



Slovenia not responsible for claims related to “old” foreign-currency savings deposited in Sarajevo branch of Ljubljana Bank if transferred to “privatisation account” administered by Bosnian-Herzegovinian authorities

In today’s **Chamber** judgment¹ in the case of [Landika v. Slovenia](#) (application no. 45987/22) the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights.

The case concerned the applicants’ inability to recover, under legislation enacted in Slovenia following the Court’s 2014 Grand Chamber judgment in [Ališić and Others v. Bosnia and Herzegovina, Croatia, Serbia, Slovenia and the former Yugoslav Republic of Macedonia](#), their predecessor’s “old” foreign-currency savings deposited in the Sarajevo branch of Ljubljana Bank (then a Slovenian bank), as the claim relating to those savings had been transferred in 1998 to a privatisation account administered by the authorities of Bosnia and Herzegovina (more specifically by the Privatisation Agency for the Federation of Bosnia and Herzegovina).

The Court found that Slovenia could not be considered liable for the “old” foreign-currency savings in question because the related claims had been transferred to the privatisation account in Bosnia and Herzegovina according to Bosnian-Herzegovinian legislation without the involvement of the Ljubljana Bank in Ljubljana. The Court also found that it had not been shown that Slovenia bore responsibility for any shortcomings in the regulation and management of the privatisation scheme in Bosnia and Herzegovina, or for the fact that the transfer of claims had been carried out without the respective savers’ consent. It was thus not responsible for the applicants’ inability to freely dispose of their predecessor’s savings. The Court observed that these issues had been thoroughly considered in the Slovenian proceedings, in which the applicants’ predecessor, and then the applicants themselves, had been able to fully participate. The Slovenian authorities’ decisions refusing their claim had been based on sound grounds.

A legal summary of this case will be available in the Court’s database HUDOC ([link](#)).

Principal facts

The applicants, Kata Landika, Damjan Jugo Landika, and Vjekoslav Landika, are three nationals of Bosnia and Herzegovina, who were born in 1941, 1964 and 1971 respectively. All live in Bosnia and Herzegovina, either in Mostar or Bugojno. They are the legal successors of the late Vladimir (Franjo) Landika, who died in April 2019.

In 1981, Vladimir Landika deposited his foreign-currency savings in what was, at the time, the Ljubljana Basic Bank Sarajevo associated with the Ljubljana Bank Ljubljana (*Ljubljanska banka Ljubljana* - “LBL”).

From 1978 until 1 January 1990, LBL operated as an “associated bank” and was composed of Ljubljana Basic Bank Sarajevo and a number of other basic banks. Within the framework of economic reforms

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

carried out in 1989-90, the system of basic and associated banks was abolished. 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 the Ljubljana Basic Bank Sarajevo was transformed into a branch of LBL, with LBL taking over the Sarajevo's branch's rights, assets and liabilities.

After the breakup of Yugoslavia in 1991/92, foreign currency deposited beforehand was customarily referred to as "old" or "frozen" foreign-currency savings in the successor States. In June 1993, a new Bosnian-Herzegovinian legal entity, the Ljubljana Bank Sarajevo, was created and took over assets and liabilities at the Sarajevo Branch of LBL, including those related to the "old" foreign-currency savings.

With the start of the privatisation process in Bosnia and Herzegovina, the Claims Settlement Act was enacted in the Federation of Bosnia and Herzegovina in 1997. This Act provided for the transfer of a certain category of claims relating to "old" foreign-currency savings held by citizens of the former Socialist Republic of Bosnia and Herzegovina in locally based banks to privatisation accounts administered by the relevant authorities of the Federation of Bosnia and Herzegovina. As a result, in 1998, Vladimir Landika's claims related to his foreign-currency savings held at the time by the Ljubljana Bank Sarajevo, were automatically transferred to a special privatisation account in his name and converted into privatisation certificates.

On 11 November 2004 the entry naming Ljubljana Bank Sarajevo as the legal successor of the Sarajevo branch of LBL was removed from the register of commercial companies.

In the Court's 2014 Grand Chamber judgment [*Ališić and Others v. Bosnia and Herzegovina, Croatia, Serbia, Slovenia and the former Yugoslav Republic of Macedonia*](#), the Court found that the statutory guarantee provided by the former Socialist Yugoslavia for so-called "old" foreign-currency savings in LBL had not been activated before the dissolution of the federal State. As a result, the liability had not shifted from the bank to the former federal State prior to its dissolution. As regards Slovenia, the Court concluded that following the breakup of Yugoslavia, LBL had remained liable for the "old" foreign-currency savings deposited in its Sarajevo branch and that Slovenia was responsible for LBL's failure to repay the applicants' savings reflected in the balance on their accounts at that branch.

Subsequently, Slovenia enacted legislation, commonly referred to as the Ališić Implementation Act, which enabled savers who held foreign-currency accounts at the Sarajevo or Zagreb branches of Ljubljana Bank as of 31 December 1991 to recover their funds together with accrued interest. However, the scheme did not cover funds that had already been paid out, or that had been transferred from those accounts into other accounts, including special privatisation accounts for designated purposes. Vladimir Landika's savings, although untouched by him, were thus not covered by the Ališić Implementation Act, and his request to recover them was refused.

This matter was examined by the Slovenian courts, with the applicants' predecessor and subsequently the applicants having full opportunity to participate in the proceedings. Their claim was dismissed by reasoned decisions delivered by courts, including the Slovenian Constitutional Court, which found that the creditor-debtor relationship between LBL and "old" foreign-currency savers – whose savings in the Sarajevo Branch of LBL had been transferred pursuant to the 1997 Claims Settlement Act – had been severed.

Complaints, procedure and composition of the Court

Relying on Article 1 of Protocol No. 1 to the Convention (protection of property), the applicants complained that, despite the entry into force of the Ališić Implementation Act, they had still not been able to recover the "old" foreign-currency deposits made by their deceased relative.

The application was lodged with the European Court of Human Rights on 23 September 2022.

Judgment was given by a Chamber of seven judges, composed as follows:

Ioannis **Ktistakis** (Greece), *President*,
Peeter **Roosma** (Estonia),
Erik **Wennerström** (Sweden),
Lətif **Hüseynov** (Azerbaijan),
Darian **Pavli** (Albania),
Diana **Kovatcheva** (Bulgaria),
Vasilka **Sancin** (Slovenia),

and also Milan **Blaško**, *Section Registrar*.

Decision of the Court

Despite the similar nature of the complaints lodged in this case to those in *Ališić and Others*, the Court noted that the claims related to savings of the relevant applicants in *Ališić and Others* had not been transferred to special privatisation accounts in Bosnia and Herzegovina pursuant to the 1997 Claims Settlement Act. Therefore, the Court in *Ališić and Others* had not examined the implications of such transfers for the liability of LBL and, in turn, that of Slovenia. The Court now had to determine whether Slovenia was required, as a matter of obligation under the Convention (which Slovenia had ratified in 1994), to repay also those savings related to claims which had been transferred pursuant to the 1997 Claims Settlement Act.

In response to the applicants' argument that the provision of the Ališić Implementation Act and its interpretation had lacked legitimate aims, the Court noted that, by taking measures to prevent the uncontrolled withdrawal of "old" foreign-currency savings, the successor States of the Socialist Federal Republic of Yugoslavia had acted in the public interest of protecting their respective banking systems and national economies. The same objectives had underpinned the limitations applied to the measures intended to repay or compensate "old" foreign-currency savers. The Court also rejected the applicants' argument that the Slovenian courts had interpreted the Ališić Implementation Act arbitrarily, finding that the Constitutional Court had provided detailed reasoning for its position.

The Court found that Slovenia could not be considered liable for the "old" foreign-currency savings in question because the related claims had been transferred to a privatisation account in Bosnia and Herzegovina according to Bosnian-Herzegovinian legislation without the involvement of the Ljubljana Bank in Ljubljana. The Court also found that it had not been shown that Slovenia bore responsibility for any shortcomings in the regulation and management of the privatisation scheme in Bosnia and Herzegovina, or for the fact that the transfer of claims had been carried out without the respective savers' consent. It was thus not responsible for the applicants' inability to freely dispose of their predecessor's savings. The Court observed that these issues had been thoroughly considered in the Slovenian proceedings, in which the applicants' predecessor, and then the applicants themselves, had been able to fully participate. The Slovenian authorities' decisions refusing their claim had been based on sound grounds.

Moreover, the Court noted that the responsibility of Slovenia for the failure to pay Vladimir Landika the "old" foreign-currency savings deposited in the Sarajevo branch of LBL could not be established even for the period between the ratification of the Convention by Slovenia in June 1994 and the transfer of claims related to those savings to the privatisation account in April 1998. In this period, liability for such savings had been expressly assumed by the Bosnian-Herzegovinian bank – Ljubljana Bank Sarajevo – and that assumption of liability had not been removed from the official court register until 2004, after the related claims had already been transferred to the privatisation account in Bosnia and Herzegovina.

Therefore, there had been no violation of Article 1 of Protocol No. 1 to the Convention.

The judgment is available only in English.

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