of claims but not used in the privatisation process should have been included in the Slovenian repayment scheme, that is, paid to the respective savers (see paragraphs 92, 110 and 104-106 above). It should be observed that in paragraph 147 of the *Ališić and Others* judgment, the Court pointed out that the general measures indicated in the context of Article 46 did not apply to those who, while in the same position as the respective applicants, had already been paid their entire "old" foreign-currency savings, such as those who had been able to withdraw their savings on humanitarian grounds or used them in the privatisation process in the FBH or had been paid their savings in the Zagreb and Skopje branches of LBL by the Croatian and Macedonian governments. The Court indicated that Serbia and Slovenia might exclude such persons from their repayment schemes. Furthermore, where only a part of a person's "old" foreign-currency savings had thus been repaid, those States were responsible for the rest (see *Ališić and Others*, cited above, § 147).

118. Taking due note of the arguments of the applicants and the third parties summarised in paragraph 117 above, and of the considerations set out in paragraph 147 of *Ališić and Others*, the Court reiterates one of the fundamental principles of procedure under international and domestic (civil and administrative) law: *ne eat judex ultra et extra petita partium* ("not beyond the request"), it being understood that the *petitum* is the complaint submitted by the applicant. This finding suggests that the scope of a case "referred to" the Court in the exercise of the right of individual application is determined by the applicant's complaint or "claim" – which is the term used in Article 34 of Convention (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 109). The complaint, as the Court has consistently held, is characterised by the alleged facts, and it can base its decision only on the facts complained of (ibid., §§ 115 (and the references therein) and 120; *Grosam*, cited above, § 90; and *O.J. and J.O. v. Georgia and Russia*, nos. 42126/15 and 42127/15, § 48, 19 December 2023). If the Court were to base its decision on facts not covered by the complaint, it would rule beyond the scope of the case and exceed its jurisdiction by deciding matters not "referred to" it, within the meaning of Article 32 of the Convention (see *Radomilja and Others*, cited above, § 123). As the Court indicated in *Radomilja and Others* (ibid.), ruling beyond the scope of the case may also raise a question of respect for the principle of equality of arms.

119. Having regard to the foregoing, the Court notes that, despite the similar nature of the complaints lodged by the present applicants and those in *Ališić and Others*, they relate to distinct factual circumstances. As mentioned above, the claims relating to the savings of the applicants in *Ališić and Others* were not transferred to special privatisation accounts in the FBH, as those savings did not fall within the scope of the 1997 Claims Settlement Act (see paragraph 116 above; compare *Ališić and Others*, cited above, § 119). It is therefore unsurprising that, in *Ališić and Others*, the Court did not examine

the implications of the transfer of claims for the liability of LBL and, in turn, Slovenia's – a matter central to the present case (see paragraph 93 above). The Court would add, by way of observation, that the Committee of Ministers, in finding that all the measures required of Slovenia in *Ališić and Others* under Article 46 § 1 of the Convention had been adopted, explicitly noted that the final resolution in this case was entirely without prejudice to the Court's conclusions in cases addressing the issue of responsibility for the repayment of deposits held in the Sarajevo branch of LBL transferred to privatisation accounts in accordance with the legislation of Bosnia and Herzegovina (see paragraph 32 above).

120. The Court therefore considers that the present complaint rests on certain pertinent factual and legal circumstances which did not underpin the complaints in *Ališić and Others* and which need to be examined anew. However, the principles and considerations set out by the Grand Chamber in that case should, where relevant, be taken into account.

(c) Compliance with Article 1 of Protocol No. 1

121. In *Ališić and Others* (cited above, §§ 98 and 99), the Court classified the applicants' inability to withdraw their "old" foreign-currency savings as a complaint to be examined under the general principle of the peaceful enjoyment of property, as laid down in the first rule of Article 1 of Protocol No. 1. The Court sees no reason to depart from this approach in the present case. Likewise, it finds it appropriate to follow the approach in *Ališić and Others* with respect to the nature of the alleged violation, finding it unnecessary to categorise its examination of the case strictly as being under the head of positive or negative obligations of the respondent State (ibid., § 102).

122. As regards the principle of lawfulness, the Court cannot follow the applicants' argument that the domestic courts interpreted the Ališić Implementation Act arbitrarily (see paragraph 94 above). It should be noted in this regard that the Constitutional Court has comprehensively addressed the interpretation of section 2(2) and provided detailed reasoning for its position, which cannot be regarded as arbitrary (see paragraph 42 above). It further reiterates that however clearly drafted a legal provision may be, in any system of law there is an inevitable element of judicial interpretation. Many laws are inevitably couched in terms which, to a greater or lesser extent, are vague and whose interpretation and application are questions of practice. The role of adjudication vested in the courts is precisely to dissipate such interpretational doubts as remain (see *Bežanić and Baškarad v. Croatia*, nos. 16140/15 and 13322/16, § 63, 19 May 2022), and that is the role the Constitutional Court fulfilled in the present case. The Court therefore sees no reason to conclude that the principle of lawfulness was not respected in the present case.

123. As regards the applicants' argument that the relevant provision of the Ališić Implementation Act and its interpretation did not pursue a "legitimate aim" (see paragraph 95 above), the Court notes that, as found in *Ališić and Others* (cited above, §§ 106-07), by taking measures to prevent the uncontrolled withdrawal of "old" foreign-currency savings, the successor States of the SFRY acted in the public interest of protecting their respective banking systems and national economies. The same objectives legitimately underpinned the limitations applied to the measures intended to repay or compensate "old" foreign-currency savers (see paragraph 99 above, and also, *mutatis mutandis*, *Suljagić v. Bosnia and Herzegovina*, no. 27912/02, § 42, 3 November 2009).

124. The Court will now turn to examine whether the respondent State can be considered responsible for the non-payment of the applicants' claims relating to "old" foreign-currency savings. It has already found in *Ališić and Others* that claims related to "old" foreign-currency savings survived the dissolution of the SFRY (*Ališić and Others,* cited above, § 79) and that Slovenia retained control and responsibility for LBL, which operated the Sarajevo branch, and therefore remained liable for "old" foreign-currency savings in that branch (see *Ališić and Others,* cited above, §§ 114-16). Having regard to the considerations set out in *Ališić and Others*, the Court finds that Mr Vladimir Landika's savings could be considered to have initially fallen within the liability of the respondent State. However, it must be determined whether that liability persisted in view of the fact that Mr Vladimir Landika's claim relating to his savings had been transferred to a privatisation account in the FBH (paragraph 35 above) under the 1997 Claims Settlement Act and, consequently, whether the respondent State was required, as a matter of obligation under the Convention, ratified by Slovenia in 1994, to repay those savings.

125. The applicants and the third-party interveners relied extensively on the 2001 decision of the Constitutional Court of the FBH (paragraph 61 above) and the 2006 decision of the Constitutional Court of Bosnia and Herzegovina ("the 2006 decision", see paragraphs 67-70 above), arguing that Slovenia remained liable for claims related to "old" foreign-currency savings that had been subject to the transfer of claims (see paragraphs 96, 107 and 112 above).

126. As regards the 2006 decision, the Court notes that the Constitutional Court of Bosnia and Herzegovina, like the Human Rights Commission in 2005 (see paragraph 65 above) considered that Bosnia and Herzegovina was not liable for "old" foreign-currency savings deposited in the Sarajevo branch of LBL. In keeping with the above, when undertaking to recompense "old" foreign-currency savings in locally based banks, the legislator of the FBH and that of Bosnia and Herzegovina excluded savings in the Sarajevo branch of LBL from the domestic repayment scheme (see paragraphs 54, 66 and 107 above). The Slovenian Constitutional Court, which decided the applicants'

constitutional complaint, considered that the creditor-debtor relationship between LBL and "old" foreign-currency savers whose savings in the Sarajevo Branch of LBL had been subject to the transfer of claims had been severed and these legislative developments could not have been taken to restore it (see paragraph 42 above). The Court finds the position of the Slovenian Constitutional Court persuasive. It considers that the respondent State's responsibility for the inability of Mr Vladimir Landika and, consequently, the applicants to access their "old" foreign-currency savings cannot be determined solely on the basis that the Constitutional Court of Bosnia and Herzegovina excluded the State's liability for such savings, or that the legislation in Bosnia and Herzegovina and the FBH expressly excluded them from the domestic repayment scheme. Rather, in accordance with its approach in the *Ališić and Others* judgment, the Court must consider this question in the light of the entire situation and the manner in which all the relevant events unfolded.

127. In this connection, the Court notes that following the dissolution of the SFRY, at the end of June 1993, the government and the National Bank of Bosnia and Herzegovina decided that Ljubljana Bank Sarajevo – a Bosnian-Herzegovinian bank – should be created and take over the assets and liabilities of the Sarajevo branch of LBL, including those related to "old" foreign-currency savings (see paragraphs 20-22 above). Despite issues being raised about Ljubljana Bank Sarajevo's relation to LBL and the former's liability for "old" foreign-currency savings already in 1994, Ljubljana Bank Sarajevo continued to administer those savings until 2004 (see paragraph 21 above). In the meantime, when – over two years after the war in BiH had ended – the 1997 Claims Settlement Act was enacted in the context of the privatisation process beginning in Bosnia and Herzegovina, the authorities of the FBH must have been aware that it would apply to "old" foreign-currency savings administered by Ljubljana Bank Sarajevo. Indeed, the latter took the measures required by the 1997 Claims Settlement Act and the instructions issued by the Director of the FBH Privatisation Agency (see paragraphs 47 and 16 above) to effect the transfer of Mr Vladimir Landika's claim to his special privatisation account, leading to its conversion into a privatisation certificate (see paragraphs 35 and 15 above) – this is indeed evidenced by the copy of Mr Vladimir Landika's passbook made available to the Court. Although the third-party association seems to have questioned the reliability and use of data in the verification process (see paragraph 111 above), this has not been substantiated and was not raised by the applicants. As a matter of fact, the copy of Mr Vladimir Landika's passbook indicates that the claim relating to his savings was transferred to a privatisation account and that the balance left in the savings account was zero (see paragraphs 21, 35 and 38 above).

128. The Court further observes that, contrary to what was suggested by the third-party association (see paragraph 112 above), the 2001 decision of

the Constitutional Court of the FBH does not appear to have had the effect of invalidating transfers of claims that had already taken place, nor did it restore the balance in the respective savers' accounts. The Human Rights Chamber in 2002 (see paragraph 62 above) specifically noted that the 2001 decision should have had *ex nunc* effect. It also observed that the 1997 Claims Settlement Act continued to be applied in practice, a point also confirmed by subsequent decisions of the Human Rights Chamber (see paragraphs 63 and 64 above). The Court observes in this connection that the 1997 Claims Settlement Act remained in force and was subject to a number of amendments – most recently in 2023 – which, among other changes, modified the conditions for transferring claims that had not yet been transferred, introduced a short window for requesting the "return of unused claims" and changed the manner, scope and time frame for using privatisation certificates in the privatisation process (see paragraphs 50-53 above). However, as attested by the third-party interveners (see paragraphs 108 and 113 above) the amendments providing for the possibility of having claims "returned" to the account balances have never been implemented.

129. The Court must next consider the fact that Ljubljana Bank Sarajevo was no longer liable for "old" foreign-currency savings deposited in the Sarajevo branch of LBL following the Sarajevo Municipal Court's ruling in 2004 (see paragraph 22 above, and *Ališić and Others*, cited above, § 113). In this connection, the Court finds that no evidence has been adduced to demonstrate that this ruling had the effect of invalidating the contracts and transactions previously concluded by Ljubljana Bank Sarajevo, or of otherwise affecting the account balances. Likewise, no plausible argument has been advanced to establish that this ruling should have restored the situation of those savers whose deposits – such as those of Mr Vladimir Landika – had been subject to the transfer of claims and converted into privatisation certificates. As noted above, these certificates, although of limited use, appear to have continued to be administered by the FBH Privatisation Agency even after the ruling (see paragraph 128 above). While Mr Vladimir Landika did not make use of the certificate corresponding to his "old" foreign-currency savings in the privatisation process – a fact that is not in dispute between the parties – the value of that certificate had nevertheless been determined and intended to be guaranteed by the authorities of Bosnia and Herzegovina.

130. As regards the regulation and operation of the privatisation certificate scheme, as well as the privatisation process in Bosnia and Herzegovina in general (see the references to uncertainty in the legal framework and the chaotic nature of the situation regarding "old" foreign-currency savings, paragraphs 62-65 and 70 above; see also *Ališić and Others*, cited above, § 33), these fell within the domestic jurisdiction of Bosnia and Herzegovina. As noted in *Ališić and Others* judgment, the succession negotiations did not prevent successor States from adopting

measures at national level aimed at protecting the interest of "old" foreign-currency savers (see *Ališić and Others*, cited above, § 123). What is material in the present case is that, once such measures had been adopted – particularly in so far as they relieved the banks of their contractual obligations towards savers (see the finding to that effect by the Human Rights Chamber, paragraph 58 above) – the bank from which claims had been transferred could not be held responsible for the inadequacy of those measures.

131. Moreover, it has not been alleged, let alone established, that the respondent State bears any responsibility for any shortcomings in the regulation and management of the privatisation scheme and the related certificates in the FBH in compliance with the property rights of those affected. Nor can it bear any responsibility for the fact that the transfer of claims was carried out without the respective savers' consent (see paragraphs 93-95 above). As mentioned earlier, the transfer of claims was carried out pursuant to the legislation of the FBH by the bank created by the FBH authorities (Ljubljana Bank Sarajevo) without any involvement of LBL.

132. In consequence, Slovenia cannot be considered liable for "old" foreign-currency savings in the Sarajevo branch of LBL after the related claims had been transferred to special privatisation accounts administered by the FBH privatisation authorities. It is not therefore responsible for the applicants' inability to freely dispose of such savings. The Court observes that this issue had been thoroughly considered in the domestic proceedings, in which Mr Vladimir Landika and subsequently the applicants were able to fully participate. Domestic decisions refusing their claim were based on sound grounds (see paragraphs 39 and 42 above), many of which the Court has endorsed above. The Court considers it appropriate to note, for the sake of completeness, that the responsibility of the respondent State for the failure to pay Mr Vladimir Landika the "old" foreign-currency savings deposited in the Sarajevo branch of LBL cannot be established even for the period between the ratification of the Convention by Slovenia on 28 June 1994 and the transfer of those savings to the privatisation account on 24 April 1998 (see paragraph 35 above). In this period, liability for such savings was expressly assumed by the Bosnian-Herzegovinian bank – Ljubljana Bank Sarajevo – and that assumption of liability was not removed from the court register until 2004, after the savings had already been transferred to the privatisation account in the FBH (see paragraph 129 above).

133. In view of the foregoing considerations, the Court finds that there has been no violation of Article 1 of Protocol No. 1 to the Convention. This makes it unnecessary to reach a definitive conclusion on the objection joined to the merits (see paragraph 89 above).

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join to the merits the Government's objection of incompatibility *ratione materiae*;

2. *Declares* the application admissible;

3. *Holds* that there has been no violation of Article 1 of Protocol No. 1 to the Convention and that it is not necessary to decide on the Government's objection of incompatibility *ratione materiae*.

Done in English, and notified in writing on 3 March 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško Registrar	Ioannis Ktistakis President

APPENDIX

List of applicants:

Application no. 45987/22

No.	Applicant's Name	Year of birth	Nationality	Place of residence
1.	Kata LANDIKA	1941	of Bosnia and Herzegovina	Bugojno
2.	Demian Jugo LANDIKA	1964	of Bosnia and Herzegovina	Mostar
3.	Vjekoslav LANDIKA	1971	of Bosnia and Herzegovina	Bugojno