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

THIRD SECTION

DECISION

Application no. 45204/04
Ljubomir PAVKOVIĆ
against Serbia

The European Court of Human Rights (Third Section), sitting on 13 June 2017 as a Committee composed of:

Pere Pastor Vilanova, *President,*
Branko Lubarda,
Georgios A. Serghides, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 12 November 2004,
Having regard to the observations submitted by the parties,
Having regard to the comments submitted by the Croatian Government,
Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Ljubomir Pavković, is a Croatian national, who was born in 1930 and lives in Pula. He was represented before the Court by Ms V. Selak, a lawyer practising in Pula.

The Serbian Government ("the Government") were represented by Mr S. Carić, their Agent at the time.

A. The circumstances of the case

The facts of the case, as submitted by the parties, may be summarised as follows.

On 8 May 1990, prior to the dissolution of the Socialist Federal Republic of Yugoslavia ("the SFRY"), the applicant deposited 1,260 US dollars and 3,000 Deutschmarks in a bank account at the Belgrade branch of Jugobanka Beograd. Up to 2002, he was able to withdraw small amounts on a number

of occasions. In 2002, when the Old Foreign-Currency Savings Act 2002[1] entered into force, the balance in the applicant's account was 2,571 euros. In accordance with that Act, the savings of all citizens of the SFRY successor States other than Serbia, as was the present applicant's case, were to remain frozen pending succession negotiations.

B. Relevant domestic and international law and practice

The relevant domestic and international law and practice were outlined in *Ališić and Others v. Bosnia and Herzegovina, Croatia, Serbia, Slovenia and the former Yugoslav Republic of Macedonia* [GC], no. 60642/08, §§ 12-23, 44-46, 53, 56 and 59-69, ECHR 2014, and *Muratović v. Serbia* (dec.), no. 41698/06, § 4, 21 March 2017).

COMPLAINT

The applicant complained that he had been unable to withdraw his "old" foreign-currency savings. Although he did not invoke any specific Article of the Convention, the case was communicated to the respondent Government under Article 14 of the Convention and Article 1 of Protocol No. 1.

THE LAW

The Court notes that the parties submitted their observations in 2007 and that the Croatian Government submitted their comments pursuant to Article 36 § 1 of the Convention also in 2007. In view of the recent developments, there is no need to go into any details in that connection.

Notably, on 16 July 2014 the Court adopted a pilot judgment concerning this issue (see *Ališić and Others v. Bosnia and Herzegovina, Croatia, Serbia, Slovenia and the former Yugoslav Republic of Macedonia* [GC], no. 60642/08, ECHR 2014). It found, in respect of Serbia, a breach of Article 13 of the Convention and Article 1 of Protocol No. 1 and held that Serbia should make all necessary arrangements, including legislative amendments, in order to allow persons in a position similar to one of the applicants in that case to recover their "old" foreign-currency savings under the same conditions as Serbian citizens who had such savings in domestic branches of Serbian banks (ibid., points 2, 5 and 10 of the operative part). It further indicated that no claim should be rejected only because of a lack

1. *Zakon o regulisanju javnog duga Savezne Republike Jugoslavije po osnovu devizne štednje građana*, Official Gazette of the Federal Republic of Yugoslavia no. 36/02.

of original contracts or bankbooks and that any and all verification decisions must be subject to judicial review. Lastly, the Court held that all those concerned must comply with the requirements of any verification procedure, as long as it met the above criteria (ibid., § 148). In the execution of that judgment, Serbia passed the Alisic Implementation Act[2], which entered into force on 30 December 2016.

The Court has recently established that the Ališić Implementation Act, in principle, met the criteria set out in the pilot judgment and that all savers must now use the remedy introduced by that Act – a request for verification (see *Muratović v. Serbia* (dec.), no. 41698/06, 21 March 2017). The Court sees no reason to depart from that jurisprudence in the present case.

In view of the fact that the applicant has not yet submitted a request for verification, the application must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 6 July 2017.

Fatoş Aracı
Deputy Registrar

Pere Pastor Vilanova
President

2. *Zakon o regulisanju javnog duga Republike Srbije po osnovu neisplaćene devizne štednje građana položene kod banaka čije je sedište na teritoriji Republike Srbije i njihovim filijalama na teritorijama bivših republika SFRJ*, Official Gazette of the Republic of Serbia, no. 108/16.