DECISION ON ADMISSIBILITY AND MERITS

(delivered on 11 October 2002)

Cases no. CH/97/104, CH/97/106, CH/97/107, CH/98/374, CH/98/386, CH/99/2997, and CH/00/4358

Brankica TODOROVIĆ, Smaila HODŽIĆ, Azra HADŽIĆ, Remsa MULALIĆ-RAPO, Žanka ILIĆ, Milenko VIŠNJEVAC, and Mihailo JANKOVIĆ

against

BOSNIA AND HERZEGOVINA
and
THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting in plenary session on 7 October 2002 with the following members present:

Ms. Michèle PICARD, President
Mr. Giovanni GRASSO, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Miodrag PAJIĆ
Mr. Vitomir POPOVIĆ
Mr. Viktor MASENKO-MAVI
Mr. Andrew GROTRIAN
Mr. Mato TADIĆ

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar

Having considered the aforementioned applications introduced pursuant to Article VIII(1) of the Human Rights Agreement ("the Agreement") set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Adopts the following decision pursuant to Article VIII(2) of the Agreement and Rules 52, 57, and 58 of its Rules of Procedure:

I. INTRODUCTION

1. The applicants are citizens of Bosnia and Herzegovina. Before the dissolution of the Socialist Federal Republic of Yugoslavia (SFRY), they deposited foreign currency with commercial banks in that country. Because of a growing shortage of such currency and other economic problems, the withdrawal of money from these "old" foreign currency savings accounts was progressively restricted by legislation enacted during the 1980s and early 1990s.

2. Following the armed conflict in Bosnia and Herzegovina, the applicants' requests to withdraw money from their foreign currency savings accounts were all rejected, either without stated reasons or with reference to legislation enacted by the SFRY, the Republic of Bosnia and Herzegovina, or the Federation of Bosnia and Herzegovina.

3. Some of the applicants initiated court proceedings to obtain access to their foreign currency savings, but these actions have all been unsuccessful so far. Although one applicant did obtain a judgement in his favor, he was subsequently informed by the Minister of Finance of the Federation of Bosnia and Herzegovina that the judgement could not be enforced.

4. According to legislation enacted by the Federation of Bosnia and Herzegovina in 1997 and 1998, in particular the Law on Determination and Settlement of Citizen's Claims in the Privatisation Process (hereinafter "the Citizens' Claims Law"), claims based on the old foreign currency savings accounts were to be resolved in the process of privatisation of socially and publicly owned property. Under the Citizens' Claims Law, the balances of foreign currency savings were to be recorded in a "Unique Citizen's Account" maintained by the Federal Payment Bureau. Instead of paying out the savings, the Bureau issued certificates in a commensurate amount. According to the relevant legal provisions, these certificates can be used in the privatisation process to purchase apartments, municipal business premises, shares of enterprises, or other assets. This procedure was designed to settle Citizen's Claims in a way that would protect the public debt payment system and the banking system from collapse.

5. On 9 June 2000, the Chamber delivered its Decision on Admissibility and Merits in CH/97/48 et al., *Poropat and Others v. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina*, involving similarly situated applicants. The Chamber decided that, with regard to frozen foreign currency savings accounts, Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina had violated the applicants' rights to peaceful enjoyment of their possessions under Article 1 of Protocol 1 to the European Convention on Human Rights ("the Convention"). The Chamber ordered, *inter alia*, that the Federation of Bosnia and Herzegovina should "amend the privatisation program so as to achieve a fair balance between the general interest and the protection of the property rights of the applicants as holders of old foreign currency savings accounts."

6. Between 2 November 2000 and 8 February 2002, the Federation amended various provisions of the Citizens' Claims Law in an effort to comply with the Chamber's order in *Poropat and Others*.

7. On 8 January 2001, the Constitutional Court of the Federation of Bosnia and Herzegovina determined that Articles 3, 7, 11, and 18 of the Citizens' Claims Law—provisions essential to the scheme of conversion of old foreign currency savings into certificates—were not in accordance with the Constitution of Bosnia and Herzegovina.

8. It appears that the banks have transferred old foreign currency savings to the Unique Citizen's Account for most, if not all, of the present applicants. Six of the seven applicants have attempted to withdraw their old foreign currency savings without success. The one remaining applicant did not bother to make a withdrawal attempt because her funds had already been transferred to certificates at the Payment System Institute. None of the applicants has meaningfully participated in the privatisation process. One applicant attempted to use his certificates to purchase business premises, but could not because he was unable to satisfy the cash participation requirement.

9. The applications raise issues in regard to the applicants' rights to peaceful enjoyment of their possessions under Article 1 of Protocol No. 1 to the Convention and their right to a fair hearing within a reasonable time under Article 6 of the Convention.

II. PROCEEDINGS BEFORE THE CHAMBER

10. Ms. Brankica Todorović and Ms. Smaila Hodžić submitted their applications (nos. CH/97/104 and CH/97/106, respectively) against Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina on 2 December 1997. Their applications were registered on 12 December 1997. Ms. Azra Hadžić lodged her application (no. CH/97/107) against Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina on 5 December 1997, and her application was registered on 12 December 1997. Applicants Hodžić, Todorović, and Hadžić are represented by their lawyer, Ms. Senija Poropat. Ms. Remsa Mulalić-Rapo submitted her application (no. CH/98/374) against the Federation of Bosnia and Herzegovina on 23 February 1998, and it was registered on the same day. Ms. Zanka Ilić's application (no. CH/98/386) against the Federation of Bosnia and Herzegovina was received and registered on 26 February 1998. Mr. Milenko Višnjevac lodged his application (no. CH/99/2997) on 11 October 1999, and it was registered on 12 October 1999. Mr. Višnevac's application lists only Ljubljanska Banka as the respondent party. Mr. Mihailo Janković's application (no. CH/00/4358) against Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina was received and registered on 27 April 2000.

11. On 9 May 2001, the Chamber decided to transmit three of the present applications (nos. CH/98/374, CH/98/386, and CH/00/4358) to Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina for their observations on the admissibility and merits. On 6 July 2001, the Federation submitted its written observations regarding these cases. The Chamber did not receive any observations from Bosnia and Herzegovina.

12. On 17 January 2002, the Chamber transmitted three more of the present applications (nos. CH/97/104, CH/97/106, and CH/97/107) to the respondent Parties for their observations on the admissibility and merits.

13. On 18 February 2002, the Chamber received from the Federation of Bosnia and Herzegovina its written observations on the admissibility and merits in cases CH/97/104, CH/97/106, and CH/97/107. The Chamber has not received any observations from Bosnia and Herzegovina in these cases.

14. On 6 March 2002, the Chamber decided to put additional questions to the parties in the six cases that had been transmitted. Specifically, by correspondence dated 20 March 2002, the Chamber asked the respondent Parties: (1) if they considered that the provisions declared unconstitutional by the Constitutional Court of the Federation remained in force, and if so, on what grounds; (2) whether the use of certificates issued for foreign currency savings transferred to the Unique Citizen's Account in the privatisation process continued; and (3) whether foreign currency savings with the Ljubljanska Banka were transferred to the Unique Citizen's Account. On the same date, the Chamber asked the applicants: (1) whether they had tried to make use of their certificates in the privatisation process; (2) whether, in light of the decision of the Constitutional Court of the Federation, they had tried to obtain disbursement of their foreign currency savings from the banks; and (3) whether, in light of the decision of the Constitutional Court of the Federation, they had filed a lawsuit to obtain disbursement of their savings from the banks.

15. On 22 April 2002, the Chamber received from the Federation its further written observations in the six cases previously transmitted.

16. On 24 April 2002, the Chamber wrote to the Federation, reiterating certain questions from the Chamber's inquiry of 20 March 2002 that had not been answered in the Federation's submission of 22 April 2002.

17. On 24 April 2002, the Chamber received additional information from the Federation in case number CH/97/106 (Smaila Hodžić) regarding Ljubljanska Banka.

18. On 29 April 2002, in response to its letter of 24 April 2002, the Chamber received from the Federation further written observations in the six cases previously transmitted. The Chamber has not received any observations from Bosnia and Herzegovina in these cases.

19. On 5 June 2002, the Chamber transmitted case number CH/99/2997 (Milenko Višnevac) to Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina. The Chamber received written observations from the Federation of Bosnia and Herzegovina on 21 June 2002; it did not receive any observations from Bosnia and Herzegovina. On 26 June 2002, the Chamber transmitted the written observations of the Federation of Bosnia and Herzegovina to the applicant. On 11 July 2002, the Chamber received additional written observations from Mr. Višnjevac through his attorney, Halil Mušinović of Vogošća. These additional observations were subsequently transmitted to the Federation of Bosnia and Herzegovina on 24 July 2002.

20. The Chamber deliberated on the admissibility and merits of the applications on 11 October 2001 and 5 February, 6 March, 8 May, 6 July, 5 September, and 7 October 2002. On the latter date, it decided to join the applications and adopted the present decision.

III. FACTS

A. The facts of the individual cases

1. Case no. CH/97/104, Brankica Todorović

21. Ms. Todorović's application relates to three frozen bank accounts at the Unionbanka Sarajevo (formerly Jugobanka Sarajevo). The amounts concerned are approximately DEM 2,940 and FRF 10,709.

22. Ms. Todorović initiated proceedings before the Court of First Instance I in Sarajevo on 27 June 1997 against Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, and Unionbanka. According to the Federation, the court issued a procedural decision on 25 January 2002 stating that the action was considered to be withdrawn because the authorised representative of the plaintiff did not appear at scheduled proceedings. Apparently a motion for reinstatement was filed, and the matter remains pending.

23. Ms. Todorović, out of fear of losing her money, registered certificates in 1998. She later tried to annul that action, but the bank would not allow it. She has not spent her certificates because she believes she would get an insignificant return on their value.

2. Case no. CH/97/106, Smaila Hodžić

24. Ms. Hodžić's application relates to a frozen bank account at the Ljubljanska Banka d.d. Sarajevo. The amount concerned is approximately USD 1,380. Ljubljanska Banka d.d. Sarajevo has allegedly refused to disburse the deposited money to the applicant.

25. On 8 July 1997, Ms. Hodžić initiated proceedings in the Court of First Instance I in Sarajevo against the Ljubljanska Banka, Bosnia and Herzegovina, and the Federation of Bosnia and Herzegovina. The court registered the claim but has scheduled no other proceedings in the case since it was filed.

26. Ms. Hodžić subsequently withdrew her action, by her submission dated 23 June 1999, because she was convinced that her money would never be returned. A document from the Municipal Court I Sarajevo, dated 4 February 2002, states that

> "the Municipal Court I Sarajevo in the legal matter of the plaintiff Smaila Hodžić from Vogošća, represented by the lawyer Senija Poropat from Vogošća, against the State of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, and Ljubljanska Banka d.d. Sarajevo, because of debt, on 14 June 2000 issued a procedural decision no.: P-1001/2000 withdrawing the action in the legal matter."

27. By its letter dated 28 January 2002, Ljubljanska Banka d.d. Sarajevo informed the Federation of Bosnia and Herzegovina that it had, on 28 April 1998, transferred Smaila Hodžič's complete old foreign currency savings to the Payment System Institute in the form of a certificate so that she could participate in the privatisation process.

28. By its letter dated 29 March 2002, Ljubljanska Banka d.d. Sarajevo confirmed that, on 28 April 1998, it transferred a total amount of DEM 5,562.91 to the Unique Citizen's Account on behalf of Ms. Hodžić in the form of a certificate.

3. Case No. CH/97/107, Azra Hadžić

29. Ms. Hadžić's application concerns a frozen bank account at Ljubljanska Banka d.d. Sarajevo. The amount involved is approximately DEM 5,830 (held in USD and ATS).

30. On 13 March 1997, Ms. Hadžić initiated proceedings before the Court of First Instance I in Sarajevo. There have apparently been no developments in that proceeding since it was filed.

31. Some time after 8 January 2001, Ms. Hadžič attempted to withdraw her old foreign currency savings from Ljubljanska Banka because her family faces a difficult financial situation. According to her statement, she was ridiculed and told she would not get her money.

4. Case no. CH/98/374, Remsa Mulalić-Rapo

32. Ms. Mulalić-Rapo has one foreign currency account in the former Jugobanka Sarajevo, now Unionbanka Sarajevo. As of 9 February 1998, her savings in that account were recorded in the amount of DEM 11,640.93.

33. The applicant also has two foreign currency accounts in the Ljubljanska Banka d.d. Sarajevo. As of 21 April 1998, her savings in the first account were recorded in the amount of DEM 30,748.92. On the same date, her savings in the second account were recorded in the amount of DEM 1,398.51.

34. According to the applicant, she has not attempted to withdraw her old foreign currency savings because they are held in certificates in the Payment System Institute.

35. On 19 November 1999, Ms. Mulalić-Rapo received a statement from the Unique Citizen's Account recording her claims on the basis of old foreign currency savings in the amount of DEM 43,112.76.

36. The applicant has not initiated any proceedings to attempt to have her assets transferred back to her bank accounts because she would not know where to direct such legal action. Accordingly, she has sought relief from the Chamber.

37. As of 30 March 2002, the situation regarding Ms. Mulalić-Rapo's old foreign currency savings remained unchanged from that stated above.

5. Case no. CH/98/386, Žanka Ilić

38. Ms. Ilić has two foreign currency savings books issued by the former Jugobanka Sarajevo, now Unionbanka Sarajevo. On 11 January 1994, her savings in the first account were recorded in the following amounts: ATS 381.71, CHF 6,783.95, USD 4,123.30, and DEM 104,088.76. Her savings in the second account were recorded in the amounts of DEM 67,984.01 and USD 2,032.89. The date of this record on the second account is not legible in the records provided to the Chamber.

39. According to Ms. Ilić, her old foreign currency savings are held in certificates registered in her Unique Citizen's Account. She has not been allowed to withdraw her money, nor has she been informed by the bank that the funds held in certificates would be returned to her bank account.

40. Ms. Ilić has not initiated any domestic court proceedings.

41. As of 1 April 2002, the situation regarding Ms. Ilić's old foreign currency savings remained unchanged from that stated above.

6. Case no. CH/99/2997, Milenko Višnjevac

42. Mr. Višnjevac's application concerns a frozen bank account at Ljubljanska Banka d.d. Sarajevo. As of 3 February 1992, the amounts involved were approximately ASD 3,192.00, USD 370.74, and DEM 103.99.

43. Mr. Višnjevac attempted to withdraw his deposits of old foreign currency savings in order to travel abroad for medical treatment, but the bank denied his withdrawal request.

44. Mr. Višnjevac then sought relief in the domestic courts and obtained a judgement ordering Ljubljanska Banka d.d. Sarajevo to pay out the old foreign currency savings to the account holder. On 22 November 1993, the First Instance Court of Sarajevo ("Osnovni Sud") ruled that Ljubljanska Banka was obligated to pay Mr. Višnjevac 2000 DEM, converted from funds in his old foreign currency savings account. After appeals were exhausted, Mr. Višnjevac requested enforcement of the judgement from the First Instance Court of Sarajevo. On 27 April 1999, that court issued a procedural decision permitting enforcement of the judgement. Ljubljanska Banka appealed, but its appeals were rejected by the First Instance Court of Sarajevo on 14 November 2000 and by the Cantonal Court in Sarajevo on 20 December 2000. Mr. Višnjevac was still unable to obtain payment from the bank, however.

45. In a letter dated 22 March 2001, the Federation Minister of Finance informed Mr. Višnjevac that the court judgement he obtained against Ljubljanska Banka was not enforceable. Specifically, the letter states that

> "it is not possible to execute valid court judgements against Ljubljanska Banka d.d. Sarajevo or any other bank in the Federation of BiH. Also, there is no organ or authority that could order payment on that basis."

46. On 24 May 2002, Mr. Višnjevac renewed his request for enforcement before the Municipal Court in Sarajevo. Specifically, he asked for execution of payment of cash in the amount of EUR 1,022.58 and that the Ljubljanska Banka be required to submit a record of his account to the court. (The bank had previously refused to provide such a record to Mr. Višnjevac.) Also on 24 May 2002, Mr. Višnjevac informed the Municipal Court in Sarajevo that he was appealing the non-enforcement of his judgement to the Constitutional Court of Bosnia and Herzegovina pursuant to Article VI.3(b) of the Constitution of Bosnia and Herzegovina.

7. Case no. CH/00/4358, Mihailo Janković

47. Mr. Janković has a foreign currency savings book issued by the former Jugobanka Sarajevo, now Unionbanka Sarajevo. His savings as of 10 February 1998 were recorded in the amount of DEM 13,147.37, as certified by the bank.

48. Beginning in 1992 and continuing through the date of his application, Mr. Janković attempted on several occasions to withdraw his old foreign currency savings, but Unionbanka informed him that it did not have means to pay those deposits and, further, that it would not calculate interest on such deposits. The bank stated that these funds had been transferred to the Payment System Institute as Citizen's Claims in the privatisation process in the form of certificates.

49. Mr. Janković states that he and his family have suffered from their inability to use his old foreign currency savings, which he would use to rent business premises or to fulfill everyday needs.

50. Mr. Janković attempted to use his certificates for the purchase of small business premises, but was unsuccessful because he did not have enough money to satisfy the 35% cash participation requirement in the law at that time and because, under the law, certain other categories of participants in the tender were afforded priority treatment.

51. On 25 March 2002, Mr. Janković inquired of Mr. Esad Bektijašević, Director of the Sector for Public Transactions of Unionbanka Sarajevo, whether, in light of the Federation Constitutional Court's decision, he could withdraw his old foreign currency savings from his account. He was told that would not be possible because the old foreign currency savings assets had been written off the bank's balance sheets in accordance with applicable regulations.

52. Mr. Janković has not initiated any domestic court proceedings.

53. As of 27 March 2002, Mr. Janković's situation regarding his old foreign currency savings had not changed from that stated above.

IV. RELEVANT LEGAL PROVISIONS

A. The privatisation laws and amendments

54. The basic legal provisions enabling the transfer of old foreign currency savings to the Unique Citizen's Account for use in the privatisation process appear in Articles 3, 7, 11, and 18 of the Citizens' Claims Law, which entered into force on 28 November 1997, began to apply on 27 February 1998, and was amended on 5 March 1999 (Official Gazette of the Federation of Bosnia and Herzegovina – hereinafter "OG FBiH" - nos. 27/97 and 8/99). These articles provided as follows:

Article 3:

"1. A person who has foreign currency savings in banks or bank business units located on the territory of the Federation of Bosnia and Herzegovina in an amount exceeding 100 KM, who was a citizen of the former Socialist Republic of Bosnia and Herzegovina and who, on 31 March 1991, was permanently residing in territory which is now in the Federation of Bosnia and Herzegovina acquires a claim against the Federation equal to the balance of his or her savings on 31 March 1992.

"2. The settlement of the claims of those individuals who were citizens of the former Socialist Republic of Bosnia and Herzegovina on 31 March 1991, but who are not permanently residing in the territory of the Federation, as well as other persons' claims against banks located on the territory of the Federation, shall be determined by a separate regulation in accordance with this law.

"3. Persons referred to in paragraph 1 of this Article whose foreign currency savings do not exceed 100 DEM will, upon their request, be reimbursed the amount of these savings by the bank.

"4. The claims referred to in paragraph 3 of this Article are payable after the expiration of a period of three months from the date of application of this Law."

Article7:

"1. Claims specified in Article 3 of this Law are transferred by the bank to the unique account of the depositor.

"2. The manner of transfer of claims … of those individuals who have their accounts in banks whose organisational units on the territory of the Federation have ceased to operate will be determined by a separate regulation passed by the Federal Ministry of Finance."

Article 11:

"1. The opening of a unique account is done ex officio on the basis of the JMBG ('jedinstveni matični broj građanina', the personal identification number) of the holder of a claim under this law.

"2. The individual's certificate shall correspond to the respective unique account."

Article 18:

> "1. The claims registered in the unique account can be used in the privatisation process for a period of two years from the date of issuance of the unique account statement, and following the registration of a claim according to the specific categories.
>
> "2. Upon the expiration of the period in paragraph 1 of this Article, the claims in the unique account are extinguished."

55. Following the Chamber's decision in *Poropat and Others*, the Federation enacted various amendments to these provisions. In the Federation's view, these amendments remedy the shortcomings identified by the Chamber in *Poropat and Others*, including the unequal treatment of certificates and cash, and the time limitations on the use of certificates (*see* the above-mentioned *Poropat and Others* decision, paragraphs 186-87).

56. On 2 November 2000, the Law Amending the Law on Determination and Realisation of Citizens' Claims in the Privatisation Process (OG FBiH no. 45/2000) entered into force. By this law, Article 18 was amended to provide that the occupancy right holder from Article 8a[1] of the Law on Sales of Apartments with Existing Occupancy Right can use their claims from the Unique Citizen's Account within three months from the date of the certifying signature on the purchase contract before the competent court. The amendment added a third paragraph to Article 18:

> "3. As an exception to the provision in paragraphs 1 and 2 of this Article, the occupancy right holders referred to in Article 8a of the Law on Sale of Apartments with Occupancy Right (Official Gazette of the Federation BiH, Nos. 27/97, 11/98, 22/99, and 7/00) may use the claims from the Unique Citizen's Account within three months since the date of verification of the signature on the contract of purchase at the competent court."

57. In its observations dated 18 February 2002, the Federation informed the Chamber that a further amendment to paragraph 1 of Article 18 had entered into force on 8 February 2002. That amendment changed the general time limit for use of certificates from two years to four years, such that the entire article, as amended, reads as follows:

> "1. The claims registered in the Unique Citizen's Account can be used in the privatisation process for a period of *four years* from the date of issuance of the unique account statement, following the registration of each particular claim.
>
> "2. Upon the expiration of the period in paragraph 1 of this Article, the claims in the unique account are extinguished.
>
> "3. As an exception to the provision in paragraphs 1 and 2 of this Article, the occupancy right holders referred to in Article 8a of the Law on Sale of Apartments with Occupancy Right (Official Gazette of the Federation BiH, Nos. 27/97, 11/98, 22/99, and 7/00) may use the claims from the Unique Citizen's Account within three months since the date of verification of the signature on the contract of purchase at the competent court."

(Emphasis added.)

58. In addition to these changes to the Citizens' Claims Law, the Federation has enacted additional amendments to the privatisation process to lessen the plight of holders of old foreign currency savings. On 2 November 2000, the Law Amending the Law on Privatisation of Companies (OG FBiH no. 45/2000) entered into force. This law amended Article 28 to place certificates based on old foreign currency savings on equal footing with cash. The old version of Article 28 provided:

> "1. The sale referred to in Article 26[2] of this law is realised with an obligatory payment in cash of at least 35 per cent of the agreed sale price.
>
> "2. For any amount paid in cash in excess of 35 per cent of the sale price, a discount of 8 per cent may be given."

[1] The referenced Article 8a governs the purchase of abandoned apartments by occupancy right holders.
[2] The referenced Article 26 regulates the sale of companies in the small-scale privatisation process.

The new version provides as follows:

> "1. The sale referred to in Article 26 of this law is realised with an obligatory payment in cash *or certificates based upon old foreign currency savings* of at least 35 per cent of the agreed sale price.
>
> "2. For any amount paid in cash *or certificates based upon old foreign currency savings* in excess of 35 per cent of the sale price, a discount of 8 per cent may be given."

(Emphases added.)

59. The Law Amending the Law on Privatisation of Companies (OG FBiH no. 54/00) amends Article 27(1). The old version provided:

> "The small-scale privatisation in the sense of Article 26 of this Law is conducted through a public sale which enterprise is obliged to prepare and register with the competent agency within twelve months from the date of entry into force of this law."

The new version provides as follows:

> "The small-scale privatisation in the sense of Article 26 of this Law is conducted through a public sale which enterprise is obliged to prepare and register with the competent agency *within the time limit determined by the Agency of the Federation but within the time limit for citizens' claims as set forth the Law on Determination and Settlement of Citizens' Claims in the Privatisation Process (vouchers, etc.).*"

(Emphasis added.)

60. In its observations dated 18 February 2002, the Federation further informed the Chamber that the Law Amending the Law on Sales of Apartments with Existing Occupancy Right entered into force on 8 February 2002 (after the date of the Federation Constitutional Court decision). The new Article 24 of this Law equates certificates based on old foreign currency savings with cash. The old version provided:

> "Payment of the purchase price of the apartment shall be done by one of the means of payment, as follows:
>
> (a) cash;
> (b) certificates based on citizens' claims, regulated by special regulations.
>
> In case of payment in cash, the price of an apartment shall be reduced by 20% of the determined purchase price."

The new version provides:

> "Payment of the purchase price of the apartment shall be done by one of the means of payment, as follows:
>
> (a) cash;
> (b) certificates based on citizens' claims, regulated by special regulations.
>
> In case of payment in cash *or by vouchers based on old foreign currency savings*, the price of an apartment shall be reduced by 20% of the determined purchase price."

(Emphasis added.)

61. The Federation states in its letter dated 8 December 2000 that it,

> "through competent Ministries and agencies, leads activities to inform citizens on the importance of visiting banks to give their unique personal number in order to enable the transfer of their old foreign currency savings to the unique account and the issuance of certificates to enable them to participate in the privatisation process which is in process, because there is no way for citizens of Bosnia and

Herzegovina— old foreign currency savings owners— to realise their claims on those grounds in any way but the privatisation process."

B. The Decision of the Constitutional Court of the Federation of Bosnia and Herzegovina

62. On 8 January 2001, the Constitutional Court of the Federation of Bosnia and Herzegovina determined that Articles 3, 7, 11, and 18 of the Citizens' Claims Law were not in accordance with the Constitution of the Federation of Bosnia and Herzegovina. The court found that these articles were in violation of Article 1 of Protocol No. 1 to the Convention and therefore contravened Article II.A.2(1)(k) of the Constitution of the Federation of Bosnia and Herzegovina, as well as Amendment 5 thereto. The Court, in its decision, did not mention the previous amendments to the laws of 2 November 2000. The Court did not order any specific amendments to the law or otherwise provide for transitional arrangements under which the relevant articles should be applied.

63. The Constitutional Court's decision states:

> "The Constitution of the Federation of Bosnia and Herzegovina in its Article II.A.2.(1)(k) and the Amendment V thereof establish that the Federation shall ensure the application of the highest level of internationally recognized rights and freedoms set forth in the documents listed in the Annex of this Constitution….
>
> "Deciding on the constitutionality of Articles 3, 7, 11, and 18 of the Law on Determination and Realisation of Citizen's Claims in the Privatisation Process with regard to the mentioned constitutional provisions and Article 1 paragraph 1 of the Protocol No. 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Court established that the provisions of Articles 3, 7, 11, and 18 are not in accordance with the Constitution of the Federation of Bosnia and Herzegovina."

64. The Federation Constitutional Court's decision was published in the Official Gazette of the Federation of Bosnia and Herzegovina, number 7, on 9 March 2001.

65. Article 12(b) of part IV(c) of the Federation Constitution provides that if the Federation Constitutional Court

> "determines that a law or regulation or proposed law or regulation of the Federation or of any Canton or of any municipality is not in accord with this Constitution, such law or proposed law shall not remain or enter into force, except if altered in such a manner as specified by the Court or unless the Court specifies some transitional arrangements which may not extend to a period in excess of six months."

66. The Federation of Bosnia and Herzegovina filed an appeal to the Constitutional Court of Bosnia and Herzegovina on 14 May 2001, challenging the decision of the Federation Constitutional Court. On appeal, the Federation argues, *inter alia*: (1) That the Federation Constitutional Court should not have decided the matter because the Chamber had earlier issued a final and binding decision on the same subject; and (2) That the decision of the Federation Constitutional Court contains no reasoning explaining why the subject provisions are unconstitutional.

67. The Constitutional Court of Bosnia and Herzegovina has not yet issued a decision in this case.

68. Article 75 of the Rules of Procedure of the Constitutional Court of Bosnia and Herzegovina provides:

> "The Court may, until the final decision has been made, fully or partially suspend the execution of decisions, laws (acts), or individual acts (temporary measures), if their execution may have detrimental consequences that cannot be overcome.
>
> "The Court shall revoke an interim measure when it has ascertained that reasons for which it was taken have ceased to exist."

69. The Constitutional Court of Bosnia and Herzegovina has not suspended the execution of the decision of the Federation Constitutional Court.

70. Article 384 of the Constitution of the former SFRY provided that:

> "If the Constitutional Court of Yugoslavia establishes that the federal, republic, or autonomous law is not harmonized with the Constitution of the SFRY, or that a republic or autonomous law is contrary to the federal law, the Constitutional Court of Yugoslavia shall establish this by its decision that shall be delivered to the competent assembly.
>
> "The competent assembly shall be obliged to harmonize, within six months from the date of delivery of the decision of the Constitutional Court of Yugoslavia, the law with the Constitution of the SFRY or to remove contradictions between the republic or autonomous law and the federal law.
>
> "Upon the claim of the competent assembly, the Constitutional Court of Yugoslavia may extend the time limit for harmonization of the law for not longer than six months.
>
> "If within the ordered time limit the competent assembly does not harmonize the law with the Constitution of the SFRY, or does not remove the contradictions between the republic or autonomous law and the federal law, the provisions of the law that are not harmonized with the Constitution of the SFRY, that is the provisions of the republic or autonomous law that are in contradiction with the federal law, shall no longer be in force and the Constitutional Court of Yugoslavia shall establish this by its decision."

71. Article 386 of the Constitution of the former SFRY provided that:

> "Laws that have been ruled out … shall not be applied to relations created before the date of publication of the decision of the Constitutional Court of Yugoslavia if they have not been validly solved by that date."

72. Procedures similar to those of the former SFRY were followed in the Socialist Republic of Bosnia and Herzegovina. *See, e.g.*, Decision no. 137/86 of 9 November 1989 (Official Gazette of the Socialist Republic of Bosnia and Herzegovina – hereinafter "OG SRBiH" - no. 4/90), in which the Constitutional Court of Bosnia and Herzegovina, on the basis of Article 395, paragraph 4 of the Constitution of the Socialist Republic of Bosnia and Herzegovina, declared that a law ceased to be in force after the Assembly allowed the time limit for harmonization to expire.

73. In response to the decision of the Federation Constitutional Court, the Federation has indicated, in its observations dated 29 April 2002 that, following the proposal of the Federal Ministry of Finance, it intends to amend only two of the four articles found unconstitutional. Further, twenty-one months after the decision of the Constitutional Court, no responsive legislative changes have been finalized.

V. COMPLAINTS

74. The applicants complain that their right to peaceful enjoyment of their possessions, as guaranteed by Article 1 of Protocol No. 1 to the Convention, and their right to a fair hearing within a reasonable time before an independent and impartial tribunal, as guaranteed by Article 6 of the Convention, have been violated.

VI. SUBMISSIONS OF THE PARTIES

A. Bosnia and Herzegovina

75. Bosnia and Herzegovina has not submitted any observations to the Chamber in these cases.

B. The Federation of Bosnia and Herzegovina

1. As to admissibility

76. The Federation of Bosnia and Herzegovina objects to the admissibility of the present applications. The Federation asserts that the subject matter has already been resolved by the Chamber's decision in *Poropat and Others*, and the Federation's subsequent compliance with that decision through amendments to its laws. Therefore, the respondent Party feels the applications should be declared inadmissible pursuant to Article VIII(2)(b) of the Agreement as "substantially the same as a matter that has already been examined by the Chamber." In the alternative, the Federation suggests that the applications be dismissed pursuant to Article VIII(2)(c) of the Agreement as manifestly ill-founded.

77. With regard to applicants Todorović, Hodžić, and Hadžić, the Federation asserts that their applications should be declared inadmissible pursuant to Article VIII(2)(c) of Annex 6 to the Agreement as being "manifestly ill-founded and an abuse to the right of petition." The Federation further states that, because these applicants had their old foreign currency savings transferred to certificates enabling them to take part in the privatisation process, the Chamber should strike out the applications on the ground that the matter has been resolved. Finally, the Federation asserts that Ms. Hodžić's application should be declared inadmissible for failure to exhaust effective remedies, in that she only filed an action with the Court of First Instance in Sarajevo and did not take any other steps to exhaust available remedies.

78. With regard to the applicant Milenko Višnjevac, the Federation of Bosnia and Herzegovina argues that his application is inadmissible under Article VIII(2)(a) of the Agreement because it was lodged more than six months after 19 January 1994, the date the 22 Novermber 1993 judgement of the Municipal Court was affirmed by the Higher Court. The application was filed on 11 October 1999.

2. As to the merits

(a) Article 1 of Protocol No. 1 to the Convention

79. The Federation of Bosnia and Herzegovina considers the present applications to be ill-founded on the merits. While the Federation appears to concede that the old foreign currency savings of the applicants constitute possessions within the meaning of Article 1 of Protocol No. 1 to the Convention, it disputes any unlawful interference with the applicants' rights in this property. The Federation asserts that its legislative measures serve legitimate aims and that, through amendments to the privatisation programme, it has remedied the systemic shortcomings highlighted in the Chamber's decision in *Poropat and Others*. The Federation asserts that, through these amendments, it has achieved a fair balance between the general interest and the property rights of holders of old foreign currency savings. Thus, in the Federation's view, it has not violated Article 1 of Protocol No. 1 to the Convention, and it is only up to the applicants to submit to the privatisation process to realise their property rights. The Federation states that the compensation claims of the applicants should be rejected because it has complied with the orders of the Chamber in *Poropat and Others* and thereby established a fair balance between the relevant interests. In this regard, the Federation asserts that the violation of Article 1 of Protocol No. 1 to the Convention found in *Poropat and Others* was not directly based on the inability of the applicants to withdraw money, but rather on the Federation's failure to strike a fair balance between the relevant interests, which it has remedied.

80. The Federation further states that it has *de facto* equalised the value of the old foreign currency savings with cash and thereby provided the applicants free disposal of their funds for use in

the privatisation process. Thus, the Federation asserts, it could not have violated the applicants' property rights.

81. The Federation considers the provisions declared unconstitutional by the decision of the Constitutional Court of the Federation still to be in force. It appears that the Federation considers that the decision of the Constitutional Court created an obligation to change the provisions, but did not vacate them with immediate effect.

82. With regard to the Ljubljanska Banka, whose headquarters are located in Slovenia, the Federation states that negotiations are under way between Bosnia and Herzegovina and Slovenia concerning the ownership and responsibility for the liabilities of Ljubljanska Banka d.d. Sarajevo.

83. According to a letter of 29 March 2002 from Ljubljanska Banka d.d. Sarajevo, submitted by the Federation, Ljubljanska Banka transferred the old foreign currency savings of Smaila Hodžić (the applicant in CH/97/106) to the Unique Citizen's Account on 28 April 1998 in the amount of DEM 5,562.91. According to the Federation, the law obligating banks to transfer all old foreign currency savings claims to the Unique Citizen's Account did not exclude any bank and therefore included Ljubljanska Banka d.d. Sarajevo.

84. The Federation, in its observations submitted 22 April 2002, attached a letter dated 22 March 2001 from the Federation Minister of Finance to Milenko Višnjevac (the applicant in CH/29/2997). In this letter, as reflected in paragraph 45 above, the Minister of Finance informs Mr. Višnjevac that the court judgement he has obtained against Ljubljanska Banka is not enforceable. Specifically, the letter states that

> "it is not possible to execute valid court judgements toward Ljubljanska Banka d.d. Sarajevo or any other bank in the Federation of BiH. Also, there is no organ or authority that could order payment on that basis."

(b) Article 6 of the Convention

85. The Federation of Bosnia and Herzegovina asserts that it has complied with the criteria imposed by Article 6 of the Convention. Specifically, the Federation states that its constitutional provisions regarding the tenure of judges guarantee a fair hearing before an impartial and independent tribunal, and that its laws governing civil procedure guarantee a public hearing.

86. With regard to applicant Smaila Hodžić, the Federation states that, because the Ljubljanska Banka d.d. Sarajevo transferred her old foreign currency savings to a certificate and because she withdrew her legal action before the First Instance Court in Sarajevo, the Federation could not have violated Article 6 of the Convention to her detriment.

3. Claims for compensation

87. Regarding certain applicants' claims for compensation of legal expenses for the proceedings before the Chamber, the Federation asserts that such claims against it should be rejected because, pursuant to Rule 43 of the Chamber's Rules of Procedure, such expenses shall be borne either by the party or the Chamber.

C. The Applicants

1. As to admissibility

88. The applicants submit that responsibility for the alleged violation of their rights can be attached to both Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina because of the principles of state succession of liabilities and the ownership of the banks. As regards the Federation of Bosnia and Herzegovina, they allege that the Citizens' Claims Law recognises, in its provisions, that the Federation is the main debtor in respect of the old foreign currency savings accounts.

2. As to the merits

89. The applicants claim that the refusal to disburse their foreign currency savings and the conversion of those savings into privatisation certificates violate their property rights. They submit, further, that the actions taken by the Federation have not rectified the violation of Article 1 of Protocol No. 1 to the Convention, and that a fair balance between private and public interests has not been struck. In this regard, they refer to the fact that they have received certificates although they wished to have money disbursed from their accounts. One applicant states that she has not spent her certificates because she believes she would get an insignificant return on their face value.

90. On 22 November 2000, the Chamber received a letter from Mr. Janković, stating his belief that the Federation's actions in amending its laws have not secured the protection of the rights of the owners of old foreign currency savings. According to Mr. Janković, the amendments to the Law on Privatisation of Companies made it possible to use the certificates only in the process of so-called small-scale privatisation, which he believes is finished in the Federation. Therefore, he believes the amendments "represent the deception of owners of foreign currency." Mr. Janković further states that it is not possible to use old foreign currency savings for the purchase of business premises administered by municipalities (according to Article 29 of the Law on Privatisation of Companies), and that it is only possible for depositors with larger amounts of foreign currency savings to include themselves in the process of the public sale of companies. Finally, Mr. Janković believes there are no serious signs or announcements that, in the process of the purchase of apartments, the discount would be available for the holders of old foreign currency savings because this process is also nearly completed.

91. The applicants also point out their personal difficulties. For example, Mr. Janković states that he and his family have suffered from their inability to use his old foreign currency savings, which he would use to rent business premises or fulfill everyday needs. Ms. Hadžič also asserts that her family faces a difficult financial situation. Mr. Višnjevac states that he attempted to withdraw a portion of his old foreign currency savings to obtain medical treatment overseas. The bank's refusal of his withdrawal requests and the Federation's failure to enforce a court judgement in his favour have prevented him from receiving this medical treatment, from which he claims a violation of his human rights.

92. As to the domestic court proceedings, the applicants with pending cases assert that there have been unjustified delays. The applicants have expressed their general frustration that, six years after the end of the armed conflict, there has been no appropriate and complete resolution to the problem of old foreign currency savings. At least one applicant believes the Federation is attempting to buy time through its inaction.

VII. OPINION OF THE CHAMBER

A. Admissibility

93. Before examining the merits of the applications, the Chamber shall decide whether to accept them, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement. Under Article VIII(2)(a), the Chamber shall consider whether effective remedies exist and, if so, whether the applicants have demonstrated that they have been exhausted. According to Article VIII(2)(b), it shall not address any application that is substantially the same as a matter which has already been examined by the Chamber. Under Article VIII(2)(c), the Chamber shall dismiss any application which it considers incompatible with the Agreement. Under Article VIII(3)(b) of the Agreement, the Chamber may reject or strike out an application on the ground that the matter has been resolved.

1. Competence *ratione personae*

(a) Responsibility of Bosnia and Herzegovina

94. The Chamber will consider whether and to what extent the regulation of matters relevant to the present applications falls within the responsibility of each respondent party. The Chamber notes that the State of Bosnia and Herzegovina has submitted no observations whatsoever regarding these cases, and thus has raised no objections to admissibility.

95. The Chamber recalls that in *Poropat and Others* it concluded that it was competent *ratione personae* to consider the applications in regard to Bosnia and Herzegovina on the grounds that the Republic of Bosnia and Herzegovina had adopted laws and regulations addressing the issue of foreign currency savings and thereby implicitly recognized its responsibility for those savings (*Poropat and Others*, paragraph 142).

96. The Chamber considers that Bosnia and Herzegovina remains responsible for finding an overall solution to the frozen bank accounts problem. Bosnia and Herzegovina is involved in state-level negotiations regarding the responsibilities of foreign-based banks (like Ljubljanska Banka and Unionbanka, the former Yugobanka), economic succession rights, and other matters that affect old foreign currency savings account holders, including the present applicants. The Chamber thus finds that these applications are admissible against Bosnia and Herzegovina in regard to Article 1 of Protocol No. 1 to the Convention.

97. As to the court proceedings initiated by some of the applicants, and the allegations of lack of access to court by others, the Chamber notes that these exclusively concern the judiciary of the Federation. The Chamber therefore finds the applications inadmissible against Bosnia and Herzegovina in regard to Article 6 of the Convention.

(b) Responsibility of the Federation of Bosnia and Herzegovina

98. The Federation claims that it cannot be held responsible for possible violations in the present cases.

99. The Chamber recalls that the laws governing banking, Citizen's Claims, and privatisation applicable in the territory of the Federation of Bosnia and Herzegovina have all been enacted by the Federation, and the authorities designated to implement the legislation are all institutions of the Federation. Further, the applicants' and other plaintiffs' legal actions in regard to foreign currency savings accounts have been examined by courts with jurisdiction only in the territory of the Federation. The Federation of Bosnia and Herzegovina is responsible in the present cases for regulatory measures, the decision of the Federation Constitutional Court, and other actions taken in so far as they have affected the applicants' position in regard to the banks and, in particular, to the savings deposited with the banks.

100. The Chamber concludes that it is competent *ratione personae* to consider the present applications in regard to the Federation of Bosnia and Herzegovina.

(c) The respondent Party in case no. CH/99/2997

101. The Chamber notes that Mr. Višnjevac, in his application, specifies only Ljubljanska Banka as the respondent party. As Ljubljanska Banka is not a Party to the Agreement, it is not a proper respondent within the Chamber's jurisdiction established by Article II(2) of the Agreement. The Chamber recalls, however, that it has consistently held that it is not restricted by the applicant's choice of respondent party, and that it will examine applications in regard to a respondent Party designated by the Chamber itself. The Chamber will thus consider Mr. Višnjevac's application as against Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina.

2. Exhaustion of effective domestic remedies

102. The Federation argues that domestic remedies have not been exhausted by the applicants.

103. The Chamber recalls that applicants Todorović, Hodžić, and Hadžić initiated court proceedings in 1997 in attempts to have money disbursed from their foreign currency savings accounts. None of the applicants has succeeded thus far. Mr. Višnjevac also sought relief in the domestic courts, and he received a judgement on the merits in his favor. He was subsequently informed by the Minister of Finance, however, that his judgement could not be enforced.

104. The only other domestic court case to come to a conclusion is that of Ms. Hodžič, which was not examined on the merits, but was dismissed by a procedural decision concluding that the action had been withdrawn by the applicant. The Chamber notes, however, that Ms. Hodžič apparently withdrew her action based on her belief that she would never get her money back.

105. It appears then that no court proceedings initiated in order to obtain disbursement of old foreign currency savings have been successful. In most cases, the actions have languished in the courts for periods of years with no movement whatsoever. In the only case where an applicant has received a decision on the merits, his favorable court judgement was subsequently deemed unenforceable.

106. Having regard to these attempts by the applicants to achieve redress through the court system, the Chamber considers that there are no effective remedies available to these applicants that they should be required to exhaust. Under the circumstances, the failure of Ms. Mulalić-Rapo, Ms. Ilić, and Mr. Janković to initiate such proceedings, and the withdrawal by Ms. Hodžić of her action, do not preclude the Chamber from examining their applications.

3. *Res Judicata*

107. The Federation of Bosnia and Herzegovina claims that, under Article VIII(2)(b), the Chamber is prevented from examining the present cases because they are substantially the same as a matter which has already been examined by the Chamber. Specifically, the Federation asserts that the Chamber's decision regarding the same issues in *Poropat and Others* precludes consideration of the present applications.

108. The Chamber recalls that the principle of *res judicata* provides that a final judgement rendered by a court of competent jurisdiction on the merits of a case is conclusive as to the rights of those parties involved and constitutes an absolute bar to a subsequent action involving the same claim. This principle is reflected in Article VIII(2)(b) of the Agreement, which provides that the Chamber "shall not address any application which is substantially the same as a matter which has already been examined by the Chamber or has already been submitted to another procedure of international investigation or settlement." The Chamber's decision in *Poropat and Others*, however, did not involve any of the present applicants; thus, the principle of *res judicata* could not attach to it.

109. Article VIII(2)(b) of the Agreement does not apply in this case to divest the Chamber of its power to consider these applications, regardless of the similar previous applications before the Chamber.

4. Matter already resolved

110. The Federation of Bosnia and Herzegovina also asserts that the present applications should be rejected on the grounds that the subject matter has already been resolved by the Chamber's decision in *Poropat and Others* and the Federation's subsequent compliance with that decision through amendments to its laws.

111. The applicants, however, do not feel that the matter has been resolved by the changes to the legislation. The Chamber notes that, following the amendments, there are still no provisions in the Citizens' Claims Law indicating that an individual is free to dispose of his or her savings in any other

way than to have them converted into privatisation certificates. The laws, as amended, continue to provide for the compulsory transfer of foreign currency savings from the bank to the Unique Citizen's Account. The applicants remain unable to obtain payment from their accounts. Thus, the interference remains, and the matter has not been resolved.

112. The Chamber further considers that the current state of the law affecting old foreign currency savings, following the decision of the Federation Constitutional Court, raises new issues that have neither been considered nor resolved by the Chamber. The Chamber therefore will not reject the present applications under Article VIII(3)(b) of the Agreement.

5. Manifestly ill-founded

113. The Federation argues that the present applications should be dismissed as manifestly ill-founded and an abuse of the right of petition.

114. The Chamber considers that the present applications raise legitimate issues compatible with the Agreement and within the Chamber's competence. Accordingly, the Chamber rejects the suggestion that they must be dismissed as manifestly ill-founded pursuant to Article VIII(2)(c).

6. Six-months rule in case no. CH/99/2997

115. With regard to the applicant Milenko Višnjevac, the Federation of Bosnia and Herzegovina argues that his application is inadmissible under Article VIII(2)(a) of the Agreement because it was lodged more than six months after the date of the final decision in the applicant's case. According to the Federation, the final court decision occurred on 19 January 1994, and the application was filed on 11 October 1999. This analysis ignores the subsequent enforcement proceedings initiated by Mr. Višnjevac, which concluded on 20 December 2000. In any case, the applicant complains of his continuing inability to have his judgement enforced. Because the alleged violation consists of a continuing situation, the six-month limit can have no application until the situation comes to an end, which it has not. The Chamber therefore concludes that the application is not inadmissible under Article VIII(2)(a).

7. Conclusion as to admissibility

116. As no other ground for declaring the cases inadmissible has been established, the Chamber declares the applications admissible under Article 1 of Protocol No. 1 to the Convention in respect of Bosnia and Herzegovina and in their entirety in respect of the Federation of Bosnia and Herzegovina.

B. Merits

117. Under Article XI of the Agreement, the Chamber will next address the question of whether the facts established above disclose any breaches by the respondent Parties of their obligations under the Agreement. Under Article I of the Agreement, the Parties are obliged to "secure to all persons within their jurisdiction the highest level of internationally recognized human rights and fundamental freedoms", including the rights and freedoms provided for by the Convention and its Protocols.

1. Article 1 of Protocol No. 1 to the Convention

118. The applicants complain that their property rights under Article 1 of Protocol No. 1 to the Convention have been violated. This provision 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."

119. The applicants assert that their rights have been violated by the banks' refusal to disburse the foreign currency savings and the conversion of those savings into privatisation certificates. Further, they assert that the actions taken by the Federation fail to establish a fair balance between public and private interests, and the result is a continuing violation of their property rights.

120. The Federation asserts that it has in fact balanced the private and public interests fairly through amendments to the relevant legislation governing the privatisation process. The Federation maintains that this legislation continues to be in effect and that it protects the applicants and other depositors from losing their possessions.

(a) The existence of "possessions" under Article 1 of Protocol No. 1

121. The Chamber first finds, as it did in *Poropat and Others*, that the applicants' claims against the banks based on their foreign currency savings constitute "possessions" within the meaning of Article 1 of Protocol No. 1 to the Convention, a point the Federation appears to concede. It must therefore be determined whether the applicants' right to peacefully enjoy these possessions has been violated.

(b) General considerations

122. The Chamber recalls that, as stated in the *Poropat and Others* decision (quoting the case law of the European Court of Human Rights), Article 1 of Protocol No. 1 to the Convention comprises three distinct rules:

> "the first rule, set out in the first sentence of the first paragraph, is of a general nature and enunciates the principle of the peaceful enjoyment of property; the second rule, contained in the second sentence of the first paragraph, covers deprivation of possessions and subjects it to certain conditions; the third rule, stated in the second paragraph, recognises that the Contracting States are entitled, amongst other things, to control the use of property in accordance with the general interest.... The three rules are not, however, 'distinct' in the sense of being unconnected. The second and third rules are concerned with particular instances of interference with the right to peaceful enjoyment of property and should therefore be construed in the light of the general principle enunciated in the first rule."

James and Others v. the United Kingdom (judgement of 21 February 1986, Series A no. 98, paragraph 37).

123. It must be determined in each case whether a "fair balance" has been struck between the demands of the general interest of the community and the requirements of the protection of the individuals' fundamental rights. Thus, there must be a reasonable relationship of proportionality between the means employed and the aim sought to be realised. The requisite balance will not be found if the persons concerned have had to bear an individual and excessive burden. The Chamber recalls that the foreign currency savings accounts raise complex issues of great economic importance and therefore, as the Chamber found in *Poropat and Others*, the respondent Parties enjoy a wide margin of appreciation in dealing with these matters (*Poropat and Others*, paragraph 163).

(c) Alleged violation by the Federation of Bosnia and Herzegovina

124. In considering the merits of these cases against the Federation of Bosnia and Herzegovina, the Chamber must decide whether, in light of developments since its decision in *Poropat and Others*, the legal situation in the Federation regarding old foreign currency savings continues to constitute a violation of Article 1 of Protocol No. 1 to the Convention.

125. In the *Poropat and Others* decision, the Chamber stated: "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 Federation and the Banks, the 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, thus, fall outside the Federation's margin of appreciation." (*Poropat and Others*, paragraph 192). The Chamber pointed out several shortcomings of the privatisation program:

a. The limited two-year validity of the privatisation certificates;
b. The unequal treatment afforded cash and certificates;
c. The uncertainty regarding the future status of foreign currency savings claims that have not been registered in the Unique Citizen's Account and the claims that have been so registered but are not used in the privatisation process.

(*Poropat and Others*, paragraphs 186-87, 190).

126. The Chamber found that these issues had to be solved by the Federation in amending its privatisation program. The Chamber considered that it was for the Federation to find, within its margin of appreciation, the appropriate means to achieve the required "fair balance" of interests (*Poropat and Others*, paragraph 204).

127. The Chamber recognizes that, between 2 November 2000 and 8 February 2002, the Federation amended various provisions of the Citizens' Claims Law in an effort to address the shortcomings of the privatisation programme and comply with the Chamber's order in *Poropat and Others*. The Federation government and legislature have taken appreciable steps toward implementation of the Chamber's decision.

128. The Chamber notes, however, that the intervening decision of the Federation Constitutional Court has called the continuing efficacy of these laws into question. By its decision of 8 January 2001, that Court determined that key provisions of the Citizens' Claims Law were not in accordance with the Constitution of the Federation of Bosnia and Herzegovina.

129. Despite the pronouncement of the Federation Constitutional Court, the relevant provisions of the Citizens' Claims Law continue to be applied in the Federation. This is apparent from the fact that the applicants' situations have not changed following the Constitutional Court decision. Mr. Janković specifically inquired whether he could withdraw his funds in light of the Court's decision, and he was told that would not be possible.

(i) Whether the Federation continues to interfere with the applicants' rights

130. In determining whether the Federation of Bosnia and Herzegovina has interfered with the applicants' rights under Article 1 of Protocol No. 1 to the Convention, the crucial question is whether the current state of the law and practice regarding the applicants' old foreign currency savings accounts adequately secures those rights. The Chamber will have regard to the current state of the privatisation programme in practice and whether the applicants or other depositors of foreign currency savings have succeeded in their attempts to realise their property rights in those funds.

131. In *Poropat and Others*, the Chamber found interference with the applicants' rights under Article 1 of Protocol No. 1 to the Convention based on legislation that relieved the banks of their contractual obligations toward the applicants and made it impossible for the applicants to withdraw their money. (*Poropat and Others*, paragraphs 170-77). As a practical matter, the same situation remains today. The Chamber notes that, following the amendments, there are still no provisions in the Citizens' Claims Law indicating that an individual is free to dispose of his or her savings in any other way than to have them converted into privatisation certificates. The laws, as amended, continue to provide for the compulsory transfer of foreign currency savings from the bank to the Unique Citizen's Account. The applicants, and presumably other depositors, have been, and continue to be, unable to have money disbursed from their accounts. Thus, the interference found in *Poropat and Others* continues, at least *de facto*, even though *de jure* the relevant legislation is no longer in force (*see* paragraph 136 *et seq.*, *infra*).

132. The interference is exacerbated by the applicants' inability to obtain relief in the courts. Four of the present applicants initiated court proceedings in attempts to have money disbursed from their accounts. So far, only Mr. Višnjevac has received a judgement on the merits, which was in his favor. Mr. Višnjevac was informed, however, by the Minister of Finance, that his judgement cannot be enforced.

133. Having regard to the above, the Chamber concludes that the privatisation programme, with its restrictions on foreign currency savings, as currently administered by the Federation of Bosnia and Herzegovina, continues to interfere with the property rights of individual savers, including the present applicants.

(ii) Whether the interference has been justified

134. The Chamber will next consider whether the interference created by the prevailing legal situation has been justified under the second paragraph of Article 1 of Protocol No. 1 to the Convention. The Chamber notes, in this regard, that the Federation continues to apply the relevant legislation establishing control of the use of the applicants' property. Control of use of property must be "in accordance with the general interest" and have some basis in law. Moreover, it must be determined whether a "fair balance" has been struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights.

(α) Purpose of the interference

135. The Chamber concludes, without question, that the legislative measures taken by the Federation have been pursued in accordance with the general interest. In this regard, the Chamber notes the economic difficulties of the Federation and the banking system. It is clearly in the general interest to attempt to administer citizens' property claims in a manner designed to protect the banking system from collapse.

(β) Lawfulness of the interference

136. The Chamber observes that the legal basis for the interference in question, if there is one, must be found in the provisions of the Citizens' Claims Law and the related privatisation laws.

137. The Chamber notes first that the Federation Constitutional Court has declared Articles 3, 7, 11, and 18 of the Citizens' Claims Law—the provisions essential to the scheme of conversion of old foreign currency savings into certificates—unconstitutional. Thus, the laws on which the Federation'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 decision of the Federation Constitutional Court, the Citizens' Claims Law is no longer in effect. Article 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 Court specifies some transitional arrangements which may not extend to a period in excess of six months." The Federation Constitutional Court, in its decision, does not specify any transitional arrangements regarding its decision on the Citizens' Claims Law. Under the circumstances, the law should have been deprived of its effect *ex nunc*—from the moment of the Court's decision.

139. The Chamber notes that the Federation government has appealed against the decision of the Federation Constitutional Court to the Constitutional Court of Bosnia and Herzegovina. Article 75 of the Rules of Procedure of The Constitutional Court of Bosnia and Herzegovina provides that this higher court may suspend the execution of temporary measures, laws, and decisions, such as the decision of the Federation Constitutional Court. The Constitutional Court of Bosnia and Herzegovina has not, however, suspended execution of the Federation Constitutional Court's decision. It follows that the decision of the Federation Constitutional Court is still in force, and the relevant provisions of the Citizens' Claims Law are not.

140. The Chamber has also considered whether the historical practice in the former Constitutional Court of Yugoslavia could support the Federation's assertion that the provisions declared unconstitutional are still in force. Article 384 of the Constitution of the former SFRY provided that, if a law was declared inconsistent with the Constitution, the legislature would be allowed six months (with opportunity for extension) to amend the provision and harmonize it with the Constitution. Only after the expiration of the amendment time limit, and following a second decision of the

Constitutional Court, would the existing law be deprived of its effect. Similar laws and practice applied to the Constitutional Court of the Socialist Republic of Bosnia and Herzegovina (*see* paragraph 72, *supra*). There is no apparent legal basis, however, for applying this former SFRY practice to the current situation.

141. If, as the plain text of Article 12(b) of the Federation Constitution suggests, the relevant provisions of the Citizens' Claims Law ceased to be in effect from the time of the Federation Constitutional Court's decision, then the ongoing interference with the applicants' property rights is 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 Citizens' Claims Law continued in effect after the Federation Constitutional Court's decision, other relevant factors undermine the lawfulness of the interference. First, even if one assumes *arguendo* that the Federation Constitutional Court 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 Federation Constitution has long since expired.[3] Moreover, the Federation has indicated that, following the proposal of the Federal Ministry of Finance, it intends to amend only two of the four articles of the Citizens' Claims Law found unconstitutional. In any case, more than twenty-one months after the decision of the Federation Constitutional Court, no responsive legislative changes have been enacted.

143. The inaction following the Federation Constitutional Court's decision 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 Federation's considerable margin of appreciation, no matter how compelling the public interest involved may be.

144. Having regard to the above, the Chamber will consider whether the interference strikes a fair balance between the general interest and the applicants' private property rights.

(γ) Proportionality of the interference

145. As was pointed out by the European Court of Human Rights in the *James and Others v. the United Kingdom* judgement, the second paragraph of Article 1 of Protocol No. 1 has to be construed in the light of the general principle set out in the first sentence of this Article. This sentence has been interpreted by the Court as including the requirement that a measure of interference should strike a "fair balance" between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights.

146. The Chamber recognizes the Federation's amendments to various relevant laws since the decision and order in *Poropat and Others*. The Federation amended the Law on Privatisation of Companies and the Law on Sales of Apartments with Existing Occupancy Right to ensure the equal treatment of certificates and cash. The Federation also amended the Citizens' Claims Law to extend the time limit for using certificates to purchase apartments. It also extended the time limit for using certificates generally from two to four years

147. The applicants submit that the amendments to the laws, taken alone, still fail to strike a fair balance between general and private interests. The applicants argue that they have suffered unjustified and disproportionate hardship. Some assert that they would need the money deposited in their accounts to support their daily needs. None of the applicants has been able to realise their property interests in their old foreign currency savings accounts.

148. The Chamber notes again that, taken together, the decision of the Federation Constitutional Court, the lack of responsive legislative action, and the continued application of the Citizens' Claims Law have led to a state of legal confusion 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. Meanwhile, as the privatisation process moves

[3] The applicable time limits under the practice of the former SFRY would also have expired, even if an extension had been granted.

forward without clarification of the law, the potential consequences of the applicants' insistence on their property rights become more severe.

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

150. In conclusion, there has been a violation by the Federation of Bosnia and Herzegovina of the applicants' rights to peaceful enjoyment of their possessions under Article 1 of Protocol No. 1 to the Convention.

(iii) The failure to enforce the judgement in favour of Mr. Višnjevac in case no. CH/99/2997

151. Regarding the case of Mr. Višnjevac (case no. CH/99/2997), the Chamber finds that the applicant's claim against the bank based on his foreign currency savings constitutes a possession within the meaning of Article 1 of Protocol No. 1 to the Convention (*see* paragraph 121, *supra*).

152. Mr. Višnjevac's case concerns the failure of the authorities of the Federation of Bosnia and Herzegovina to enforce a court judgement in the applicant's favour. As the Chamber has previously held, Article 1 of Protocol No. 1 to the Convention imposes positive obligations on the Parties to provide effective protection for the rights of individuals. The Chamber considers that these obligations extend to the enforcement of court decisions (*see* case no. CH/99/1859, *Jeličić*, decision on admissibility and merits of 11 February 2000, paragraphs 22-27, Decisions January-June 2000). In Mr. Višnjevac's case, the failure of the respondent Party to enforce the judgement, along with the statement of the Minister of Finance that it will not be enforced, have prevented the applicant from realising the benefit of a valid court decision in his favour. Under these circumstances, the Chamber finds that the respondent Party has failed to secure the applicant's rights to peaceful enjoyment of his possessions. Thus, there has been a specific, additional breach of Mr. Višnjevac's rights as guaranteed by Article 1 of Protocol No. 1 to the Convention.

(d) Alleged violation by Bosnia and Herzegovina

153. The 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*, paragraphs 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 Chamber further notes that Bosnia and Herzegovina has submitted no observations in these cases to argue why it should no longer bear responsibility.

154. Accordingly, as it did in *Poropat and Others*, the Chamber finds that there has been a violation by Bosnia and Herzegovina of the applicants' right to peaceful enjoyment of their possessions under Article 1 of Protocol No. 1 to the Convention.

2. Article 6 of the Convention

155. The applicants complain that they have not had a fair hearing under Article 6 of the Convention. Paragraph 1 of that Article reads, in relevant part:

> "In the determination of his civil rights and obligations ..., everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law."

(a) The failure to enforce the judgement in favour of Mr. Višnjevac in case no. CH/99/2997

156. The judgement obtained by Mr. Višnjevac in the First Instance Court of Sarajevo on 22 November 1993 is fully binding and enforceable. The judgement and Mr. Višnjevac's request for enforcement have been upheld by the courts of appeal.

157. The judgement has not been enforced, however, and Mr. Višnjevac remains unable to obtain payment from the bank. He has been informed by the Minister of Finance that the judgement cannot be enforced. Accordingly, Mr. Višnjevac appears to have no prospect of having the decision of the First Instance Court of 22 November 1993 enforced. This failure engages the responsibility of the Federation of Bosnia and Herzegovina, whose public bodies (including the courts) have taken no further steps to ensure enforcement of the valid judgement.

158. As the Chamber has held, the authorities' failure to take action to enforce a decision of a court deprives Article 6(1) of all useful effect (*see* the above-mentioned *Jeličić* decision, paragraph 27). Accordingly, there has been a violation of the applicant Višnjevac's right to a fair hearing in the determination of his civil rights as guaranteed by Article 6(1) of the Convention.

(b) Length of proceedings in case no. CH/97/107

159. The Chamber notes that there have been significant delays in the domestic proceedings. In the case of the applicant Hadžić, a domestic court proceeding has been pending for over five years, with no activity since 13 March 1997. The respondent Party, the Federation of Bosnia and Herzegovina, makes no claim that the applicant is in any way responsible for this delay or has otherwise failed to exhaust her remedies. Indeed, the Chamber finds no justification for this judicial procrastination. Because of such delays, the Chamber has concluded above that domestic remedies have not been effective. The Chamber further finds that these extended lags in Ms. Hadžić's judicial proceedings effect a continuing deprivation of her right to a fair hearing within a reasonable time. Accordingly, there has been a violation of the applicant Hadžić's rights as guaranteed by Article 6(1) of the Convention.

(c) Denial of access to court in the remaining cases

160. As the Chamber has consistently held, enforcement is a necessary component of effective access to courts. Without the possibility of enforcement, the rights guaranteed by Article 6(1) are rendered illusory. The Chamber has already found violations of Article 6(1) with regard to the applicants Hadžić and Višnjevac (*see* paragraphs 156-59). Considering the overall circumstances, the Chamber also finds a *de facto* denial of access to court by the respondent Party, in violation of Article 6(1) of the Convention, with regard to the applicants Todorović, Hodžić, Mulalić-Rapo, Ilić, and Janković.

(d) Conclusion

161. The Chamber therefore finds that there has been a violation by the Federation of Bosnia and Herzegovina of the applicants' rights under Article 6(1) of the Convention.

VIII. REMEDIES

162. Under Article XI(1)(b) of the Agreement, the Chamber shall address the question of what steps are to be taken by the respondent Party to remedy breaches of its obligations under the Agreement. In this respect, the Chamber may consider issuing orders to cease and desist, awarding monetary relief (for pecuniary and non-pecuniary injuries), and prescribing provisional measures.

163. All the applicants claim compensation for the full amount of their old foreign currency savings. Three of the applicants (Ms. Todorović, Ms. Hadzić, and Ms. Hodzić) specifically request awards of interest and reimbursement for costs of proceedings in addition to payment of their old foreign currency savings.

A. Article 1 of Protocol No. 1 to the Convention

164. The Chamber orders the Federation of Bosnia and Herzegovina to remove the prevailing legal uncertainty by enacting, within six months from the date of delivery of this decision, relevant and binding laws or regulations that clearly address this problem in a manner compatible with Article 1 of Protocol No. 1 to the Convention, as interpreted in the Chamber's decision in *Poropat and Others* and the present decision. The actual method of resolving the situation and eliminating the prevailing legal uncertainty shall be determined by the respondent Party.

165. Measures to be considered might include, among other options, the following possibilities:

(1) Payment of old foreign currency savings, in whole or in part, to depositors upon demand, if the respondent Party has the means; or
(2) creation of public debt in the amount of old foreign currency savings not already spent in the privatisation process; or
(3) methods by which citizens may use their old foreign currency savings as the equivalent of cash inside or outside the privatisation process, such as for payment to public entities for goods and services including, but not limited to, utility bills, property, transportation, food, health care, housing and other personal expenses; or
(4) tax relief or tax credits; or
(5) enhanced pension rights (as are allowed other categories of citizens); or
(6) earmarking of proceeds from succession funds, enhanced tax collection enforcement, international aid, or other income streams to be used exclusively for repayment of old foreign currency savings holders.

The method or combination of methods chosen should be designed to reimburse each holder of old foreign currency savings for a substantial part of the total amount of his or her savings within a reasonable period of time.

166. The Chamber reserves the right to order additional remedies in this case after six months have passed from the date of the delivery of this decision, should it consider such course of action warranted in the light of the steps taken by the respondent Parties to give effect to this decision.

B. Article 6

167. The Chamber further orders the Federation of Bosnia and Herzegovina to take all necessary steps to ensure the enforcement of the applicant Višnjevac's judgement as ordered by the First Instance Court in Sarajevo on 22 November 1993 and upheld by the subsequent court rulings permitting enforcement of that valid court judgement, no later than 11 January 2003.

168. The Chamber further orders the Federation of Bosnia and Herzegovina to take all necessary steps to ensure an expeditious decision in the pending court case of Ms. Hadžić.

169. The Chamber further orders the Federation of Bosnia and Herzegovina to pay compensation to Ms. Hadžić, no later than 11 November 2002, in the amount of 1000 KM as moral damages for the delay in the domestic court proceedings.

170. The Chamber further orders the Federation of Bosnia and Herzegovina to pay compensation to Mr. Višnjevac, no later than 11 November 2002, in the amount of 1000 KM as moral damages for the failure to enforce his valid court judgement.

171. The Chamber further orders the Federation of Bosnia and Herzegovina to pay the applicants simple interest at a rate of 10 (ten) per cent per annum on the sums to be paid under paragraphs 169 and 170 or on any unpaid portion thereof from the expiry of the periods set for such payments until the date of final settlement of all sums due to the applicants under those paragraphs.

C. Costs of Proceedings

172. The Chamber further orders the respondent Parties to pay the applicants compensation for the expenses of the proceedings before the Chamber in the amount of 200 KM for each applicant, this cost to be borne equally between the respondent Parties.

173. The Chamber further orders the respondent Parties to pay the applicants simple interest at a rate of 10 (ten) per cent per annum on the sums to be paid under paragraph 172 or on any unpaid portion thereof from the expiry of the period set for such payments until the date of final settlement of all sums due to the applicants under that paragraph.

174. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina shall report to the Chamber on the steps taken to comply with the above orders within six months from the date of delivery of this decision.

IX. CONCLUSIONS

175. For the above reasons, the Chamber decides:

1. unanimously, to declare the applications admissible against Bosnia and Herzegovina with regard to Article 1 of Protocol No. 1 to the Convention;

2. unanimously, to declare the applications inadmissible against Bosnia and Herzegovina with regard to Article 6 of the Convention;

3. unanimously, to declare the applications admissible in their entirety against the Federation of Bosnia and Herzegovina;

4. unanimously, that the Federation of Bosnia and Herzegovina has violated all the applicants' rights to peaceful enjoyment of their possessions under Article 1 of Protocol No. 1 to the European Convention on Human Rights by placing an individual and excessive burden on the applicants with regard to their old foreign currency savings, the Federation of Bosnia and Herzegovina thereby being in breach of Article I of the Human Rights Agreement;

5. unanimously, that, in case no. CH/99/2997, the Federation of Bosnia and Herzegovina has violated the applicant Višnjevac's right to peaceful enjoyment of his possessions under Article 1 of Protocol No. 1 to the European Convention on Human Rights by taking no action to ensure the enforcement of his valid court judgement, the Federation of Bosnia and Herzegovina thereby being in breach of Article I of the Agreement;

6. unanimously, that Bosnia and Herzegovina has violated all the applicants' rights to peaceful enjoyment of their possessions under Article 1 of Protocol No. 1 to the Convention by failing to take adequate action in regard to the old foreign currency savings to secure the applicants' rights under that provision, Bosnia and Herzegovina thereby being in breach of Article I of the Agreement;

7. unanimously, that, in case no. CH/99/2997, the Federation of Bosnia and Herzegovina has violated the applicant Višnjevac's right to a fair trial under Article 6(1) of the European Convention on

Human Rights by taking no action to ensure the enforcement of his valid court judgement, the Federation of Bosnia and Herzegovina thereby being in breach of Article I of the Agreement;

8. by 13 votes to 1, that, in case no. CH/97/107, the Federation of Bosnia and Herzegovina has violated the applicant Hadžić's right to a fair trial within a reasonable time under Article 6(1) of the European Convention on Human Rights by allowing significant unjustified delays in the domestic court proceedings, the Federation of Bosnia and Herzegovina thereby being in breach of Article I of the Agreement;

9. by 13 votes to 1, that, in case nos. CH/97/104, CH/97/106, CH/98/374, CH/98/386, and CH/00/4358, the Federation of Bosnia and Herzegovina has violated the rights of the applicants Todorović, Hodžić, Mulalić-Rapo, Ilić, and Janković to a fair trial under Article 6 of the European Convention on Human Rights by fostering a *de facto* denial of the right of access to court with regard to these matters, the Federation of Bosnia and Herzegovina thereby being in breach of Article I of the Agreement;

10. unanimously, to order the Federation of Bosnia and Herzegovina to enact relevant and binding laws or regulations that clearly address this old foreign currency savings problem in a manner compatible with Article 1 of Protocol No. 1 to the Convention, as interpreted in *Poropat and Others* (cases no. CH/97/48, CH/97/52, CH/97/105, and CH/97/108) and this decision;

11. by 13 votes to 1, to order the Federation of Bosnia and Herzegovina to take all necessary steps to ensure an expeditious decision in the pending court case of Ms. Hadžić;

12. by 12 votes to 2, to order the Federation of Bosnia and Herzegovina to pay to the applicant Ms. Hadžić not later than 11 November 2002 the amount of 1000 KM (one thousand Convertible Marks) by way of compensation for non-pecuniary damages;

13. unanimously, to order the Federation of Bosnia and Herzegovina to take all necessary steps to ensure the enforcement of Mr. Višnjevac's judgement as ordered by the First Instance Court in Sarajevo on 22 November 1993, not later than 11 January 2003;

14. by 10 votes to 4, to order the Federation of Bosnia and Herzegovina to pay to the applicant Mr. Višnjevac not later than 11 November 2002 the amount of 1000 KM (one thousand Convertible Marks) by way of compensation for non-pecuniary damages;

15. unanimously, to order Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina to pay each applicant 200 KM for the expenses of proceedings before the Chamber, to be borne equally between the respondent Parties not later than 11 November 2002;

16. unanimously, to reserve the right to order additional remedies in this case after six months have passed from the date of the delivery of this decision;

17. unanimously, to order the respondent Parties to pay the applicants simple interest at a rate of 10 (ten) per cent per annum on the amounts due from them on the sums awarded in conclusions nos. 12, 14, and 15 or any unpaid portion thereof from the expiry of the periods set for such payments until the date of final settlement of all sums due to the applicants under those conclusions; and

18. unanimously, to order Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina to report to the Chamber by 11 April 2003 on the steps taken to comply with the above orders.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the Chamber

HUMAN RIGHTS CHAMBER
FOR BOSNIA AND HERZEGOVINA

DOM ZA LJUDSKA PRAVA
ZA BOSNU I HERCEGOVINU

DECISION ON ADMISSIBILITY AND MERITS
(delivered on 11 February 2000)

Case no. CH/97/110

Munib MEMIĆ

against

BOSNIA AND HERZEGOVINA
and
THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 8 February 2000, with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Vitomir POPOVIĆ
Mr. Manfred NOWAK
Mr. Mato TADIĆ

Mr. Anders MÅNSSON, Registrar
Ms. Olga KAPIĆ, Deputy Registrar

Having considered the aforementioned application introduced pursuant to Article VIII(1) of the Human Rights Agreement ("the Agreement") set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Adopts the following decision pursuant to Articles VIII(2) and XI of the Agreement as well as Rules 52, 57 and 58 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The applicant, a pensioner, is a citizen of Bosnia and Herzegovina of Bosniak origin. On 21 February 1992 he entered into a contract to purchase from the Yugoslav National Army ("JNA") an apartment in Sarajevo over which he had an occupancy right. During the war in Bosnia and Herzegovina the applicant left Sarajevo. Shortly after the cessation of hostilities, his apartment was declared abandoned and given to another occupant. The applicant seeks to regain possession of the apartment.

2. The applicant alleges a violation of his right to return to his apartment and the right to protection of his property. In addition, he claims that he has not been treated fairly by the various government organs that have been dealing with his complaints.

II. PROCEEDINGS BEFORE THE CHAMBER

3. The application was submitted on 15 December 1997 and registered on the same day. The Chamber received additional statements from the applicant on 25 February, 7 July, 19 September and 3 November 1998, and 15 January, 26 April and 10 December 1999.

4. On 17 June 1998 the Chamber transmitted the case to the Federation of Bosnia and Herzegovina for its observations on admissibility and merits. On 10 July 1998 the Chamber received observations from the Federal Ministry of Defense of the Federation of Bosnia and Herzegovina. On 19 August 1998 the Chamber received the applicant's reply to these observations.

5. On 21 January 1999 the Chamber requested observations on admissibility and merits from Bosnia and Herzegovina. No such observations have been received, however.

6. On 12 January and 8 February 2000 the Chamber deliberated on the admissibility and merits of the case. It adopted this decision on the latter date.

III. ESTABLISHMENT OF THE FACTS

A. Particular facts of the case

7. From 19 March 1981 the applicant had an occupancy right and a completed contract on use for an apartment owned by the JNA and located at Topal Osman Paše No. 18/I/114 (previously Milutina Đuraškovića) in Sarajevo. On 21 February 1992 he entered into a contract to purchase the apartment under the Law on Securing Housing for the JNA. The contractual price was 1,353,991.44 Yugoslav dinars (YUD). The contract states that the applicant had previously paid YUD 701,553.75 for the apartment through his regular Military Housing Fund contributions and was to pay the remainder in monthly instalments. The applicant states that he paid one instalment in March 1992 but stopped paying because of the onset of the war which made it impossible to make payments to the authorities in Belgrade.

8. Later in 1992 the applicant left Sarajevo because of the war in Bosnia and Herzegovina. It should be noted that the apartment in question was located on the front line of the war. Apparently, on 24 September 1996, while the applicant was still away from Sarajevo, the military administrative housing organ declared the applicant's apartment abandoned, thereby terminating his occupancy right, and the apartment was reallocated for permanent use to another individual, A.O., an employee of the army of the Federation of Bosnia and Herzegovina.

9. After the end of the hostilities the applicant returned and attempted to reenter his apartment on 26 March 1997. However, he was prohibited from entering the apartment by A.O. Since that time the applicant has had temporary accommodation through the United Nations High Commissioner for Refugees at the Centre for Displaced Persons in Ilijaš, the Federation of Bosnia and Herzegovina. He asserts that A.O. has other dwellings in the Sarajevo area in which she could live.

1. Proceedings involving organs associated with the army of the Federation of Bosnia

and Herzegovina

10. On 28 March 1997 the applicant wrote to the housing organ of the Sarajevo Garrison of the army with a request to repossess the apartment. He sent another similar letter on 25 August 1997 to General Rasim Delić, Commander of the army. The applicant has not received any response to these letters.

11. The applicant then wrote directly to the Federal Ministry for Refugees and Displaced Persons, the Council of Ministers of Bosnia and Herzegovina, and President Alija Izetbegović on 9 September 1997 seeking assistance on these requests. He did not receive a response.

12. On 16 September 1997 the applicant submitted a request to the Administrative Inspectorate of the Federal Ministry of Justice regarding the failure of the housing organ of the Sarajevo Garrison to act in his case. This, however, did not yield any favorable results as the Inspectorate did not have access to the information necessary to act on the applicant's request.

13. On 29 September 1997 the applicant submitted a letter to the Federal Ministry of Defense of the Federation of Bosnia and Herzegovina complaining about the housing organ's failure to act and requesting the return of his apartment. On 22 December 1998 the applicant was summoned to appear at a hearing before the military administrative housing organ. However, the applicant claims that the hearing did not at all focus on the issues relating to his apartment, but instead the officials present questioned him on personal matters of little relevance. There is no evidence that that body has issued a decision to date. The applicant claims that he has not received a decision because A.O. is an employee of the army and is using her influence to block his efforts.

2. Court proceedings

14. On 15 May 1997 the applicant initiated proceedings before the Municipal Court II in Sarajevo asking that A.O. be evicted from the apartment. At the first hearing on 17 November 1997, A.O. failed to present documentation regarding her right to possess the apartment. The court therefore rescheduled the hearing for 4 April 1998 requesting that A.O. bring such documentation. This hearing was then postponed until 21 April 1998.

15. At the hearing on 21 April 1998 A.O. failed to bring all the requested documents. The court rescheduled the hearing for 1 July 1998, again asking that A.O. bring all the relevant documents.

16. A.O. failed to appear at the hearing on 1 July 1998. The applicant alleges that, at this hearing, the judge in the case told him that if A.O. presented the proper documentation, she would gain a judgment in her favour. The court again rescheduled, this time for 10 September 1998. On that date, the court issued a procedural decision that because the applicant's apartment had been previously declared abandoned (thereby terminating the applicant's occupancy right), and A.O. had been allocated the apartment for permanent use, the court was incompetent to hear the case as the subject matter was thus within the competence of the relevant municipal housing authority (as established in Article 4 paragraph 2 of the Law on the Cessation of the Application of the Law on Abandoned Apartments; see paragraph 36 below).

17. The applicant maintains, however, that the military administrative housing organ's termination of his occupancy right and subsequent reallocation was only obtained by A.O. through an abuse of her position as an employee of the army. He further claims that he has never received the decision declaring the apartment abandoned that was allegedly issued by the housing organ on 24 September 1996.

18. On 18 September 1998 the applicant appealed against the decision of the Municipal Court II to the Cantonal Court in Sarajevo. He argued that his apartment should not have been declared abandoned or re-allocated because, under Article 3 paragraph 2 of the Law on Abandoned Apartments, an apartment shall not be declared abandoned if in direct jeopardy of war. There is no evidence that the Cantonal Court has made a decision on this appeal.

3. Administrative proceedings

19. On 18 April 1998 the applicant submitted a request to the Novo Sarajevo Administration for Housing Affairs for repossession of the apartment under the Law on the Cessation of the Application of the Law on Abandoned Apartments ("the new law"). Although that law states that a decision must be made within 30 days of submission of a claim for repossession, the applicant did not receive a decision within that time-limit. In May 1998, therefore, the applicant submitted a second request, this time to the Novo Sarajevo Department of the Cantonal Ministry for Environmental Planning, Housing and Municipal Affairs.

20. On 27 August 1998 the applicant filed a "silence of the administration" claim with the Cantonal Ministry. On 18 September 1998 that body asked the Novo Sarajevo Administration for Housing Affairs to explain, within 15 days, why it had not made a decision on the applicant's request of 18 April 1998. The administration has not responded to this letter.

21. A.O. continues to occupy the apartment.

B. Relevant legislation

1. Legislation relating to JNA Apartments

22. The apartment in question was originally socially owned property over which the JNA had jurisdiction and over which the applicant enjoyed an occupancy right. Socially owned property was considered to belong to society as a whole. Among other things, an occupancy right conferred a right, subject to certain conditions, to occupy an apartment on a permanent basis.

23. Relevant to this case is the Law on Securing Housing for the JNA which came into force on 6 January 1991 (Official Gazette of the Socialist Federal Republic of Yugoslavia – hereinafter "OG SFRY" - no. 84/90). This law established that JNA apartments could be sold to the members of the JNA (Article 20), having regard to their contributions to the JNA housing fund. It also established the authority so that procedures could be set up to do so (Article 36). In the following years a number of decrees with force of law as well as laws proper were issued by the Government of the Socialist Republic of Bosnia and Herzegovina, the Presidency of the Republic of Bosnia and Herzegovina and the Parliament of the Republic of Bosnia and Herzegovina. The aim of those laws was to regulate issues of socially owned property in general and socially owned property over which the JNA had jurisdiction in particular.

24. These laws included a decree issued on 15 February 1992 ("the 1992 decree") by the Government of the Socialist Republic of Bosnia and Herzegovina (Official Gazette of the Socialist Republic of Bosnia and Herzegovina – hereinafter "OG SRBiH" – no. 4/92). Article 1(3) of this decree imposed a temporary prohibition on the sale of socially owned apartments, specifically under the means established by the Law on Securing Housing for the JNA. Article 3 of the decree provided that "the contracts on the purchase of apartments or any other legal transactions entered into, i.e. legal documents issued contrary to this decree, are null and void". Article 4 provided that courts and other state organs should not verify signatures or register titles or take other action which was contrary to the prohibition provided in Article 1. Article 5 stated that the temporary prohibition on sales was valid until the entry into force of a law regulating apartments over which the JNA exercised jurisdiction or, at the longest, for a year following the date of issue of the decree.

25. On 10 February 1995 the Presidency of the Republic of Bosnia and Herzegovina issued a Decree with force of law (OG RBiH no. 5/95) which ordered courts and other state authorities to adjourn proceedings relating to the purchase of apartments and other properties under the Law on Securing Housing for the JNA until new housing legislation had been adopted.

26. On 22 December 1995 the Presidency issued another decree with force of law (OG RBiH no. 50/95) stating that contracts for the sale of apartments and other property concluded on the basis of the Law on Securing Housing for the JNA were retroactively invalid. It was adopted as law by the Assembly of the Republic and promulgated on 18 January 1996 (OG RBiH no. 2/96). This decree also provided that questions connected with annulled real estate purchase contracts would be resolved under a law to be adopted in the future.

27. The Law on the Sale of Apartments with an Occupancy Right came into force on 6 December 1997 and has subsequently been amended (Official Gazette of the Federation of Bosnia and Herzegovina – hereinafter "OG FBiH" – nos. 27/97, 11/98 and 27/99). This law, as amended, does not affect the annulment of the present applicant's contract. Under Article 39 of this law, an occupancy right holder who contracted to purchase an apartment on the basis of the Law on Securing Housing for the JNA shall be credited the amount which has been previously paid, calculated in German Marks (DEM) at the exchange rates valid on the day of contracting.

2. The Law on Abandoned Apartments

28. The Law on Abandoned Apartments ("the old law"), originally issued on 15 June 1992 as a decree with force of law, was adopted as law on 1 June 1994 and amended on various occasions (OG RBiH nos. 6/92, 8/92, 16/92, 13/94, 36/94, 9/95 and 33/95). It governed the re-allocation of occupancy rights over socially owned apartments that had been abandoned.

29. According to the old law, an occupancy right expired if the holder of the right and the members of his or her household had abandoned the apartment after 30 April 1991 (Article 1). An apartment was considered abandoned if, even temporarily, it was not used by the occupancy right holder or members of the household (Article 2). There were, however, certain exceptions to this definition. For example, an apartment was not to be considered abandoned if the apartment was destroyed, burnt or in direct jeopardy as a result of war actions (Article 3 paragraph 2).

30. Proceedings aimed at having an apartment declared abandoned could be initiated by a state authority, a holder of an allocation right (i.e. a juridical person authorised to grant permission to use an apartment), a political or a social organisation, an association of citizens or a housing board. Except for certain exceptions not relevant to the present application, the competent municipal housing authority was to decide on a request to this end within seven days and could also *ex officio* declare an apartment abandoned (Article 4). Failing a decision within this time-limit, it was to be made by the Ministry for Urban Planning, Housing and Environment. Interested parties could challenge a decision by the municipal organ before the same ministry but an appeal had no suspensive effect (Article 5).

31. An apartment declared abandoned could be allocated for temporary use to "an active participant in the fight against the aggressor of the Republic of Bosnia and Herzegovina" or to a person who had lost his or her apartment due to hostilities (Article 7). Such temporary use could last up to one year after the date of the cessation of the imminent threat of war. A temporary user was obliged to vacate the apartment at the end of that period and to place it at the disposal of the authority that had allocated it (Article 8).

32. The occupancy right holder was to be regarded as having abandoned the apartment permanently if he or she failed to resume using it either within seven days (if he or she had been staying within the territory of the Republic of Bosnia and Herzegovina) or within fifteen days (if he or she had been staying outside that territory) from the publication of the Decision on the Cessation of the State of War (OG RBiH no. 50/95, published on 22 December 1995). The resultant loss of the occupancy right was to be recorded in a decision by the competent authority (Article 10 compared to Article 3 paragraph 3).

3. The Law on the Cessation of the Application of the Law on Abandoned Apartments

33. The old law was repealed by the Law on the Cessation of the Application of the Law on Abandoned Apartments ("the new law") which entered into force on 4 April 1998 and has been amended on several occasions thereafter (OG FBiH nos. 11/98, 38/98, 12/99, 18/99, 27/99 and 43/99).

34. According to the new law, no further decisions declaring apartments abandoned are to be taken (Article 1). All administrative, judicial and other decisions terminating occupancy rights based on regulations issued under the old law are invalid. Nevertheless, decisions establishing a right of temporary occupancy shall remain effective until revoked in accordance with the new law. Until 13 April 1999, also all decisions which had created a new occupancy right pursuant to regulations

issued under the old law were valid unless revoked. However, on that date, the High Representative decided that any occupancy right or contract on use made between 1 April 1992 and 7 February 1998 is cancelled. A person occupying an apartment on the basis of a cancelled occupancy right or decision on temporary occupancy is to be considered as a temporary user (Article 2). Also contracts and decisions made after 7 February 1998 on the use of apartments declared abandoned are invalid. Any person using an apartment on the basis of such a contract or decision is considered to be occupying the apartment without any legal basis (Article 16).

35. The occupancy right holder of an apartment declared abandoned has a right to return to the apartment in accordance with Annex 7 of the General Framework Agreement (Article 3 paragraphs 1 and 2). Persons using the apartment without any legal basis shall be evicted immediately or at the latest within 15 days (Article 3 paragraph 3). A temporary user who has alternative accommodation is to vacate the apartment within 15 days of the date of delivery (before 1 July 1999 within 90 days of the date of issuance) of the decision on repossession (Article 3 paragraph 4). A temporary user without alternative accommodation is given a longer period of time (at least 90 days) within which to vacate the apartment. In exceptional circumstances, this deadline may be extended for up to one year if the municipality or the allocation right holder responsible for providing alternative accommodation submits detailed documentation regarding its efforts to secure such accommodation to the cantonal administrative authority for housing affairs and that authority finds that there is a documented absence of available housing, as agreed upon with the Office of the High Representative. In such a case, the occupancy right holder must be notified of the decision to extend the deadline and the basis therefor 30 days before the original deadline expires (Article 3 paragraph 5 compared to Article 7 paragraphs 2 and 3).

36. All claims for repossession shall be presented to the municipal administrative authority competent for housing affairs (Article 4). With a few exceptions not relevant to the present application, the time-limit for an occupancy right holder to file a claim for repossession expired 15 months after the entry into force of the new law, i.e. on 4 July 1999 (Article 5 paragraph 1). If no claim was submitted within that time-limit, the occupancy right is cancelled (Article 5 paragraph 3).

37. Upon receipt of a claim for repossession, the competent authority, normally the municipal administrative authority for housing affairs, had 30 days to issue a decision (Article 6) containing the following parts (Article 7 paragraph 1):

1. a confirmation that the claimant is the occupancy right holder;
2. a permit for the occupancy right holder to repossess the apartment, if there was a temporary user in the apartment or if it was vacant or occupied without a legal basis;
3. a termination of the right of temporary use, if there was a temporary user in the apartment;
4. a time-limit during which a temporary user or another person occupying the apartment should vacate it; and
5. a finding as to whether the temporary user was entitled to accommodation in accordance with the Law on Taking Over the Law on Housing Relations.

38. Following a decision on repossession, the occupancy right holder is to be reinstated into his apartment not earlier than 90 days, unless a shorter deadline applies and no later than one year from the submission of the repossession claim (Article 7 paragraphs 2 and 3). Appeals against such a decision could be lodged by the occupancy right holder, the person occupying the apartment and the allocation right holder and should be submitted to the cantonal ministry responsible for housing affairs within 15 days from the date of receipt of the decision. However, an appeal has no suspensive effect (Article 8).

39. If the person occupying the apartment refuses to comply with an order to vacate it, the competent administrative body shall forcibly evict him or her at the request of the occupancy right holder (Article 11). If the occupancy right holder, without good cause, fails to reoccupy the apartment within certain time-limits, his or her occupancy right may be terminated in accordance with the procedures established under the new law and its amendments (Article 12).

3. The Law on Administrative Proceedings

40. Under Article 216 paragraph 1 of the Law on Administrative Proceedings (OG FBiH no. 2/98) the competent administrative organ has to issue a decision within 30 days upon receipt of a request to this effect. Article 216 paragraph 3 provides for an appeal to the administrative appellate body if a decision is not issued within this time limit (appeal against "silence of the administration").

IV. COMPLAINTS

41. The applicant alleges that his rights to his apartment have been violated. This allegation raises issues under Article 8 of the European Convention on Human Rights and Article 1 of Protocol No. 1 to the Convention. Further, the applicant alleges that the proceedings in this matter have not been conducted impartially which raises issues under Article 6 paragraph 1 and Article 13 of the Convention, regarding his right to a fair hearing and to an effective remedy, respectively.

V. SUBMISSIONS OF THE PARTIES

A. The Federation of Bosnia and Herzegovina

42. The Chamber received observations from the Federal Ministry of Defence for the Federation of Bosnia and Herzegovina on 10 July 1998. This submission is accepted as the observations of the Federation. Therein, it is argued that the application is inadmissible for failure to exhaust effective domestic remedies as, at the time when the observations were submitted, the court proceedings to have A.O. evicted were still pending. Further, the Federation argues that the applicant did not initiate proceedings under the old law with the administrative housing organs of the army or under the new law with the appropriate housing authority. The Federation states that 74 prewar occupancy right holders were able to repossess and reenter their apartments under the old law and that it was therefore an effective remedy.

43. The Federation also asserts that, if the application were found admissible, there are no violations of the applicant's human rights. The applicant's apartment was legally declared abandoned on the basis of the Law on Abandoned Apartments. Further, the Federation states that the reallocation to A.O. was done in accordance with law.

44. Moreover, the Federation argues that the applicant is not the owner of the apartment as the applicant has not paid the full purchase price.

B. Bosnia and Herzegovina

45. No observations were received from Bosnia and Herzegovina.

C. The applicant

46. In the applicant's various submissions, he has consistently maintained that the statements of the Federation are incorrect and unacceptable. He asserts that he has exhausted domestic remedies or that any domestic remedies that remain are ineffective. Further, he maintains his complaints regarding possible violations of his human rights.

VI. OPINION OF THE CHAMBER

A. Admissibility

47. Before considering the merits of the case the Chamber must decide whether it is admissible, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement. Under Article VIII(2)(a), the Chamber must consider whether effective remedies exist and whether the applicants have demonstrated that they have been exhausted.

48. In the *Onić* case (no. CH/97/58, decision on admissibility and merits delivered on 12 February 1999, paragraph 38, Decisions January-July 1999), the Chamber held that the domestic remedies available to an applicant "must be sufficiently certain not only in theory but [also] in practice, failing which they will lack the requisite accessibility and effectiveness. …[M]oreover, … in applying the rule on exhaustion it is necessary to take realistic account not only of the existence of formal remedies in the legal system … but also of the general legal and political context in which they operate as well as of the personal circumstances of the applicants".

49. In its observations, the Federation claims that the applicant has failed to exhaust domestic remedies and that the application is inadmissible as, at the time, the court proceedings to have A.O. evicted were still pending and the applicant had not initiated proceedings either under the old law or the new law. However, following the submission of those observations, the Municipal Court II in Sarajevo has declared the courts incompetent to hear the applicant's claim as recourse lies to the municipal administrative organs. The applicant appealed this decision but has not received a reply.

50. Further, the applicant has since submitted a claim under the new law to the Novo Sarajevo Administration for Housing Affairs. While the Federation argued that the applicant should have pursued his claim before the military administrative housing organs under the old law, the Chamber notes that such an argument is moot given that the old law has been repealed.

51. The applicant's case has been pending before the Administration for over one and a half years despite a legally mandated 30-day time-limit to make decisions in such cases. Owing to this delay, the applicant filed a "silence of the administration" claim on 27 August 1998 to the Cantonal Ministry of Environmental Planning, Housing and Municipal Affairs. On 18 September 1998 the Ministry ordered the Administration to respond within 15 days as to the reasons for the delay in deciding the applicant's claim. There has been no response to this order.

52. The Chamber finds therefore that the available domestic remedies have proved not to be effective in practice. The courts of the Federation have stated that they will not hear the applicant's case until the administrative proceedings have been concluded. Despite the efforts of the applicant and the above-mentioned Ministry, however, the Administration has failed to make a decision. The Chamber finds therefore that the applicant cannot be expected to attempt to exhaust any further remedies.

53. As no other ground for declaring the case inadmissible has been put forward, the Chamber declares the application admissible.

B. Merits

54. Under Article XI of the Agreement the Chamber must address the question whether the facts established above indicate a breach by one or both of the respondent Parties of their obligations under the Agreement. In terms of Article I of the Agreement the Parties are obliged to "secure to all persons within their jurisdiction the highest level of internationally recognised human rights and fundamental freedoms," including the rights and freedoms provided for in the Convention. The Chamber will therefore consider whether the decision declaring the apartment abandoned and allocating it to A.O. for permanent use may be considered a violation of the applicant's rights under Article 1 of the Agreement.

1. Article 8 of the Convention

55. In his application to the Chamber, the applicant complains that his inability to re-enter his home is a violation of his human rights. This would appear to raise issues under Article 8 of the Convention, which reads, in relevant parts, as follows:

> "1. Everyone has the right to respect for … his home …

> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

56. The respondent Parties did not submit any observations relating to this provision.

57. The Chamber has already found that the links which an applicant facing similar difficulties retained to his dwelling sufficed for this to be considered his "home" for the purposes of Article 8 paragraph 1 of the Convention (see, e.g., case no. CH/97/46, *Kevešević* , decision on admissibility and merits delivered on 15 July 1998, paragraph 42, Decisions and Reports 1998).

58. The applicant has been attempting to regain possession of his apartment since May 1997. As these attempts have been unsuccessful, there has been an interference with his right to respect for his home. In order to determine whether this interference has been justified under the terms of paragraph 2 of Article 8 of the Convention, the Chamber must examine whether it was "in accordance with the law", served a legitimate aim and was "necessary in a democratic society". There will be a violation of Article 8 if any one of these conditions is not satisfied (see the above-mentioned *Onić* decision, paragraph 49).

59. In previous cases, the Chamber has found that the provisions of the old law, including those relevant to this case, failed to meet the standards of "law" as this expression is to be understood under Article 8 of the Convention (see the above-mentioned *Onić* and *Kevešević* decisions). Correspondingly, it is clear that the declaration that the applicant's apartment was abandoned, which is the continuing source of the interference with the applicant's enjoyment of his right to respect for his home, was not done "in accordance with the law", as required by Article 8.

60. In so far as the present case relates to the application of the new law, the Chamber recalls its above findings relating to the admissibility of the case (see paragraph 51). Article 6 of the new law stipulates that a decision shall be made within 30 days from the receipt of the claim. This has not occurred in the applicant's case. Thus, there is an ongoing violation of Article 8 as the procedure for examining his repossession claim under the new law has not been completed "in accordance with the law" (see case no. CH/97/42, *Eraković*, decision on admissibility and merits delivered on 15 January 1999, paragraph 51, Decisions January-July 1999). On this point the Chamber adds that under Article 3 paragraph 9 of the new law it is explicitly stipulated that a failure of, for example, the cantonal authorities to meet their obligations under Article 3 shall not hamper the possibility of an occupancy right holder (such as the applicant) to re-enter the possession of an apartment.

61. Accordingly, the Chamber concludes that Article 8 of the Convention has been violated by virtue of the recognition and application of the old law, by the declaration that the apartment was abandoned, and by the continuing failure of the relevant authority to decide on the applicant's claim to repossess the apartment under the new law. The Federation is responsible for these violations.

2. Article 1 of Protocol No. 1 to the Convention

62. The applicant complains that his right to peaceful enjoyment of his possessions has been violated as a result of his inability to regain possession of his property. This raises issues under 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) Regarding the occupancy right

63. Whereas Bosnia and Herzegovina did not make any observations at all, the Federation of Bosnia and Herzegovina asserts that, as the apartment had been declared abandoned (under the old law) and the applicant was, thus, no longer the occupancy right holder, he had no economic interest in the apartment.

64. The Chamber recalls its consistent case-law according to which an occupancy right is a possession within the meaning of Article 1 of Protocol No. 1 (see the above-mentioned *Onić* decision, paragraph 55). Thus, whether or not the applicant has paid the full purchase price and become the owner of the apartment, the occupancy right he once held constitutes a possession protected under this provision.

65. With regard to the objections of the Federation, the Chamber recalls that it has previously found that a decision declaring abandoned an apartment over which someone enjoyed an occupancy right, and the allocation thereof to another person, done pursuant to the old law amounted to a *de facto* expropriation which was not "subject to the conditions provided for by law" and thereby in violation of Article 1 of Protocol No. 1 (see, e.g., the above-mentioned *Onić and Kevešević* decisions, paragraphs 56 and 80, respectively).

66. The Chamber notes that the apartment in question was declared abandoned by a decision of the military administrative housing organ of 24 September 1996, a decision which, apparently, the applicant was not notified of until September 1998 in the course of the court proceedings initiated by him. The Chamber finds that the applicant's rights under Article 1 of Protocol No. 1 to the Convention were violated by virtue of the decision of 24 September 1996 and the Federation authorities' continued refusal to recognise the applicant's occupancy right and allow him to return to the apartment.

(b) Regarding the purchase contract

67. With respect to the purchase contract, the Federation asserts that the applicant was not the owner of the apartment as he had not completed his contractual obligation of paying for it, and thus the applicant has no rights under the contract which could be a "possession" in terms of Article 1 of Protocol No. 1 to the Convention. Before considering this argument, however, the Chamber notes that the applicant completed his purchase contract on 21 February 1992, six days after the Socialist Republic of Bosnia and Herzegovina issued a decree imposing a temporary prohibition on the completion of such contracts (for a fuller description of this decree, see paragraph 24 above). This would seem to put the validity of the contract in doubt. The respondent Parties have not raised any arguments regarding this issue.

68. However, this issue is not central to the conclusions made in this decision as evidenced by the Chamber already having found a violation of Article 1 of Protocol No. 1 to the Convention regarding the applicant's occupancy right. The Chamber concludes, therefore, that it is not necessary to examine whether there exists a violation by Bosnia and Herzegovina or the Federation of Bosnia and Herzegovina with respect to Article 1 of Protocol No. 1 to the Convention regarding the applicant's rights under the purchase contract. Accordingly, it is also not necessary to address the Federation's argument regarding the applicant's ownership of the apartment.

3. Article 6 paragraph 1 of the Convention

69. The applicant complains that the administrative and judicial bodies have failed to conduct the proceedings with impartiality. He alleges that, as A.O. was an employee of the army, these bodies were biased against him. This complaint raises issues under Article 6 paragraph 1 of the Convention regarding the right to a fair hearing before an impartial tribunal. This provision reads, in relevant parts, as follows:

> "In the determination of his civil rights …, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. …"

70. Bosnia and Herzegovina did not submit observations on this point. The Federation of Bosnia and Herzegovina simply asserts that all proceedings in this matter were conducted in accordance with the laws and regulations in force at the time.

71. Noting that the court and administrative proceedings which are still pending concern the applicant's occupancy right over the apartment in question, the Chamber finds that these proceedings relate to his "civil rights" within the meaning of Article 6 paragraph 1 and that that provision is accordingly applicable to the present case.

72. The Chamber recalls that the impartiality of the tribunal for the purposes of Article 6 paragraph 1 must be determined according to a subjective test, that is on the basis of the personal conviction of a particular judge in a given case, and also according to an objective test, that is ascertaining whether the judge offered guarantees sufficient to exclude any legitimate doubt in this respect (see Eur. Court HR, *Fey v. Austria* judgment of 24 February 1993, Series A no. 255, p. 12, paragraph 28).

73. The applicant asserts that the delays in the court proceedings occurred for unjustified reasons. However, the relevant decisions state that the delays occurred because of A.O.'s failure to bring requested documents and to appear in court.

74. The applicant further argues that the judge's statement at the hearing of 1 July 1998, that A.O. would gain a decision in her favour if she presented the requested evidence, shows a lack of impartiality. Without greater substantiation, however, it is impossible for the Chamber to determine whether the judge was justified in making this statement and therefore whether the statement demonstrates a lack of impartiality. While the statement may be irregular, the Chamber cannot find that this statement, standing alone, shows a lack of subjective or objective impartiality. Therefore, it has not been substantiated that the applicant's right to have the dispute in question decided by an impartial tribunal has been violated.

75. The Chamber considers, however, that the case raises the question whether the proceedings have been expedited with reasonable speed. When assessing the length of proceedings for the purposes of Article 6 paragraph 1, the first step is to determine the period to be taken into consideration. The applicant first filed his claim to have A.O. evicted on 15 May 1997. There is still an appeal pending in this matter two years and eight months later. Further, the applicant has ongoing administrative proceedings under the new law before the first instance Administration for Housing Affairs in Novo Sarajevo, filed on 17 April 1998. Despite the intervention of the second instance body, the applicant has not received a decision in this matter.

76. A determination of the reasonableness of the length of proceedings is based on the complexity of the case, the conduct of the applicant and the authorities, and the matter at stake for the applicant (see, e.g., case no. CH/97/54, *Mitrović*, decision on admissibility of 10 June 1998, paragraph 10, Decisions and Reports 1998).

77. The issue underlying the court proceedings is who has the right to the property in question. The Chamber cannot find this issue to be of a particularly complex nature.

78. As to the conduct of the applicant it is clear that he has pursued the various procedures available to him in an expeditious manner. He has attempted to speed up the proceedings and have the relevant bodies issue decisions.

79. The authorities in this case, however, have not met their responsibility to ensure that the proceedings are expedited in a reasonable time. The applicant currently has two appeals pending, one administrative and one before the courts. The authorities of the Federation have not acted in accord with its own laws and procedures in an effort to decide these proceedings and has offered no explanation for the delays. Clearly, therefore, the conduct of the authorities is the main cause of the delays in the various proceedings.

80. Finally, the Chamber notes that a speedy outcome of the dispute would have been of particular importance to the applicant, given that the question concerned his home and property.

81. In view of the above, the Chamber finds that Article 6 paragraph 1 of the Convention has been violated in that the proceedings in the applicant's case have not been determined within a reasonable time. The Federation is responsible for this violation.

4. Article 13 of the Convention

82. The applicant also complains that he has been the victim of a breach of Article 13 of the Convention as there is no effective remedy available to him.

83. However, the guarantees afforded by Article 13 of the Convention are less strict than those stipulated by Article 6 paragraph 1. Thus, having regard to finding of a violation under the latter provision, the Chamber considers it unnecessary to examine the complaint also under Article 13 of the Convention.

VII. REMEDIES

84. Under Article XI(1)(b) of the Agreement the Chamber must address the question of what steps shall be taken by the respondent Party to remedy the established breaches of the Agreement. In this connection the Chamber shall consider issuing orders to cease and desist, monetary relief (including pecuniary and non-pecuniary damages) as well as provisional measures.

85. The applicant has requested the Chamber to enable him to be reinstated into his apartment. In addition the applicant described a variety of items, including his apartment and other possessions, that he claims have been damaged by either the army or A.O. The respondent Parties did not comment on the applicant's compensation claim.

86. In the present case the Chamber considers it appropriate to order the Federation to take all necessary steps to enable the applicant to return swiftly to his apartment, and in any case not later than one month after the date when this decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure.

87. The applicant's further request that the Chamber hold A.O. responsible for any damage to his apartment or possessions must be rejected as A.O. is not, and cannot be, a respondent Party before the Chamber. Therefore, this request is beyond the Chamber's competence *ratione personae*.

88. Lastly, following its Rules of Procedure, the Chamber asked the applicant if he had any further claims for compensation. The applicant made no such claims. However, neither Article XI(1)(b) of the Agreement nor rule 59 of the Chamber's Rules of Procedure preclude the Chamber from ordering remedies that have not been requested by an applicant (see, e.g., cases nos. CH/98/659 *et al.*, *Pletilić and others,* decision on admissibility and merits delivered on 10 September 1999, paragraph 236, Decisions August – December 1999). Given that the applicant has been attempting to regain possession of the apartment for a protracted period of time, and that the delays are primarily the responsibility of the Federation, the Chamber considers it appropriate to order the Federation to pay the applicant 1,200 Convertible Marks (*Konvertibilnih Maraka*) for the mental distress he has suffered as a result of his inability to regain possession of the property.

VIII. CONCLUSIONS

89. For the above reasons the Chamber decides,

1. unanimously, to declare the case admissible;

2. unanimously, that there has been a violation of the applicant's right to respect for his home within the meaning of Article 8 of the European Convention on Human Rights, in so far as his

apartment was declared permanently abandoned and he was prevented from returning to it due to the failure after the entry into force of the Law on the Cessation of the Application of the Law on Abandoned Apartments to decide finally and in time on the substance of his claim for repossession, the Federation of Bosnia and Herzegovina thereby being in breach of Article I of the Human Rights Agreement;

3. unanimously, that that there has been a violation of the applicant's right to peaceful enjoyment of his possessions within the meaning of Article 1 of Protocol No. 1 to the Convention in so far as his apartment was declared permanently abandoned and he was prevented from returning to it due to the failure after the entry into force of the Law on the Cessation of the Application of the Law on Abandoned Apartments to decide finally and in time on the substance of his claim for repossession, the Federation of Bosnia and Herzegovina thereby being in breach of Article I of the Agreement;

4. by 6 votes to 1, that it is not necessary to rule on the complaint as against Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina with respect to Article 1 of Protocol No. 1 to the Convention regarding the applicant's rights under the purchase contract;

5. unanimously, that there has been a violation of the applicant's right to a hearing within a reasonable time as guaranteed by Article 6 paragraph 1 of the Convention, the Federation of Bosnia and Herzegovina thereby being in breach of Article I of the Agreement;

6. unanimously, that it is not necessary to rule on the complaint under Article 13 of the Convention;

7. unanimously, to order the Federation of Bosnia and Herzegovina to take all necessary steps to enable the applicant to return swiftly to his apartment, and in any case not later than one month after the date when this decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure;

8. unanimously, to order the Federation of Bosnia and Herzegovina to pay the applicant, not later than one month after the date when this decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure, 1,200 (one thousand two hundred) Convertible Marks (*Konvertibilnih Maraka*) by way of non-pecuniary compensation for mental suffering; and

9. unanimously, to order the Federation of Bosnia and Herzegovina to report to the Chamber within two weeks of the expiry of the time-limits referred to in conclusions number 7 and 8 on the steps taken by it to give effect to this decision.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel

HUMAN RIGHTS CHAMBER
FOR BOSNIA AND HERZEGOVINA

DOM ZA LJUDSKA PRAVA
ZA BOSNU I HERCEGOVINU

DECISION ON ADMISSIBILITY AND MERITS
(delivered on 7 September 2001)

Case no. CH/97/114

Fatima RAMIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 4 September 2001 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
Mr. Mato TADIĆ

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar

Having considered the aforementioned application introduced pursuant to Article VIII(1) of the Human Rights Agreement ("the Agreement") set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Adopts the following decision pursuant to Articles VIII(2) and XI of the Agreement and Rules 52, 57 and 58 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The applicant, Fatima Ramić, has been the occupancy right holder of an apartment at Nerkeza Smajlagića No. 17/XII (formerly Španskih boraca), Sarajevo, which she temporarily left in the late 1980s because her son needed treatment for his asthma in Croatia. The applicant's daughter continued to stay in the apartment and the applicant visited the apartment from time to time. On 20 May 1992 the applicant's daughter left the apartment due to the hostilities. The case concerns the applicant's attempts to regain possession of her apartment. Ms. Ramić has tried to repossess her apartment not only through competent local administrative bodies, but she has also lodged an application with the Commission for Real Property Claims of Displaced Persons and Refugees (hereinafter "CRPC"). In November 1998 CRPC issued a decision confirming the applicant's status as the occupancy right holder of the apartment at issue and finding that the applicant is entitled to regain possession of the apartment. In January 2000, the local administrative body issued a decision stating that the applicant left the apartment in 1989 and that the conditions in the Law on Amendments to the Law on Cessation of the Application of the Law on Abandoned Apartments (Official Gazette of the Federation of Bosnia and Herzegovina, No. 27/99, hereinafter "the new law") therefore had not been met (see paragraph 39 below).

2. The case raises issues under Article 8 of the European Convention on Human Rights and under Article 1 of Protocol No. 1 to the Convention.

II. PROCEEDINGS BEFORE THE CHAMBER

3. The application was introduced on 23 December 1997 and registered on the same day.

4. On 9 February 1999 the Chamber decided to transmit the application to the respondent Party for its observations on the admissibility and merits thereof. The respondent Party submitted its observations on 16 April 1999.

5. The applicants' further observations were submitted on 8 June 1999 and transmitted to the respondent Party. The respondent Party did not file any additional written observations.

6. On 4 October 1999 the Chamber received a copy of a CRPC decision from the applicant confirming that the applicant was the holder of the occupancy right over the apartment and that she had the right to repossess it.

7. On 14 March 2000 the Chamber received a copy of the procedural decision of the Administration of Housing Affairs of Sarajevo Canton of 19 January 2000 from the applicant. The decision rejected a request of the applicant of 27 April 1998 for repossession of her apartment.

8. On 5 June 2000 and 18 September 2000 the Chamber received letters from the applicant in which she informed the Chamber that she still had not regained possession of her apartment. On 30 November 2000 the Chamber transmitted both the letters to the respondent Party for its information.

9. On 30 November 2000 the Chamber sent a letter to the applicant asking her if she had submitted a request for enforcement of the CRPC decision and what steps she had taken against the decision of Administration for Housing Affairs of Sarajevo Canton dated 19 January 2000.

10. On 14 December 2000 the applicant informed the Chamber that she had submitted a request for enforcement of the CRPC decision on 16 October 2000. A copy of the request for enforcement was included.

11. On 22 February 2001 the Chamber sent a letter to the applicant asking her about the proceeding for the enforcement of the CRPC decision and whether she had regained possession over her apartment. Further the Chamber invited the applicant to specify in detail her claims for compensation or other relief.

12. On 6 March 2001 the Chamber received the applicant's response including her claims for compensation. The applicant informed the Chamber that her situation was unchanged.

13. On 8 June 2001 the applicant submitted a copy of a conclusion on permission of enforcement of the CRPC decision issued by Administration for Housing Affairs of Sarajevo Canton on 6 April 2001.

14. On 18 June 2001 the Chamber transmitted the documents and letters including the compensation claim, which it had received on 14 March 2000, 14 December 2000, 6 March 2001 and 8 June 2001 to the respondent Party for information and possible comments. No comments were received.

15. On 30 July 2001 the applicant informed the Chamber that she still had not been reinstated into her apartment.

16. On 2 and 3 July and 3 September 2001 the Chamber considered the admissibility and merits of the application. On 4 September 2001 the Chamber adopted the present decision.

III. FACTS

A. Domestic Proceedings.

17. As of 27 July 1980, the applicant has been the occupancy right holder of an apartment in Nerkeza Smajlagića No. 17/XII (formerly Španskih boraca), Sarajevo. The applicant temporarily left the apartment in the late 1980s because her son needed treatment for his asthma in Croatia. The applicant's daughter continued to live in the apartment and the applicant visited the apartment from time to time. On 20 May 1992 the applicant's daughter left the apartment due to the hostilities.

18. On 18 April 1996 the City Secretariat for Housing Affairs in Sarajevo (the competent municipal organ, hereinafter the "Secretariat") declared the applicant's apartment permanently abandoned. On 10 September 1996 the allocation right holder (the Tobacco Company Sarajevo, hereinafter "the Company") allocated the apartment to its employee, Mr. H.O.

19. The applicant returned to Sarajevo in early 1997 and on 9 April 1997 she submitted a request to the company for her reinstatement into the apartment. By a letter of 2 May 1997 the Company answered the applicant that the request was ill-founded since the apartment had been permanently abandoned by a decision of the Secretariat.

20. By a letter of 12 May 1997 the applicant objected to the Company's letter by stating the reasons for her leaving the apartment, i.e. that she temporarily left the apartment because her son was very ill. On 4 June 1997 the Company repeated that her request for reinstatement was ill-founded.

21. On various dates in 1997 the applicant addressed herself to several Government institutions of the Federation of Bosnia and Herzegovina and institutions of Sarajevo Canton complaining about her inability to repossess her apartment.

22. On 27 April 1998 the applicant submitted a request, based on the Law on the Cessation of the Application of the Law on Abandoned Apartments (hereinafter "the new Law" –see paragraphs 36-45 below), to the Administration of Housing Affairs of Sarajevo Canton department Novi Grad (hereinafter "the Administration"), asking it to issue a decision confirming her occupancy right.

23. On 10 July 1998 the Administration issued a decision stating that the applicant, "holder of the occupancy right, is entitled to submit the request for reinstatement of the apartment". Further it is stated that upon the expiration of a 30 days time-limit, the case was to be delivered to the Cantonal organ in order to be decided upon. However, the Cantonal organ has never issued a decision.

24. On 7 December 1999 the Administration held a hearing.

25. On 19 January 2000 the Administration issued a new decision rejecting the applicant's request for repossession of the apartment of 27 April 1998. The Administration stated that the applicant left the apartment on 10 August 1989 and that the conditions of the new law had therefore not been met (see paragraph 39 below).

26. On 24 March 2000 the applicant filed an appeal against the decision of 19 January 2000 to the Ministry for Housing Affairs of Canton Sarajevo (hereinafter "the Ministry"). On 14 June 2000 the Ministry issued a decision refusing the applicant's appeal against the Administration's decision of 19 January 2000. The decision was not delivered to the applicant, and on 3 July 2000 the applicant submitted a "warning before suit" to the Ministry for its failure to issue a decision.

27. On 9 August 2000 the applicant submitted a request to the Administration for the issuance of a certificate regarding the condition of her apartment in order to get an extension of her permission to stay in the temporary accommodation in the Collective Center. The applicant received the requested certificate on 13 September 2000. It is stated that she was the occupancy right holder of the apartment and that another person was living there at that moment.

B. Proceedings relating to the CRPC decision.

28. In addition to her proceedings before the competent domestic organs, the applicant also filed a claim with CRPC. On 12 November 1998, CRPC issued a decision, no 201-2485-1/1, confirming the applicant's status as the occupancy right holder of the apartment in question. CRPC found that the applicant was entitled to regain possession of the apartment in accordance with Article 1 of Annex 7. It further put out of force all acts of judicial or administrative organs issued after 30 April 1991 terminating or limiting the occupancy right of the applicant to the apartment in question.

29. On 16 October 2000, the applicant filed a request for the execution of the CRPC decision to the Administration.

30. On 6 April 2001 the Administration issued a conclusion authorising the enforcement of the CRPC decision establishing that the applicant was allowed to regain possession of her apartment and that the current occupant had to vacate the apartment within 15 days. However, from the information available to the Chamber it appears that the applicant has still not been reinstated into her apartment.

IV. RELEVANT LEGAL PROVISIONS

A. The 1992 Law on Abandoned Apartments.

31. The Law on Abandoned Apartments ("the old Law"), originally issued on 15 June 1992 as a decree with force of law, was adopted as law on 1 June 1994 and amended on various occasions (Official Gazette of the Republic of Bosnia and Herzegovina, Nos. 6/92, 8/92, 16/92, 13/94, 36/94, 9/95 and 33/95). The old Law governed the re-allocation of occupancy rights over socially-owned apartments which had been abandoned. On 4 April 1998, the old Law was repealed by the Law on the Cessation of the Application of the Law on Abandoned Apartments (Official Gazette of the Federation of Bosnia and Herzegovina, No. 11/98; hereinafter the "new Law"), which entered into force on that day.

32. Under Article 1 of the old Law an occupancy right was suspended if the holder of that right and the members of his or her household abandoned the apartment after 30 April 1991. Article 2 defined an apartment as abandoned if, even temporarily, it was not used by the occupancy right holder or the members of his or her household. Article 3 provided for some exceptions to this definition, including the following:

> a. if the holder of the occupancy right and members of his or her household had resumed using the apartment either within seven days from the issuing of the declaration on

the cessation of the state of war (if the holder of the right had been staying within the territory of the Republic of Bosnia and Herzegovina) or within fifteen days from the issuing of this declaration (if he or she had been staying outside that territory); or

b. if the holder of the occupancy right or members of his or her household had, within the terms of the requisite permission to stay abroad or in another place within the country, left the apartment for the purpose of effecting a private or business journey; had been sent as a representative of a state authority, enterprise, state institution or other organisation or association upon the request of, or with the approval of, a competent state authority; had been sent for medical treatment; or had joined the armed forces of the Republic of Bosnia and Herzegovina.

33. A state organ, a holder of an allocation right, a political organisation, a social organisation, an association of citizens or a housing board could initiate proceedings seeking to have an apartment declared abandoned. The competent municipal housing authority was to decide on a request to this end within 7 days and could also *ex officio* declare an apartment abandoned. Failing a decision within this time limit, the decision was to be made by the Minister for Urban Planning, Construction and Environment (Articles 4-6). Interested parties could challenge a decision by the municipal organ before the same Ministry, but an appeal had no suspensive effect.

34. An apartment declared abandoned could be allocated for temporary use to "an active participant in the fight against the aggressor against the Republic of Bosnia and Herzegovina" or to a person who had lost his or her apartment due to hostile action. Such temporary use could last up to one year after the date of the cessation of the imminent threat of war. A temporary user was obliged under the threat of eviction to vacate the apartment at the end of that period and to place the apartment at the disposal of the organ which allocated it (Articles 7-8).

35. If the holder of the occupancy right failed to resume using the apartment within the applicable time limit laid down in Article 3, read in conjunction with Article 10, he or she was regarded as having abandoned the apartment permanently. The resultant loss of the occupancy right was to be recorded in a decision by the competent authority (Article 10).

B. The 1998 Law on the Cessation of the Application of the Law on Abandoned Apartments.

36. The old Law was repealed by the Law on the Cessation of the Application of the Law on Abandoned Apartments ("the new Law") which entered into force on 4 April 1998 and has been amended on several occasions thereafter (Official Gazette of the Federation of Bosnia and Herzegovina nos. 11/98, 38/98, 12/99, 18/99, 27/99 and 43/99).

37. According to the new Law, no further decisions declaring apartments abandoned are to be taken. The old Law and the regulations passed thereunder, as well as other regulations regulating the issue of abandoned apartments passed between 30 April 1991 and the entry into force of this law (i.e. 4 April 1998), which are being applied on the territory of the Federation, shall cease to be applied on the day of the entry into force of this law (Article 1). All administrative, judicial and other decisions terminating occupancy rights based on regulations issued under the old Law are invalid. Nevertheless, decisions establishing a right of temporary occupancy shall remain effective until revoked in accordance with the new Law. Until 13 April 1999, all decisions which had created a new occupancy right pursuant to regulations issued under the old Law were also valid unless revoked. However, on that date, the High Representative decided that any occupancy right or contract on use made between 1 April 1992 and 7 February 1998 is cancelled. A person occupying an apartment on the basis of a cancelled occupancy right or decision on temporary occupancy is to be considered as a temporary user (Article 2). Also contracts and decisions made after 7 February 1998 on the use of apartments declared abandoned are invalid. Any person using an apartment on the basis of such a contract or decision is considered to be occupying the apartment without any legal basis.

38. The holder (or a member of his or her household) of an occupancy right in respect of an apartment which has been declared abandoned is referred to in the new Law as “the occupancy right holder” (Article 3(1)). The holder of a newly allocated occupancy right based either on a decision of the holder of the allocation right or on a contract is referred to as “the current occupant” (Article 3(6)).

39. According to Article 3(1) the occupancy right holder of an apartment declared abandoned or a member of his or her household shall have the right to return to it in accordance with Annex 7 of the General Framework Agreement which states that all refugees and displaced persons have the right to freely return to their homes of origin. Article 3(2) of the new Law states that persons who left their apartment between 30 April 1991 and 4 April 1998 shall be considered to be refugees and displaced persons under Annex 7 of the General Framework Agreement.

40. The occupancy right holder shall be entitled to seek his or her reinstatement into the apartment at a certain date which must not be earlier than 90 days and no later than one year from the submission of the claim (Articles 3, 4, and 7). The competent authority shall decide on such a repossession claim within 30 days (Articles 6-7). The decision shall be delivered to the occupancy right holder, the holder of the allocation right, and the current occupant within five days from its issuance. An appeal lies to the Cantonal Ministry for Housing Affairs within 15 days from the date of receipt of the decision. An appeal shall not suspend the execution of the decision (Article 8).

41. If the apartment is occupied without a legal basis or was vacant when the new Law entered into force, the occupancy right holder shall be granted repossession of the apartment without any restriction and any temporary user shall be evicted (Article 3(3)). A person who is temporarily occupying the apartment and whose housing needs are otherwise met shall vacate the apartment within 90 days from the decision pursuant to Article 6 (Article 3(4)).

42. The period within which the apartment must be vacated, in cases where a temporary occupant’s housing needs are not otherwise met, shall not be shorter than 90 days from the issuance of the decision pursuant to Article 6 of the new Law. He or she shall be provided with accommodation by the administrative body on the territory of which she/he had her/his latest domicile or residence (Article3(5)). However, in no event shall a failure of the responsible bodies to meet their obligations under Article 3, delay the attempts of “an occupancy right holder” to reclaim his or her apartment (Article 3(9)). In exceptional circumstances the deadline for vacating an apartment may be extended to up to one year if the municipality or the allocation right holder responsible for providing alternative accommodation provides the cantonal administrative authority with detailed documentation about the efforts to secure alternative accommodation and if the cantonal authority finds that there is documented lack of available housing. In every individual case, the requirements of the Convention and its Protocols must be met, and the occupancy right holder must be notified of the decision extending the deadline, including its reasoning, 30 days before the initial deadline expires (Article 7(3)).

43. According to Article 7, a decision within the meaning of Article 6 shall contain a confirmation that the claimant is the holder of the occupancy right; a decision granting repossession of the apartment to the occupancy right holder if the dwelling is temporarily occupied by someone else, is vacant, or is occupied without legal basis; a decision terminating the right of temporary occupancy if the apartment is in temporary use; a time limit by which a temporary user or another person occupying the apartment shall vacate it; and a decision as to whether the temporary user is entitled to accommodation in accordance with the Law on Housing Relations. Under Article 10 of the Instruction of 30 April 1998 on the Application of Article 4 of the new Law, the authority issuing the decision within the meaning of Article 6 of the new Law shall verify the status of the occupancy right; verify whether the apartment is uninhabitable, vacant, or occupied; and verify the status of any current occupant (illegal, temporary occupant, or person living in the apartment prior to 7 February 1998 on the basis of an occupancy right acquired before that date). Contracts on the use of apartments declared abandoned pursuant to regulations issued under the old Law and decisions on the allocation of such an apartment shall be null and void, if concluded or issued after 7 February 1998 (Article 16).

44. If “a person occupying the apartment” fails to comply voluntarily with a decision ordering him

to vacate the apartment, the competent administrative body shall take enforcement measures at the request of the occupancy right holder (Article 11).

45. Pursuant to Article 14, the occupancy right holder (and any other person affected by a decision issued under Article 7) may "at any time file a claim with [CRPC]". Moreover, with regards to determining the rights and obligations of the occupancy right holder, a decision of CRPC is "final and binding" and "has the same power as a decision by any competent domestic body issued in accordance with this law."

C. The General Framework Agreement for Peace in Bosnia and Herzegovina – Annex 7, Agreement on Refugees and Displaced Persons.

46. The General Framework Agreement for Peace in Bosnia and Herzegovina ("the General Framework Agreement") was signed by the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (the "Parties") in Paris on 14 December 1995. Annex 7 to the General Framework Agreement deals with refugees and displaced persons, and in accordance with Article VII of Annex 7 an independent Commission for Displaced Persons and Refugees, later renamed Commission for Real Property Claims of Displaced Persons and Refugees (CRPC), was established.

47. CRPC shall receive and decide any claims for real property in Bosnia and Herzegovina, where the property has not voluntarily been sold or otherwise transferred since 1 April 1992, and where the claimant does not enjoy possession of that property (Article XI). CRPC shall determine the lawful owner of the property – a concept which CRPC has construed to include an occupancy right holder - according to Article XII(1).

48. According to Article XII(7), decisions of CRPC are final, and any title, deed, mortgage, or other legal instrument created or awarded by CRPC shall be recognised as lawful throughout Bosnia and Herzegovina.

49. The Parties shall cooperate with the work of CRPC and shall respect and implement its decisions expeditiously and in good faith (Article VIII).

D. The Law on Implementation of the Decisions of the Commission for Real Property Claims of Displaced Persons and Refugees.

50. The Law on Implementation of the Decisions of the Commission for Real Property Claims of Displaced Persons and Refugees (OG FBiH 43/99 – hereinafter the "Law on Implementation"), which entered into force on 28 October 1999, regulates the enforcement of decisions of CRPC.

51. The administrative body responsible for property-related legal affairs in the municipality where the property is located shall enforce decisions of CRPC relating to real property owned by citizens (Article 3, paragraph 2). Decisions of CRPC relating to an apartment for which there is an occupancy right shall be enforced by the administrative body for housing affairs in the municipality where the apartment is located (Article 3, paragraph 3). CRPC decisions shall be enforced if a request for the enforcement has been filed with the relevant organ. The following persons are entitled to file such a request: the right holder specified in the CRPC decision and his/her heirs relating to real property owned by citizens (Article 4, paragraph 1) and relating to apartments for which there is an occupancy right; the occupancy right holder referred to in a CRPC decision and the persons who, in compliance with the Law on Housing Relations, are considered to be members of the family household of the occupancy right holder (Article 4, paragraph 2).

52. The right to file a request for enforcement of a CRPC decision confirming a right to private property is not subject to any statute of limitation (Article 5, paragraph 1). The request for enforcement of a CRPC decision confirming an occupancy right must be submitted within 18 months from the date when the CRPC decision was issued, or for decisions issued before this Law entered into force, within 18 months from the entry into force of this Law (Article 5, paragraph 2, as amended

by the High Representative, effective 28 October 2000). (Previously, the time limit had been one year.)

53. The request for enforcement of a CRPC decision shall include two photocopies of the CRPC decision relating to real property owned by citizens, and three photocopies of the CRPC decision relating to the occupancy right (Article 6). The administrative organ responsible for the enforcement of a CRPC decision is obliged to issue a conclusion on the permission of enforcement within a period of 30 days from the date when the request for enforcement was submitted and shall not require any confirmation of the enforceability of the decision from CRPC or any other body (Article 7, paragraphs 1 and 2). The conclusion shall contain the following:

1. in the case of property or apartments that have been declared abandoned, a decision terminating the municipal administration of the property;
2. a decision on repossession of the property or apartment by the right holder or other requestor of enforcement;
3. a decision terminating the right of the temporary user (where there is one) to use the property or apartment;
4. a time limit for the enforcee to vacate the property;
5. a decision on whether the enforcee is entitled to accommodation in accordance with applicable laws; and
6. a requirement that the premises shall be vacated of all persons and possessions other than those belonging to the person authorised to return into possession.

54. According to Article 7, paragraph 5, the time limit for vacating the house or apartment shall be the minimum time limit applicable under the Law on the Cessation of the Application of the Law on Abandoned Apartments (OG FBiH nos. 11/98, 38/98, 12/99, 18/99, 27/99 and 43/99) or the Law on the Cessation of the Application of the Law on Temporary Abandoned Real Property Owned by Citizens (OG FBiH 11/98, 29/98, 27/99 and 43/99).

55. Article 7, paragraph 6 states that in case a requestor for enforcement has commenced proceedings for enforcement of a decision issued by the responsible administrative organ in relation to the same property or apartment under the new Law, and this person subsequently submits the decision of the CRPC for enforcement, the responsible administrative organ shall join the proceedings for enforcement of both decisions. The date on which the person commenced enforcement proceedings for the first decision shall be considered, for the purposes of this law, the date of submission of the request for enforcement.

56. Article 9 states that a decision of CRPC is enforceable against the current occupants of the property concerned, regardless of the basis on which they occupy it.

57. Under the terms of Article 10, paragraph 1, the right holder referred to in the CRPC decision and/or any other person who held a legal interest in the property or apartment at issue on the date referred to in the dispositive of the CRPC decision, is entitled to submit a request for reconsideration to CRPC in accordance with CRPC regulations. Additionally, Article 10, paragraph 2 provides that a person with a legal interest in the property or apartment at issue which was acquired after the date referred to in the dispositive of the CRPC decision may lodge an appeal against the conclusion on permission of enforcement issued by the competent administrative organ. The appellant is required to prove that the right holder named in the Commission's decision voluntarily and lawfully transferred his or her rights to the appellant since the date referred to in the dispositive of the CRPC decision (Article 12, paragraph 2).

58. Enforcement of the CRPC decision shall not be suspended by the use of any legal remedy, except in the following two cases:

1. the competent administrative authority may suspend enforcement if it is notified by CRPC that a request for reconsideration of the CRPC decision has been lodged in accordance with CRPC regulations (Article 11, paragraph 2);

2. the court before which an appeal lodged under Article 10, paragraph 2 is pending may suspend enforcement if a verified contract on the transfer of rights was made after 14 December 1995 (Article 12, paragraph 4).

E. The Law on Administrative Proceedings.

59. Under Article 216, paragraph 1 of the Law on Administrative Proceedings (OG FBiH nos. 2/98, 48/99), the competent administrative organ must issue a decision to execute an administrative decision within 30 days of the receipt of a request to this effect. Article 216, paragraph 3 provides for an appeal to the administrative appellate body if a decision is not issued within this time limit, as if the request were denied (appeal against "silence of the administration"). In order to commence execution of an administration decision, Article 275, paragraph 1 states that the competent administrative organ shall adopt the conclusion on the permission of the execution of a decision. This conclusion shall state that the decision to be executed has become effective and shall outline the manner of execution. According to Article 275, paragraph 2, this conclusion shall be adopted without delay once the decision has become effective and no later than 30 days after the decision has become effective.

F. The Law on Administrative Disputes.

60. Article 1 of the Law on Administrative Disputes (OG FBiH nos. 2/98, 8/00) provides that the courts shall decide administrative disputes on the lawfulness of second instance administrative acts concerning rights and obligations of citizens and legal persons.

61. Article 22, paragraph 3 provides that an administrative dispute may also be instituted if the administrative second instance organ fails to render a decision within the prescribed time limit, whether the appeal to it was against a decision or against the first instance organ's silence.

V. COMPLAINTS

62. The applicant claims that her right to respect for her home as guaranteed by Article 8 of the European Convention and her right to peaceful enjoyment of possessions as guaranteed by Article 1 of Protocol No. 1 to the European Convention have been violated. The applicant also claims that she has been discriminated against.

VI. SUBMISSIONS OF THE PARTIES

A. The respondent Party

63. As to the admissibility of the case, the Federation stated on 16 April 1999 that the applicant has not even started to exhaust the domestic remedies. The Federation further stated that the new Law as well as the Law on Administrative Proceedings and the Law on Administrative Disputes, provide for the possibility to claim repossession of an apartment declared abandoned, and they have therefore provided an effective remedy which the applicant has not exhausted.

64. As for the merits, the Federation argued on 16 April 1999 that Article 8 of the Convention has not been violated since the applicant by her own will abandoned the apartment. The Federation further stated that Article 1 of Protocol No. 1 to Convention is not applicable because the applicant's occupancy right could not be regarded as a property right according to national legislation. In the alternative, it is argued that the interference with the applicant's property right was justified, given the need to provide alternative accommodation to a temporary occupant who could no longer inhabit his/her dwelling due to the hostilities. Furthermore, the Federation argued that there has been no violation of Article 14 of the Convention since that Article does not apply in isolation, i.e. since there has been no violation of any other Articles of the Convention, there has also not been a violation of Article 14 of the Convention.

B. The applicant

65. The applicant maintains her complaints and states that she did not leave her apartment permanently and that her daughter stayed in the apartment until 1992. Further, she states that she already submitted a request under the new Law for repossession of the apartment to the Administration on 27 April 1998 and that she still has not regained possession of her apartment.

VII. OPINION OF THE CHAMBER

A. Admissibility

66. Before considering the merits of this case the Chamber must decide whether to accept it, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement.

67. According to Article VIII(2)(a) of the Agreement, the Chamber must consider whether effective remedies exist and whether the applicant has demonstrated that they have been exhausted. In the *Blentić* case (case no. CH/96/17, decision on admissibility and merits delivered on 3 December 1997, paragraphs 19-21, Decisions on Admissibility and Merits 1996-1997), the Chamber considered this admissibility criterion in light of the corresponding requirement to exhaust domestic remedies in the former Article 26 of the Convention (now Article 35(1) of the Convention). The European Court of Human Rights has found that such remedies must be sufficiently certain not only in theory but in practice, failing which they will lack the requisite accessibility and effectiveness. The Court has, moreover, considered that in applying the rule on exhaustion, it is necessary to take realistic account not only of the existence of formal remedies in the legal system of the Contracting Party concerned, but also of the general legal and political context in which they operate, as well as of the personal circumstances of the applicants.

68. In the present case the Federation objects to the admissibility of the application on the ground that the domestic remedies provided by the new law, by the Law on Administrative Proceedings and by the Law on Administrative Disputes have not been exhausted.

69. The Chamber notes that the applicant submitted a request for repossession of her apartment to the Administration under the new Law on 27 April 1998. The Administration issued one decision on 10 July 1998 and one decision on 19 January 2000. The applicant has filed an appeal to the Ministry against the decision of the Administration of 19 January 2000. The Ministry issued a decision on 14 June 2000. Consequently the Federation's statement of 15 April 1999, that the applicant has not started to exhaust domestic remedies, is not correct.

70. The Chamber further notes that the applicant also filed an application to CRPC with a view to being reinstated into her apartment. CRPC issued a decision on 12 November 1998 confirming the applicant's status as the occupancy right holder of the apartment, from which it follows that she was entitled to seek the removal of the temporary occupant and to repossess the apartment. However, this decision has not been enforced despite the applicant's enforcement request to the competent administrative organ, which was pending for over 7 months before a conclusion was issued. According to Article 7 of the Law on Implementation the competent administrative organ was obliged to issue a conclusion on permission of enforcement within a period of 30 days from the date when the request for enforcement was submitted. According to the information available to the Chamber the CRPC decision has still not been enforced even though a conclusion on enforcement of it has been issued.

71. The Chamber notes that it is still open to the applicant to make further attempts to have the Administration's decision of 10 July 1998 and the CRPC decision enforced. However the applicant has already made repeated attempts to remedy her situation and they have been unsuccessful. Use of the remedies provided by the Law on Administrative Proceedings and by the Law on Administrative Disputes, even if successful, would also not remedy the applicant's complaints in so far as they relate to the failure of the authorities to issue and enforce decisions within the time-limit prescribed by law. Furthermore, there is no reason to suppose that the responsible authorities, which have for a

long period disregarded their legal obligations to issue and enforce the decisions, will treat the decisions of the courts with any greater respect.

72. In these circumstances the Chamber is satisfied that the applicant could not be required, for the purposes of Article VIII(2)(a) of the Agreement, to pursue any further remedy provided by domestic law.

73. Regarding the applicant's claim of discrimination the Chamber notes that the applicant has not submitted any evidence to support her allegations that she has been discriminated against. The Chamber is therefore of the opinion that this part of the application is unsubstantiated and thus manifestly ill-founded.

74. The Chamber further finds that no other ground for declaring the case inadmissible has been established. Accordingly, the case is to be declared admissible in respect of Article 8 of the European Convention and Article 1 of Protocol 1 to the European Convention and inadmissible as manifestly ill-founded in respect of the applicant's claim of discrimination.

B. Merits

75. Under Article XI of the Agreement the Chamber must next address the question whether the facts established above disclose a breach by the respondent Party of its obligations under the Agreement. Under Article I of the Agreement the parties are obliged to "secure to all persons within their jurisdiction the highest level of internationally recognised human rights and fundamental freedoms," including the rights and freedoms provided for in the Convention.

1. Article 8 of the Convention

76. The relevant portion of Article 8 of the Convention provides as follows:

> "1. Everyone has the right to respect for…his home….
>
> "2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

77. The Chamber notes that the applicant lived in the apartment and used it as her home from 1980 until she temporarily left it in August 1989 to accompany her sick child for medical treatment in Croatia. The hostilities, thereafter, prevented her return. The Chamber has previously held that links that persons in similar situations as the applicant in the present case retained to their dwellings were sufficient for these dwellings to be considered to be their "homes" within the meaning of Article 8 of the Convention (see case no. CH/97/58, *Onić,* Decision on the admissibility and merits, delivered on 12 February 1999, paragraph 48, Decisions, January-July 1999; and case no. CH/97/46, *Keveševič*, decision on the merits, delivered on 10 September 1998, paragraphs 39-42, Decisions and Reports 1998). Further, the applicant's daughter, as a member of the household, continued to stay in the apartment until such time as she was forced to leave in 1992 due to the hostilities.

78. It is therefore clear that the applicant's apartment is to be considered as her home for the purposes of Article 8 of the Convention.

79. It is the Federation's assertion that the applicant abandoned the apartment of her own will and that the Federation has not by a single action contributed to her abandoning it.

80. The Chamber notes that it is correct that the respondent Party did not cause the applicant to leave her apartment. However, the authorities of the Federation have, by their decision to declare the apartment abandoned and by their failure to deal effectively, in accordance with Federation law, with the applicant's requests for repossession and her request for enforcement of the decision in her

favour by the CRPC, prevented the applicant from regaining possession of her apartment. It follows that there is an ongoing interference with the applicant's right to respect for her home.

81. The Chamber must therefore examine whether these interferences have been in accordance with paragraph 2 of Article 8 of the Convention.

82. According to Article XII(7) of Annex 7 to the General Framework Agreement decisions issued by the CRPC are final and are to be recognised as lawful throughout Bosnia and Herzegovina. Article 14 of the new Law states that a decision of the CRPC is "final and binding". Additionally, Article 14 of the new Law provides that a decision of the CRPC has the force of a decision of the competent domestic authorities made in accordance with the law. It follows, in the Chamber's opinion, that any decision of a domestic authority that is given after a CRPC decision and is incompatible with it is unlawful unless it falls within the narrowly defined category of cases for which deviation from a CRPC decision is possible under the law (see Article 10 paragraph 2 of the Law on Implementation).

83. The Chamber notes that on 12 November 1998 the CRPC issued a decision confirming the applicant's status as the occupancy right holder, from which it follows that she was entitled to seek removal of the temporary occupant and to repossess the apartment. It follows that the Administration should not have been unaware of this decision. Nonetheless, the Administration, deciding on the applicant's request for repossession of 27 April 1998, issued a new decision on 19 January 2000 rejecting the applicant's request, which it was not legally entitled to do. Already for this reason it cannot be said that the interference constituted by this decision was "in accordance with the law".

84. Moreover, under Article 216, paragraph 1 of the Law on Administrative Proceedings, the competent administrative organ must issue a decision to execute an administrative decision within 30 days of the receipt of a request to this effect. In other words the latest date on which the respondent Party should have issued a conclusion on the Administration's decision is 30 days after 10 July 1998, i.e. 9 August 1998. The failure of the competent administrative organ to decide upon the applicant's enforcement request is not "in accordance with the law" either.

85. The Chamber notes that the applicant also filed a request to CRPC with a view to being reinstated into her apartment. As indicated above, the CRPC issued a decision on 12 November 1998 confirming the applicant's status as the occupancy right holder of the apartment, from which it follows that she was entitled to seek removal of the temporary occupant and to repossess the apartment. On 16 October 2000, the applicant submitted a request for the execution of the CRPC decision under the Law on Implementation. According to Article 7 of the Law on Implementation, the competent administrative organ was obliged to issue a conclusion authorising the execution of the decision within 30 days of the date of the request for such enforcement. The Administration issued a conclusion authorizing the enforcement of the CRPC decision on 6 April 2001, which is almost 7 months after the applicants request, i.e. almost 6 months after the time-limit expired. Accordingly, the failure of the competent administrative organ to decide upon the applicant's requests within the time-limit was not "in accordance with the law".

86. In conclusion, there has been a violation of the right of the applicant to respect for her home as guaranteed by Article 8 of the Convention.

2. Article 1 of Protocol No. 1

87. The applicant also complains that her right to peaceful enjoyment of her possessions has been violated as a result of her inability to regain possession of her apartment in a timely manner. Article 1 of Protocol No. 1 provides 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."

88. It is the Federation's assertion that paragraph 1 of this Article protects ownership and that an occupancy right is not the same as ownership. Further, the respondent Party states that it is in the "public interest" to place a family without a home into an abandoned apartment.

89. The Chamber notes that the applicant is the holder of the occupancy right over the apartment in question. The Chamber has previously held as follows (case no. CH/96/28, *M.J.*, decision on admissibility and merits delivered on 3 December 1997, paragraph 32, Decisions on Admissibility and Merits 1996-1997):

> "…[A]n occupancy right is a valuable asset giving the holder the right, subject to the conditions prescribed by law, to occupy the property in question indefinitely. … In the Chamber's opinion it is an asset which constitutes a "possession" within the meaning of Article 1 [of Protocol No. 1]…".

90. Accordingly, the Chamber considers that the applicant's right in respect of the apartment constitutes a "possession" in the meaning of Article 1 of Protocol No. 1 to the Convention.

91. The Chamber considers that by the decision of the authorities of the Federation to declare the apartment abandoned and their failure to allow the applicant to regain possession of her apartment in a timely manner constitutes an "interference" with her right to peaceful enjoyment of that possession. This interference is ongoing as the applicant, according to the information available to the Chamber, still does not enjoy possession of the apartment.

92. The Chamber must therefore examine whether this interference could be justified. For this to be the case, it must be in the public interest and subject to conditions provided for by law. This means that the deprivation must have a basis in national law and that the law concerned must be both accessible and sufficiently precise.

93. As the Chamber noted in the context of its examination of the case under Article 8 in relation to the proceedings before the domestic organs, the Administration issued a decision rejecting the applicant's request for repossession of her apartment. This decision is contrary to the CRPC decision which was issued over one year earlier. As the Chamber noted above, Article XII(7) of Annex 7 to the General Framework Agreement states that decisions issued by the CRPC are final and are to be recognised as lawful throughout Bosnia and Herzegovina. Further, Article 14 of the new Law states that CRPC decisions are final and binding. In the present case the Administration issued a decision which was incompatible with the CRPC decision. Accordingly, the issuance of that decision is contrary to the law.

94. Moreover, the Chamber noted that the Law on Administrative Proceedings provides in Article 216, paragraph 1 that the competent administrative organ must issue a decision to execute an administrative decision within 30 days of the receipt of a request to this effect. In the present case no such a decision has been issued in relation to the decision of the Administration of 10 July 1998. Accordingly, the failure of the competent administrative organ to decide upon the applicant's request is contrary to the law.

95. Furthermore, as the Chamber noted likewise in the context of its examination of the case under Article 8 of the Convention in relation to the CRPC proceedings, Article 7 of the Law on Implementation states that the competent administrative organ is obliged to issue a conclusion authorising the execution of the CRPC decisions within 30 days of the date of a request for such enforcement. In the present case the conclusion was issued more than 7 months after the request was submitted. Accordingly, the failure of the competent administrative organ to decide upon the applicant's request within the prescribed time-limit is contrary to the law.

96. These findings are in themselves sufficient to justify a finding of a violation of the applicant's right to peaceful enjoyment of her possessions as guaranteed by Article 1 of Protocol No. 1.

97. As the interference with the applicant's right to peaceful enjoyment of her possessions is not subject to conditions provided by law, it is not necessary for the Chamber to examine whether it was in the public interest or proportionate to the aim pursued.

98. In conclusion, there has been a violation of the right of the applicant's right to peaceful enjoyment of her possessions as guaranteed by Article 1 of Protocol No. 1 to the Convention.

VIII. REMEDIES

99. Under Article XI(1)(b) of the Agreement the Chamber must address the question of what steps shall be taken by the respondent Party to remedy the breaches of the Agreement established. In this connection the Chamber shall consider issuing orders to cease and desist, monetary relief, as well as provisional measures. The Chamber is not necessarily bound by the claims of the applicant.

100. In her submissions, the applicant requested that she be enabled to regain possession of the apartment. In addition, the applicant claims compensation for her furniture that has been used by Mr. H.O., compensation for moral damage since her daughter was allegedly raped in 1992, compensation for her legal fees and for tickets for traveling 3-4 times per month and compensation for the mental pain she is suffering as a result of living on 12 square meters in a Collective Centre. The applicant did not mention any specific sums.

101. The respondent Party did not submit observations on the applicant's claim for compensation.

102. The Chamber considers it appropriate to order the respondent Party to take all necessary steps to enforce the CRPC decision and to enable the applicant to regain possession of her apartment.

103. Article XI(3) of the Agreement provides: "subject to review as provided in paragraph 2 of Article X, the decisions of the Chamber shall be final and binding". Thus, a decision of the Chamber does not become final and binding until the provision in Article XI(3) of the Agreement has been met, that is, in particular, until after the Chamber decides upon any motions for request for review filed in accordance with the Chamber's Rules of Procedure.

104. However, Article XI(1) of the Agreement states that "the Chamber shall promptly issue a decision, which shall address: … (b) what steps shall be taken by the Party to remedy such breach, including … provisional measures." The Chamber interprets this provision in the sense that it is authorised to order the respondent Party to take certain steps without further delay, that is, before the decision becomes final and binding pursuant to Article XI(3) of the Agreement, in order to remedy breaches of the Agreement.

105. Since the applicant in the present case has, for a long time, been unable to regain possession of her apartment due to the failure of the respondent Party to reinstate her in a timely manner, the Chamber finds it appropriate to exercise its powers granted under Article XI(1)(b) of the Agreement to order the respondent Party to reinstate the applicant without further delay, and at the latest within one month after the date on which the present decision is delivered, regardless of whether either party files a motion to review the decision under Article X(2) of the Agreement.

106. With regard to possible compensatory awards the Chamber considers it appropriate to award a sum to the applicant in recognition of the sense of injustice she has suffered as a result of her inability to regain possession of her apartment in a timely manner, especially in view of the fact that the applicant took all necessary steps to repossess her apartment under two separate procedures.

107. Accordingly, the Chamber will order the respondent Party to pay to the applicant the sum of 2000 Convertible Marks (Konvertibilnih Maraka, "KM") in recognition of her suffering as a result of her inability to regain possession of her apartment in a timely manner.

108. Further, the Chamber considers it appropriate to order the respondent Party to compensate the applicant for the loss of use of the apartment and moveable property therein for each month she has been forced to live in alternative accommodation. The Chamber considers it appropriate that this sum should be KM 200 per month and payable from 10 July 1998 (the date of the initial decision of the Administration which failed to respond to the applicant's request for repossession) up to and including September 2001, amounting to a total of KM 7800. This monthly sum should continue to be paid at the same rate until the end of the month in which the applicant regains possession of her apartment.

109. The Chamber considers it appropriate in the present case to order the respondent Party to pay the sums mentioned in paragraphs 107 and 108 no later than one month from the date on which this decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure.

110. With regard to the applicant's claim for compensation for moral damage because her daughter was allegedly raped in 1992, the Chamber notes that this claim is not related to the facts of the present case. This claim must therefore be rejected.

111. With regard to the applicant's claim for compensation for her legal fees and for tickets for traveling 3-4 times per month, the Chamber notes that the applicant has failed to submit any evidence that she actually incurred these expenses, nor has she submitted any information as to their quantum. This claim must therefore be rejected.

112. Additionally, the Chamber awards simple interest at an annual rate of 10% on the sums awarded to be paid to the applicant in paragraphs 107 and 108 above. Interest shall be paid as of one month from the date on which this decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure on each sums awarded or any unpaid portion thereof until the date of settlement in full.

IX. CONCLUSION

113. For the above reasons, the Chamber decides,

1. unanimously, to declare the application admissible insofar as it relates to Article 8 of the European Convention and Article 1 of Protocol No. 1 to the European Convention ;

2. unanimously, to declare the application inadmissible as manifestly ill-founded insofar as it relates to the applicant's claim that she has been discriminated against;

3. unanimously, that the non-enforcement of the CRPC decision as well as the respondent Party's failure to allow the applicant to regain possession of her apartment in a timely manner and in particular the issuing of a decision by the Administration which was incompatible with the CRPC decision, constitutes a violation of the right of the applicant to respect for her home within the meaning of Article 8 of the Convention, the Federation thereby being in breach of Article I of the Agreement;

4. unanimously, that the non-enforcement of the CRPC decision as well as the respondent Party's failure to allow the applicant to regain possession of her apartment in a timely manner and in particular the issuing of a decision by the Administration which was incompatible with the CRPC decision, constitutes a violation of the right of the applicant to peaceful enjoyment of her possessions within the meaning of Article 1 of Protocol No. 1 to the Convention, the Federation thereby being in breach of Article I of the Agreement;

5. unanimously, to order the respondent Party to reinstate the applicant into her apartment without further delay, and at the latest on 7 October 2001;

6. unanimously, to order the respondent Party to pay to the applicant, no later than one month from the date on which this decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure, the sum of KM 2000 (two thousand Convertible Marks) in respect of non-pecuniary damage;

7. unanimously, to order the respondent Party to pay to the applicant, no later than one month from the date on which this decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure, the sum of 7800 (seven thousand eight hundred Convertible Marks) as compensation for the loss of use of the apartment and moveable property therein during the time the applicant was forced to live in alternative accommodation;

8. unanimously, to order the Federation to pay to the applicant KM 200 (two hundred Convertible Marks) for each further month that she continues to be forced to live in alternative accommodation as from 1 October 2001 until the end of the month in which she is reinstated, each of these monthly payments to be made within 30 days from the end of the month to which they relate;

9. unanimously, to order the Federation to pay simple interest at the rate of 10 % (ten per cent) per annum over the above sums or any unpaid portion thereof after the expiry of one month from the date on which this decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure until the date of settlement in full;

10. unanimously, to dismiss the remainder of the applicants' claims for remedies; and

11. unanimously, to order the respondent Party to report to it by one month from the date on which this decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure on the steps taken by it to comply with the above orders.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Panel

HUMAN RIGHTS CHAMBER
FOR BOSNIA AND HERZEGOVINA

DOM ZA LJUDSKA PRAVA
ZA BOSNU I HERCEGOVINU

DECISION ON THE ADMISSIBILITY AND MERITS

DELIVERED ON 11 JUNE 1999

CH/97/93

Mirjana MATIĆ

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 14 May 1999 with the following members present:

Ms. Michèle PICARD, President
Mr. Rona AYBAY, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Želimir JUKA
Mr. Miodrag PAJIĆ
Mr. Andrew GROTRIAN

Mr. Leif BERG, Registrar
Ms. Olga KAPIĆ, Deputy Registrar

Having considered the admissibility and merits of the aforementioned application introduced pursuant to Article VIII(1) of the Human Rights Agreement ("the Agreement") set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Adopts the following decision pursuant to Articles VIII(2) and XI of the Agreement and Rules 52, 57 and 58 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The applicant is a citizen of Bosnia and Herzegovina of Serb descent. She was an occupancy right holder over an apartment in Sarajevo. In April 1992 soldiers of the Army of the Republic of Bosnia and Herzegovina ("RBiH") entered the apartment and threatened the applicant and her children. The applicant and her children left Sarajevo shortly afterwards, while her husband remained. He obtained permission to leave Sarajevo in January 1995 in order to visit a sick relative. While the apartment was vacant, it was occupied by a number of soldiers of the Army of the Republic of Bosnia and Herzegovina "RBiH". In March 1995 the apartment was declared abandoned and allocated to B.H. The case concerns the proceedings taken by the applicant to regain possession of her apartment and property therein.

2. The case raises issues principally under Articles 6, 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") and Article 1 of Protocol No. 1 to the Convention.

II. PROCEEDINGS BEFORE THE CHAMBER

3. The application was introduced on 24 November 1997 and registered on the same day.

4. On 10 April 1998 the Chamber requested the applicant to provide some further information regarding her application. On 12 April 1998 the applicant responded.

5. On 10 April 1998, the Chamber requested the Ombudsmen of the Federation of Bosnia and Herzegovina to send further information regarding the applicant's application submitted to the Ombudsmen on 17 November 1997. On 20 April 1998 the Ombudsmen forwarded the requested information.

6. On 29 May 1998 the Chamber decided to transmit the application to the respondent Party for observations on the admissibility and merits. On 11 June 1998 the respondent Party submitted its observations.

7. On 23 June 1998 the Chamber transmitted the observations submitted by the respondent Party to the applicant. On 1 July 1998 the applicant replied to the Federation's observations and submitted her request for compensation.

8. By a letter of 3 July 1998 the Chamber transmitted the applicant's observations and the compensation claim of 1 July 1998 to the respondent Party.

9. On 6 July 1998 the applicant submitted further information in relation to an administrative procedure that she had initiated in order to regain possession of her apartment.

10. On 20 July 1998 the respondent Party requested an extension of the time-limit for the submission of observations on the compensation claim. An extension of the time-limit until 28 August 1998 was granted.

11. On 23 July 1998 the Human Rights Ombudsperson for Bosnia and Herzegovina was invited to intervene in the proceedings. By a letter of 6 August 1998 she informed the Chamber that she would not intervene.

12. On 6 August 1998 the Chamber became aware that the applicant had also submitted an application to the Commission for Real Property Claims of Displaced Persons and Refugees (established by Annex 7 to the General Framework Agreement for Peace in Bosnia and Herzegovina; henceforth "the Annex 7 Commission").

13. On 1 September 1998 the applicant informed the Chamber that she had been entitled to re-possess her apartment by a decision of 3 August 1998 from the Cantonal Administration for Housing Affairs. By a letter of 17 September 1998 the applicant informed the Chamber that there were no developments in the case and that she had not re-entered into the apartment.

14. On 23 October 1998 the applicant was requested to keep the Chamber informed of any developments in the case.

15. On 23 October 1998 the respondent Party was informed by the Chamber that the time-limit for the receipt of its observations on the applicant's request for compensation had expired. The respondent Party was invited to submit observations as soon as possible and at the same time to submit reasons for its non-compliance with the time-limit. The Chamber further requested the respondent Party to specify the terms of a friendly settlement based on the respect for the rights and freedoms referred to in the Agreement.

16. The applicant addressed the Chamber on 12 and 15 January 1999 stating that there had been no developments in the case. On 20 January 1999 the Chamber requested the applicant to answer specific questions related to domestic court and administrative proceedings. On 25 January 1999 the applicant responded.

17. On 29 January 1999 the applicant informed the Chamber that the decision allowing her to enter into the apartment had been annulled.

18. On 25 February 1999 the Chamber invited the respondent Party to submit further observations on the developments of the case.

19. On 26 March 1999 the respondent Party submitted its observations.

20. On 14 May 1999 the Chamber deliberated on the admissibility and merits of the case and adopted the present decision.

III. ESTABLISHMENT OF THE FACTS

A. The particular facts of the case

1. Administrative proceedings

21. The facts of the case, as they appear from the applicant's and the Government's submissions and the documents in the case file, are in essence not in dispute and may be summarised as follows.

22. The applicant is the occupancy right holder over an apartment in Hamdije Kreševljakovića Street No. 60/6 (formerly Dobrovoljačka No.50/6) in Sarajevo. On 9 April 1992 a number of soldiers of the Army of RBiH entered the apartment, threatening the applicant and her children that they would be shot if snipers were found in the apartment. The applicant and her children left Sarajevo shortly afterwards. Her husband remained in the apartment. He obtained permission to leave Sarajevo in January 1995 in order to visit a sick relative. During the temporary absence, the applicant's father frequently checked on the apartment. On 10 March 1995 during one of these visits, he was allegedly attacked by soldiers of the Army of RBiH, including B.H. who had occupied the apartment. The applicant and her husband are currently living in Abu Dhabi in the United Arab Emirates.

23. On 11 March 1995 the Municipal Secretariat for Housing Affairs declared the apartment temporarily abandoned, and on 27 April 1995 allocated it temporarily to B.H. The applicant never received a decision.

24. On 14 July 1997 the applicant submitted a request to the Municipal Secretariat for Housing Affairs in Sarajevo for her reinstatement into the apartment. This request was rejected on 17 October 1997 as being out of time under the 1994 Law on Abandoned Apartments (hereinafter "the old Law"). On 14 November 1997 the applicant filed an appeal to the Ministry for Urban Planning and Environment of the City of Sarajevo. On 5 May 1998 the Ministry annulled the conclusion in the above-mentioned decision and referred the case back for reconsideration. The Ministry found that the matter of repossession of the applicant's apartment should be resolved pursuant to the 1998 Law on Cessation of the Application of the Law on the Abandoned Apartments (hereinafter "the new Law").

25. On 2 June 1998 the applicant submitted a new request for her reinstatement into the apartment. By a decision of 3 August 1998 the Cantonal Administration for Housing Affairs, in pursuance of Articles 4, 6 and 7 of the new Law confirmed her occupancy right and entitled her to re-possess the apartment. The decision further established that the temporary occupancy right of B.H. based upon the decision of 27 April 1995 had been terminated. B.H. was obliged to vacate the apartment within three days of the date of the decision. B.H. appealed the decision. According to Article 8 of the new Law, an appeal does not suspend the execution of a decision on reinstatement.

26. On 8 September 1998 the applicant requested the Cantonal Administration for Housing Affairs to order the eviction of the B.H. and her family. The applicant has never received a reply.

27. On 19 November 1998 the Cantonal Ministry for Urban Planning and Housing Affairs annulled the decision of 3 August 1998 and returned the case to the Cantonal Administration for Housing Affairs for reconsideration. The Ministry reasoned that the Cantonal Administration had failed to; (1) summon the owner of the apartment, thereby violating Articles 8, 133 and 141 of the Law on Administrative Procedure; (2) examine the conditions prescribed in Article 3(2) of the new Law; and (3) decide whether the temporary user had another accommodation in terms of Article 7(1) of the new Law. The Cantonal Administration had also stipulated a three day time-limit for eviction of the temporary user instead of the 90-day time limit prescribed by Article 7 of the new Law.

28. The Cantonal Administration for Housing Affairs has not issued a new decision to date despite the strict 15-day time limit to render a new decision, according to Article 239(3) of the Law on Administrative Procedure.

2. Civil court proceedings

29. On 8 May 1995 the applicant initiated civil proceedings before the Municipal Court in Sarajevo, seeking an order restoring her possession of certain household items which had been inventoried by the authorities after they declared the apartment abandoned. After twenty hearings the Municipal Court issued on 21 February 1997 a judgement in terms sought by the applicant. However, the defendant B.H. filed an appeal to the Cantonal Court in Sarajevo. The Cantonal Court found that the first instance judgement had certain procedural deficiencies and issued a decision of 4 October 1997 to return the case to the Municipal Court for reconsideration. The Municipal Court since then scheduled two hearings, for 28 September 1998 and 2 December 1998, but according to the applicant the case has not been resolved.

B. Relevant legislation

1. The 1994 Law on Abandoned Apartments

30. On 15 June 1992 the Presidency of the then Republic of Bosnia and Herzegovina issued a Decree with Force of Law on Abandoned Apartments. The Decree was adopted by the Assembly of the Republic of Bosnia and Herzegovina as a law on 1 June 1994 ("the old Law"). The Law governed the re-allocation of occupancy rights over socially-owned apartments which had been abandoned. On 4 April 1998 it was repealed by the Law on the Cessation of the Application of the Law on Abandoned Apartments.

31. Under Article 1 of the old Law an occupancy right was to be suspended if the holder of that right and the members of his or her household had abandoned the apartment after 30 April 1991. Article 2 defined an apartment as having been abandoned already if, even temporarily, it was not being used by the occupancy right holder or the members of his or her household. Article 3 provided for some exceptions to the definition, namely

> (a) where the occupancy right holder and members of his or her household had been forced to leave the apartment as a result of aggressive actions intended to execute a policy of ethnic cleansing of a particular population from certain areas or in the course of a pursuit of other goals of the aggressors;

(b) if the apartment was destroyed, burnt or in direct jeopardy as a result of war actions;

(c) if the holder of the occupancy right and members of his or her household had resumed using the apartment either within seven days from the issuing of the declaration on the cessation of the state of war (if the holder of the right had been staying within the territory of the Republic of Bosnia and Herzegovina) or within fifteen days from the issuing of the declaration (if he or she had been staying outside that territory);

(d) if the holder of the occupancy right or members of his or her household had, within the terms of the requisite permission to stay abroad or in another place within the country, left the apartment for the purpose of effecting a private or business journey; had been sent as a representative of a state authority, enterprise, state institution or other organisation or association upon the request of, or with the approval of, a competent state authority; had been sent for medical treatment; or had joined the armed forces of the Republic of Bosnia and Herzegovina.

32. The Presidency of the Republic of Bosnia and Herzegovina declared the Republic of Bosnia and Herzegovina to be at war on 20 June 1992 (Official Gazette (*"Službeni list")* of the Republic of BiH No. 7/92). The Decision on the Cessation of the State of War was taken on 22 December 1995 (Official Gazette, No. 50/95). It was published on the bulletin board of the Presidency Building of the Republic in Sarajevo and entered into force on the same day. The issue of the Official Gazette comprising this decision was published on 5 January 1996.

33. A state organ, a holder of an allocation right, a political organisation, a social organisation, an association of citizens or a housing board could initiate proceedings seeking to have an apartment declared abandoned. The competent municipal housing authority was to decide on a request to this end within 7 days and could also *ex officio* declare an apartment abandoned. Failing a decision within this time limit, it was to be made by the Minister for Urban Planning, Housing and Environment (Articles 4-6 of the old Law). Interested parties could challenge a decision by the municipal organ before the same Ministry but an appeal had no suspensive effect.

34. An apartment declared abandoned could be allocated for temporary use to "an active participant in the fight against the aggressor against the Republic of Bosnia and Herzegovina" or to a person who had lost his or her apartment due to hostile action. Such temporary use could last up to one year after the date of the cessation of the imminent threat of war. A temporary user was obliged under the threat of eviction to vacate the apartment at the end of that period and to place it at the disposal of the organ which allocated it (Articles 7-8).

35. If the holder of the occupancy right failed to resume using the apartment within the time limit of one or two weeks as laid down in Article 3 read in conjunction with Article 10, he or she was to be regarded as having abandoned the apartment permanently. The resultant loss of the occupancy right was to be recorded in a decision by the competent authority (Article 10).

2. The 1998 Law on the Cessation of the Application of the Law on Abandoned Apartments

36. The Law on the Cessation of the Application of the Law on Abandoned Apartments ("the new Law") entered into force on 4 April 1998. According to this legislation all administrative, judicial and other decisions terminating occupancy rights on the basis of regulations issued under the old Law shall be null and void. Nevertheless, all decisions establishing a right of temporary occupancy shall remain effective until revoked in accordance with the new Law. Moreover, all decisions establishing a new occupancy right shall remain in force unless revoked in accordance with the new Law (Article 2). The holder of an occupancy right in respect of an apartment which has been declared abandoned or a member of his or her household is referred to in the new Law as "the occupancy right holder" (Article 3(1)). The holder of a newly allocated occupancy right based either on a decision of the holder of the right of allocation or on a contract is referred to as "the current occupant" (Article 3(6)).

37. The occupancy right holder shall be entitled to seek his or her reinstatement into the apartment at a certain date which must not be earlier than 90 days and no later than one year from the submission of the claim (Articles 3, 4 and 7). The competent authority shall decide on such a

repossession claim within 30 days (Articles 6 and 7). The decision shall be delivered to the occupancy right holder, the holder of the allocation right and the current occupant within five days from its issuance. An appeal lies to the Cantonal Ministry for Housing Affairs within 15 days from the date of receipt of the decision. An appeal shall not suspend the execution of the decision (Article 8). In no event shall a failure, either of the cantonal authorities or the holder of the allocation right, to meet their obligations under Article 3, or a failure of "the current occupancy right holder" to accept another apartment, delay the attempts of "an occupancy right holder" to reclaim his or her apartment (Article 3(9)).

38. If the apartment is occupied without a legal basis or was vacant when the new Law entered into force, the occupancy right holder shall be granted repossession of the apartment without any restriction and any temporary user shall be evicted (Article 3(3)). A person who is temporarily occupying the apartment and whose housing needs are otherwise met shall vacate the apartment within 90 days from the decision pursuant to Article 6 (Article 3(4)). If his or her housing needs are not otherwise met, he or she shall be provided with accommodation in accordance with the Law on the Taking Over of the Law on Housing Relations. In such a case the period within which the apartment must be vacated shall not be shorter than 90 days from the issuance of the decision pursuant to Article 6. The apartment must be vacated before the day of the intended return of the occupancy right holder but the intended return must not be sooner than 90 days from the date when the claim for repossession was submitted (Article 3(5) and Article 7(2) of the new Law).

39. In exceptional circumstances the deadline for vacating an apartment may be extended to up to one year if the municipality or the allocation right holder responsible for providing alternative accommodation provides the cantonal administrative authority with detailed documentation about the efforts to secure alternative accommodation and if the cantonal authority finds that there is documented lack of available housing. In every individual case, the requirements of the Convention and its Protocols must be met, and the occupancy right holder must be notified of the decision extending the deadline, including its reasoning, 30 days before the initial deadline expires (Article 7(3) of the new Law).

40. If "a person occupying the apartment" fails to comply with a decision ordering its vacation, the competent administrative body shall take enforcement measures at the request of the occupancy right holder (Article 11).

41. If a decision within the meaning of Article 6 has been passed in respect of an apartment inhabited by a new occupancy right holder (i.e. the current occupant) (either based on a decision of the holder of the allocation right or on a contract), the holder of the allocation right shall, within 30 days, refer the case to the competent cantonal authority which shall, again within 30 days, allocate another apartment either to the current occupant or to the occupancy right holder (Article 3(6)). Under Article 3(7) a finding that the occupancy right holder should be allocated an apartment other than the one into which he or she seeks to be reinstated must be based on criteria in compliance with Article 1 of Annex 7 to the General Framework Agreement for Peace, the Convention and its Protocols and the Law on Housing Relations. These criteria shall be developed by the Ministry of Urban Planning and Environment in consultation with organisations competent to implement the standards stated in Article 3(7). On 21 October 1998 the Government of the Federation published criteria for the purposes of Article 3(7). However, on 5 November 1998 the High Representative for Bosnia and Herzegovina, in accordance with his authority under Annex 10 of the General Framework Agreement for Peace in Bosnia and Herzegovina and Article XI of the Conclusions of the Bonn Peace Implementation Conference, suspended the application of Article 3(6) of the new Law. The decision entered into force immediately. On 1 April 1999 the High Representative extended the deadline for requesting reinstatement into socially owned apartments until 4 July 1999.

42. According to Article 7 of the new Law, a decision within the meaning of Article 6 shall contain a confirmation that the claimant is the holder of the occupancy right; a decision granting repossession of the apartment to the occupancy right holder if the dwelling is temporarily occupied by someone else, is vacant or is occupied without legal basis; a decision terminating the right of temporary occupancy if the apartment is in temporary use; a time limit by which a temporary user or another person occupying the apartment shall vacate it; and a decision as to whether the temporary user is entitled to accommodation in accordance with the Law on Housing Relations. Under Article 10

of the Instruction of 30 April 1998 on the Application of Article 4 of the new Law, the authority issuing the decision within the meaning of Article 6 of the new Law shall verify the status of the occupancy right; verify whether the apartment is uninhabitable, vacant or occupied; and verify the status of any current occupant (illegal, temporary occupant or person having been living in the apartment prior to 7 February 1998 on the basis of an occupancy right acquired before that date). Contracts on the use of apartments declared abandoned pursuant to regulations issued under the old Law and decisions on the allocation of such an apartment shall be null and void, if concluded or issued after 7 February 1998 (Article 16 of the new Law).

3. The Law on Administrative Procedure

43. Under Article 139 of the Law on Administrative Procedure (Official Gazette of the Federation, No. 2/98) the competent administrative authority may issue a decision following summary proceedings when the facts are not in dispute. Under Article 200 the competent administrative authority issues a decision on the basis of the facts established in ordinary administrative proceedings. Under Article 275 the competent administrative organ has to issue a decision to execute an administrative decision within 30 days upon receipt of a request to this effect. Article 216(3) provides for an appeal to the administrative appellate body if a decision is not issued within this time limit.

44. Article 239(2) of the Law on Administrative Procedure (Official Gazette of the Federation, No. 2/98) stipulates that in a case where the second instance body finds that eliminating flaws in the first instance procedure can be more speedily and economically done by the first instance body, the second instance shall nullify the first instance decision and refer the case back for a review procedure. In such cases, the second instance body is obliged to point out to the first instance body how the procedure should be completed. The first instance body is obliged to act upon the second instance decision in all aspects and without delays and no later than 15 days from the day of the receipt of the returned case. A party has a right to appeal the new decision.

IV. COMPLAINTS

45. The applicant complains that her fundamental rights have been violated due to the fact that she cannot return to her apartment. She further complains that her right to a fair hearing within a reasonable time and her right to the peaceful enjoyment of her property have been violated. The applicant invokes Articles 6 and 8 of the Convention as well as Article 1 of Protocol No. 1 to the Convention.

V. SUBMISSIONS OF THE PARTIES

1. The respondent Party

46. As to the admissibility of the case, the Federation states that the application submitted to the Chamber is premature as the proceedings under the new Law are still pending. With regard to the applicant's moveable property, the case is still pending before the Municipal Court. The Federation argues that it is indisputable that the applicant is entitled to her moveable property claimed in the apartment. In the Federation's opinion, it is most likely that the Municipal Court will make a determination in her favour. Therefore, effective remedies still exist which the applicant has not exhausted.

47. As for the merits, the Federation states that they have not interfered with the applicant's right to respect for her family life and home guaranteed by Article 8 of the Convention nor with the applicant's "possessions" as protected by Article 1 Protocol No. 1 to the Convention. The Federation argues that because the applicant willingly left her home she accepted the known consequences of her departure during the state of hostilities.

48. The Federation further argues that paragraph 2 of Article 1 of Protocol No. 1 to the Convention protects rights of ownership for which an occupancy right does not provide. In the alternative, it is argued that the interference with the applicant's property rights was justified, given the need to provide alternative accommodation to a temporary occupant who could no longer inhabit his dwelling

due to the hostilities. Finally, the Federation considers that there has not been a violation of Article 6 of the Convention as the applicant's claims have been examined in a timely manner by lawful, independent and impartial courts.

2. The Applicant

49. The applicant claims that the temporary occupant could not have believed that the apartment and the applicant's property therein had been declared abandoned because B.H. assaulted her father when intruding into the apartment. In any event, the applicant states that the Federation's ongoing interference with her property right is not justified because the temporary occupant has had other accommodation since 1996 when his home was reconstructed. Finally, the applicant claims there has been a continuing obstruction of justice with regard to both the return of her apartment and the moveable property therein.

VI. OPINION OF THE CHAMBER

A. Admissibility

1. Competence *ratione temporis*

50. Before considering the merits of the case the Chamber must decide whether to accept it, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement. According to Article VIII(2)(c), the Chamber shall dismiss any application which it considers incompatible with the Agreement.

51. The Chamber notes *proprio motu* that the applicant's apartment was declared temporarily abandoned prior to the entry into force of the Agreement on 14 December 1995. The Chamber observes, however, that the applicant's grievance relates to a situation which has continued up to date, namely the impossibility for her to return to her pre-war dwelling. The Chamber is therefore competent *ratione temporis* to examine the case in so far as the situation has continued past 14 December 1995. In doing so the Chamber can also take into account, as background, events prior to that date.

2. *Lis alibi pendens*

52. According to Article VIII(2)(b) of the Agreement, the Chamber shall not address any application which is substantially the same as a matter which has already been examined by the Chamber or has already been submitted to another procedure of international investigation or settlement. Moreover, under Article VIII(2)(d) of the Agreement the Chamber may reject or defer further consideration of a case, if it concerns a matter currently pending before any other international human rights body responsible for the adjudication of applications or the decision of cases, or any other Commission established by the Annexes to the General Framework Agreement.

53. The Chamber notes that the applicant has also claimed the return of her apartment by petitioning the Annex 7 Commission on 21 November 1997. According to Annex 7, the mandate of that Commission is confined to decisions on claims for real property in Bosnia and Herzegovina, where the property has not been sold voluntarily or otherwise transferred since 1 April 1992 and where the claimant does not now enjoy possession of that property. The Chamber notes that in the present case the applicant has raised several complaints essentially different from the subject matter which she has brought before the Annex 7 Commission. These complaints all fall outside the Annex 7 Commission's competence.

54. The Chamber finds therefore that the applicant's pending claim before the Annex 7 Commission does not preclude the Chamber from examining the whole of her present case before the Chamber. Moreover, even if one of the matters now before the Chamber remains pending before the Annex 7 Commission, the Chamber does not find it appropriate to defer further consideration of the present application or part of it.

3. Exhaustion of effective domestic remedies

55. According to Article VIII(2)(a) of the Agreement, the Chamber must consider whether effective remedies exist and whether the applicant has demonstrated that they have been exhausted. The Chamber has found that such remedies must be sufficiently certain not only in theory but in practice, failing which they will lack the requisite accessibility and effectiveness. The Chamber has, moreover, considered that in applying the rule on exhaustion it is necessary to take realistic account not only of the existence of formal remedies in the legal system of the Contracting Party concerned but also of the general legal and political context in which they operate as well as of the personal circumstances of the applicants (see *Blentić v. The Republika Srpska,* Case No. CH/96/17, decision of 3 December 1997, Decisions 1996-1997, paragraphs 19-21, with references to corresponding case law of the European Court).

56. In the present case the Federation objects to its admissibility primarily on the ground that the domestic remedy provided by the new Law has not yet been exhausted as there are proceedings still pending. It is not for the Chamber to examine the new Law in general, in isolation from the manner in which it is being applied by the competent authorities. Accordingly, while the new Law has afforded a remedy which might in principle qualify as an effective one within the meaning of Article VIII(2)(a) of the Agreement in so far as the applicant is seeking to return to her apartment, the Chamber must ascertain whether in the case now before it this remedy can also be considered effective in practice.

57. The Chamber notes that the applicant initiated proceedings under the 1998 Law with a view to being reinstated into her apartment. However, the resultant decision confirming her occupancy right and ordering the temporary occupant to vacate the apartment was appealed to the Cantonal Ministry. The appeal was not to have suspended the reinstatement of the applicant according to Article 8 of the 1998 Law. Nonetheless, no execution has occurred. By a decision of 19 November 1998 the Ministry returned the applicant's request for reconsideration. These proceedings are still pending despite the strict 15-day time limit for rendering a decision as stipulated in Article 239(3) of the Law on Administrative Procedure.

58. The proceedings before the Municipal Court initiated in 1995 in order to have certain household items restored also remain pending, despite the admission by the respondent Party that the items indisputably belong to the applicant. No reasons have been put forward to explain this current delay.

59. In these particular circumstances the Chamber is satisfied that that the remedies attempted cannot be considered effective in practice and the applicant should not be required to exhaust, for the purposes of Article VIII(2)(a) of the Agreement, any further remedy provided by domestic law.

60. As no ground for declaring the case inadmissible has been established, the Chamber declares the application admissible.

B. Merits

61. Under Article XI of the Agreement the Chamber must next address the question whether the facts established above disclose a breach by the respondent Party of its obligations under the Agreement. Under Article I of the Agreement the Parties are obliged to "secure to all persons within their jurisdiction the highest level of internationally recognised human rights and fundamental freedoms", including the rights and freedoms provided for in the Convention.

1. Article 8 of the Convention

62. Article 8 of the Convention reads, as far as relevant, as follows:

> "1. Every one has the right to respect for ..., his home ...
>
> 2. There shall be no interference by a public authority with the exercise of their right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the

prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

63. The Federation argues that it did not interfere in the exercising of the applicant's rights protected under Article 8 of the Convention because the applicant left her apartment on her own accord. Therefore the Federation argues it should not be held responsible for the events which followed her departure.

64. The Chamber notes that after the applicant's family departed from Sarajevo her apartment was occupied by members of the army. After the end of the war the applicant and her family were unable to return to their dwelling, as on 11 March 1995 it had been declared temporarily abandoned and temporarily allocated to B.H on 27 April 1995. As from 1997 the applicant repeatedly contested these decisions of 1995 but was unable to obtain any final decision in her favour. In these circumstances and bearing in mind its competence *ratione temporis* (see paragraph 50 and 51 above) the Chamber cannot but find that after 14 December 1995 up to the entry into force of the new Law the authorities, by applying the old Law, continued to consider the applicant's apartment abandoned, thereby refusing to allow her to return there.

65. In the circumstances of the case the Chamber does not find that the applicant and her family's departure from Sarajevo could be considered as a waiver of their rights under Article 8 of the Convention. The Chamber has already found that the links which an applicant facing similar difficulties retained to her dwelling sufficed for this to be considered her "home" for the purposes of Article 8 paragraph 1 of the Convention. (see *Onić v. The Federation of Bosnia and Herzegovina,* Case No. CH/97/589, decision of 12 February 1999, paragraph, 48, with references to case law of the European Court). The Chamber furthermore considers that there has been an ongoing interference with the present applicant's right to respect for her home.

66. In order to determine whether this interference has been justified under the terms of paragraph 2 of Article 8, the Chamber must examine whether it was "in accordance with the law", served a legitimate aim and was "necessary in a democratic society" (cf. the aforementioned *Onić* decision of 12 February 1999, paragraph 49). There will be a violation of Article 8 if any one of these conditions is not satisfied.

67. The Chamber has already found that the provisions of the old Law, as applied also in the present case, failed to meet the standards of "law" as this expression is to be understood for the purposes of Article 8 of the Convention (see the *Onić* decision, paragraph 50). Accordingly, the provision was violated already by virtue of the authorities' effective refusal after 14 December 1995 to allow the applicant to return to her apartment.

68. The present case also relates to the application of the new Law. The Chamber has already noted (in paragraph 57) that the temporary occupant's ("B.H.") appeal has effectively suspended any execution of the decision of 3 August 1998 entitling the applicant to repossess her apartment. Such suspension is not foreseen by the new Law. In addition, the procedure following the return of the applicant's repossession claim to the Cantonal Administration in response to B.H.'s appeal has not been in accordance with the Law on Administrative Procedure. The Chamber would add that even the initial decision of 3 August 1998 was not made within the time limit under the new Law. In addition to the violation of Article 8 of the Convention stemming from the fact that the refusal, by application of the old Law, to allow the applicant to return to her apartment was not "in accordance with the Law," there is a further ongoing violation of her right to respect for her home within the meaning of Article 8 paragraph 1, in so far as the procedure for examining the applicant's repossession claim and for executing the decision in her favour dated 3 August 1998 has not been "in accordance with the law" either.

69. Accordingly, the Chamber concludes that Article 8 of the Convention has been violated, given both the refusal under the old Law to allow the applicant to return to her apartment and the failure to comply with the procedure laid down by domestic law with respect to the examining of her claim for repossession and the non-execution of the decision of 3 August 1998 effectively entitling her to return to that dwelling.

2. Article 1 of Protocol No. 1 to the Convention

70. The applicant complains, in essence, that her right to peaceful enjoyment of her possession has been and continues to be violated as a result of the decision declaring her apartment abandoned, the allocation to B.H. of a temporary right to use the apartment and the effective prevention of the applicant's return into this dwelling. The Chamber will examine the complaint under Article 1 of Protocol No. 1 to the Convention which provides 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."

71. The Federation has argued that the rights protected by Article 1 of Protocol No. 1 have not been endangered by any acts of the respondent Party because the applicant willingly moved from the apartment. It is further maintained that paragraph 2 of this provision is inapplicable because it protects ownership rights and the applicant only holds an occupancy right. Furthermore, there has been no violation of this provision, as the temporary allocation of the applicant's apartment to B.H. was necessary in the public interest so as to solve an urgent housing problem.

72. With reference to paragraph 65 above and in the circumstances of the case the Chamber does not find that the applicant and her family's departure from Sarajevo could be considered as a waiver of their rights under Article 1 of Protocol No. 1 to the Convention.

73. The Chamber further notes that Article 1 Protocol No. 1 applies not only to "ownership rights" as stated by the respondent Party, but also extends to the protection of "possessions". The opinion that only possessions in the sense of the Roman Law and within the meaning of the domestic law of the respondent Party are protected under Article 1 does not conform with the jurisprudence of the European Court of Human Rights. The word "possessions" is understood in a broader sense and implies various assets.

74. The Chamber has already found that an occupancy right can indeed be regarded as a "possession", it being a valuable asset giving the holder the right, subject to the conditions prescribed by the law, to occupy an apartment indefinitely (see *M.J. v. The Republika Srpska*, No. CH/96/28, decision of 7 November 1997, Decisions 1996-1997, paragraph 32 and the aforementioned Onić decision, paragraph 55). In the above cases the Chamber recalled, *inter alia*, that the European Court of Human Rights has indeed given a wide interpretation to the concept of "possessions", holding that the notion covers a wide variety of rights and interests with an economic value (see, e.g., *Van Marle v. Netherlands* judgment of 26 June 1986, Series A No. 101, paragraph 41; *Pressos Compania Naviera S.A. v. Belgium* judgment of 20 November 1995, Series A No. 332, paragraph 31).

75. The Chamber has further found that a decision declaring permanently abandoned an apartment over which someone enjoyed an occupancy right, and the allocation thereof to another person pursuant to the old Law, amounted to a *de facto* expropriation which was not "subject to the conditions provided for by law" and thereby in violation of Article 1 of Protocol No. 1 (see the above-mentioned Onić decision, paragraph 56). The Chamber finds no reason to differ in the present case.

76. Accordingly, this provision was violated already by virtue of the authorities' effective refusal after 14 December 1995 up to 3 August 1998 to recognise the applicant's occupancy right and to allow her to return to her apartment.

77. The applicant's grievance under this provision extends to the failure of the authorities to decide finally on her claim for repossession. The Chamber has already noted (in paragraphs 57 and 68 above) that the applicant's claim for repossession has not been examined in compliance with the time-limits stipulated in the new Law and the Law on Administrative Procedure. Despite the wording of

the new Law the decision in the applicant's favor of 3 August 1998 has not been executed. In addition to the violation stemming from the decision to declare the applicant's apartment permanently abandoned, there has thus also been a continuing violation of the applicant's right to the peaceful enjoyment of her possessions within the meaning of Article 1 of Protocol No. 1, in so far as the procedure for examining her repossession claim and executing the decision in her favor of 3 August 1998 has not been "subject to the conditions provided for by law".

78. Accordingly, the Chamber concludes that Article 1 of Protocol No. 1 has been violated, given both the refusal under the old Law to allow the applicant to return to her apartment and the failure to comply with the new Law and Law on Administrative Procedure, with respect to the applicant's claim for repossession, these failures having prevented her from returning to her apartment.

3. Article 6 of the Convention

79. The applicant also complains that her right to efficient legal protection for her occupancy right and the moveable property in the apartment have been violated.

80. The Chamber has already found that a dispute relating to the existence of an occupancy right falls, within the ambit of Article 6 paragraph 1 of the Convention (see *Kevesević v. The Federation of Bosnia and Herzegovina,* Case No. CH/97/46, decision of 12 September 1998, Decisions and Reports 1998, paragraph 63). The Chamber further finds that the dispute regarding her possessions in the apartment likewise fall within the ambit of Article 6 paragraph 1 of the Convention. Article 6 paragraph 1 reads, in relevant parts, as follows:

> "In the determination of his civil rights and obligations ..., everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law..."

81. Given its findings in respect of Article 8 and Article 1 of Protocol 1 of the Convention, the Chamber finds it unnecessary to examine the complaint under Article 6 in so far as regards the dispute relating to the applicant's occupancy right.

82. As for the dispute concerning the applicant's moveable possessions in the apartment, the Chamber notes that the civil proceedings initiated by her in May 1995 remain pending. When assessing the length of proceedings for the purposes of Article 6(1) of the Convention, the first step is to determine the period to be taken into consideration. The Chamber finds that due to its competence *ratione temporis* it can assess the length of the proceedings only in so far as they have continued beyond 14 December 1995. The stage which the proceedings had reached on that date can nonetheless be taken into account as background information.

83. In the present case, the proceedings had already been pending for seven months when the Agreement entered into force. A further fourteen months period passed before the Municipal Court issued the initial judgement, which included the terms sought by the applicant. On appeal, the Cantonal Court returned the case to the Municipal Court for re-consideration. More than a year and half later, the Municipal Court scheduled two hearings in September and December 1998 but a final determination of the dispute has not been made. In sum the proceedings have been pending for three and a half years since 14 December 1995.

84. The reasonableness of the length of proceedings is to be assessed based on the criteria laid down by the Chamber, namely the complexity of the case, the conduct of the applicant, the conduct of the authorities and the matter at stake for the applicant (see, e.g., *Mitrović v. The Federation of Bosnia and Herzegovina*, Case No. CH/97/54, decision on admissibility of 10 June 1998, Decisions and Reports 1998, paragraph 10 with references to corresponding case law of the European Court).

85. The Chamber must first determine whether the complexity of the case warrants the length of proceedings complained of. The Federation submits that it is indisputable that the applicant is entitled to her claim. The claim does not appear to be complex, as the authorities had inventoried her moveable property at the time the apartment was declared abandoned. Neither party alleges any reasons for the current delay. In light of these particular facts and admissions by the respondent

Party, it is the Chamber's opinion that the present length of time is unreasonable for these proceedings, which are still pending.

86. Given the above facts, the Chamber finds a violation of Article 6(1) of the Convention in regard to the length of proceedings relating to the applicant's moveable property.

VII. REMEDIES

87. Under Article XI paragraph 1(b) of the Agreement the Chamber must address the question what steps shall be taken by the respondent Party to remedy the established breaches of the Agreement. In this connection the Chamber shall consider issuing orders to cease and desist, monetary relief (including pecuniary and non-pecuniary injuries) as well as provisional measures.

88. The applicant has requested the Chamber to order that she be effectively reinstated into her apartment. In addition the applicant claims the amount of 70,000 DEM as pecuniary damage for all moveable property. The applicant claims the amount of 50,000 DEM for pain suffered by her and her family. Finally, the applicant claims the amount of 100,000 DEM as pecuniary damage for the apartment, if the competent authority continues to obstruct further proceedings and do not allow the applicant to return to the apartment.

89. The Chamber considers it appropriate to order the Federation to process the applicant's repossession claim without further delay and to take all necessary steps to enable the applicant, whose occupancy right has already been confirmed by an enforceable decision under the new Law, to return swiftly to her apartment.

90. As for the claim for compensation of moveable possessions, the Chamber may leave open the question whether this claim is premature (given the uncertainty as to what possessions have remained in the applicant's apartment and in what condition they are). The Chamber recalls that where it has not been shown that the alleged loss of or damage to property was directly caused by the respondent Party or any person acting on its behalf, the respondent Party cannot be held responsible (see, e.g., *Blentić* and *Bejdić v. The Republika Srpska*, Cases Nos. CH/96/17 and CH/96/27, decisions of 22 July 1998, Decisions and Reports 1998, paragraphs 10 and 11, respectively). In the present case no such responsibility can be established. This claim must therefore be rejected. The applicant's claim for further pecuniary damage in the amount of 100,000 DEM appears to be of a conditional nature, should she be further prevented from returning to her apartment. The Chamber has just ordered the Federation to enable the applicant to return swiftly to her apartment. In these circumstances the issue of compensation in this respect does not arise.

91. As for the claim for non-pecuniary damage in the amount of 50,000 DEM, the Chamber considers that the present decision finding violations of the applicants' rights under the Agreement constitutes adequate satisfaction (see *Bulatovic v. The Federation of Bosnia and Herzegovina,* Case No. CH/98/22, decision of 15 July 1998, Decisions and Reports 1998, paragraph 18).

VIII. CONCLUSIONS

92. For the above reasons, the Chamber decides:

1. unanimously, that the refusal to allow the applicant to return to her apartment, the failure to comply with the procedure laid down by the domestic law with respect to the examination of her claim for repossession and the non-execution of the decision of 3 August 1998 have involved a violation by the Federation of her right to respect for her home within the meaning of Article 8 of the Convention, the Federation thereby being in breach of Article I of the Agreement;

2. unanimously, that the refusal to allow the applicant to return to her apartment, the failure to comply with the procedure laid down by domestic law with respect to the examination of her claim for repossession and the non-execution of the decision of 3 August 1998 have involved a violation by the Federation of her right to peaceful enjoyment of her possessions within the meaning of Article 1 of Protocol No. 1 to the Convention, the Federation thereby being in breach of Article I of the Agreement;

3. by 6 votes to 1, that in so far as the civil court proceedings concerning her moveable property have lasted beyond a reasonable time, there has been a violation of Article 6 paragraph 1 of the Convention, the Federation thereby being in breach of Article I of the Agreement;

4. unanimously, to order the Federation to take all necessary steps to process the applicant's repossession claim without further delay, and to enable the applicant to return swiftly to her apartment;

5. unanimously, to reject the applicant's claims for compensation; and

6. unanimously, to order the Federation to report to it by 11 September 1999 on the steps taken by it to comply with the above order.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel

HUMAN RIGHTS CHAMBER
FOR BOSNIA AND HERZEGOVINA

DOM ZA LJUDSKA PRAVA
ZA BOSNU I HERCEGOVINU

DECISION ON THE ADMISSIBILITY AND MERITS

DELIVERED ON 11 JUNE 1999

**Cases Nos. CH/98/124, CH/98/130, CH/98/142,
CH/98/148, CH/98/160, CH/98/172, CH/98/178**

**Ivan LAUS, Mehmed BRADARIĆ, Safet KARABEGOVIĆ,
Pero OPARNICA, Radomir STOŠIĆ, Milenko ADŽAIP, Branko GALUŠIĆ**

against

**BOSNIA AND HERZEGOVINA
AND
THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 14 April 1999 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Vlatko MARKOTIĆ
Mr. Jakob MÖLLER
Mr. Manfred NOWAK
Mr. Mehmed DEKOVIĆ
Mr. Vitomir POPOVIĆ

Mr. Leif BERG, Registrar
Ms. Olga KAPIĆ, Deputy Registrar

Having considered the admissibility and merits of the aforementioned cases introduced pursuant to Article VIII(1) of the Human Rights Agreement ("the Agreement") set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Adopts the following decision pursuant to Article VIII(2) and Article XI of the Agreement and Rules 52, 57 and 58 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The present decision concerns 7 cases involving Yugoslav National Army apartments. The cases were considered to be directed against the State of Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina. The names of the individual applicants and the corresponding case numbers are listed in part III B of the decision.

2. In 1992 the applicants contracted to buy apartments from the Yugoslav National Army ("the JNA"). The contracts were annulled by legislation passed shortly after the General Framework Agreement for Peace in Bosnia and Herzegovina that entered into force in December 1995. The applicants indicate that the annulment of their contracts violated their property rights as guaranteed by Article 1 of Protocol No. 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") and also raise alleged violations of Articles 6 and 13 of the Convention.

3. These cases resemble the cases of *Medan and Others v. Bosnia and Herzegovina and The Federation of Bosnia and Herzegovina* (see Cases Nos. CH/96/3, 8 and 9, decision on the merits of 7 November 1997, Decisions 1996-1997), *Podvorac and 15 other JNA cases* (decision on the admissibility and the merits of 12 June 1998, Decisions and Reports 1998), and many other JNA cases which the Chamber has decided.

II. PROCEEDINGS BEFORE THE CHAMBER

4. The applications were introduced and registered in January 1998. The applicant Milenko Adžaip (CH/98/172) is represented by a lawyer. The others act on their own behalf.

5. Most applications were directed against both Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina, whereas one complaint (CH/98/142) was initially directed only against Bosnia and Herzegovina. The Chamber considered, however, that the applicants' complaints raised issues, which might in all cases engage the responsibility of both the State and the Federation of Bosnia and Herzegovina. It therefore decided to treat all cases as being directed against both the State and the Federation (see, e.g. the *Medan and Others* decision, loc. cit., paragraphs 28-30 and 44-47, and the decision in the *Podvorac and 15 other JNA cases*, loc. cit., paragraph 3).

6. On 7 April 1998 and 15 May 1998 the Second Panel decided pursuant to Rule 49(3)(b) of the Rules of Procedure to transmit the applications to the respondent Parties for observations on their admissibility and merits.

7. The Federation of Bosnia and Herzegovina submitted observations on 8 June 1998. The State of Bosnia and Herzegovina did not submit any observations. The applicants replied in June and July 1998. In accordance with the Chamber's order for the proceedings in the respective cases, all applicants were afforded the possibility of claiming compensation within the time limit fixed for any reply to observations submitted by a respondent Party. Applicants in Cases Nos. CH/98/130, CH/98/142, CH/98/148, CH/98/160, CH/98/172, and CH/98/178 submitted claims for compensation.

8. The Second Panel deliberated on the admissibility and the merits of the cases on 14 April 1999. Under Rule 34 of its Rules of Procedure, it decided to join the applications and adopted the present decision on the last-mentioned date.

III. ESTABLISHMENT OF FACTS

A. Relevant domestic law

9. The apartments occupied by the applicants were all socially owned property over which the JNA had jurisdiction. Such property was considered to belong to society as a whole. Each applicant enjoyed occupancy right in respect of his apartment. An occupancy right was a right, subject to certain conditions, to occupy an apartment on a permanent basis.

10. Each of the applicants contracted to purchase his apartment under the Law on Securing Housing for the Yugoslav National Army (Official Gazette *"Službeni List"* (henceforth "OG") of the

Socialist Federal Republic of Yugoslavia, No. 84/90). This Law came into force on 6 January 1991. In the following years a number of Decrees with force of law were issued by the Government of the Socialist Republic of Bosnia and Herzegovina, and the Presidency of the Republic of Bosnia and Herzegovina (henceforth "RBiH"), later confirmed as laws by the Parliament of the RBiH, with the aim of regulating social property issues in general and social property over which the JNA had jurisdiction in particular (see the Chamber's decision in *Medan and Others*, loc. cit., paragraphs 9-13).

11. These legal instruments included, amongst others, a Decree imposing a temporary prohibition on the sale of socially owned property, issued on 15 February 1992 by the Government of the Socialist Republic of Bosnia and Herzegovina (OG of the Socialist Republic of Bosnia and Herzegovina, No. 4/92). Subsequently, a Decree with force of law, issued on 3 February 1995 by the Presidency of the Republic (OG of the RBiH, No. 5/95), ordered courts and other state authorities to adjourn proceedings relating to the purchase of apartments and other properties under the Law on Securing Housing for the JNA. This Decree entered into force on 10 February 1995, the date of its publication in the Official Gazette.

12. On 22 December 1995 the Presidency of the RBiH issued a Decree with force of law (OG of the RBiH, No. 50/95) stating that contracts for the sale of apartments and other property concluded on the basis of, *inter alia*, the Law on Securing Housing for the JNA were retroactively invalid. This Decree entered into force on the same day. It was adopted as a law by the Assembly of the RBiH on 18 January 1996 and promulgated on 25 January 1996 (OG of the RBiH, No. 2/96).

13. The Decree of 22 December 1995 also provided that questions connected with the purchase of real estate which was the subject of annulled contracts would be resolved under a law to be adopted in the future. On 6 December 1997 the Law on the Sale of Apartments with Occupancy Right came into force (Official Gazette *"Službeni Novine"* of the Federation of Bosnia and Herzegovina (henceforth "OG of the FBiH"), No. 27/97; "the 1997 Law"). This law was amended by a law of 23 March 1998 (OG of the FBiH No. 11/98). Neither law affected the annulment of the present applicants' contracts.

B. The individual cases

14. All applicants are former employees of the JNA. The facts of the cases as they appear from the applicants' respective submissions and the documents in the case file are not in dispute. The facts will be summarised below. All applicants had fully paid the purchase prices due. It should be noted that the amount paid by each applicant at or around the moment of contracting to purchase an apartment (henceforth "the purchase price") does not necessarily reflect the officially determined price of the dwelling. This is because the applicants were only obliged to pay the difference between the last-mentioned price and their earlier accumulated contribution to the JNA Housing Fund. For instance, in Case No. CH/98/160 the applicant was required to pay only 1,000 dinars on top of such contribution.

15. Further, it should be noted that in Case No. CH/98/172 the applicant instituted court proceedings before the Court of First Instance in Travnik seeking to establish that he was entitled to recognition as owner of the apartment. These proceedings were adjourned. It appears from the files that the other six applicants did not attempt to initiate court proceedings. Several applicants stated that their reason for this was the compulsory adjournment of civil proceedings under the Decree of 3 February 1995 (OG of the RBiH, No. 5/95).

16. The facts of these cases may be summarised as follows:

1. The case of Mr. Ivan LAUS (CH/98/124)

17. On 7 March 1992 the applicant concluded a purchase contract for a JNA apartment at Armie BiH 17 (formerly Skojevska 53) in Tuzla and paid the purchase price due (348,734 Dinars) on 11 February and 9 March 1992.

2. The case of Mr. Mehmed BRADARIĆ (CH/98/130)

18. On 20 March 1992 the applicant concluded a purchase contract for a JNA apartment at Aleja Bosanskih Vladara No. 18/31 (formerly Oktobarske Revolucije 2) in Tuzla and paid the purchase price due (92,000 Dinars) on 30 January and 7 February 1992.

3. The case of Mr. Safet KARABEGOVIĆ (CH/98/142)

19. On January 1992 the applicant concluded a purchase contract (No. 3513-9955-4) for a JNA apartment at Oktobarske Revolucije Street 29, now Aleja Bosanskih Vladara 27, in Tuzla, and paid the purchase price due (200,000 Dinars) on 13 February 1992.

4. The case of Mr. Pero OPARNICA (CH/98/148)

20. On 3 April 1992 the applicant concluded a purchase contract for a JNA apartment at Oktobarske Revolucije 6, now Aleja Bosanskih Vladara 22, Tuzla, and paid the purchase price due (51,000 Dinars) on 12 February 1992.

5. The case of Mr. Radomir STOŠIĆ (CH/98/160)

21. On 3 April 1992 the applicant concluded a purchase contract for a JNA apartment at Radojke Lakić Street 3, in Tuzla, and paid the purchase price due (1,000 Dinars) on 15 February 1992.

6. The case of Mr. Milenko ADŽAIP (CH/98/172)

22. On 11 March 1992 the applicant concluded a purchase contract for a JNA apartment at Centar 2D lamela IV (formerly Trg Republike 2/04), in Travnik, and paid the purchase price due (281,234 Dinars) on 10 February 1992.

23. On 22 August 1995 the applicant submitted a request to the Court of First Instance in Travnik, seeking to establish he was entitled to recognition as owner of the apartment and to be registered in the Land Registry as such. On 31 May 1996 the court issued a decision adjourning the applicant's case under the Decree of 3 February 1995 (OG of the RBiH, No. 5/95). The proceedings have remained adjourned since.

7. The case of Mr. Branko GALUŠIĆ (CH/98/178)

24. On 12 February 1992 the applicant concluded a purchase contract for a JNA apartment at Aleja Bosanskih Vladara 22 (formerly Oktobarske Revolucije 6/8) in Tuzla, and paid the purchase price due (139,615 Dinars) on 12 February 1992.

IV. COMPLAINTS

25. The applicants essentially complain that the retroactive annulment of their purchase contracts, and in Case No. CH/98/172 that the compulsory adjournment of civil proceedings under the Decree No. 5/95 (see paragraphs 10-11 above), involved violations of their rights under Article 6 and 13 of the Convention and Article 1 of Protocol No. 1 to the Convention.

V. SUBMISSIONS OF THE PARTIES

A. The Respondent Parties

1. Bosnia and Herzegovina

26. No observations have been received from the State of Bosnia and Herzegovina.

2. The Federation of Bosnia and Herzegovina

27. The Federation of Bosnia and Herzegovina primarily refers to the liability of the State of Bosnia and Herzegovina for the impugned measures. It reasons that "the matter concerns the State's competence as it is a question regulated by Article 5 of the Constitution of Bosnia and Herzegovina". Regarding the succession of the former SFRJ, the Federation maintains that it is legally impossible for the Federation to fulfil its obligations flowing from the Chamber's decision in *Bulatović v. Bosnia and*

Herzegovina and The Federation of Bosnia and Herzegovina (Case No. CH/96/22, decision on the merits of 7 November 1997, Decisions and 1996-97).

28. It is further alleged that the issue at stake in these cases is the constitutionality of a law and not the infringement of human rights. These cases would therefore fall within the jurisdiction of the Constitutional Court. Moreover, the Federation submits that "the impugned legal acts were designed to put all citizens on an equal footing and to protect State property", the measures therefore having been justified under the second paragraph of Article 1 of Protocol No. 1 to the Convention.

B. The Applicants

29. The applicants maintain their complaints. Regarding the Federation's argument that other citizens were not treated equally to those who had the opportunity to purchase JNA apartments, the applicants stress the fact that they were all employees of the former JNA and had contributed to the Army Housing Fund. The apartments they purchased were constructed with means from this fund and not from the Housing Fund of the then Republic of Bosnia and Herzegovina. Consequently, the applicants cannot be compared with those who did not contribute to the Army Housing Fund.

VI. OPINION OF THE CHAMBER

A. Admissibility

30. Before considering the cases on their merits the Chamber must decide whether to accept them, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement which, so far as relevant, provides as follows:

> "2. The Chamber shall decide which applications to accept … . In so doing the Chamber shall take into account the following criteria:
>
> (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted and that the application has been filed with the Commission within six months from such date on which the final decision was taken.
>
> …
>
> (c) The Chamber shall also dismiss any application which it considers incompatible with this Agreement, … "

31. In accordance with generally accepted principles of international law, it is outside the competence of the Chamber *ratione temporis* to decide whether events occurring before the coming into force of the Agreement on 14 December 1995 gave rise to violations of human rights. Evidence relating to such events may, however, be relevant as a background to events which occurred after the Agreement entered into force. Moreover, in as far as an applicant alleges a continuing violation of his rights after 14 December 1995, the case may fall within the Chamber's competence *ratione temporis (see Bastijanović v. Bosnia and Herzegovina and The Federation of Bosnia and Herzegovina,* Case No. CH/96/8, decision on the admissibility of 4 February 1997, Decisions 1996-1997, page 36).

32. The Chamber recalls that the present cases were introduced in January 1998. The applicants essentially complain about the effects of the decrees of 3 February and 22 December 1995. In previous JNA cases, the Chamber has found the Federation to be in violation of the Agreement because of its recognition and application of those decrees (see, e.g. aforementioned *Medan and Others* decision, loc. cit., paragraphs 38 and 41). The present applicants must also be understood as alleging that the effects of those decrees have been ongoing up to this day. The Chamber notes that the Decree of 22 December 1995 also provided that questions connected with the purchase of real estate which was the subject of the annulled contracts would be resolved by a law to be enacted in the future. Indeed, legislation to that effect was enacted in December 1997 and March 1998 (see paragraph 11 above). However, neither of the laws enacted affected the annulment of the present applicants' contracts. In these circumstances, the Chamber observes, *ex officio*, that it is unable to identify any "final decision" whereby the six months' period stipulated in Article VIII(2)(a) could be considered to have commenced. Given this ongoing situation, the Chamber is also competent *ratione temporis* to examine the present cases.

33. The Federation of Bosnia and Herzegovina argues that the present cases would fall within the

jurisdiction of the Constitutional Court and presumably be incompatible with the Agreement within the meaning of Article VIII(2)(c) (see paragraph 26 above). However, the Chamber recalls that it is competent to consider "alleged and apparent violations of human rights as provided in the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto" (Article II(2)(a) of the Agreement). The Federation's argument must therefore be rejected.

34. Similarly, the Chamber cannot accept the Federation's assertion that it cannot give effect to the decisions of the Chamber due to lack of competence in the subject matter. As the Chamber found in previous cases (c.f. the aforementioned *Medan and Others* decision, loc. cit., paragraphs 28-30, and the *Bulatović* decision, loc. cit., paragraphs 30—32), the Parties to the Agreement are under a direct obligation to secure to all persons within their jurisdiction the human rights and fundamental freedoms referred to in the Agreement. The applicants' complaints concern the application within the territory of the Federation, as part of the law of the Federation, of laws concerning his housing and property rights. The Chamber notes that housing and property matters are not amongst the matters listed in Article III of the Constitution of Bosnia and Herzegovina (Annex 4 to the General Framework Agreement for Peace) as being within the responsibility of the institutions of Bosnia and Herzegovina. As these matters are "not expressly assigned" in the Constitution to the institutions of the State, they fall within the responsibility of the Entities by virtue of Article III paragraph 3(a) of the Constitution. The Federation is therefore responsible for both the content and the application of legislation in force in its territory concerning the subject matter of the applicants' complaints. This is so, in the Chamber's opinion, even if the legislation was not passed by the Parliament of the Federation.

35. In the case of *Blentić v. Republika Srpska* (Case No. CH/96/17, decision of 3 December 1997, Decisions 1996-97, paragraphs 19-21, with further reference) the Chamber considered the admissibility criterion in Article VIII (2) (a) of the Agreement in light of the corresponding requirement in Article 35 (formerly Article 26) of the Convention to exhaust domestic remedies. It noted that the European Court of Human Rights has found that such remedies must be sufficiently certain not only in theory but in practice, failing which they will lack the requisite accessibility and effectiveness. The Court has, moreover, considered that in applying the rule on exhaustion it is necessary to take realistic account not only of the existence of formal remedies in the legal system of the Contracting Party concerned but also of the general legal and political context in which they operate as well as of the personal circumstances of the applicants.

36. In the present case neither Party has argued, for the purposes of Article VIII(2)(a) of the Agreement, that an effective remedy was available to the applicants. Under the Decree of 3 February 1995 courts and other state authorities were to adjourn proceedings relating to the purchase of JNA apartments and under the Decree of 22 December 1995 the contracts for the sale of these apartments were retroactively declared invalid (see paragraphs 10-11 above).

37. The experience of the applicant who instituted court proceedings, considered together with attempts made by previous applicants before the Chamber, indicates that redress was not available through the courts. Accordingly, the Chamber finds that none of the applicants had any effective remedies available to them within the meaning of Article VIII(2)(a) of the Agreement.

38. Neither respondent Party has raised any other objection to the admissibility of the applications in light of the criteria set out in Article VIII(2) of the Agreement.

39. The Chamber concludes therefore, that all the applications, including those where the applicants did not institute any court proceedings, are admissible.

B. Merits

40. Under Article XI of the Agreement the Chamber must next address the question whether the facts established above indicate a breach by one or both of the respondent Parties of its or their obligations under the Agreement. In terms of Article I of the Agreement the Parties are obliged to "secure to all persons within their jurisdiction the highest level of internationally recognised human rights and fundamental freedoms", including the rights and freedoms provided for in the Convention. The Chamber will therefore consider whether the retroactive annulment of the applicants' purchase contracts and the compulsory adjournment of any related civil proceedings constitutes a breach of the applicants' rights under Article I of the Agreement.

1. Article 1 of Protocol No. 1 to the Convention

41. The applicants complain that the contracts which they entered into for the purchase of their apartments were annulled retroactively by the Decree issued on 22 December 1995, which was confirmed as a law on 18 January 1996 and later promulgated on 25 January 1996 (*Službeni List* of the Republic of Bosnia and Herzegovina, No. 2/96). They allege a breach of Article 1 of Protocol No. 1 to the Convention, which is in the following terms:

> "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."

42. As to whether, at the time when the December 1995 Decree came into force, the applicants had any rights under their contracts which constituted "possessions" for the purposes of Article 1 of Protocol No. 1, the Chamber refers to its decisions in the cases of *Medan and Others* and in *Podvorac and 15 other JNA* cases (loc. cit., paragraph 33 and paragraphs 59-61, respectively). The answer to this question is therefore affirmative. The effect of the Decree was to annul those rights and the applicants were therefore deprived of their possessions. It is accordingly necessary for the Chamber to consider whether these deprivations were justified under Article 1 of the Protocol as being "in the public interest" and "subject to the conditions provided for by law".

43. The Federation of Bosnia and Herzegovina submits that the impugned legal acts were designed to equalise the applicants' positions, to support those who were prevented from buying JNA apartments and to protect State property. These acts would therefore correspond with the requirements of the second paragraph of Article 1 of Protocol No. 1 to the Convention and justify the measures concerned in the present cases.

44. The applicants stress the fact that the purchasers were all employees of the former JNA and had contributed to the Army Housing Fund. The apartments in question were constructed with means from this fund and not from the Housing Fund of the then Republic of Bosnia and Herzegovina. Consequently, the purchasers cannot be compared with those who had not contributed to the Army Housing Fund.

45. The Chamber finds that there is no material distinction between the present cases and those of *Medan and Others* and the *Podvorac and 15 other JNA* cases (loc. cit.), *Grbavac and 26 other JNA cases* (Case No. CH/97/81 et al., decision on the admissibility and merits of 15 January 1999) and *Ostojic and 31 other JNA cases* (Case No. CH/97/82 et al., decision on the admissibility and merits of 15 January 1999). Moreover, the new legislation issued after the Chamber's decision in *Medan and Others* (see paragraph 10 above) did not change the present applicants' situation (see also the aforementioned *Grbavac* and *26 other JNA cases* and *Ostojić* and *31 other JNA cases)*. Accordingly, the Chamber finds, as in the earlier JNA cases decided on the merits, that the present applicants were also made to bear an "individual and excessive burden" and that there has been a violation of Article 1 of Protocol No. 1 to the Convention.

2. Article 6 of the Convention

46. Applicant Adžaip (CH/98/172) complains that the civil proceedings instituted with a view to obtaining recognition of her ownership and registration in the Land Registry have been compulsorily adjourned by virtue of the February 1995 Decree. There is an apparent breach of Article 6 of the Convention in this respect. Those applicants who did not institute proceedings allege a violation of Article 6 on the ground that the aforementioned Decree deprived them of their right of access to court. Article 6 reads, as far as relevant, as follows:

> "1. In the determination of his civil rights and obligations … everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law…"

47. As in the cases of *Medan and Others* and the *Podvorac and 15 other JNA cases* (loc.cit.) above the Chamber notes that the court proceedings in question either were or would have been adjourned after the Decree in question entered into force. Neither respondent Party has argued that this situation has changed with respect to the present applicants. Accordingly, there is a continuing deprivation of the applicants' right of access to court for the purpose of having their civil claims determined, as guaranteed by Article 6 (see e.g., the Chamber's decision in the cases of *Medan and Others*, loc.cit., paragraph 40, and the European Court of Human Rights in the case of *Golder v. United Kingdom*, judgement of 21 February 1975, Series A No. 18, paragraphs 35 and 36). The Chamber sees no justification for this state of affairs in light of the conclusion which it has reached under Article 1 of Protocol 1 to the Convention. It follows that there is a breach of Article 6 of the Convention in the case of each applicant, in so far as the compulsory adjournment of his or her case has or would have continued since 14 December 1995, when the Agreement came into force. Moreover, any proceedings initiated would by now have lasted beyond a "reasonable time" due to the February 1995 Decree.

3. Article 13 of the Convention

48. Some applicants also maintain that they have been the victims of a breach of Article 13 of the Convention in that no effective remedy has been available to them in respect of their complaints. Article 13 provides as follows:

> "Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

49. In view of its decision under Article 6(1) of the Convention to the effect that the applicants have been denied access to court to establish their property rights, the Chamber considers it unnecessary also to examine the complaints under Article 13. The requirements of Article 13 are less strict than those of Article 6 and are absorbed by the latter (see, e.g., European Court of Human Rights, *Hentrich v. France,* judgement of 22 September 1994, Series A No. 296, paragraph 65).

VII. REMEDIES

50. Under Article XI paragraph 1(b) of the Agreement the Chamber must also address the question what steps shall be taken by the respondent Party or Parties to remedy the breaches of the Agreement which it has found.

51. The Chamber notes that the legal situation remains essentially the same as that which it addressed in its decisions in the cases of *Medan and Others* and the other JNA cases mentioned above. It is therefore appropriate to make orders similar to those issued in those cases.

52. The breaches of Article 1 of Protocol No. 1 arose from the legislation already referred to. The State is responsible for having passed that legislation, but the matters which it deals with are now within the responsibility of the Federation, which recognises and applies this legislation. In these circumstances the Chamber considers that it is the responsibility of the Federation to take the necessary legislative or administrative action to render ineffective the annulment of the applicants' contracts. It will therefore make an order against the Federation to that effect.

53. The Chamber will also order the Federation to take all necessary steps to lift the compulsory adjournment of the court proceeding instituted by the applicant in Case No. CH/98/172 and which the Chamber has found to be in violation of Article 6 of the Convention, and to take all necessary steps to secure the applicants' right of access to court.

54. With regard to possible compensatory awards, the Chamber first recalls that in accordance with its order for the proceedings in the respective cases, all applicants were afforded the possibility of claiming compensation within the time limit fixed for any reply to observations submitted by a respondent Party. The following applicants seek compensation:

55. Mr. Bradarić (CH/98/130) claims compensation of a total of 1,000 DEM for his lawyer's fees, for costs of telephone conversations and for copying and posting documents to the Chamber,

for coming to Sarajevo and for lost time. He further requests 50,000 DEM for "the insults, for calling me a robber in the press and for presenting me and the way in which we bought the apartment falsely to the BiH people", all referring to remarks made by the military lawyer Ms. Nura Pinjo in her observations on behalf of the Federation in this case, in other cases and in the press.

56. Mr. Karabegović (CH/98/142) claims compensation, conditionally (in case his ownership would not be recognized) for payment of contributions to the Housing Fund; and 657 DEM per floor surface m2 of his flat. Further, he asks for reimbursement of "the additionally paid amount according to the receipts"; of 10 DM in lawyer's fees, and of 5 DEM for sending documents to the Chamber. He also requests 10,000 DEM for being branded "a robber" in Ms. Nura Pinjo's observations on behalf of the Federation in this case, in other cases and in the press, and 30,000 DEM for all traumas, intimidation and ill-treatment he suffered as well as for the current threats and annoyances he is subjected to by the organs of the Federation.

57. Mr. Oparnica (CH/98/148) and Mr. Stošić (CH/98/160) submit an identical compensation claim, requesting compensation, conditionally (in case their ownership would not be recognized) for payment of contributions to the Housing Fund; and 857 DEM per floor surface m2 of their flats. Further, they ask for reimbursement of "the additionally paid amount according to the receipts"; of 10 DM in lawyer's fees, and of 5 DEM for sending documents to the Chamber. They also request 10,000 DEM for being branded "a robber" in Ms. Nura Pinjo's observations on behalf of the Federation in this case, in other cases and in the press, and 30,000 DEM for all traumas, intimidation and ill-treatment they suffered as well as for the current threats and annoyances they are subjected to by the organs of the Federation.

58. Mr. Adžaip (CH/98/172) claims compensation of legal costs amounting to 450 DEM for the submission of the request to the Court of First Instance in Travnik on 22 August 1995, 450 DEM for his legal representation at the hearing before the Court in Travnik on 31 May 1996, 450 DEM for the application to the Chamber and 450 DEM for the response to the allegations of the respondent Party.

59. Mr. Galušić (CH/98/178) claims compensation for an unspecified amount paid to the Housing Fund in excess of the value of the apartment. Further, he asks for reimbursement of 10 DEM in lawyer's fees, and of 8 DEM for sending documents to the Chamber. He also requests 10,000 DEM for being branded "a robber" in Ms. Nura Pinjo's observations on behalf of the Federation in this case, in other cases and in the press, and 30,000 DEM for all traumas, intimidation and ill-treatment he suffered as well as for the current threats and annoyances he is subjected to by the organs of the Federation.

60. The respondent Parties have not commented on any of the above claims.

61. The Chamber first recalls that its jurisdiction *ratione temporis* is limited to the period after the entry into force of the Agreement on 14 December 1995. This means that the Chamber cannot award any compensation for damage suffered or costs incurred before that date, or relating to events before that date. Compensation may be awarded in respect of pecuniary or non-pecuniary (moral) damage as well as for costs and expenses incurred by the applicants after that date in order to prevent the breach found or to obtain redress therefor. Any costs and expenses claimed should be specified (see, e.g., *Damjanović v. The Federation of Bosnia and Herzegovina,* Case No. CH/96/30, decision of 11 March 1998, Decisions and Reports 1998, page 80, paragraph 23).

62. The Chamber further recalls that it has already rejected a compensation claim lodged by an applicant merely on the ground that he had been unable to register himself as owner of his JNA apartment, considering that he had not been threatened with being evicted and had not attempted, for instance, to sell his apartment or use it as security for a loan or other matter (see *Bulatović v. Bosnia and Herzegovina and The Federation of Bosnia and Herzegovina*, Case No. CH/96/22, decision on the claim for compensation of 15 July 1998, Decisions and Reports 1998, paragraph 15).

63. Some applicants claim compensation for their contributions to the Housing Fund and based on the surface of the flats. These claims appear to have been made to cover the eventuality that the applicants' ownership is not recognized. In light of the Chamber's above findings on the merits these claims must be rejected.

64. As for the claims of applicants Bradarić, Karabegović, Oparnica, Stošić and Galušić for compensation in the amount of 10,000 DEM for being referred to, in a defamatory manner, as "robbers" in submissions made on behalf of the Federation in this case, in other cases and in the press, and of 30,000 DEM for other non-pecuniary damage ("traumas", "maltreatment" and "intimidation") allegedly suffered on account of disrespect shown by the Federation, the Chamber notes that these claims - made without any clear and concrete evidence substantiating them - are not connected with the violations alleged in the applications and subsequently established by the Chamber. Hence, these claims fall outside the scope of the case before the Chamber. The same reasoning applies to the claims of applicants Karabegović, Oparnica and Stošić concerning their compensation claims for current threats and annoyances.

65. Further, the Chamber considers that the present decision finding violations of the applicants' rights under the Convention constitute adequate satisfaction for them (see the aforementioned *Bulatović* decision, loc. cit., paragraph 18).

66. The Chamber finds it appropriate to award Mr. Bradarić (CH/98/130) 15 KM for legal fees and postage. The applicant has not substantiated further expenses incurred, namely he has not provided any evidence for having been represented by an advocate.

67. The Chamber finds it appropriate to award Mr. Karabegović (CH/98/142) 15 KM for legal fees and postage.

68. The Chamber finds it appropriate to award applicant Mr. Oparnica (CH/98/148) 15 KM for legal fees and postage.

69. The Chamber finds it appropriate to award applicant Mr. Stošić (CH/98/160) 15 KM for legal fees and postage.

70. Regarding the applicant Mr. Adžaip (CH/98/172) the Chamber notes that part of his compensation claim relates to legal costs allegedly incurred in August 1995, i.e. prior to the entry into force of the Agreement. This part of the claim must therefore be rejected. As for the remainder of his claim, the Chamber finds it appropriate, taking into account the Advocates' Tariff, to award him a total of 200 KM in compensation for legal costs and expenses incurred in the proceedings before the Court in Travnik in May 1996 and before the Chamber, 50 and 150 KM, respectively (see *Ostojić and 31 Other JNA Cases*, loc. cit., paragraph 123).

71. The Chamber finds it appropriate to award applicant Mr. Galušić (CH/98/178) 18 KM for legal fees and postage. It rejects as outside its competence *ratione temporis* the request for compensation regarding the amount of contributions he paid to the Housing Fund above the contract price of his apartment.

VIII. CONCLUSIONS

72. For the above reasons the Chamber decides:

1. unanimously, to declare the applications admissible;

2. unanimously, that the passing of legislation providing for the retroactive nullification of the purchase contracts in question violated the applicants' rights under Article 1 of Protocol No. 1 to the Convention, Bosnia and Herzegovina thereby being in breach of its obligations under Article I to the Agreement;

3. unanimously, that the recognition and application of the legislation providing for the retroactive nullification of the purchase contracts in question has violated the applicants' rights under Article 1 of Protocol No. 1 to the Convention, the Federation thereby being in breach of its obligations under Article I of the Agreement;

4. unanimously, that the continuing adjournment after 14 December 1995 of Court proceedings aiming at formal recognition of the applicants' property rights (whether or not actually initiated by them) has violated their right of access to a Court and to a hearing within a reasonable time as

guaranteed by Article 6 of the Convention, the Federation thereby being in breach of its obligations under Article I of the Agreement;

5. unanimously, that it is unnecessary to examine the applicants' complaints based on Article 13 of the Convention;

6. unanimously, to order the Federation to render ineffective the annulment of the purchase contracts in question imposed by the Decree of 22 December 1995 and the Law of 18 January 1996;

7. unanimously, to order the Federation to take effective steps to lift the adjournment by the Decree of 3 February 1995 of court proceedings aiming at formal recognition of the applicants' property right and to take all necessary steps to secure in this matter their right of access to court and to a hearing within a reasonable time;

8. by 6 votes to 1, to order the Federation to pay to the applicants below, within three months, the following sums in compensation for fees and expenses:

(a) to Mr. Bradarić (CH/98/130) 15 KM;

(b) to Mr. Karabegović (CH/98/142) 15 KM;

(c) to Mr. Oparnica (CH/98/148) 15 KM;

(d) to Mr. Stošić (CH/98/160) 15 KM;

(e) to Mr. Adžaip (CH/98/172) 200 KM; and

(f) to Mr. Galušić (CH/98/178) 18 KM;

9. by 6 votes to 1, to reject the remainder of the applicants' claims for compensation;

10. by 6 votes to 1, to order that simple interest at an annual rate of four per cent will be payable over the awarded sums or any unpaid portion thereof, from the date of expiry of the above-mentioned three-month period until the date of settlement; and

11. unanimously, to order the Federation to report to it by 11 September 1999 on the steps taken by it to give effect to this decision.

signed)	(signed)
Leif BERG	Giovanni GRASSO
Registrar of the Chamber	President of the Second Panel

HUMAN RIGHTS CHAMBER
FOR BOSNIA AND HERZEGOVINA

DOM ZA LJUDSKA PRAVA
ZA BOSNU I HERCEGOVINU

DECISION ON THE ADMISSIBILITY AND MERITS

DELIVERED ON 10 MARCH 1999

Ljubiša MARIĆ, M.S., Petar SIMOVIĆ, Asim BEGIĆ, Slavica PARAVINA, Tahir HUREMOVIĆ, Petar ZORIĆ, and Alosman POLIĆ

against

BOSNIA AND HERZEGOVINA
AND
THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 8 March 1999 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Vlatko MARKOTIĆ
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK

Mr. Leif BERG, Registrar
Ms. Olga KAPIĆ, Deputy Registrar

Having considered the admissibility and merits of cases nos. CH/98/126, CH/98/138, CH/98/150, CH/98/266, CH/98/274, CH/98/282, CH/98/284, and CH/98/288 introduced pursuant to Article VIII(1) of the Human Rights Agreement ("the Agreement") set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina and listed in part III B of this decision;

Adopts the following decision pursuant to Article VIII(2) and Article XI of the Agreement and Rules 52, 57 and 58 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The present decision concerns 8 so-called JNA cases considered to be directed against the State of Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina. The names of the individual applicants and the corresponding case numbers are listed in part III B of the decision.

2. In 1991 or 1992 the applicants contracted to buy apartments from the Yugoslav National Army ("the JNA"). The contracts were annulled by legislation passed shortly after the General Framework Agreement for Peace in Bosnia and Herzegovina entered into force in December 1995. The applicants indicate that the annulment of their contracts violated their property rights as guaranteed by Article 1 of Protocol No. 1 to the (European) Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") and also raise alleged violations of Articles 6 and 13 of the Convention.

3. These cases resemble the cases of *Medan* and Others and the other JNA cases decided by the Chamber (See, e.g., Cases Nos. CH/96/3, 8 and 9, decision on the merits of 7 November 1997, Decisions on Admissibility and Merits 1996-1997, p. 53).

II. PROCEEDINGS BEFORE THE CHAMBER

4. The applications were introduced between January 1998 and February 1998 and registered between January 1998 and April 1998. Applicant M.S. (CH/98/138) is represented by a lawyer. Applicant M.S. (CH/98/138) objects to her identity being disclosed to the public (Rule 46 paragraph 2 (d) of the Chamber's Rules of Procedure).

5. Some of the applications were directed against both Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina, whereas others were initially directed either against Bosnia and Herzegovina or the Federation of Bosnia and Herzegovina. The Chamber considered, however, that the applicants' complaints raised issues which might in all cases engage the responsibility of both the State and the Federation of Bosnia and Herzegovina. It therefore decided to treat all cases as being directed against both the State and the Federation (see, e.g., the *Medan and Others* decision, loc. cit., paragraphs 28-30 and 44-47).

6. On 7 April 1998, 15 May 1998 and 11 June 1998 the Second Panel decided pursuant to Rule 49(3)(b) of the Rules of Procedure to transmit the applications to the respondent Parties for observations on their admissibility and merits.

7. The Federation of Bosnia and Herzegovina submitted observations between 8 June 1998 and 28 August 1998. The State of Bosnia and Herzegovina did not submit any observations. The applicants replied between July and October 1998. In accordance with the Chamber's order for the proceedings in the respective cases, all applicants were afforded the possibility of claiming compensation within the time limit fixed for any reply to observations submitted by a respondent Party. Applicants in Cases Nos. CH/98/150, CH/98/282 and CH/98/284 submitted claims for compensation.

8. The Second Panel deliberated on the admissibility and the merits of the cases on 15 January, 8 February 1999 and 8 March 1999. Under Rule 34 of its Rules of Procedure, it decided to join the applications and adopted the present decision on the last-mentioned date.

III. ESTABLISHMENT OF THE FACTS

A. Relevant domestic law

9. The apartments occupied by the applicants were all socially owned property over which the JNA had jurisdiction. Such property was considered to belong to society as a whole. Each applicant enjoyed an occupancy right in respect of his or her apartment. An occupancy right was a right, subject to certain conditions, to occupy an apartment on a permanent basis.

10. Each of the applicants contracted to purchase his or her apartment under the Law on Securing Housing for the Yugoslav National Army (Official Gazette of the Socialist Federal Republic of Yugoslavia, No. 84/90). This Law came into force on 6 January 1991. In the following years a

number of Decrees with force of law were issued by the Government of the Socialist Republic of Bosnia and Herzegovina, and the Presidency of the Republic of Bosnia and Herzegovina (confirmed as laws by the Parliament of the Republic of Bosnia and Herzegovina) with the aim of regulating social property issues in general and social property over which the JNA had jurisdiction in particular (see the Chamber's decision in the cases of *Medan and Others*, loc. cit., paragraphs 9-13). These legal instruments included, amongst others, a Decree imposing a temporary prohibition on the sale of socially owned property, issued on 15 February 1992 by the Government of the Socialist Republic of Bosnia and Herzegovina (Official Gazette of the Republic of Bosnia and Herzegovina , No. 4/92). Subsequently, a Decree with force of law, issued on 3 February 1995 by the Presidency of the Republic (Official Gazette of the Republic of Bosnia and Herzegovina, No. 5/95), ordered courts and other state authorities to adjourn proceedings relating to the purchase of apartments and other properties under the Law on Securing Housing for the JNA. This Decree entered into force on 10 February 1995, the date of its publication in the Official Gazette. On 22 December 1995 the Presidency of the Republic of Bosnia and Herzegovina issued a Decree with force of law (Official Gazette, No. 50/95) stating that contracts for the sale of apartments and other property concluded on the basis of, *inter alia,* the Law on Securing Housing for the JNA were retroactively invalid. This Decree entered into force on the same day. It was confirmed as a law by the Assembly of the Republic of Bosnia and Herzegovina on 18 January and promulgated on 25 January 1996 (Official Gazette, No. 2/96).

11. The Decree of 22 December 1995 also provided that questions connected with the purchase of real estate which was the subject of annulled contracts would be resolved under a law to be adopted in the future. On 6 December 1997 the Law on the Sale of Apartments with Occupancy Right came into force (Official Gazette of the Federation, No. 27/97). This law was amended by a law of 23 March 1998 (Official Gazette, No. 11/98). Neither law affected the annulment of the present applicants' contracts.

B. The individual cases

12. Six of the applicants are former employees of the JNA. The applicants in Cases Nos. CH/98/138 and CH/98/274 are wives of deceased former employees of the JNA. The facts of the cases as they appear from the applicants' respective submissions and the documents in the case file are not in dispute. It should be noted that the amount paid by each applicant at or around the moment of contracting to purchase an apartment (henceforth "the purchase price") does not necessarily reflect the officially determined price of the dwelling. This is because the applicants were only obliged to pay the difference between the last-mentioned price and their earlier accumulated contribution to the JNA Housing Fund. For instance, in Case No. CH/98/288 the applicant was required to pay only 1000 dinars on top of such contribution.

13. It should further be noted that in Case No. CH/98/138 the applicant instituted court proceedings seeking to establish that she was entitled to recognition as owner of the apartment. It appears from the files that the other seven applicants did not attempt to initiate court proceedings. Several applicants stated that their reason for this was the compulsory adjournment of civil proceedings under Decree No. 5/95.

14. The facts of these cases may be summarised as follows:

1. The case of Mr. Ljubiša MARIĆ (CH/98/126)

15. On 3 April 1992 the applicant concluded a purchase contract for a JNA apartment at Armie BiH 19/V-37 (formerly Skojevska) in Tuzla and paid the purchase price due (250.000,00 Dinars) on 10 February 1992.

2. The case of Ms. M.S. (CH/98/138)

16. On 12 February 1992 the applicant's deceased husband concluded a purchase contract for JNA apartment at the Envera Šehovića street No. 4/5 (formerly Omera Maslića), Sarajevo and paid the purchase price due (412.032,00 Dinars).

17. On 23 November 1994 the applicant submitted an application to the Court of First Instance II

in Sarajevo seeking to establish that she was entitled to recognition as owner of the apartment and to be registered in the Land Registry as such. On 10 February 1995 the Court issued a decision adjourning the applicant's case under the Decree of 3 February 1995, Official Gazette No. 5/95. The proceedings have remained adjourned since.

3. The case of Mr. Petar SIMOVIĆ (CH/98/150)

18. On 3 April 1992 the applicant concluded a purchase contract for a JNA apartment at Oktobarske revolucije Street 11, now Aleja bosanskih vladara 9, in Tuzla, and paid the purchase price due (2.000,00 Dinars).

4. The case of Mr. Asim BEGIĆ (CH/98/266)

19. On 3 April 1992 the applicant concluded a purchase contract for a JNA apartment at Oktobarske revolucije 6, now Aleja bosanskih vladara 22, in Tuzla, and paid the purchase price due (727.650,00 Dinars).

5. The case of Ms. Slavica PARAVINA (CH/98/274)

20. On 3 April 1992 the applicant entered into a contract for the purchase of a JNA apartment at Skojevska Street, 55, now Armije BiH 19, in Tuzla, and paid the purchase price due (228.000,00 Dinars).

6. The case of Mr. Tahir HUREMOVIĆ (CH/98/282)

21. On 3 April 1992 the applicant concluded a purchase contract for a JNA apartment at Radojke Lakić Street 3, in Tuzla, and paid the purchase price due (300.000,00 Dinars).

7. The case of Mr. Petar ZORIĆ (CH/98/284)

22. On 20 March 1992 the applicant concluded a purchase contract for a JNA apartment at Vladimira Perića Valtera Street 12, in Tuzla, and paid the purchase price due (30.000,00 Dinars).

8. The case of Mr. Alosman POLIĆ (CH/98/288)

23. On 3 April 1992 the applicant concluded a purchase contract for a JNA apartment at Radojke Lakić Street 1, in Tuzla, and paid the purchase price due (1.000,00 Dinars).

IV. COMPLAINTS

24. The applicants essentially complain that the retroactive annulment of their purchase contracts and the compulsory adjournment of civil proceedings under the Decree No. 5/95 (see paragraphs 10-11 above) involved violations of their rights under Article 6 and 13 of the Convention and Article 1 of Protocol 1 to the Convention.

V. SUBMISSIONS OF THE PARTIES

A. The Respondent Parties

1. Bosnia and Herzegovina

25. No observations have been received from the State of Bosnia and Herzegovina.

2. The Federation of Bosnia and Herzegovina

26. The Federation of Bosnia and Herzegovina primarily refers to the liability of the State of Bosnia and Herzegovina for the impugned measures. Regarding the succession of the former SFRJ, the Federation maintains that it is impossible for the Federation to fulfil its obligations flowing from the Chamber's decision in *Medan and Others* (loc. cit.).

27. The Federation furthermore argues that the Chamber lacks competence *ratione temporis* to deal with the cases. In some of the cases the Federation, moreover, argues that the cases have

been lodged past the six months' period stipulated in Article VIII(2)(a) of the Agreement, since the essential grievance concerns the Decree of 22 December 1995 which was adopted as law on 18 January 1996. This enactment constituted the "final decision" within the meaning of Article VIII(2)(a) of the Agreement. Consequently, the applications should have been lodged by 18 July 1996.

28. It is further alleged that the issue at stake in these cases is the constitutionality of a law and not the infringement of human rights. These cases would therefore fall within the jurisdiction of the Constitutional Court. Moreover, the impugned legal acts were designed to support those citizens who were prevented from buying JNA apartments and to protect State property. The measures were therefore justified under the second paragraph of Article 1 of Protocol No. 1 to the Convention.

B. The Applicants

29. The applicants maintain their complaints. Regarding the Federation's argument that other citizens were not treated equally to those who had the opportunity to purchase JNA apartments, the applicants stress the fact that they were all employees of the former JNA and had contributed to the Army Housing Fund. The apartments they purchased were constructed with means from this fund and not from the Housing Fund of the then Republic of Bosnia and Herzegovina. Consequently, the applicants cannot be compared with those who did not contribute to the Army Housing Fund.

VI. OPINION OF THE CHAMBER

A. Admissibility

30. Before considering the cases on their merits the Chamber must decide whether to accept them, taking into account the admissibility criteria set out in Article VIII(2)(a) of the Agreement which, so far as relevant, provides as follows:

> "2. The Chamber shall decide which applications to accept … . In so doing the Chamber shall take into account the following criteria:
>
> (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted and that the application has been filed with the Commission within six months from such date on which the final decision was taken.
>
> …
>
> (c) The Chamber shall also dismiss any application which it considers incompatible with this Agreement, … "

31. In accordance with generally accepted principles of international law, it is outside the competence of the Chamber *ratione temporis* to decide whether events occurring before the coming into force of the Agreement on 14 December 1995 gave rise to violations of human rights. Evidence relating to such events may, however, be relevant as a background to events which occurred after the Agreement entered into force. Moreover, in so far as an applicant alleges a continuing violation of his rights after 14 December 1995, the case may fall within the Chamber's competence *ratione temporis* (*see Bastijanović* v. *Bosnia and Herzegovina and The Federation of Bosnia and Herzegovina*, Case No. CH/96/8, decision of 4 February 1997, Decisions 1996-97, p. 39, 42).

32. The Chamber recalls that the present cases were introduced in December 1997 and January 1998. The applicants essentially complain about the effects of the decrees of 3 February and 22 December 1995. In previous JNA cases the Chamber has found the Federation to be in violation of the Agreement because of its recognition and application of those decrees (see, e.g., the aforementioned *Medan and Others* decision, loc. cit., p. 62, paragraphs 38 and 41). The present applicants must also be understood as alleging that the effects of those decrees have been ongoing up to this day. The Chamber notes that the Decree of 22 December 1995 also provided that questions connected with the purchase of real estate which was the subject of annulled contracts would be resolved under a new law to be adopted in the future. Indeed, legislation to that effect was enacted in December 1997 and March 1998 (see paragraph 11 above). In these circumstances the Chamber is unable to identify any "final decision" whereby the six months' period stipulated in Article VIII(2)(a) could be considered to have commenced on 18 January 1996. Given this ongoing situation,

the Chamber is also competent *ratione temporis* to examine the present cases. It follows that the Federation's objections must be rejected.

33. The Federation of Bosnia and Herzegovina argues that the present cases would fall within the jurisdiction of the Constitutional Court and presumably be incompatible with the Agreement within the meaning of Article VIII (2) (c) (see paragraph 28 above). However, the Chamber recalls that it is competent to consider "alleged and apparent violations of human rights as provided in the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto" (Article II(2)(a) of the Agreement). The Federation's argument must therefore be rejected.

34. In the case of *Blentić v. Republika Srpska* (Case No. CH/96/17, decision of 3 December 1997, paragraphs 19-21, with further reference) the Chamber considered the admissibility criterion in Article VIII (2) (a) of the Agreement in light of the corresponding requirement in Article 35 (formerly Article 26 of the Convention) to exhaust domestic remedies. It noted that the European Court of Human Rights has found that such remedies must be sufficiently certain not only in theory but in practice, failing which they will lack the requisite accessibility and effectiveness. The Court has, moreover, considered that in applying the rule on exhaustion it is necessary to take realistic account not only of the existence of formal remedies in the legal system of the Contracting Party concerned but also of the general legal and political context in which they operate as well as of the personal circumstances of the applicants.

35. In the present case neither Party has argued, for the purposes of Article VIII(2)(a) of the Agreement, that an effective remedy was available to the applicants. Under the Decree of 3 February 1995 courts and other state authorities were to adjourn proceedings relating to the purchase of JNA apartments and under the Decree of 22 December 1995 the contracts for the sale of these apartments were retroactively declared invalid (see paragraphs 10-11 above).

36. The experience of the applicant who instituted court proceedings in these cases considered together with attempts made by previous applicants before the Chamber, indicates that redress was not available through the courts. Accordingly, the Chamber finds that none of the applicants had any effective remedies available to them within the meaning of Article VIII(2)(a) of the Agreement.

37. Neither Respondent Party has raised any other objection to the admissibility of the applications in light of the criteria set out in Article VIII(2) of the Agreement.

38. The Chamber concludes therefore, that all the applications, including those where the applicants did not institute any court proceedings, are admissible.

B. Merits

39. Under Article XI of the Agreement the Chamber must next address the question whether the facts established above indicate a breach by one or both of the respondent Parties of its or their obligations under the Agreement. In terms of Article I of the Agreement the Parties are obliged to "secure to all persons within their jurisdiction the highest level of internationally recognised human rights and fundamental freedoms", including the rights and freedoms provided for in the Convention. The Chamber will therefore consider whether the retroactive annulment of the applicants' purchase contracts and the compulsory adjournment of any related civil proceedings constitutes a breach of the applicants' rights under Article I of the Agreement.

1. Article 1 of Protocol No. 1 to the Convention

40. The applicants complain that the contracts which they entered into for the purchase of their apartments were annulled retroactively by the Decree issued on 22 December 1995, which was confirmed as a law on 18 January 1996 and later promulgated on 25 January 1996 (Official Gazette of RBiH, No. 2/96). They allege a breach of Article 1 of Protocol No. 1 to the Convention, which is in the following terms:

> "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."

41. As to whether, at the time when the December 1995 Decree came into force, the applicants had any rights under their contracts which constituted "possessions" for the purposes of Article 1 of Protocol No. 1, the Chamber refers to its decision in the cases of *Medan and Others* (loc. cit., paragraph 33). The answer to this question is therefore affirmative. The effect of the Decree was to annul those rights and the applicants were therefore deprived of their possessions. It is accordingly necessary for the Chamber to consider whether these deprivations were justified under Article 1 of the Protocol as being "in the public interest" and "subject to the conditions provided for by law".

42. The Federation of Bosnia and Herzegovina argues that the infringed legal acts were designed to equalise the applicants' positions, to support those who were prevented from buying JNA apartments and to protect State property. These acts would therefore correspond with the requirements of Article 1 paragraph 2 of Protocol No. 1 to the Convention and justify the measures concerned in the present cases.

43. The applicants stress the fact that the purchasers were all employees of the former JNA and had contributed to the Army Housing Fund. The apartments in question were constructed with means from this fund and not from the Housing Fund of the then Republic of Bosnia and Herzegovina. Consequently, the purchasers cannot be compared with those who had not contributed to the Army Housing Fund.

44. The Chamber finds that there is no material distinction between the present cases and those of *Medan and Others, Podvorac and 15 other JNA cases* (Case No. CH/96/2 et al., decision on the admissibility and merits of 12 June 1998, Decisions and Reports January-June 1998, p. 37), *Grbavac and 26 other JNA cases* (Case No. CH/97/81 et al., decision on the admissibility and merits of 15 January 1999) and *Ostojic and 31 other JNA cases* (Case No. CH/97/82 et al., decision on the admissibility and merits of 15 January 1999). Moreover, the new legislation issued after the Chamber's decision in *Medan and Others* (see paragraph 10 above) did not change the present applicants' situation. (see also the aforementioned, *Grbavac* and *26 other JNA cases* and *Ostojić* and *31 other JNA cases).* Accordingly, the Chamber finds, as in the earlier JNA cases decided on the merits, that the present applicants were also made to bear an "individual and excessive burden" and that there has been a violation of Article 1 of Protocol No. 1 to the Convention.

2. Article 6 of the Convention

45. Applicant Saravolac (CH/98/138) complains that the civil proceedings instituted with a view to obtaining recognition of her ownership and registration in the Land Registry, have been compulsorily adjourned by virtue of the February 1995 Decree. There is an apparent breach of Article 6 of the European Convention on Human Rights in this respect. Those applicants who did not institute proceedings allege a violation of Article 6 on the ground that the aforementioned Decree deprived them of their right of access to court. Article 6 reads, as far as relevant, as follows:

> "1. In the determination of his civil rights and obligations….everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law…"

46. As in the cases of *Medan and Others* and the other *JNA* cases cited above the Chamber notes that the court proceedings in question either were or would have been adjourned after the Decree in question entered into force. As far as the Chamber is aware, this situation has continued up to this day. Accordingly, there is a continuing deprivation of the applicants' right of access to court for the purpose of having their civil claims determined, as guaranteed by Article 6 (see e.g., the Chamber's decision in the cases of *Medan and Others* paragraph 40, and the European Court of Human Rights in the case of *Golder v. United Kingdom*, judgement of 21 February 1975, Series A No. 18, paragraphs 35 and 36). The Chamber sees no justification for this state of affairs in light of the conclusion which it has reached under Article 1 of Protocol 1 to the Convention. It follows that there is a breach of Article 6 of the Convention in the case of each applicant, in so far as the compulsory adjournment of his or her case has or would have continued since 14 December 1995, when the

Agreement came into force. Moreover, any proceedings initiated would by now have lasted beyond a "reasonable time" due to the February 1995 Decree.

3. Article 13 of the Convention

47. Some applicants also maintain that they have been the victims of a breach of Article 13 of the Convention in that no effective remedy has been available to them in respect of their complaints. Article 13 provides as follows:

> "Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

48. In view of its decision under Article 6(1) of the Convention to the effect that the applicants have been denied access to court to establish their property rights, the Chamber considers it unnecessary also to examine the complaints under Article 13. The requirements of Article 13 are less strict than those of Article 6 and are absorbed by the latter (see, e.g., European Court of Human Rights, *Hentrich v. France* judgment of 22 September 1994, Series A No. 296, para. 65).

VII. REMEDIES

49. Under Article XI paragraph 1(b) of the Agreement the Chamber must also address the question what steps shall be taken by the respondent Party or Parties to remedy the breaches of the Agreement which it has found.

50. The Chamber notes that the legal situation remains essentially the same as that which it addressed in its decisions in the cases of *Medan and Others* and the other JNA cases mentioned above. It is therefore appropriate to make orders similar to those issued in those cases.

51. The breaches of Article 1 of Protocol No. 1 arose from the legislation already referred to. The State is responsible for having passed that legislation, but the matters which it deals with are now within the responsibility of the Federation, which recognises and applies this legislation. In these circumstances the Chamber considers that it is the responsibility of the Federation to take the necessary legislative or administrative action to render ineffective the annulment of the purchase contracts in question. It will therefore make an order against the Federation to that effect.

52. The Chamber will also order the Federation to take all necessary steps to lift the compulsory adjournment of the court proceedings instituted by the applicant in Case No. CH/98/138 and which the Chamber has found to be in violation of Article 6 of the Convention, and to take all necessary steps to secure the applicants' right of access to court.

53. With regard to possible compensatory awards, the Chamber first recalls that in accordance with its order for the proceedings in the respective cases, all applicants were afforded the possibility of claiming compensation within the time limit fixed for any reply to observations submitted by a respondent Party. The following applicants seek compensation:

54. Mr. Simović (CH/98/150) claims compensation, amounting to 10 DEM for lawyer's fees, 5 DEM for costs of posting documents to the Chamber, 10,000 DEM for offensive remarks made about him by the military lawyer in her observations on behalf of the Federation and 30,000 DEM for pain suffered and maltreatment as an employee of the former JNA.

55. Mr. Huremović (CH/98/282) claims compensation in the amount of 3,000 DEM corresponding to the purchase price of the apartment.

56. Mr. Zorić (CH/98/284) claims compensation amounting to 10 DEM for lawyer's fees, and 20 DEM for costs of posting documents to the Chamber.

57. The respondent Parties have not commented on any of the above claims.

58. The Chamber first recalls that its jurisdiction *ratione temporis* is limited to the period after the entry into force of the Agreement on 14 December 1995. This means that the Chamber cannot

award any compensation for damage suffered before that date, or relating to events before that date. Compensation may be awarded in particular in respect of pecuniary or non-pecuniary (moral) damage as well as for costs and expenses incurred by the applicants in order to prevent the breach found or to obtain redress therefor. Any costs and expenses claimed should be specified (see, e.g., CH/96/30, *Damjanović* decision of 11 March 1998, Decisions and Reports January-June 1998, p. 27, paragraph 23).

59. The Chamber further recalls that it has already rejected a compensation claim lodged by an applicant merely on the ground that he had been unable to register himself as owner of his JNA apartment, considering that he had not been threatened with being evicted and had not attempted, for instance, to sell his apartment or use it as security for a loan or other matter (CH/96/8, *Bastijanović* decision of 15 July 1998, paragraph 15; cf, *a contrario*, see CH/96/22, *Bulatović* decision of 15 July 1998, paragraph 18; both to be published in Decisions and Reports 1998). Moreover, for want of detailed evidence of any loss suffered, the Chamber has rejected claims for compensation on account of any adjournment past 14 December 1995 of court proceedings initiated by applicants for the purpose of their being registered as owners of JNA apartments in respect of which their contracts had been nullified (see the aforementioned decisions, paragraph 17).

60. As for the compensation claim of applicant Simović for 10,000 DEM related to the offensive remarks made by the military lawyer in her observations on behalf of the Federation, the Chamber notes that this claim is not connected with the violations alleged by the applicant in his application and subsequently established by the Chamber. Hence it falls outside the scope of the case before the Chamber. The Chamber would point out, however, that this decision does not prevent the applicant from commencing proceedings before the competent national judicial bodies in respect of the observations of the military lawyer.

61. As for the compensation claim of applicant Simović for 30,000 DEM for suffering and maltreatment, the Chamber notes that he has not provided any clear and concrete evidence substantiating these claims. Even in the case of such substantiation the present judgement would constitute adequate satisfaction for him (cf. the above-mentioned *Bulatović* decision, paragraph 18; loc.cit.) As for legal costs and expenses, the Chamber considers it appropriate to award applicant Simović (CH/98/150) 15 KM in compensation.

62. The Chamber rejects as ill-founded the claim of applicant Huremović (CH/98/282).

63. The Chamber considers it appropriate to award applicant Zorić (CH/98/284) 30 KM for compensation for legal costs and expenses.

VIII. CONCLUSIONS

64. For the above reasons the Chamber decides:

1. unanimously, to declare the applications admissible;

2. unanimously, that the passing of legislation providing for the retroactive nullification of the purchase contracts in question violated the applicants' rights under Article 1 of Protocol No. 1 to the Convention, Bosnia and Herzegovina thereby being in breach of its obligations under Article I to the Agreement;

3. unanimously, that the recognition and application of the legislation providing for the retroactive nullification of the purchase contracts in question has violated the applicants' rights under Article 1 of Protocol No. 1 to the Convention, the Federation thereby being in breach of its obligations under Article I of the Agreement;

4. unanimously, that the continuing adjournment after 14 December 1995 of court proceedings aiming at formal recognition of the applicants' property rights (whether or not actually initiated by them) has violated their right of access to a court and to a hearing within a reasonable time as guaranteed by Article 6 of the Convention, the Federation thereby being in breach of its obligations under Article I of the Agreement;

5. unanimously, that it is unnecessary to examine the applicants' complaints based on Article

13 of the Convention;

6. unanimously, to order the Federation to render ineffective the annulment of the purchase contracts in question imposed by the Decree of 22 December 1995 and the Law of 18 January 1996;

7. unanimously, to order the Federation to take effective steps to lift the adjournment by the Decree of 3 February 1995 of court proceedings aiming at formal recognition of the applicants' property right and to take all necessary steps to secure in this matter their right of access to court and to a hearing within a reasonable time;

8. by five votes to one, to order the Federation to pay to the applicants below, within three months, the following sums in compensation for fees and expenses:

(a) to applicant Simović (CH/98/150) 15KM; and

(b) to applicant Zorić (CH/98/284) 30KM;

9. by five votes to one, to reject the remainder of the applicants' claim for compensation;

10. by five votes to one, to order that simple interest at an annual rate of four per cent will be payable over the awarded sums or any unpaid portion thereof, from the date of expiry of the above-mentioned three month period until the date of settlement; and

11. unanimously, to order the Federation to report to it by 10 June 1999 on the steps taken by it to give effect to this decision.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel

ANNEX

In accordance with Rule 61 of the Chamber's Rules of Procedure this Annex contains a partly dissenting opinion of Mr. Manfred NOWAK.

PARTLY DISSENTING OPINION OF MR. MANFRED NOWAK

For the reasons indicated in my partly dissenting opinion concerning the Decision on the Admissibility and Merits of Velimir Ostojić and 31 other JNA Cases, delivered on 15 January 1999, I voted against the Conclusions set out in para. 64(8), (9) and (10) relating to the awarding of compensation.

(signed)
Manfred Nowak

DECISION ON THE ADMISSIBILITY AND MERITS

DELIVERED ON 10 MARCH 1999

Matija IVKOVIĆ, Ismeta KRIVOŠIJA, Slavko CIGANOVIĆ, Đurdica MRŠIĆ, Raza HODŽIĆ, Behadil MEMIŠEVIĆ, and "ČO"

against

**BOSNIA AND HERZEGOVINA
AND
THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 8 February 1999 with the following members present:

Ms. Michèle PICARD, President
Mr. Dietrich RAUSCHNING, Vice-President
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Želimir JUKA
Mr. Andrew GROTRIAN

Mr. Leif BERG, Registrar
Ms. Olga KAPIĆ, Deputy Registrar

Having considered the admissibility and merits of Cases Nos. CH/98/129, CH/98/135, CH/98/153, CH/98/173, CH/98/191, CH/98/241, and CH/98/255 introduced pursuant to Article VIII(1) of the Human Rights Agreement ("the Agreement") set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Adopts the following decision pursuant to Article VIII(2) and Article XI of the Agreement and Rules 52, 57 and 58 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The present decision concerns 7 cases involving Yugoslav National Army apartments. The cases were considered to be directed against the State of Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina. The names of the individual applicants and the corresponding case numbers are listed in part III B of the decision.

2. In 1992 the applicants contracted to buy apartments from the Yugoslav National Army ("the JNA"). The contracts were annulled by legislation passed shortly after the General Framework Agreement for Peace in Bosnia and Herzegovina entered into force in December 1995. The applicants complain that the annulment of their contracts violated their property rights as guaranteed by Article 1 of Protocol No. 1 to the (European) Convention for the protection of Human Rights and Fundamental Freedoms ("the Convention") and also allege violations of Articles 6 and 13 of the Convention.

3. These 7 cases resemble the cases of *Medan and Others v. Bosnia and Herzegovina and The Federation of Bosnia and Herzegovina* (Cases Nos. CH/96/3, 8 and 9, Decision on the merits of 7 November 1997, Decisions 1996-1997, p. 53), *Podvorac and 15 other JNA cases* (Decision on the admissibility and the merits of 12 June 1998, Decisions January-June 1998, p. 37) and *Grbavac and 26 Other JNA cases v. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina* and *Ostojić and 31 Other JNA cases v. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina* (Decisions on the admissibility and the merits of 15 January 1999).

II. PROCEEDINGS BEFORE THE CHAMBER

4. The applications were introduced between December 1997 and January 1998 and registered between January 1998 and April 1998. The applicants in Case Nos. CH/98/173 and CH/98/255 are represented by lawyers. The applicant in Case No. CH/98/255 objects to his identity being disclosed to the public (Rule 46 paragraph 2 (d) of the Chamber's Rules of Procedure).

5. Some of the applications were directed against both Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina, whereas others were initially directed either against Bosnia and Herzegovina or the Federation of Bosnia and Herzegovina. The Chamber considered, however, that the applicants' complaints raised issues which might in all cases engage the responsibility of both the State and the Federation of Bosnia and Herzegovina. It therefore decided to treat all cases as being directed against both the State and the Federation (see also the decision in the *Podvorac and 15 other JNA cases*, loc. cit., paragraph 4 and the *Medan and Others* decision, loc. cit., paragraphs 28-30 and 44-47).

6. Between 6 April 1998 and 2 July 1998 the applications were transmitted pursuant to Rule 49(3)(b) of the Rules of Procedure to the respondent Parties for observations on their admissibility and merits.

7. The Federation of Bosnia and Herzegovina submitted observations between June 1998 and September 1998. The State of Bosnia and Herzegovina did not submit any observations. The applicants replied between July and October 1998. In accordance with the Chamber's order for the proceedings in the respective cases, all applicant's were afforded the possibility of claiming compensation within the time limit fixed for any reply to observations submitted by a respondent Party.

8. The First Panel deliberated on the admissibility and the merits of the cases on 8 February 1999. Under Rule 34 of its Rules of Procedure, it decided to join the applications and adopted the present decision.

III. ESTABLISHMENT OF THE FACTS

A. Relevant domestic law

9. The apartments occupied by the applicants were all socially owned property over which the JNA had jurisdiction. Such property was considered to belong to society as a whole. Each applicant enjoyed an occupancy right in respect of his or her apartment. An occupancy right was a right, subject to certain conditions, to occupy an apartment on a permanent basis.

10. Each of the applicants contracted to purchase his or her apartment under the Law on Securing Housing for the Yugoslav Army (Official Gazette of the Socialist Federal Republic of Yugoslavia, No. 84/90). This was a Law of the Socialist Federal Republic of Yugoslavia ("the SFRJ"), which was passed in 1990 and came into force on 6 January 1991. In the following years a number of Decrees with force of law as well as laws proper were issued by the Government of the Socialist Republic of Bosnia and Herzegovina, the Presidency of the Republic of Bosnia and Herzegovina and the Parliament of the Republic of Bosnia and Herzegovina with the aim of regulating social property issues in general and social property over which the JNA had jurisdiction in particular (see the Chamber's decision in the cases of *Medan and Others*, loc. cit., paragraphs 9-13). These legal instruments included, amongst others, a Decree imposing a temporary prohibition on the sale of socially owned property, issued on 15 February 1992 by the Government of the Socialist Republic of Bosnia and Herzegovina (Official Gazette of the Socialist Republic of Bosnia and Herzegovina, No. 4/92). Subsequently, a Decree with force of law, issued on 3 February 1995 by the Presidency of the Republic (Official Gazette of the Republic of Bosnia and Herzegovina, No. 5/95), ordered courts and other state authorities to adjourn proceedings relating to the purchase of apartments and other properties under the Law on Securing Housing for the JNA. This Decree entered into force on 10 February 1995, the date of its publication in the Official Gazette. On 22 December 1995 the Presidency of the Republic of Bosnia and Herzegovina issued a Decree with force of law (Official Gazette, No. 50/95) stating that contracts for the sale of apartments and other property concluded on the basis of, *inter alia*, the Law on Securing Housing for the JNA were invalid. This Decree entered into force on the same day. It was adopted as a law by the Assembly of the Republic of Bosnia and Herzegovina and promulgated on 25 January 1996 (Official Gazette, No. 2/96).

11. The Decree of 22 December 1995 also provided that questions connected with the purchase of real estate which was the subject of annulled contracts would be resolved under a law to be adopted in the future. On 6 December 1997 the Law on the Sale of Apartments with Occupancy Right came into force (Official Gazette of the Federation of Bosnia and Herzegovina, No. 27/97). This law was amended by a law of 23 March 1998 (Official Gazette, No. 11/98). Neither law affected the annulment of the present applicants' contracts. Under Article 39 an occupancy right holder who, under provisions of the 1997 law, contracts to purchase an apartment which he had contracted to purchase on the basis of, *inter alia*, the Law on Securing Housing for the JNA shall be recognised the purchase amount earlier paid.

B. The individual cases

12. The applicants are former members or employees of the JNA. The facts of the cases as they appear from the applicants' respective submissions and the documents in the case file are not in dispute and may be summarised as follows. It should be noted that the amount paid by the applicant at or around the moment of contracting does not necessarily reflect the officially determined price of the dwelling. This is because the applicants were only obliged to pay an amount fixed taking into account their earlier contribution to the JNA Housing Fund.

1. The case of Mr. Matija IVKOVIĆ (CH/98/129)

13. On 7 March 1992 the applicant concluded a purchase contract for a JNA apartment at Muharema Fizovića 7, Tuzla.

14. It appears from the file that the applicant has not initiated any written court proceedings to have himself registered as the owner of the apartment. The applicant was part of the "Group of Pensioners of Tuzla" which may have had the assistance of an attorney in drafting observations.

2. The case of Ms. Ismeta KRIVOŠIJA (CH/98/135)

15. On 3 April 1992 the applicant concluded a purchase contract for a JNA apartment at Moše Pijade Street 17, now Kulina bana 21, in Tuzla. The applicant paid 140.000 dinars for the apartment although the contract price was 123.824 dinars.

16. The applicant has not initiated any written court proceedings to have herself registered as the owner of the apartment. The applicant was part of the "Group of Pensioners of Tuzla" which may have had the assistance of an attorney in drafting observations.

3. The case of Mr. Slavko CIGANOVIĆ, CH/98/153

17. On 4 April 1992 the applicant concluded a purchase contract for a JNA apartment at Rose Hadživuković 10 in Tuzla, and paid the purchase price due (20.000 dinars).

18. The applicant has not initiated court proceedings to have himself registered as the owner of the apartment. The applicant was part of the "Group of Pensioners of Tuzla" which may have had the assistance of an attorney in drafting observations.

4. The case of Ms. Đurđica MRŠIĆ (CH/98/173)

19. On 12 February 1992, the applicant's husband, who died on 15 November 1994, paid the purchase price for a JNA apartment at Maršala Tita 99, Travnik. He paid 570.340 dinars on 12 February 1992 and 40.310 dinars on 31 March 1992. The contract does not specify on what date it was signed.

20. On 28 August 1995, the Court of First Instance in Travnik issued a decision declaring the applicant and her daughter heirs to Mr. Mršić's estate.

21. On 6 September 1995 the applicant initiated court proceedings before the Court of First Instance in Travnik to have herself registered as the owner of the apartment. The court adjourned the proceedings on31 May 1996.

22. The applicant is represented by Ms. Ljiljana Imamović, an attorney in Travnik.

5. The case of Ms. Raza HODŽIĆ (CH/98/191)

23. On 31 January 1992 the applicant paid the purchase price of 156.970 dinars for an apartment at Derviša Numića 20 in Sarajevo. The contract was signed on 10 February 1992. On 29 December 1994 the applicant initiated proceedings before the Court of First Instance II in Sarajevo seeking to be registered in the Land Registry as the owner of the apartment.

24. The applicant died on 23 February 1998. She had been represented by her son, Mr. Ismet Spužić, who submitted a decision of the First Instance Court II in Sarajevo dated 27 April 1998 declaring him the legal heir. He also submitted a decision of the Federation Ministry of Defense Chief of Staff dated 1 June 1998 allocating the occupancy right over the apartment to Mr. Spužić

6. The case of Mr. Behadil MEMIŠEVIĆ (CH/98/241)

25. The applicant paid 345.000 dinars on 14 February 1992 for a JNA apartment located at Skojevska 61 (now Armije BIH no 25.) in Tuzla. On 7 March 1992 the applicant signed the contract and paid 27.100 dinars.

26. The applicant has not initiated court proceedings to have herself registered as the owner of the apartment. The applicant was part of the "Group of Pensioners of Tuzla" which may have had the assistance of an attorney in drafting observations.

7. The case of "ČO" (CH/98/255)

27. The applicant paid 553.789,50 dinars on 14 February 1992 for a JNA apartment located at Avde Jabucice 45, Sarajevo. The applicant signed the contract on 1 March 1992.

28. On 12 October 1993 the applicant initiated proceedings before the Court of First Instance I in Sarajevo to have himself registered as the owner. In a decision dated 22 November 1994 the court decided in favor of the applicant. This decision did not come into effect because the Military Attorney appealed. The Higher Court did not decide on the appeal.

29. The applicant is represented by Mr. Mitrović Jakša, an attorney in Sarajevo.

IV. COMPLAINTS

30. The applicants essentially complain that the retroactive annulment of their purchase contracts and the compulsory adjournment of their civil proceedings under the Decree No. 5/95 (see paragraphs 10-11 above) involve violations of their rights under Article 6 and 13 of the Convention and Article 1 of Protocol 1 to the Convention.

V. SUBMISSIONS OF THE PARTIES

A. The Respondent Parties

1. Bosnia and Herzegovina

31. No observations have been received from the State of Bosnia and Herzegovina.

2. The Federation of Bosnia and Herzegovina

32. The Federation of Bosnia and Herzegovina primarily refers to the liability of the State of Bosnia and Herzegovina for the impugned measures. Having regard to the ongoing discussion regarding the succession of the former SFRJ, it is presently impossible for the Federation to fulfil its obligations flowing from the Chamber's decision in *Medan and Others* (loc. cit.).

33. The Federation furthermore argues that the Chamber lacks competence *ratione temporis* to deal with the cases. In the cases of Mr. Memišević (CH/98/241) and "ČO" (CH/98/255), the Federation, moreover, argues that the cases have been lodged belatedly, since the essential grievance concerns the Decree of 22 December 1995 which was adopted as law on 18 January 1996. This enactment constituted the "final decision" within the meaning of Article VIII(2)(a) of the Agreement. Consequently, the applications should have been lodged by 18 July 1996.

34. It is further alleged that the issue at stake in these cases is the constitutionality of a law and not the infringement of human rights. These cases would therefore fall within the jurisdiction of the Constitutional Court. Moreover, the impugned legal acts were designed to place those prevented from buying JNA apartments on an equal footing with the applicants, and to protect State property. The measures were therefore justified under the second paragraph of Article 1 of Protocol No. 1 to the Convention.

B. The Applicants

35. The applicants maintain their complaints. Regarding the Federation's argument that other citizens were not treated equally to those who had the opportunity to purchase JNA apartments, the applicants stress the fact that the purchasers were all former members or employees of the JNA and had contributed to the Army Housing Fund. The apartments they purchased were constructed with

means from this fund and not from the Housing Fund of the then Republic of Bosnia and Herzegovina. Consequently, the purchasers cannot be compared with those who did not contribute to the Army Housing Fund.

VI. OPINION OF THE CHAMBER

A. Admissibility

36. As in the case of *Medan and Others* (loc. cit., paragraph 26), the Chamber takes note of the fact that the applicant, Ms. Raza Hodžić, has died during the proceedings before it. Her son, who was her representative before the Chamber and her legal heir, has informed the Chamber of his wish to continue the application. Therefore, the Chamber considers it appropriate to give a decision on the merits of the case.

37. Before considering the cases on their merits the Chamber must decide whether to accept them, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement which, provides, *inter alia*, as follows:

> "2. The Chamber shall decide which applications to accept … . In so doing the Chamber shall take into account the following criteria:
>
> (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted and that the application has been filed with the Commission within six months from such date on which the final decision was taken.
>
> …
>
> (c) The Chamber shall also dismiss any application which it considers incompatible with this Agreement, … "

38. The Federation of Bosnia and Herzegovina argues that the present cases would fall within the jurisdiction of the Constitutional Court and presumably be incompatible with the Agreement within the meaning of Article VIII (2) (c) (see paragraph 34 above). However, the Chamber recalls that it is competent to consider "alleged and apparent violations of human rights as provided in the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto" (Article II(2)(a) of the Agreement). The Federation's argument must therefore be rejected.

39. In accordance with generally accepted principles of international law, it is outside the competence of the Chamber *ratione temporis* to decide whether events occurring before the coming into force of the Agreement on 14 December 1995 gave rise to violations of human rights. Evidence relating to such events may, however, be relevant as a background to events which occurred after the Agreement entered into force. Moreover, in so far as an applicant alleges a continuing violation of his rights after 14 December 1995, the case may fall within the Chamber's competence *ratione temporis* (*see Bastijanović* v. *Bosnia and Herzegovina and The Federation of Bosnia and Herzegovina*, Case No. CH/96/8, decision of 4 February 1997, Decisions 1996-97, p. 39, 42).

40. The Chamber recalls that the present cases were introduced in December 1997 and January 1998. The applicants essentially complain about the effects of the decrees of 3 February and 22 December 1995. In previous JNA cases the Chamber has found the Federation to be in violation of the Agreement because of its recognition and application of those decrees (see, e.g., the aforementioned *Medan and Others* decision, loc. cit., p. 62, paragraphs 38 and 41). The present applicants must also be understood as alleging that the effects of those decrees have been ongoing up to this day. The Chamber notes that the Decree of 22 December 1995 also provided that questions connected with the purchase of real estate which was the subject of annulled contracts would be resolved under a new law to be adopted in the future. Indeed, legislation to that effect was enacted in December 1997 and March 1998 (see paragraph 11 above). In these circumstances the Chamber is unable to identify any "final decision" whereby the six months' period stipulated in Article VIII(2)(a) could be considered to have commenced on 18 January 1996. Given this ongoing situation, the Chamber is also competent *ratione temporis* to examine the present cases. It follows that the Federation's objections must be rejected.

41. The Chamber notes that neither Party has raised any other objection to the admissibility of the applications in light of the criteria set out in Article VIII(2) of the Agreement (cf., *a contrario*, e.g., *Blentić v. Republika Srpska*, Case No. CH/96/17, decision of 3 December 1997, paragraphs 19-21, Decisions 1996-97, p.87, in which the Chamber considered this admissibility criterion in light of the corresponding requirement in Article 26 of the Convention). Nor can the Chamber of its own motion find any grounds for declaring the present cases inadmissible.

42. The Chamber concludes therefore that all the applications, including those where the applicants did not institute any court proceedings, are admissible.

B. Merits

43. Under Article XI of the Agreement the Chamber must next address the question whether the facts established above indicate a breach by one or both of the respondent Parties of its or their obligations under the Agreement. In terms of Article I of the Agreement the Parties are obliged to "secure to all persons within their jurisdiction the highest level of internationally recognised human rights and fundamental freedoms", including the rights and freedoms provided for in the Convention. The Chamber will therefore consider whether the annulment of the applicants' purchase contracts and the compulsory adjournment of any related civil proceedings constitutes a breach of the applicants' rights under Article I of the Agreement.

1. Article 1 of Protocol No. 1 to the Convention

44. The applicants complain that the contracts which they entered into for the purchase of their apartments were annulled retroactively by the Decree issued on 22 December 1995, which was adopted as law on 18 January 1996. They allege a breach of Article 1 of Protocol No. 1 to the Convention, which is in the following terms:

> "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."

45. As to whether, at the time when the December 1995 Decree came into force, the applicants had any rights under their contracts which constituted "possessions" for the purposes of Article 1 of Protocol No. 1, the Chamber refers to its decisions in the cases of *Medan and Others* and in *Podvorac and 15 other JNA* cases (loc. cit., paragraph 33 and paragraphs 59-61, respectively). The answer to this question is therefore affirmative. The effect of the Decree was to annul those rights and the applicants were therefore deprived of their possessions. It is accordingly necessary for the Chamber to consider whether these deprivations were justified under Article 1 of the Protocol as being "in the public interest" and "subject to the conditions provided for by law".

46. The Federation of Bosnia and Herzegovina argues that the infringed legal acts were designed to support those who were prevented from buying JNA apartments and to protect State property. These acts would therefore correspond with the requirements of Article 1 paragraph 2 of Protocol No. 1 to the Convention and justify the measures concerned in the present cases.

47. The applicants stress the fact that the purchasers were all former members or employees of the JNA and had contributed to the Army Housing Fund. The apartments they purchased were constructed with means from this fund and not from the Housing Fund of the then Republic of Bosnia and Herzegovina. Consequently, the purchasers cannot be compared with those who had not contributed to the Army Housing Fund.

48. The Chamber finds that there is no material distinction between the present cases and those of *Medan and Others* and *Podvorac and 15 other JNA* cases (loc. cit.). Moreover, the new legislation issued after the Chamber's decision in *Medan and Others* (see paragraph 10 above) did not change

the present applicants' situation. The Chamber notes, however, that the legislation posterior to the Decree of December 1995 and the related law of January 1996 (see paragraphs 10-11 above), as in force at present, cannot revalidate the applicants' original purchase contracts retroactively, that is to say with effect from the dates when those contracts were concluded. Accordingly, this legislation can have no bearing on the outcome of the present cases.

49. Accordingly, the Chamber finds, as in the earlier JNA cases decided on the merits, that the present applicants were also made to bear an "individual and excessive burden" and that there has been a violation of Article 1 of Protocol No. 1 to the Convention.

2. Article 6 of the Convention

50. Those applicants who instituted proceedings complain that the civil proceedings instituted with a view to obtaining recognition of their ownership and registration in the Land Registry, have been compulsorily adjourned by virtue of the February 1995 Decree. They allege a breach of Article 6 of the European Convention on Human Rights in this respect. Those applicants who did not institute proceedings allege a violation of Article 6 on the ground that the aforementioned Decree deprived them of their right of access to court. Article 6 reads, as far as relevant, as follows:

> "1. In the determination of his civil rights and obligations….everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law…"

51. As in the cases of *Medan and Others* and *Podvorac and 15 other JNA* cases (loc. cit.) the Chamber notes that the court proceedings in question either were or would have been adjourned shortly after the Decree in question entered into force. As far as the Chamber is aware, this situation has continued up to this day. Accordingly, there is a continuing deprivation of the applicants' right of access to court for the purpose of having their civil claims determined, as guaranteed by Article 6 (see the Chamber's decisions in the cases of *Medan and Others* and *Podvorac and 15 other JNA cases*, paragraphs 40 and 64, respectively and the European Court of Human Rights in the case of *Golder v. United Kingdom*, judgement of 21 February 1975, Series A No. 18, paragraphs 35-36). The Chamber sees no justification for this state of affairs in light of the conclusion which it has reached under Article 1 of the Protocol to the Convention. It follows that there is a breach of Article 6 of the Convention in the case of each applicant, in so far as the compulsory adjournment of his or her case has continued since 14 December 1995, when the Agreement came into force. The Chamber would add that any proceedings initiated would by now have lasted beyond a "reasonable time" due to the February 1995 Decree.

3. Article 13 of the Convention

52. Some applicants also maintain that they have been the victims of a breach of Article 13 of the Convention in that no effective remedy has been available to them in respect of their complaints. Article 13 provides as follows:

> "Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

53. In view of its decision under Article 6(1) of the Convention to the effect that the applicants have been denied access to court to establish their property rights, the Chamber considers it unnecessary also to examine the complaints under Article 13. The requirements of Article 13 are less strict than those of Article 6 and are absorbed by the latter (see, e.g., European Court of Human Rights, *Hentrich v. France* judgment of 22 September 1994, Series A No. 296, para. 65).

VII. REMEDIES

54. Under Article XI paragraph 1(b) of the Agreement the Chamber must also address the question what steps shall be taken by the respondent Party or Parties to remedy the breaches of the Agreement which it has found.

55. The Chamber notes that the legal situation remains essentially the same as that which it addressed in its decisions in the cases of *Medan and Others* and *Podvorac and 15 other JNA* cases (loc. cit.). It is therefore appropriate to make orders similar to those issued in those cases.

56. The breaches of Article 1 of Protocol No. 1 which the Chamber has found arose from the legislation already referred to. The State is responsible for having passed that legislation, but the matters which it deals with are now within the responsibility of the Federation, which recognises and applies this legislation. In these circumstances the Chamber considers that it is the responsibility of the Federation to take the necessary legislative or administrative action to render ineffective the annulment of the applicants' contracts which was imposed. It will therefore make an order against the Federation to that effect.

57. The Chamber will also order the Federation to take all necessary steps to lift the compulsory adjournment of the court proceedings instituted by certain of the applicants and which the Chamber has found to be in violation of Article 6 of the Convention, and to take all necessary steps to secure the applicants' right of access to court.

58. With regard to possible compensatory awards, the Chamber first recalls that in accordance with its order for the proceedings in the respective cases, all applicants were afforded the possibility of claiming compensation within the time limit fixed for any reply to observations submitted by a respondent Party. The following applicants seek compensation:

59. Mr. Matija IVKOVIĆ (CH/98/129) claims compensation amounting to 10 DEM for lawyer's fee, 5 DEM for costs of posting documents to the Chamber, 10.000 DEM for offensive remarks made by the military lawyer to the applicant and 30.000 DEM for pain suffered and maltreatment as an employee of the former JNA.

60. Ms. Ismeta KRIVOŠIJA (CH/98/135) claims compensation for the amount paid in excess of the purchase price for the apartment, 10 DEM for lawyer's fee, 8 DEM for costs of posting documents to the Chamber, 10.000 for offensive remarks made by the military lawyer to the applicant and 30.000 DEM for pain suffered and maltreatment as an employee of the former JNA.

61. Mr. Slavko CIGANOVIĆ (CH/98/153) claims compensation, amounting to 10 DEM for lawyer's fee, 5 DEM for costs of posting documents to the Chamber, 10.000 DEM for offensive remarks made by the military attorney to the applicant and 30.000 DEM for pain suffered and maltreatment as an employee of former JNA.

62. Mrs. Đurđica MRŠIĆ (CH/98/173) claims compensation amounting to 450 DEM for submission of the application on 18 January 1995, 450 DEM for representation at the hearing before the Court in Travnik on 31 May 1996, 450 DEM for the application to the Chamber and 450 DEM for the response to the allegations of the respondent Party.

63. The Chamber finds it appropriate to award Mr. Matija IVKOVIĆ (CH/98/129) 15 KM for legal fees and postage. The Chamber rejects the claim of 10.000 DEM for offensive remarks made by the military lawyer to the applicant as not being related to the violation of human rights which it has found. Finally, the Chamber rejects the request for 30.000 DEM for pain suffered and maltreatment as the applicant cannot be said to have suffered any damage as a result of his inability to be registered as the owner (*see Bastijanović v. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina*, Case No. CH/96/8, Decision on the Claim for Compensation of 29 July 1998, paragraph 15; and *Grbavac and 26 Other JNA Cases*, loc. cit., paragraph 95).

64. The Chamber finds it appropriate to award Ms. Ismeta KRIVOŠIJA (CH/98/135) 18 KM for legal fees and postage. The Chamber rejects as outside its competence *ratione temporis* the request

for a rebate for the amount she paid above the contract price. The Chamber also rejects the claim for 10.000 DEM for offensive remarks made by the military lawyer to the applicant as not related to the violation of human rights which it has found. Finally, the Chamber rejects the request for 30.000 DEM for pain suffered and maltreatment as the applicant cannot be said to have suffered any damage as a result of his inability to be registered as the owner (see the aforementioned *Bastijanović* decision, paragraph 15; and aforementioned *Grbavac* decision, paragraph 95).

65. The Chamber finds it appropriate to award Mr. Slavko CIGANOVIĆ (CH/98/153) 15 KM for legal fees and postage. As with Mr. Ivković and Ms. Krivošija, the Chamber rejects Mr. Ciganović's request for 10.000 DEM for offensive remarks and 30.000 DEM for pain suffered and maltreatment.

66. With reference to applicant Mrs. Đurđica MRŠIĆ (CH/98/173) the Chamber notes that part of her compensation claim relates to legal costs allegedly incurred in January 1995, i.e. prior to the entry into force of the Agreement. This part of the claim must therefore be rejected. As for the remainder of her claim, the Chamber finds it appropriate, taking into account the Advocates' Tariff, to award her a total of 200 KM in compensation for legal costs and expenses incurred in the proceedings before the Court in Travnik in May 1996 and before the Chamber, 50 and 150 KM, respectively (see *Ostojić and 31 Other JNA Cases,* loc. cit., paragraph 123).

VIII. CONCLUSIONS

67. For the above reasons the Chamber decides:

1. unanimously, to declare the applications admissible;

2. by 5 votes to 1, that the passing of legislation providing for the retroactive nullification of the applicants' purchase contracts violated their rights under Article 1 of Protocol No. 1 to the Convention, Bosnia and Herzegovina thereby being in breach of its obligations under Article I of the Agreement;

3. by 5 votes to 1, that the recognition and application of the legislation providing for the retroactive nullification of the applicants' contracts has violated their rights under Article 1 of Protocol No. 1 to the Convention, the Federation thereby being in breach of its obligations under Article I of the Agreement;

4. unanimously, that the continuing adjournment since 14 December 1995 of court proceedings aiming at formal recognition of the applicants' property rights (whether or not actually initiated by them) has violated their right of access to a court and to a hearing within a reasonable time as guaranteed by Article 6 of the Convention, the Federation thereby being in breach of its obligations under Article I of the Agreement;

5. unanimously, that it is unnecessary to examine the applicants' complaints based on Article 13 of the Convention;

6. by 5 votes to 1, to order the Federation to take all necessary steps to render ineffective the annulment of the applicants' contracts imposed by the Decree of 22 December 1995 and the Law of 18 January 1996;

7. unanimously, to order the Federation to take all necessary steps to lift the compulsory adjournment by the Decree of 3 February 1995 of court proceedings aiming at formal recognition of the applicants' property right and to take all necessary steps to secure in this matter their right of access to court and to a hearing within a reasonable time;

8. (a) unanimously, to order the Federation to pay applicant Mr. Matija IVKOVIĆ (CH/98/129) within three months, the sum of 15 KM in compensation for fees and expenses;

(b) unanimously, to reject the remainder of his claim for compensation;

9. (a) unanimously, to order the Federation to pay applicant Ms. Ismeta KRIVOŠIJA (CH/98/135) within three months, the sum of 18 KM in compensation for fees and expenses;

(b) unanimously, to reject the remainder of her claim for compensation;

10. (a) unanimously, to order the Federation to pay applicant Mr. Slavko CIGANOVIĆ (CH/98/153) within three months, the sum of 15 KM in compensation for fees and expenses;

(b) unanimously, to reject the remainder of his claim for compensation;

11. (a) unanimously, to order the Federation to pay applicant Mrs. Đurđica MRŠIĆ (CH/98/173) within three months, the sum of 200 KM in compensation for fees and expenses;

(b) unanimously, to reject the remainder of her claim for compensation;

12. unanimously, to order that simple interest at an annual rate of four per cent will be payable over the awarded sums any unpaid portion thereof, from the date of expiry of the above-mentioned three month period until the date of settlement; and

13. unanimously, to order the Federation to report to it by 10 June 1999 on the steps taken by it to give effect to this decision.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel

DECISION ON THE ADMISSIBILITY AND MERITS

DELIVERED ON 11 JUNE 1999

Cases Nos. CH/98/159, CH/98/171, CH/98/269, CH/98/273 and CH/98/299

**Akif HUSELJIĆ, Goran SARAČEVIĆ, Evdokije BOGDANOVIĆ,
MIladin STOJANOVIĆ, Nikola DABOVIĆ**

against

**BOSNIA AND HERZEGOVINA
AND
THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 14 April 1999 with the following members present:

Ms. Michèle PICARD, President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Želimir JUKA
Mr. Miodrag PAJIĆ
Mr. Andrew GROTRIAN

Mr. Leif BERG, Registrar
Ms. Olga KAPIĆ, Deputy Registrar

Having considered the admissibility and merits of the aforementioned cases introduced pursuant to Article VIII(1) of the Human Rights Agreement (“the Agreement”) set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Adopts the following decision pursuant to Article VIII(2) and Article XI of the Agreement and Rules 52, 57 and 58 of the Chamber’s Rules of Procedure:

I. INTRODUCTION

1. The present decision concerns five cases involving Yugoslav National Army apartments. The cases were considered to be directed against the State of Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina. The names of the individual applicants, the corresponding case numbers and the facts of the case are listed in part III B of the decision.

2. In 1992 the applicants contracted to buy apartments from the Yugoslav National Army ("the JNA"). The contracts were annulled by legislation passed shortly after the General Framework Agreement for Peace in Bosnia and Herzegovina entered into force in December 1995. The applicants complain that the annulment of their contracts violated their property rights as guaranteed by Article 1 of Protocol No. 1 to the (European) Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") and also allege violations of Articles 6 and 13 of the Convention.

3. These five cases resemble the cases of *Medan and Others v. Bosnia and Herzegovina and The Federation of Bosnia and Herzegovina*, (Cases Nos. CH/96/3, 8 and 9, Decision on the merits of 7 November 1997, Decisions 1996-1997, p. 53), *Podvorac and 15 other JNA cases* (Decision on the admissibility and the merits of 12 June 1998, Decisions and Reports 1998, p. 1) as well as *Grbavac and 26 Other JNA cases v. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina* and *Ostojić and 31 Other JNA cases v. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina* (Decisions on the admissibility and the merits of 15 January 1999).

II. PROCEEDINGS BEFORE THE CHAMBER

4. The applications were introduced between January 1998 and February 1998 and registered between January 1998 and April 1998. The applicants in Cases Nos. CH/98/171 and CH/98/299 are represented by lawyers.

5. All but one of the applications were directed against both Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina. Mr. Saračević's complaint was initially directed against the Federation of Bosnia and Herzegovina. The Chamber considered, however, that the applicant's complaint raised issues which might in all cases engage the responsibility of both the State and the Federation of Bosnia and Herzegovina. It therefore decided to treat this case as being directed against both the State and the Federation (see also the decision in, for instance, the *Podvorac and 15 other JNA cases*, loc. cit., paragraph 4 and the *Medan and Others* decision, loc. cit., paragraphs 28-30 and 44-47).

6. Between 6 April 1998 and 2 July 1998 the applications were transmitted pursuant to Rule 49(3)(b) of the Rules of Procedure to the respondent Parties for observations on their admissibility and merits.

7. The Federation of Bosnia and Herzegovina submitted observations between June 1998 and October 1998. The State of Bosnia and Herzegovina did not submit any observations. The applicants replied between July 1998 and January 1999. In accordance with the Chamber's order for the proceedings in the respective cases, all applicants' were afforded the possibility of claiming compensation within the time limit fixed for any reply to observations submitted by a respondent Party.

8. The First Panel deliberated on the admissibility and the merits of the cases on 14 April 1999. Under Rule 34 of its Rules of Procedure, it decided to join the applications and adopted the present decision on the above mentioned date.

III. ESTABLISHMENT OF THE FACTS

A. Relevant domestic law

9. The apartments occupied by the applicants were all socially owned property over which the JNA had jurisdiction. Such property was considered to belong to society as a whole. Each applicant

enjoyed an occupancy right in respect of his or her apartment. An occupancy right was a right, subject to certain conditions, to occupy an apartment on a permanent basis.

10. Each of the applicants contracted to purchase his or her apartment under the Law on Securing Housing for the Yugoslav Army (*Službeni List* (Official Gazette) of the Socialist Federal Republic of Yugoslavia, No. 84/90). This was a Law of the Socialist Federal Republic of Yugoslavia, which was passed in 1990 and came into force on 6 January 1991. In the following years a number of Decrees with force of law as well as laws proper were issued by the Government of the Socialist Republic of Bosnia and Herzegovina, the Presidency of the Republic of Bosnia and Herzegovina and the Parliament of the Republic of Bosnia and Herzegovina with the aim of regulating social property issues in general and social property over which the JNA had jurisdiction in particular (see the Chamber's decision in the cases of *Medan and Others*, loc. cit., paragraphs 9-13). These legal instruments included, amongst others, a Decree imposing a temporary prohibition on the sale of socially owned property, issued on 15 February 1992 by the Government of the Socialist Republic of Bosnia and Herzegovina (*S.L.* of the Socialist Republic of Bosnia and Herzegovina, No. 4/92). Subsequently, a Decree with force of law, issued on 3 February 1995 by the Presidency of the Republic (*S.L.* of the Republic of Bosnia and Herzegovina, No. 5/95), ordered courts and other state authorities to adjourn proceedings relating to the purchase of apartments and other properties under the Law on Securing Housing for the JNA. This Decree suspended court proceedings until new housing legislation was adopted. This Decree entered into force on 10 February 1995, the date of its publication in *Službeni List*. On 22 December 1995 the Presidency of the Republic of Bosnia and Herzegovina issued a Decree with force of law (*S.L.* of the Republic of Bosnia and Herzegovina, No. 50/95) stating that contracts for the sale of apartments and other property concluded on the basis of, *inter alia*, the Law on Securing Housing for the JNA were invalid. This Decree entered into force on the same day. It was adopted as a law by the Assembly of the Republic of Bosnia and Herzegovina and promulgated on 25 January 1996 (*S.L.* of the Republic of Bosnia and Herzegovina, No. 2/96).

11. The Decree of 22 December 1995 also provided that questions connected with the purchase of real estate which was the subject of annulled contracts would be resolved under a law to be adopted in the future. On 6 December 1997 the Law on the Sale of Apartments with Occupancy Right came into force (*Službene Novine* (Official Gazette) of the Federation of BiH, No. 27/97). This law was amended by a law of 23 March 1998 (*S.N.* of the Federation of BiH, No. 11/98). Neither law affected the annulment of the present applicants' contracts. Under Article 39 an occupancy right holder who, under provisions of the 1997 law, contracts to purchase an apartment which he had contracted to purchase on the basis of, *inter alia*, the Law on Securing Housing for the JNA shall be recognised the purchase amount earlier paid.

B. The individual cases

12. The applicants are former members or employees of the JNA. The facts of the cases as they appear from the applicants' respective submissions and the documents in the case file are not in dispute and may be summarised as follows.

1. The case of Mr. Akif (Behija) HUSELJIĆ (CH/98/159)

13. On 3 April 1992 the applicant concluded a purchase contract for a JNA apartment at Aleja bosanskih vladara No.18 (formerly Oktobarske revolucije No.2) Tuzla, having paid the purchase price due (11.100,00 Dinars) on 1 February 1992.

14. The applicant has not initiated court proceedings to have himself registered as the owner of the apartment.

2. The case of Mr. Goran SARAČEVIĆ (CH/98/171)

15. On 15 March 1992 the applicant concluded a purchase contract for a JNA apartment at Lamela No.2D/3 (formerly Trg Republike No. 2D/3) Travnik and paid the purchase price due (784.375,00 Dinars).

16. On 20 June 1995 the applicant submitted an application to the Court of First Instance Travnik seeking to establish that he was entitled to recognition as owner of the apartment and to be

registered in the Land Registry as such. The Court proceedings remain adjourned.

3. The case of Mr. Evdokije BOGDANOVIĆ (CH/98/269)

17. On 7 March 1992 the applicant concluded a purchase contract for a JNA apartment at Armije BiH No.23 (formarly Skojevska 59) Tuzla, and paid the purchase price due (142.512,00 dinars).

18. The applicant has not initiated court proceedings to have himself registered as the owner of the apartment.

4. The case of Mr. Miladin STOJANOVIĆ (CH/98/273)

19. On 3 April 1992 the applicant concluded a purchase contract for a JNA apartment at Amalije Lebeničnik No. 2 Tuzla and paid the purchase price due (279.199,00 Dinars). The applicant has not initiated court proceedings to have himself registered as the owner of the apartment.

5. The case of Mr. Nikola DABOVIĆ (CH/98/299)

20. On 2 April 1992 the applicant concluded a purchase contract for a JNA apartment at Đenetića Čikma No. 8 Sarajevo and paid the purchase price due (209.615,00 Dinars).

21. The applicant has initiated court proceedings to have himself registered as the owner of the apartment. The proceedings have been adjourned.

IV. COMPLAINTS

22. The applicants essentially complain that the retroactive annulment of their purchase contracts and the compulsory adjournment of their civil proceedings under the Decree No. 5/95 (see paragraphs 10-11 above) involved violations of their rights under Article 6 and 13 of the Convention and Article 1 of Protocol 1 to the Convention.

V. SUBMISSIONS OF THE PARTIES

A. The Respondent Parties

1. Bosnia and Herzegovina

23. No observations have been received from the State of Bosnia and Herzegovina.

2. The Federation of Bosnia and Herzegovina

24. The Federation of Bosnia and Herzegovina primarily refers to the liability of the State of Bosnia and Herzegovina for the impugned measures. Having regard to the ongoing discussion regarding the succession of the former SFRJ, it is presently impossible for the Federation to fulfil its obligations flowing from the Chamber's decision in *Medan and Others* (loc. cit.).

25. The Federation furthermore argues that the Chamber lacks competence *ratione temporis* to deal with the cases. In some of the cases the Federation, moreover, argues that the cases have been lodged past the six months' period stipulated in Article VIII(2)(a) of the Agreement, since the essential grievance concerns the Decree of 22 December 1995 which was adopted as law in January 1996. This enactment constituted the "final decision" within the meaning of Article VIII(2)(a) of the Agreement. Consequently, the applications should have been lodged by July 1996.

26. It is further alleged that the issue at stake in these cases is the constitutionality of a law and not the infringement of human rights. These cases would therefore fall within the jurisdiction of the Constitutional Court. Moreover, the impugned legal acts were designed to place those prevented from buying JNA apartments on an equal footing with the applicants, and to protect State property. The measures were therefore justified under the second paragraph of Article 1 of Protocol No. 1 to the

Convention.

27. The Federation argues in its observations of 28 October 1998 in the cases of Miladin Stojanović (CH/98/273) and Nikola Dabović (CH/98/299) that it has, during 1998, enacted the legislation needed for the resumption of the adjourned court proceedings, so that the applicants are enjoying all their rights as guaranteed by Article 6 of the Convention. The Federation also argues that the purchase contracts concluded between February 1992 and February 1993 are invalid *ab initio*.

B. The Applicants

28. The applicants maintain their complaints. Regarding the Federation's argument that other citizens were not treated equally to those who had the opportunity to purchase JNA apartments, the applicants stress the fact that the purchasers were all former members or employee of the JNA and had contributed to the Army Housing Fund. The apartments they purchased were constructed with means from this fund and not from the Housing Fund of the then Republic of Bosnia and Herzegovina. Consequently, the purchasers cannot be compared with those who did not contribute to the Army Housing Fund.

VI. OPINION OF THE CHAMBER

A. Admissibility

29. Before considering the cases on their merits the Chamber must decide whether to accept them, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement which, provides, *inter alia*, as follows:

> "2. The Chamber shall decide which applications to accept … . In so doing the Chamber shall take into account the following criteria:
>
> (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted and that the application has been filed with the Commission within six months from such date on which the final decision was taken.
>
> …
>
> (c) The Chamber shall also dismiss any application which it considers incompatible with this Agreement, … ".

30. In accordance with generally accepted principles of international law, it is outside the competence of the Chamber *ratione temporis* to decide whether events occurring before the coming into force of the Agreement on 14 December 1995 gave rise to violations of human rights. Evidence relating to such events may, however, be relevant as a background to events which occurred after the Agreement entered into force. Moreover, in so far as an applicant alleges a continuing violation of his rights after 14 December 1995, the case may fall within the Chamber's competence *ratione temporis* (*see Bastijanović* v. *Bosnia and Herzegovina and The Federation of Bosnia and Herzegovina*, Case No. CH/96/8, decision of 4 February 1997, Decisions 1996-97).

31. The Chamber recalls that the present cases were introduced between January and February 1998. The applicants essentially complain about the effects of the decrees of 3 February and 22 December 1995. In previous JNA cases the Chamber has found the Federation to be in violation of the Agreement because of its recognition and application of those decrees (see, e.g., the aforementioned *Medan and Others* decision, loc. cit., paragraphs 38 and 41). The present applicants must also be understood as alleging that the effects of those decrees have been ongoing up to this day. The Chamber notes that the Decree of 22 December 1995 also provided that questions connected with the purchase of real estate which was the subject of annulled contracts would be resolved under a new law to be adopted in the future. Indeed, legislation to that effect was enacted in December 1997 and March 1998 (see paragraph 11 above). In these circumstances the Chamber is unable to identify any "final decision" whereby the six months' period stipulated in Article VIII(2)(a) could be considered to have commenced on 18 January 1996. Given this ongoing situation, the Chamber is also competent *ratione temporis* to examine the present cases. It follows that the

Federation's objections must be rejected.

32. The Federation of Bosnia and Herzegovina argues that the present cases would fall within the jurisdiction of the Constitutional Court and presumably be incompatible with the Agreement within the meaning of Article VIII (2) (c) (see paragraph 26 above). However, the Chamber recalls that it is competent to consider "alleged and apparent violations of human rights as provided in the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto" (Article II(2)(a) of the Agreement). The Federation's argument must therefore be rejected.

33. The Chamber notes that neither respondent Party has raised any other objection to the admissibility of the applications in light of the criteria set out in Article VIII(2) of the Agreement (cf., *a contrario*, e.g., *Blentić v. Republika Srpska*, Case No. CH/96/17, decision of 3 December 1997, paragraphs 19-21, Decisions 1996-97, in which the Chamber considered this admissibility criterion in light of the corresponding requirement in Article 26 of the Convention). Nor can the Chamber of its own motion find any grounds for declaring the present cases inadmissible.

34. The Chamber concludes therefore that all the applications, including those where the applicants did not institute any court proceedings, are admissible.

B. Merits

35. Under Article XI of the Agreement the Chamber must next address the question whether the facts established above indicate a breach by one or both of the respondent Parties of its or their obligations under the Agreement. In terms of Article I of the Agreement the Parties are obliged to "secure to all persons within their jurisdiction the highest level of internationally recognised human rights and fundamental freedoms", including the rights and freedoms provided for in the Convention. The Chamber will therefore consider whether the annulment of the applicants' purchase contracts and the compulsory adjournment of any related civil proceedings constitutes a breach of the applicants' rights under Article I of the Agreement.

1. Article 1 of Protocol No. 1 to the Convention

36. The applicants complain that the contracts which they entered into for the purchase of their apartments were annulled retroactively by the Decree issued on 22 December 1995, which was adopted as law on 18 January 1996. They allege breach of Article 1 of Protocol No. 1 to the Convention, which is in the following terms:

> "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."

37. As to whether, at the time when the December 1995 Decree came into force, the applicants had any rights under their contracts which constituted "possessions" for the purposes of Article 1 of Protocol No. 1, the Chamber refers to its decisions in the cases of *Medan and Others* and in *Podvorac and 15 other JNA* cases (loc. cit., paragraph 32-34 and paragraphs 59-61, respectively). In the *Medan* case, the Chamber held that even those applicants who had entered into contracts after the Decree of 15 February 1992 (temporarily prohibiting the sale of the JNA apartments) were to be considered as having rights under Article 1 of Protocol No. 1 of the Convention. The answer to this question in the present cases is therefore affirmative. The effect of the Decree of December 1995 was to annul those rights and the applicants were therefore deprived of their possessions. It is accordingly necessary for the Chamber to consider whether these deprivations were justified under Article 1 of the Protocol as being "in the public interest" and "subject to the conditions provided for by law".

38. The Federation of Bosnia and Herzegovina argues that the impugned legal acts were designed

to support those who were prevented from buying JNA apartments and to protect State property. These acts would therefore correspond with the requirements of Article 1 paragraph 2 of Protocol No. 1 to the Convention and justify the measures concerned in the present cases.

39. The applicants stress the fact that the purchasers were all former employees of the JNA and had contributed to the Army Housing Fund. The apartments they purchased were constructed with means from this fund and not from the Housing Fund of the then Republic of Bosnia and Herzegovina. Consequently, the purchasers cannot be compared with those who had not contributed to the Army Housing Fund.

40. The Chamber finds that there is no material distinction between the present cases and those of *Medan and Others* and *Podvorac and 15 other JNA* cases (loc. cit.). Moreover, the new legislation issued after the Chamber's decision in *Medan and Others* (see paragraph 10 above) did not change the present applicants' situation. The Chamber notes, however, that the legislation posterior to the Decree of December 1995 and the related law of January 1996 (see paragraphs 10-11 above), as in force at present, cannot revalidate the applicants' original purchase contracts retroactively, that is to say with effect from the dates when those contracts were concluded. Accordingly, this legislation can have no bearing on the outcome of the present cases.

41. Accordingly, the Chamber finds, as in the earlier JNA cases decided on the merits, that the present applicants were also made to bear an "individual and excessive burden" and that there has been a violation of Article 1 of Protocol No. 1 to the Convention.

2. Article 6 of the Convention

42. Those applicants who instituted proceedings complain that the civil proceedings instituted with a view to obtaining recognition of their ownership and registration in the Land Registry, have been compulsorily adjourned by virtue of the February 1995 Decree. They allege a breach of Article 6 of the European Convention on Human Rights in this respect. Those applicants who did not institute proceedings allege a violation of Article 6 on the ground that the aforementioned Decree deprived them of their right of access to court. Article 6 reads, as far as relevant, as follows:

> "1. In the determination of his civil rights and obligations….everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law…"

43. As in the cases of *Medan and Others* and *Podvorac and 15 other JNA* cases (loc. cit.) the Chamber notes that the court proceedings in question either were or would have been adjourned shortly after the Decree in question entered into force. The Chamber observes that according to the observations of the Federation in the case of Miladin Stojanović, CH/98/273, and the case of Nikola Dabović, CH/98/299, the Federation enacted the legislation needed to lift the adjournment during 1998. Accordingly, there was an interference from 14 December 1995 until sometime in 1998 with the applicants' effective access to court for the purpose of having their civil claims determined, as guaranteed by Article 6 (see the Chamber's decisions in the cases of *Medan and Others* and *Podvorac and 15 other JNA cases*, paragraphs 40 and 64, respectively and the European Court of Human Rights in the case of *Golder v. United Kingdom*, judgement of 21 February 1975, Series A No. 18, paragraphs 35-36). The Chamber sees no justification for this state of affairs in light of the conclusion which it has reached under Article 1 of the Protocol to the Convention. It follows that there is a breach of Article 6 of the Convention in the case of each applicant, in so far as the compulsory adjournment of his case continued or would have continued since 14 December 1995, when the Agreement came into force at least until 1998. The Chamber would add that any proceedings initiated would have lasted beyond a "reasonable time" due to the February 1995 Decree, which as stated earlier, apparently remained effective until some time in 1998.

3. Article 13 of the Convention

44. Some applicants also maintain that they have been the victims of a breach of Article 13 of the Convention in that no effective remedy has been available to them in respect of their complaints. Article 13 provides as follows:

> "Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

45. In view of its decision under Article 6(1) of the Convention to the effect that the applicants have been denied access to court to establish their property rights, the Chamber considers it unnecessary also to examine the complaints under Article 13. The requirements of Article 13 are less strict than those of Article 6 and are absorbed by the latter (see, e.g., European Court of Human Rights, *Hentrich v. France* judgment of 22 September 1994, Series A No. 296, paragraph 65).

VII. REMEDIES

46. Under Article XI paragraph 1(b) of the Agreement the Chamber must also address the question what steps shall be taken by the respondent Party or Parties to remedy the breaches of the Agreement which it has found.

47. The Chamber notes that the legal situation remains essentially the same as that which it addressed in its decisions in the cases of *Medan and Others* and *Podvorac and 15 other JNA* cases (loc. cit.) except as regards the possible end of the adjournment of proceedings. It is therefore appropriate to make orders similar to those issued in those cases.

48. The breaches of Article 1 of Protocol No. 1 which the Chamber has found arose from the legislation already referred to. The State is responsible for having passed that legislation, but the matters which it deals with are now within the responsibility of the Federation, which recognises and applies this legislation. In these circumstances the Chamber considers that it is the responsibility of the Federation to take the necessary legislative or administrative action to render ineffective the annulment of the applicants' contracts which was imposed. It will therefore make an order against the Federation to that effect.

49. The Chamber will also order the Federation to take any necessary steps to lift the compulsory adjournment of the court proceedings instituted by the applicants Goran Saračević, CH/98/171, and Nikola Dabović, CH/98/299, which the Chamber has found to be in violation of Article 6 of the Convention, and to take any necessary steps to secure the applicants' right of access to court.

50. With regard to possible compensatory awards, the Chamber first recalls that in accordance with its order for the proceedings in the respective cases, all applicants were afforded the possibility of claiming compensation within the time limit fixed for any reply to observations submitted by a respondent Party. The following applicants seek compensation:

51. Ms. Behija Huseljić (CH/98/159) claims compensation for the paid purchase price (11,100.00 dinars) conditionally, that is to say only if the contract remains annulled.

52. Mr. Goran Saračević (CH/98/171) claims compensation for lawyer's fees of 450 DEM for submission of the application to the domestic court, 450 DEM for representing the applicant before the domestic court, 450 DEM for the submission of the application to the Chamber and 450 DEM for the submission of observations to the Chamber, totalling 1,800 DEM in lawyer's fees.

53. Mr. Evdokije Bogdanović (CH/98/269) claims compensation conditionally, that is to say only if the purchase contract remains annulled, in the amount paid in excess of the purchase price of the apartment (26,488.00 dinars), compensation for his contribution of 746,040.00 dinars to the Housing Fund of the JNA which was reduced from the original contract price, 10,000 DEM for offensive remarks made by the military lawyer to the applicant, 30,000 DEM for pain suffered and maltreatment as an employee of the former JNA, 10 DEM for the lawyer's fee and 5 DEM for costs of posting documents to the Chamber.

54. In the case of Ms. Behija Huseljić (CH/98/159) the Chamber rejects her claim for the purchase price paid as the Chamber is affirming her property rights according to the contract.

55. The Chamber recalls that its jurisdiction *ratione temporis* is limited to the period after the entry into force of the Agreement on 14 December 1995. This means that the Chamber cannot award any compensation for damage suffered before that date or relating to events before that date. Compensation may be awarded in particular in respect of pecuniary or non-pecuniary (moral) damage as well as for costs and expenses incurred by the applicants in order to prevent the breach found or to obtain redress therefor. Any costs and expenses claimed should be specified (see, e.g., CH/96/30, *Damjanović* decision of 11 March 1998, Decisions and Reports January-June 1998, paragraph 23).

56. With reference to applicant Saračević (CH/98/171) the Chamber notes that part of the compensation claim relates to loss of property allegedly suffered in January 1995, i.e. prior to the entry into force of the agreement. This part of the claim must therefore be rejected. As for the remainder of the claim, the Chamber finds it appropriate, taking into account the Advocates' Tariff, the Chamber finds it appropriate to award Mr. Goran Saračević a total of 200 KM in compensation for legal costs and expenses incurred in the proceedings before the Court in Travnik in May 1996 and before the Chamber (50 and 150 KM, respectively; see *Ostojić and 31 Other JNA Cases,* loc. cit., paragraph 123).

57. The Chamber finds it appropriate to award Mr. Evdokije Bogdanović (CH/98/269) 15 KM for legal fees and postage. The Chamber rejects as outside its competence *ratione temporis* the request for a rebate for the amount paid above the contract price as well as contributions made to the housing fund for the JNA . The Chamber rejects the claim of 10,000 DEM for offensive remarks made by the military lawyer to the applicant as not being related to the violation of human rights which it has found. Finally, the Chamber rejects the request for 30,000 DEM for pain and maltreatment suffered as the applicant cannot be said to have suffered any such damage as a result of his inability to be registered as the owner of the apartment.

VIII. CONCLUSIONS

58. For the above reasons the Chamber decides:

1. unanimously, to declare the applications admissible;

2. by 5 votes to 1, that the passing of legislation providing for the retroactive nullification of the applicants' purchase contracts violated their rights under Article 1 of Protocol No. 1 to the Convention, Bosnia and Herzegovina thereby being in breach of its obligations under Article I to the Agreement;

3. by 5 votes to 1, that the recognition and application of the legislation providing for the retroactive nullification of the applicants' contracts has violated their rights under Article 1 of Protocol No. 1 to the Convention, the Federation thereby being in breach of its obligations under Article I of the Agreement;

4. by 5 votes to 1, that the adjournment since 14 December 1995 of court proceedings aiming at formal recognition of the applicants' property rights (whether or not actually initiated by them) has violated their right of access to a court and to a hearing within a reasonable time as guaranteed by Article 6 of the Convention, the Federation thereby being in breach of its obligations under Article I of the Agreement;

5. unanimously, that it is unnecessary to examine the applicants' complaints based on Article 13 of the Convention;

6. by 5 votes to 1, to order the Federation to take all necessary steps to render ineffective the annulment of the applicants' contracts imposed by the Decree of 22 December 1995 and the Law of 18 January 1996;

7. unanimously, to order the Federation to take any necessary steps to lift the compulsory adjournment by the Decree of 3 February 1995 of court proceedings aiming at formal recognition of the applicants' property right and to take any necessary steps to secure in this matter their right of

access to court and to a hearing within a reasonable time;

8. unanimously, to reject Ms. Behija Huseljić's claim for compensation;

9. (a) unanimously, to order the Federation to pay applicant Mr. Goran Saračević (CH/98/171) within three months, the sum of 200 KM in compensation for fees and expenses;

(b) unanimously, to reject the remainder of his claim for compensation;

10. (a) unanimously, to order the Federation to pay applicant Mr. Evdokije Bogdanović (CH/98/269) within three months, the sum of 15 KM in compensation for fees and expenses;

(b) unanimously, to reject the remainder of his claim for compensation;

11. unanimously, to order that simple interest at an annual rate of four per cent will be payable over the awarded sums or any unpaid portion thereof, from the date of expiry of the above-mentioned three month period until the date of settlement; and

12. unanimously, to order the Federation to report to it by 11 September 1999 on the steps taken by it to give effect to this decision.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel

ANNEX

In accordance with Rule 61 of the Chamber's Rules of Procedure this Annex contains a separate concurring opinion by Mr. Dietrich RAUSCHNING.

SEPARATE CONCURRING OPINION BY MR. DIETRICH RAUSCHNING

While I agree with the conclusions of the decision, I would like to elaborate on more compelling reasons for reaching these conclusions.

I. The applicants' rights under the purchasing contracts as assets protected under Article 1 of the First Protocol to the Convention

1. The Agent of the respondent Party argues that the first sentence of the first paragraph of Article 1 protects only possessions and not property. The opinion that only possessions in the sense of the Roman Law and in the understanding of the Civil Code of this country are protected does not conform with the jurisprudence of the European Court of Human Rights and the international understanding of this clause. The word "possessions" is understood in a broader sense and has the meaning of assets. The corresponding word in the other official language, French, is "*biens*". This notion comprises property in the sense of the national civil law, but includes a variety of other acquired rights.

2. The rights derived from a contract to buy real property, which is fullfilled by the purchaser with the payment of the price due are an asset protected under Article 1 of the First Protocol. The corresponding jurisdiction of the European Court of Human Rights is cited in the Chamber's decision in the Medan case, in the subsequent decisions and in the decision in this case.

II. Invalidity of the Decree of the Socialist Republic of Bosnia and Herzegovina, as of 15 February 1992

3. The Agent of the respondent Party argues that the contracts were null and void from the beginning because they were forbidden by valid law. Under paragraph 37 and with the reference to paragraphs 32-34 of its decision in the Medan case the Chamber deals with the question of the effect of the Decree of the Government of the Socialist Republic of Bosnia and Herzegovina on a Temporary Prohibition of Sales of Socially Owned Apartments, signed on 15 February 1992 (the Decree). The Chamber states in the decision of the Medan case that the validity of that Decree is open to question. I am convinced that the Decree was invalid from the outset. Consequently it can not have the effect of invalidating contractual rights of the applicants or of hindering the acquisition of the rights.

4. Article 1 of the Decree temporarily prohibits the sales of socially owned apartments assigned to the JNA. These sales were regulated and authorised by the Law on Securing Housing for the JNA (JNA Housing Law) which was enacted by the Parliament of the Socialist Federal Republic of Yugoslavia on 29 December 1990 (SL SFRJ 1990, 2347). There are no doubts concerning the validity of that law in the period prior to Bosnia and Herzegovina becoming independent as the Federal Republic had competence to enact the law under Article 281 paragraph 6 of the Federal Constitution. Consequently, the Decree was in conflict with the JNA Housing Law as a federal law.

5. The conflict between the Decree and the federal law has to be resolved applying the law that was in force at the time the Decree was enacted. In this respect Article 207 paragraph 2 of the Constitution of the SFRJ is decisive. It states that normative acts of a Republic shall not contradict federal law. The Constitution provided that conflicts of this kind were to be settled by the Constitutional Court. If the federal organs were competent to apply and to administer the relevant law in question, then the federal law was to be applied temporarily pending a decision of the Constitutional Court.

6. At present, the Constitutional Court of the former Federal Socialist Republic of Yugoslavia which had the jurisdiction to resolve the conflict does not exist. No court or institution currently has

exclusive jurisdiction to decide on the conflict between the Decree of February 1992 and the JNA Housing Law of 1990, at that time a federal law. In particular, the Constitutional Court of Bosnia and Herzegovina, established under the Constitution of Bosnia and Herzegovina (Annex 4 to the General Framework Agreement), is not called upon to decide this conflict, because this conflict does not arise under the new Constitution.

7. In order to decide on the applications, the Chamber has to ascertain whether the applicants acquired rights by concluding the contracts and paying the price for their apartments. For this purpose, the Chamber has to apply the national law in force at that time, and it is competent to do so. Thus, the Chamber has to resolve the conflict between the Decree and the federal JNA Housing Law of December 1990 by applying Article 207 paragraph 6 of the Constitution of the SFRJ by applying the rule on conflict of laws. As a result, the Decree of 15 February 1992 was inapplicable *ab initio.* It follows that the rights derived from the contracts are assets protected by Article 1 of the First Protocol. The denial of this position of the applicants and the nullification of the contract violate the protected rights, if they can not be legitimised according to the second sentence of Article 1.

III. Legitimacy of the aim of the provisions enacted 1995/1996

8. The respondent Party has argued that the JNA members were privileged compared with other occupiers of socially owned apartments, and that the purpose of the Decree of 22 December 1995 and the endorsing law of 18 January 1996 was to rectify this violation of the principle of equality of treatment. The Chamber refers in paragraph 41 to its arguments in the Medan case, finding no difference.

9. The principle of equality of treatment has not been violated by the enactment of the JNA Housing Law 1990 which provides for the sale of an apartment to the holder of the occupancy right. This measure can be regarded as a means of privatisation, and considering that the apartments were encumbered with an occupancy right, the price provided in the law was not unreasonable. I admit that not all holders of occupancy rights in socially owned apartments in former Yugoslavia were given the opportunity to buy their apartments. However, in my opinion, the former SFRJ did not violate the principle of equality of treatment by offering to sell socially owned apartments assigned to federal institutions, whereas housing funds affiliated to the Republics, the communities and to the commercial enterprises were not privatised by the legislatures competent to enact corresponding laws. The principle of equality of treatment only demands that equal or comparable cases are regulated in the same way by the same authority. The fact that other competent legislative authorities in former SFRJ did not enact similar laws entitling all holders of occupancy rights in socially owned apartments not assigned to the JNA to buy their apartment in 1990-1992 does not violate the principle of equality of treatment.

10. If there is no violation of the principle of equality of treatment, the aim of the legislative measures 1995/1996 cannot be to rectify that violation. In my opinion, the reasons for the measures submitted by the respondent Party are ill-founded and they are manifestly unreasonable. Consequently, the Decree of December 1995 and the endorsing law of January 1996 cannot be regarded as fulfilling a legitimate aim. They aim at depriving the applicants of their possessions without being legitimised by the public interest. Their enactment and their application violate the human rights of the applicants as protected by Article 1 of the First Protocol to the ECHR.

(Signed) Dietrich RAUSCHNING

DECISION ON ADMISSIBILITY AND MERITS
(delivered on 7 February 2003)

Case no. CH/98/166

Omer BJELONJA

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 5 February 2003 with the following members present:

Mr. Mato TADIĆ, President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
Mr. Viktor MASENKO-MAVI

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar
Ms. Antonia DE MEO, Deputy Registrar

Having considered the aforementioned application introduced pursuant to Article VIII(1) of the Human Rights Agreement ("the Agreement") set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Adopts the following decision pursuant to Articles VIII(2) and XI of the Agreement and Rules 52, 57, and 58 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The case concerns the applicant's attempts to obtain compensation for his house, which was confiscated for temporary use by the Armed Forces during the armed conflict. Since 3 May 1996, the applicant has pursued proceedings before different domestic bodies, both judicial and administrative, in order to obtain compensation for the use of his house and for the damage and loss of his property after the confiscation, but to date, these proceedings have not been concluded.

2. The case raises issues under Article 6 paragraph 1 (right to a fair hearing) of the European Convention on Human Rights (the "Convention") and Article 1 of Protocol No. 1 (right to peaceful enjoyment of possessions) to the Convention.

II. PROCEEDINGS BEFORE THE CHAMBER

3. The application was received and registered on 26 January 1998. In the application, the applicant, who is represented by Jasmin Bjelonja, requested compensation in the amount of 75,100 KM for the use of his house and 65,286 KM for the damage caused to his house and the loss of property that was removed from the house.

4. On 29 May 1998, the Chamber asked the applicant for additional information regarding the alleged demolition of his house and the settlement of his claim for compensation by the Secretariat for National Defence of the Municipality of Ilidža.

5. On 2 July 1998, the case was transmitted to the respondent Party for its observations on admissibility and merits with respect to Article 6 paragraph 1 of the Convention and Article 1 of Protocol No. 1 to the Convention.

6. The Chamber did not receive written observations from the respondent Party on the admissibility and merits of the application.

7. On 22 February 1999, the applicant submitted a claim for compensation.

8. On 19 April 1999, the Chamber received the respondent Party's written observations in reply to the applicant's compensation claim.

9. On 28 July 1999, the Chamber received additional information from the applicant regarding the proceedings he had initiated.

10. On 15 January 2003, the Chamber asked the applicant for updated information regarding his proceedings before the domestic administrative organs and courts.

11. On 20 January 2003, the Chamber received the requested additional information from the applicant, in which he confirmed that no progress has been made in his proceedings before the domestic organs and courts.

12. The Chamber deliberated on the admissibility and merits of the application on 6 December 2002, 10 January 2003, 3 February 2003 and 5 February 2003. On 5 February 2003, the Chamber adopted the present decision on admissibility and merits.

III. STATEMENT OF THE FACTS

A. Background facts

13. The applicant is the owner of a house in Donji Kotorac, no. 33, in the Municipality of Ilidža. On 3 August 1993, the Secretariat for National Defence of the Municipality of Ilidža ordered the applicant to hand over the house to the Working Group of the Armed Forces of the First Military Group.

14. On 26 August 1997, the applicant was given back *de facto* possession of his house.

15. On 2 September 1998, the Supreme Court of the Federation of Bosnia and Herzegovina informed the applicant by letter that his case regarding his claim for compensation had been transferred to the Cantonal Court in Sarajevo. This letter does not specify whether it refers to both sets of proceedings, as described below. According to the applicant, both sets of proceedings are pending before the Cantonal Court in Sarajevo.

B. Proceedings regarding compensation for the use of the house

16. On 3 May 1996, the applicant requested the Secretariat for National Defence of the Municipality of Ilidža to compensate him for the use of his house after it was confiscated.

17. On 10 March 1997, the Secretariat for National Defence of the Municipality of Ilidža informed the applicant that it found itself not competent to deal with the applicant's request.

18. On 12 March 1997, the applicant submitted a request to the Secretariat for National Defence of the Municipality of Ilidža, arguing that it is competent and asking it to decide upon his request within the prescribed time limits.

19. On 24 April 1997, the applicant lodged a complaint with the Ministry of Defence of the Federation of Bosnia and Herzegovina regarding the absence of a decision from the Secretariat for National Defence of the Municipality of Ilidža.

20. On 16 July 1997, the applicant initiated an administrative dispute before the Supreme Court of the Federation of Bosnia and Herzegovina with regard to the silence of the administration.

21. On 11 March 1998, the Supreme Court of the Federation of Bosnia and Herzegovina issued a decision ordering the Ministry of Defence of the Federation of Bosnia and Herzegovina to issue a decision within 30 days with regard to the applicant's compensation claim for the use of the house.

22. On 2 June 1998, the applicant addressed the Federal Administrative Inspection Service with a request for actions by the Federal Administrative Inspector because the Ministry of Defence of the Federation of Bosnia and Herzegovina did not comply with the decision of the Supreme Court of 11 March 1998.

23. On 15 June 1998, the applicant received a procedural decision of the Ministry of Defence of the Federation of Bosnia and Herzegovina issued on 24 April 1998, referring the case to the Secretariat for National Defence of the Municipality of Ilidža and ordering it to carry out proceedings within 15 days.

24. On 26 June 1998, the Secretariat for National Defence of the Municipality of Ilidža issued a procedural decision establishing the amount of compensation to be paid for the use of the house.

25. On 21 July 1998, the applicant appealed against this procedural decision of 26 June 1998.

26. On 4 August 1998, the Ministry of Defence of the Federation of Bosnia and Herzegovina refused the applicant's appeal.

27. On 20 August 1998, the applicant initiated an administrative dispute before the Supreme Court of the Federation of Bosnia and Herzegovina. Since then, there appear to have been no developments in these proceedings.

C. Proceedings regarding compensation for damage to the house

28. According to the applicant, his house, at the time he recovered *de facto* possession of it, was partly destroyed. The applicant also alleges that moveable property was removed from the house in question. On 1 December 1997, the applicant filed a claim for compensation to the Secretariat for National Defence of the Municipality of Ilidža for this damage and loss of property.

29. On 2 December 1997, the Secretariat for National Defence of the Municipality of Ilidža informed the applicant that it found itself incompetent to deal with the applicant's request.

30. On 4 February 1998, the applicant filed an appeal with the Ministry of Defence of the Federation of Bosnia and Herzegovina because the Secretariat for National Defence of the Municipality of Ilidža had not issued a decision on his claim.

31. On 7 May 1998, the applicant initiated an administrative dispute before the Supreme Court of the Federation of Bosnia and Herzegovina because the Ministry of Defence of the Federation of Bosnia and Herzegovina had not issued a decision on his appeal. Since then, there appear to have been no developments in these proceedings.

IV. RELEVANT LEGISLATION

32. In accordance with the Law on Defence (Official Gazette of Republic of Bosnia and Herzegovina, - "OGRBiH" - nrs 4 and 9/92), the Government of the Republic of Bosnia and Herzegovina enacted the Decree on Criteria and Standards of Deployment of Citizens and Resources to the Armed Forces and for Other Needs of Defence (OGRBiH, no. 19/92). This Decree establishes the means, criteria and standards for supplying the Armed Forces of BiH with manpower and material resources, among them the confiscation of private property needed to supply the armed forces during the course of the war. The decree further provides that persons whose resources were used, damaged or lost when confiscated are entitled to compensation. It finally provides for the procedures to determine the amount of compensation to be awarded and the establishment of damage.

33. Article 82, insofar as relevant, provides as follows:

> "Compensation referred to in Article 77, 78 and 79 of this Decree shall be paid to the owners of resources who utilised those resources. Such compensation shall be calculated and paid *ex officio* or following a request by the owner of the resources (…)."

34. Article 86 provides as follows:

> "The compensation amount referred to in Articles 77, 78 and 79 of this Decree shall be determined by a commission composed of three members, established by the municipal secretariat that ordered the seizure of the resources.
>
> "The compensation referred to in paragraph 1 of this Article shall be determined by a procedural decision.
>
> "An appeal may be filed against the procedural decision referred to in paragraph 2 of this Article to the Ministry of Defence within 15 days from the day of receipt of the procedural decision.
>
> "The procedural decision issued following the appeal is final."

35. Article 87 provides as follows:

> "If the resources referred to in Articles 53, 66, 70 and 75 of this Decree, except for perishable resources, are destroyed or damaged or go missing during the period of utilisation by the users of those resources, then the owner of those resources is entitled to

compensation for sustained damage pursuant to general rules on compensation for damage."

36. Article 88, insofar as relevant, provides as follows:

"The existence of damage and the amount of compensation for damaged, destroyed or missing resources shall be established by a commission composed of three members formed by the competent body of the user of those resources, who utilised those resources as follows:

1. the municipal secretariat – for resources seized for the needs of armed forces, civil protection, surveillance and information service, communication and crypto-protection units, as well as the organs of the state; (...)."

37. Article 89 provides as follows:

"The procedure for establishing the existence of damage and realising the compensation referred to in Article 87 of this Decree shall be initiated *ex officio* or following a request by the owner of the resources.

"In the procedure for establishing the existence of damage and its amount, the bodies referred to in Article 88 paragraph 1 of this Decree shall, in accordance with the finding of the commission, try and conclude an agreement with the injured person concerning damage compensation, but in case an agreement cannot be concluded, those bodies shall either decide about the amount of compensation or refuse the claim for compensation by issuing a procedural decision.

"A procedural decision of the body referred to in paragraph 2 of this Article is final.

"The owner of resources may, if not satisfied with the decision contained in the procedural decision referred to in paragraph 2 of this Article, within 30 days from the day of receipt of such procedural decision, initiate proceedings before a competent regular court in order to effectuate damage compensation."

38. On 23 May 1993 the Law Amending the Law on Defence (Official Gazette of Republic of Bosnia and Herzegovina, - "OGRBiH" – no. 11/93) was issued. At the moment of issuing it was a "Decree with the Force of Law Amending the Decree with the force of Law on Defence".

39. Article 9 of this Decree reads:

"...During the time of war, as well as in case of immediate threat of war or state of emergency, citizens are under an obligation to surrender their resources, which are necessary for the needs of armed forces and other needs of defence, to the competent authorities.....

The material resources shall be confiscated/seized temporarily for the period when they are necessary for the needs of defence and shall be returned to their owner after the need for their use ceases to exist.

The owner is entitled to compensation for using his resources in the amount established pursuant to the Government's regulation as well as compensation for the damage in case they were damaged, destroyed or missing. The amount of compensation shall be established in accordance with the regulations on compensation..."

40. The Law on Provisional Suspension of Enforcement of Claims Originating from the Period of the State of War and the Immediate Threat of War (Official Gazette of the Federation of Bosnia and Herzegovina 39/1998), which came into effect on 16 October 1998, suspends the enforcement of the claims of physical and legal persons against the Federation of Bosnia and Herzegovina, which arose due to the needs of defense during the period of the State of War and the Immediate Threat of War on the Federation territory. This law stipulated that, unless a settlement has been reached previously, the enforcement of the judgments and other administrative acts should commence three years after this law's coming into effect.

41. Article 2 provides as follows:

> "The termination of enforcement of claims from Article 1 of this law concerns the claims which arose pursuant to the following legislation:
>
> … - The Decree on Criteria and Standards for Deployment of Citizens and Resources to the Armed Forces and for Other Needs of Defense. … "

42. The Law on Establishment and Pursuing Claims Originating from the Period of State of War and Immediate Threat of War (Official Gazette of the Federation of Bosnia and Herzegovina 41/01) regulates the manner of establishing and pursuing the claims of physical and legal persons to the Federation, which arose due to the needs of defense during the period of the State of War and the Immediate Threat of War. This law's coming into effect ends the application of the Law on Provisional Suspension of Enforcement of Claims Originating from the Period of the State of War and immediate treat of war.

43. Article 2 provides as follows:

> "The right to lodge a claim lies with the physical and legal persons whose claims arose pursuant to the following legislation:
>
> … - The Decree on Criteria and Standards for Deployment of Citizens and Resources to the Armed Forces and for Other Needs of Defense. …"

44. II Types of claims

45. Article 3 provides as follows:

> "The claims, as defined and pursued under this law, entail the claims of physical and legal persons, on the following grounds:
>
> - Mobilized or relinquished material assets and equipment.
> - …
> - Other grounds for the needs of defense."

46. III Manner of Establishment and Pursuit of Claims

47. Article 4 provides as follows:

> "The liabilities of the Federation to the legal and physical persons which arose due to the needs of defense will be registered by the Ministry of Finance … , according to the legal and binding court procedural decisions, procedural decisions by the competent administrative bodies, contracts and other legal documents enacted as provided in Article 2 of this law. "

48. Article 6 provides as follows:

> "The claims under Article 3 of this Law shall be declared public debt of the Federation of Bosnia and Herzegovina and no interest shall be paid on their amounts for the period between the date of their arising and the day of their fulfillment.
>
> The amounts of claims under Article 1 of this law will not be paid until the legislation under Article 7 of this law is enacted. "

49. IV Transitional and final provisions

50. Article 7 provides as follows:

> "The Government of the Federation of Bosnia and Herzegovina, upon proposal of the Ministry of Finance, will provide the manner of establishment and settlement of the public debt under Article 6 of this law within 30 day as of the date of this law's coming into effect."

V. COMPLAINTS

51. The applicant alleges that his right to property has been violated. He states that his house was damaged and that moveable property was removed from it following its confiscation. The applicant further specifically complains about the fact that the administrative organs and domestic courts failed to issue decisions on his complaints within the prescribed time limits.

VI. SUBMISSIONS OF THE PARTIES

A. The respondent Party

52. Although the application was transmitted to the respondent Party on 2 July 1998 for its observations on the admissibility and merits, the respondent Party submitted no such observations. The respondent Party only submitted observations with regard to the applicant's compensation claim of 22 February 1999.

B. The applicant

53. In the applicant's submissions of 22 February 1999, the applicant states that since the respondent Party has not submitted any observations, it may be concluded that the respondent Party does not object to the admissibility of the application and to the applicant's description of the facts.

VII. OPINION OF THE CHAMBER

A. Admissibility

54. Before considering the merits of this application, the Chamber must decide whether to accept it, taking into account the admissibility criteria set forth in Article VIII(2) of the Agreement.

1. Exhaustion of domestic remedies

55. In accordance with Article VIII(2) of the Agreement, "the Chamber shall decide which applications to accept…. In so doing, the Chamber shall take into account the following criteria: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted…".

56. In the *Blentić* case (case no. CH/96/17, *Blentić*, decision on admissibility and merits delivered on 3 December 1997, paragraphs 19-21, Decisions on Admissibility and Merits 1996–1997, with further references), the Chamber considered this admissibility criterion in the light of the corresponding requirement to exhaust domestic remedies in Article 26 of the Convention (presently Article 35 of the Convention, as amended by Protocol No. 11 to the Convention). The European Court of Human Rights has found that such remedies must be sufficiently certain not only in theory but in practice, failing which they will lack the requisite accessibility and effectiveness. The Court has, moreover, considered that in applying the rule on exhaustion, it is necessary to take realistic account not only of the existence of formal remedies in the legal system of the Contracting Party concerned, but also of the general legal and political context in which they operate, as well as of the personal circumstances of the applicants.

57. In the present case, the applicant initiated proceedings regarding compensation for the use of the house and the damage and loss of property. Prior to the outcome of these proceedings, he filed his application with the Chamber. Whilst the initiated proceedings afford remedies which might in principle qualify as effective ones within the meaning of Article VIII(2)(a) of the Agreement, insofar as the applicant is seeking to be compensated for the use and the alleged demolition of the house, the Chamber must ascertain whether, in the case now before it, these remedies can also be considered effective in practice.

58. The Chamber observes that the essence of the applicant's claim concerns the over-all length of all the proceedings to obtain compensation. Since the applicant initiated proceedings on 3 May 1996 and these proceedings are still not concluded, the Chamber finds that in this specific case, these proceedings cannot be considered effective.

59. In these particular circumstances, the Chamber is satisfied that the applicant could not be required to exhaust, for the purposes of Article VIII(2)(a) of the Agreement, any further remedy provided by domestic law.

2. Admissibility *ratione temporis*

60. In accordance with Article VIII(2) of the Agreement, "The Chamber shall decide which applications to accept… In doing so, the Chamber shall take into account the following criteria: … (c) The Chamber shall also dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or an abuse of the right of petition."

61. The Chamber finds that, insofar as the applicant complains about the use of his property by the armed forces, the facts complained of partly relate to a period prior to 14 December 1995, which is the date on which the Agreement entered into force. However, the Agreement only governs facts subsequent to its entry into force. It follows that the application is incompatible *ratione temporis* with the provisions of the Agreement insofar as the complaint relates to the use of the property which took place prior to 14 December 1995, within the meaning of Article VIII(2)(c). The Chamber therefore decides to declare only this part of the application inadmissible.

3. Admissibility of the complaint with regard to the damage and moveable property

62. The applicant alleges that his house was damaged and moveable property was removed from it during the period the house was confiscated.

63. The Chamber notes that the applicant, although having been explicitly asked to do so, failed to substantiate these complaints. Therefore, the Chamber finds that this part of the application does not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. It follows that the part of the application, which relates to the damage and the loss of moveable property, is manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement (see paragraph 60 above). The Chamber therefore decides to declare the part of the application that relates to these claims inadmissible as well.

4. Conclusion as to admissibility

64. The Chamber decides to declare inadmissible the parts of the application which relate to the time period prior to 14 December 1995 and which relate to the claim of damage and loss of property. However, the Chamber decides to declare the remainder of the application admissible since no other grounds for declaring the application inadmissible have been established.

B. Merits

65. Under Article XI of the Agreement, the Chamber must next address the question of whether the facts established above disclose a breach by the respondent Party of its obligations under the Agreement. Under Article I of the Agreement, the Parties are obliged to "secure to all persons within

their jurisdiction the highest level of internationally recognised human rights and fundamental freedoms", including the rights and freedoms provided for in the Convention.

1. Article 6 of the Convention

66. The applicant complains about the length of his proceedings to obtain compensation.

67. Article 6 of the Convention, insofar as relevant to the present case, reads as follows:

> "1. In the determination of his civil rights and obligations …, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law…."

68. Noting that the pending proceedings concern the applicant's rights based on the Decree on Criteria and Standards of Deployment of Citizens and Resources to the Armed Forces and for Other Needs of Defence, the Chamber finds that these proceedings relate to the determination of his "civil rights and obligations", within the meaning of Article 6 paragraph 1 of the Convention. Accordingly, that provision is applicable to the proceedings in the present case.

69. The first step in establishing the length of the proceedings is to determine the period of time to be considered. On 3 May 1996, the applicant requested compensation for the use of his house after it was confiscated. The applicant having filed another request, a complaint, and an appeal, and having initiated an administrative dispute because the competent bodies failed to issue decisions, the Supreme Court of the Federation of Bosnia and Herzegovina, on 11 March 1998, issued a decision. As ordered by the Supreme Court and the Ministry of Defence of the Federation of Bosnia and Herzegovina, the Secretariat for National Defence of the Municipality Ilidža issued a decision granting compensation to the applicant. The applicant was unsatisfied with the amount and filed an appeal and initiated another administrative dispute before the Supreme Court of the Federation of Bosnia and Herzegovina, which then referred the case to the Cantonal Court. Since then, the Cantonal Court has not taken any procedural steps in this case. On 1 December 1997, the applicant also filed a claim for compensation for damage and loss of property. After the applicant filed an appeal and initiated an administrative dispute because the competent bodies failed to issue decisions, the Supreme Court of the Federation of Bosnia and Herzegovina referred this case to the Cantonal Court as well. Since then, the Cantonal Court has not taken any procedural steps in this case. To sum up, the applicant's total proceedings to obtain compensation for the use of the house have lasted six years and nine months and the total proceedings to obtain compensation for the damage and loss of property have lasted five years and two month as of the date of this decision, and they are still pending.

70. The reasonableness of the length of proceedings is to be assessed having regard to the criteria laid down by the Chamber, namely the complexity of the case, the conduct of the applicant and of the relevant authorities, and the other circumstances of the case (*see, e.g.,* case no. CH/97/54, *Mitrović*, decision on admissibility of 10 June 1998, paragraph 10, Decisions and Reports 1998, with reference to the corresponding case-law of the European Court of Human Rights).

71. The Chamber notes that the issues in the underlying case are the establishment of the amount of compensation to which the applicant is entitled due to the confiscation of his property and the establishment of whether or not the applicant's property was partly damaged or lost during the time period of confiscation. The case does not seem to the Chamber to be so complex as to require over six years, or five years, respectively, of proceedings. The Chamber especially notes that it is undisputed that the applicant's house was confiscated on 3 August 1993 and returned to him only on 26 August 1997. Accordingly, the Chamber finds no reason why, after this period of time, both sets of proceedings are still not concluded.

72. As to the conduct of the applicant, it is clear that he has pursued the various procedures available to him in an expeditious manner. The Chamber cannot find any evidence that any conduct of the applicant has served to prolong the sets of proceedings. On the contrary, from the case file it can be concluded that the applicant made all possible attempts to speed up the proceedings and to react adequately to the failure of the competent bodies to issue decisions within the prescribed time limits.

73. The authorities in this case, however, have not met their responsibility to ensure that the proceedings are expedited in a reasonable time. In particular, the competent administrative bodies several times failed to issue decisions within the prescribed time limits, the Supreme Court of the Federation of Bosnia and Herzegovina in both sets of proceedings referred the case to the Cantonal Court, and that Cantonal Court appears not to have taken any procedural steps in the cases since 1998. The Chamber thus finds that their conduct caused an unnecessary delay in the over-all proceedings.

74. Given that the question concerned the applicant's house and the right to be compensated and given that the amount of compensation involved is related to several years of use, which might result in a considerable amount of compensation to be awarded to the applicant, the Chamber notes that a speedy outcome of the proceedings would have been of particular importance to the applicant.

75. In view of the above, the Chamber finds a violation of Article 6 paragraph 1 of the Convention in that the proceedings in the applicant's case have not been determined within a reasonable time.

2. Article 1 of Protocol No. 1 to the Convention

76. The applicant complains that his property rights have been violated. Article 1 of Protocol No. 1 to the Convention 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."

77. The Chamber recalls that Article 1 of Protocol No. 1 to the Convention comprises three distinct rules:

> "the first rule, set out in the first sentence of the first paragraph, is of a general nature and enunciates the principle of the peaceful enjoyment of property; the second rule, contained in the second sentence of the first paragraph, covers deprivation of possessions and subjects it to certain conditions; the third rule, stated in the second paragraph, recognises that the Contracting States are entitled, amongst other things, to control the use of property in accordance with the general interest.... The three rules are not, however, 'distinct' in the sense of being unconnected. The second and third rules are concerned with particular instances of interference with the right to peaceful enjoyment of property and should therefore be construed in the light of the general principle enunciated in the first rule." (*James and Others v. United Kingdom*, judgement of 21 February 1986, Series A no. 98, paragraph 37).

a. Existence of a "possession"

78. From the case file it can be concluded that the applicant's house was not returned to him immediately following the armed conflict and that the Secretariat for National Defence of the Municipality of Ilidža continued to hold the property until 26 August 1997 when *de facto* possession of the house was returned to the applicant. The Federation of Bosnia and Herzegovina does not dispute this rendition of the fact.

79. The Chamber finds, without question, that the property at issue, the applicant's house in Donji Kotorac, no. 33, in the Municipality of Ilidža, constitutes a "possession" of the applicant within the meaning of Article 1 of Protocol No. 1 to the Convention.

b. Whether there has been an interference with the applicant's possession

80. On 3 August 1993, the Secretariat for National Defence of the Municipality of Ilidža ordered the applicant to hand over his house to the Working Group of the Armed Forces of the First Military Group. On 26 August 1997, the applicant was given back *de facto* possession of his house.

81. Having regard to the above facts, the Chamber concludes that the Federation of Bosnia and Herzegovina has interfered with the applicant's protected possession in the time period after 14 December 1995, until 26 August 1997.

c. Whether the interference was lawful

82. Regardless of which of the three rules set forth in Article 1 of Protocol No. 1 is applied in a given case (*i.e.*, interference with possessions, deprivation of possessions, or control of use of property), the challenged action by the respondent Party must have been lawful in order to comply with the requirements of Article 1 of Protocol No. 1. The European Court of Human Rights has explained as follows:

> "The Court reiterates that the first and most important requirement of Article 1 of Protocol No. 1 is that any interference by a public authority with the peaceful enjoyment of possession should be lawful: the second sentence of the first paragraph authorises a deprivation of possessions only 'subject to the conditions provided for by law' and the second paragraph recognises that the States have the right to control the use of property by enforcing 'laws'. Moreover, the rule of law, one of the fundamental principles of a democratic society, is inherent in all the Articles of the Convention and entails a duty on the part of the State or other public authority to comply with judicial orders or decisions against it. It follows that the issue of whether a fair balance has been struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights becomes relevant only once it has been established that the interference in question satisfied the requirement of lawfulness and was not arbitrary" (Eur. Court HR, *Iatridis v. Greece*, judgment of 25 March 1999, Reports of Judgments and Decisions 1999-II, page 97, paragraph 58).

83. On the basis of the 1992 Decree on Criteria and Standards of Deployment of Citizens and Resources to the Armed Forces and for Other Needs of Defense, during the state of war private property could be confiscated in order to be used for the purposes of the military effort. The Chamber further notes that according to the 1993 Decree with the Force of Law Amending the Decree with the Force of Law on Defence this legislation applies not only during the state of war, but also during the "state of immediate threat of war" and the state of emergency. This Decree restates also that the resources were to be confiscated only temporarily and returned to the owner once the need of defence ceases to exist.

84. The Decision Revoking the State of War was issued by the Presidency of the Republic of Bosnia and Herzegovina on 22 December 1995. In paragraph 2 of this decision it is stated that the Decision Declaring the Immediate Threat of War will stay in force. On 23 December 1996, the Federation Parliament issued the Decision on the Cessation of the Application of the Decision Declaring the Immediate Threat of War in the Territory of the Federation of Bosnia and Herzegovina (OG FBiH no. 25/96). On this basis, the Chamber concludes that until 23 December 1996 the confiscation of the applicant's property was in accordance with applicable legislation. There was, however, no such legal basis for the Armed Forces to continue to hold the applicant's house from 23 December 1996 until 26 August 1997, the date on which the applicant was given back *de facto* possession of his house. The Chamber is aware that it may not have been possible in practice to hand over the property to the applicant on the exact date the Federation Parliament proclaimed that the immediate threat of war had ceased. However, the armed forces continued to hold the applicant's property for eight months, an unreasonably long period of time. Therefore, the interference with the applicant's property rights during this period of time was unlawful.

d. Whether the interference was in the public interest

85. As for the period during which the interference with the applicant's property had a legal basis (until 23 December 1996), the Chamber needs to examine whether the interference was in the "public interest". The notion of "public interest" within the meaning of Article 1 of Protocol No. 1 is

"necessarily extensive" (Eur. Court HR, *James v. United Kingdom*, judgment of 21 February 1986, Series A no. 98-B, paragraph 46). In determining the existence of such a "public interest", the national authorities enjoy a certain margin of appreciation. "Because of their direct knowledge of their society and its needs, the national authorities are in principle better placed than the international judge to appreciate what is 'in the public interest'". Therefore, the European Court "will respect the legislature's judgment as to what is 'in the public interest' unless that judgment is manifestly without reasonable foundation" (*id.*).

86. Beginning with the confiscation for temporary use of the applicant's house on 3 August 1993, the government effectively took over the property for purposes related to the armed conflict in Bosnia and Herzegovina. The applicant does not appear to argue that the interference with his house during the period of the armed conflict in Bosnia and Herzegovina was not justified. The Chamber finds that the confiscation of private property in order to support the national defense in time of war is a justified interference with the peaceful enjoyment of possessions. However, the respondent Party continued to interfere with the applicant's house following the official declarations ending the state of war in Bosnia and Herzegovina.

87. Pursuant to the Decision Revoking the State of War of the Presidency of the Republic of Bosnia and Herzegovina of 22 December 1995, there persisted an imminent threat of war even after the conclusion of the Dayton Peace Agreement. The Federation Parliament determined that this imminent threat only ceased to exist on 23 December 1996. Thereby it decided that it was necessary in order to protect the integrity of the Federation territory and the safety of its citizens to keep in force certain war-time legislation for an entire year after the Peace Agreement was signed. The Chamber finds that in the area of national security and defense the respondent Party enjoys a wide margin of appreciation, and that the determination that the imminent threat of war ceased only in December 1996 falls within that margin. The Chamber further finds that the extension of war-time legislation relating to the military use of private property to periods of "immediate threat of war" also falls within the margin of appreciation of the respondent Party. The Chamber therefore concludes that the government's actions during and following the armed conflict were taken in the public interest until 23 December 1996.

e. Conclusion as to Article 1 of Protocol No. 1

88. In conclusion, there has been a violation by the Federation of Bosnia and Herzegovina of the applicant's right to peaceful enjoyment of its possessions guaranteed under Article 1 of Protocol No. 1 to the Convention from 23 December 1996 to 26 August 1997.

VIII. REMEDIES

89. Under Article XI(1)(b) of the Agreement, the Chamber must address the question of what steps shall be taken by the Federation of Bosnia and Herzegovina to remedy the established breaches of the Agreement. In this regard, the Chamber shall consider issuing orders to cease and desist and for monetary relief.

90. The applicant requested compensation for pecuniary damage related to the damage to and loss of moveable property from the house. However, the Chamber can only award compensation if it makes a finding of a violation of the Agreement. Since the Chamber will declare this part of the application inadmissible, the Chamber cannot award compensation for this alleged damage and loss of property.

91. The applicant further requested compensation for the use of the house during the time period it was confiscated. The respondent Party summarily rejected this part of the compensation claim as inadmissible and ill-founded.

92. The Chamber notes that it has found a violation of the applicant's right protected by Article 1 of Protocol No. 1 to the Convention. The Chamber further notes that it has found a violation of the applicant's right protected by Article 6 paragraph 1 of the Convention with regard to the length of

proceedings. Since the applicant's compensation claims already progressed through all stages of possible proceedings and the Supreme Court of the Federation Bosnia and Herzegovina referred both of these compensation claims to the Cantonal Court, so that now both sets of proceedings are once again in the first stage, the Chamber considers it appropriate to order the respondent Party to take all necessary steps to promptly conclude both sets of the pending proceedings, in any case within two months of the date on which this decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure, taking into account that the Chamber established that the applicant's house was confiscated on 3 August 1993 and returned to the applicant on 26 August 1997.

93. Furthermore, the Chamber considers it appropriate to award a sum to the applicant in recognition of the sense of injustice he has suffered as a result of his inability to have his case decided within a reasonable time and for the unlawful interference with his possession.

94. Accordingly, the Chamber will order the respondent Party to pay to the applicant the sum of 3,000 Convertible Marks (*Konvertibilnih Maraka*) in non-pecuniary damages in recognition of his suffering as a result of his inability to have his case decided within a reasonable time and for the unlawful interference with his possession.

95. Additionally, the Chamber will further award simple interest at an annual rate of 10% on the sum awarded to be paid to the applicant in the preceding paragraph. The interest shall be paid as of one month from the date on which this decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure on the sum awarded or any unpaid portion thereof until the date of settlement in full.

96. Moreover, the Chamber will order the Federation of Bosnia and Herzegovina to report to it no later than three months after the date on which this decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure on the steps taken by it to comply with the above orders.

97. The Chamber reserves the right to issue any other orders it deems necessary to remedy the violations found.

IX. CONCLUSIONS

98. For these reasons, the Chamber decides,

1. unanimously, to declare inadmissible the part of the application relating to the time period prior to 14 December 1995;

2. unanimously, to declare inadmissible the part of the application relating to the applicant's claims of damage and loss of property;

3. unanimously, to declare admissible the remainder of the application;

4. unanimously, that there has been a violation of the applicant's rights under Article 6 paragraph 1 of the European Convention on Human Rights with regard to the length of proceedings, the Federation of Bosnia and Herzegovina thereby being in breach of Article I of the Human Rights Agreement;

5. unanimously, that that there has been a violation of the applicant's rights under Article 1 of Protocol No. 1 to the European Convention on Human Rights to peaceful enjoyment of possessions, the Federation of Bosnia and Herzegovina thereby being in breach of Article I of the Human Rights Agreement;

6. unanimously, to order the Federation of Bosnia and Herzegovina, through its authorities, to take all necessary steps to promptly conclude both sets of the pending proceedings, in any case within two months of the date on which this decision becomes final and binding in accordance with

Rule 66 of the Chamber's Rules of Procedure, taking into account that the Chamber has established that the applicant's house was confiscated on 3 August 1993 and returned to the applicant on 26 August 1997;

7. unanimously, to order the Federation of Bosnia and Herzegovina to pay to the applicant, no later than one month after the date on which this decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure, three thousand (3,000) Convertible Marks ("*Konvertibilnih Maraka*") by way of compensation for non-pecuniary damages;

8. unanimously, to dismiss the remainder of the applicant's claim for compensation;

9. unanimously, to order the Federation of Bosnia and Herzegovina to pay simple interest at the rate of 10 (ten) per cent per annum on the sum awarded in conclusion 7 or any unpaid portion thereof from the date of expiry of the above one-month period until the date of settlement in full;

10. unanimously, to order the Federation of Bosnia and Herzegovina to report to it no later than three months after the date on which this decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure on the steps taken by it to comply with the above orders; and

11. unanimously, to reserve the right to order additional remedies in this case as it deems warranted.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Mato TADIĆ
President of the Second Panel

HUMAN RIGHTS CHAMBER
FOR BOSNIA AND HERZEGOVINA

DOM ZA LJUDSKA PRAVA
ZA BOSNU I HERCEGOVINU

(Corrected by the Second Panel on 15 May 1999)

DECISION ON THE ADMISSIBILITY AND MERITS

DELIVERED ON 14 MAY 1999

Cases Nos. CH/98/174, CH/98/180, CH/98/268, CH/98/270, CH/98/280

Ivan VIDOVIĆ, Slavko GLIGORIĆ, L.R., Stanojka ŠUTALO and Ivan VULIĆ

against

**BOSNIA AND HERZEGOVINA
AND
THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 13 March 1999 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Vlatko MARKOTIĆ
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ

Mr. Leif BERG, Registrar
Ms. Olga KAPIĆ, Deputy Registrar

Having considered the admissibility and merits pursuant to Article VIII(1) of the Human Rights Agreement ("the Agreement") set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Adopts the following decision pursuant to Article VIII(2) and Article XI of the Agreement and Rules 52, 57 and 58 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The present decision concerns 5 so-called JNA cases considered to be directed against the State of Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina. The names of the individual applicants and the corresponding case numbers are listed in part III B of the decision.

2. In 1991 and 1992 the purchasers contracted to buy apartments from the Yugoslav National Army ("the JNA"). The contracts were annulled by legislation passed shortly after the General Framework Agreement for Peace in Bosnia and Herzegovina entered into force in December 1995. The applicants indicate that the annulment of the contracts violated their property rights as guaranteed by Article 1 of Protocol No. 1 to the (European) Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") and also raise alleged violations of Articles 6 and 13 of the Convention.

3. These cases resemble the cases of *Medan and Others* (Cases Nos. CH/96/3, 8 and 9, decision on the merits of 7 November 1997, Decisions on Admissibility and Merits 1996-1997) and other JNA cases which the Chamber has decided.

II. PROCEEDINGS BEFORE THE CHAMBER

4. The applications were introduced between January 1998 and February 1998 and registered between January 1998 and April 1998. Applicant Ivan Vidović (CH/98/174) is represented by a lawyer. Applicant L.R. (CH/98/268) objects to her identity being disclosed to the public (Rule 46 paragraph 2(d) of the Chamber's Rules of Procedure).

5. Cases Nos. CH/98/174, CH/98/270 and CH/98/280 were directed against both Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina, whereas Cases Nos. CH/98/180 and CH/98/268 were initially directed against the Federation of Bosnia and Herzegovina. The Chamber considered, however, that the applicants' complaints raised issues which might in all cases engage the responsibility of both the State and the Federation of Bosnia and Herzegovina. It therefore decided to treat all cases as being directed against both the State and the Federation (see, e.g., the *Medan and Others* decision, loc. cit., paragraphs 28-30 and 44-47).

6. On 14 April, 6 June, 25 June and 18 September 1998 the Second Panel decided pursuant to Rule 49(3)(b) of the Rules of Procedure to transmit the applications to the respondent Parties for observations on their admissibility and merits.

7. The Federation of Bosnia and Herzegovina submitted observations on 8 June, 28 August and 28 October 1998. The State of Bosnia and Herzegovina did not submit any observations. The applicants replied between July and October 1998. In accordance with the Chamber's order for the proceedings in the respective cases, all applicants were afforded the possibility of claiming compensation within the time limit fixed for any reply to observations submitted by a respondent Party. Only the applicant in case CH/98/174 submitted a claim for compensation.

8. The Second Panel deliberated on the admissibility and the merits of the cases on 13 March 1999. Under Rule 34 of its Rules of Procedure, it decided to join the applications and adopted the present decision.

III. ESTABLISHMENT OF THE FACTS

A. Relevant domestic law

9. The apartments occupied by the applicants were all socially owned property over which the JNA had jurisdiction. Such property was considered to belong to society as a whole. Each applicant enjoyed an occupancy right in respect of his or her apartment. An occupancy right was a right, subject to certain conditions, to occupy an apartment on a permanent basis.

10. Each of the purchasers contracted to buy his or her apartment under the Law on Securing Housing for the Yugoslav National Army (Official Gazette of the Socialist Federal Republic of

Yugoslavia, No. 84/90). This Law came into force on 6 January 1991. In the following years a number of Decrees with force of law were issued by the Government of the Socialist Republic of Bosnia and Herzegovina, and the Presidency of the Republic of Bosnia and Herzegovina (confirmed as laws by the Parliament of the Republic of Bosnia and Herzegovina) with the aim of regulating social property issues in general and social property over which the JNA had jurisdiction in particular (see the Chamber's decision in the cases of *Medan and Others*, loc. cit., paragraphs 9-13). These legal instruments included, amongst others, a Decree imposing a temporary prohibition on the sale of socially owned property, issued on 15 February 1992 by the Government of the Socialist Republic of Bosnia and Herzegovina (Official Gazette of the Socialist Republic of Bosnia and Herzegovina, No. 4/92). Subsequently, a Decree with force of law, issued on 3 February 1995 by the Presidency of the Republic (Official Gazette of the Republic of Bosnia and Herzegovina, No. 5/95), ordered courts and other state authorities to adjourn proceedings relating to the purchase of apartments and other properties under the Law on Securing Housing for the JNA. This Decree entered into force on 10 February 1995, the date of its publication in the Official Gazette. On 22 December 1995 the Presidency of the Republic of Bosnia and Herzegovina issued a Decree with force of law (Official Gazette, No. 50/95) stating that contracts for the sale of apartments and other property concluded on the basis of, *inter alia*, the Law on Securing Housing for the JNA were retroactively annulled. This Decree entered into force on the same day. It was confirmed as a law by the Assembly of the Republic of Bosnia and Herzegovina on 18 January and promulgated on 25 January 1996 (Official Gazette, No. 2/96).

11. The Decree of 22 December 1995 also provided that questions connected with the purchase of real estate which was the subject of annulled contracts would be resolved under a law to be adopted in the future. On 6 December 1997 the Law on the Sale of Apartments with Occupancy Right came into force (Official Gazette of the Federation, No. 27/97). This law was amended by a law of 23 March 1998 (Official Gazette, No. 11/98). Neither law affected the annulment of the present applicants' contracts.

B. The individual cases

12. Four of the applicants are former employees of the JNA. The applicant in Case No. CH/98/268 is the wife of a deceased former employee of the JNA. The facts of the cases as they appear from the applicants' respective submissions and the documents in the case file are not in dispute. It should be noted that the amount paid by each of the purchasers at or around the moment of contracting to purchase an apartment (henceforth "the purchase price") does not necessarily reflect the officially determined price of the dwelling. This is because the applicants were only obliged to pay the difference between the last-mentioned price and their earlier accumulated contribution to the JNA Housing Fund. For instance, in Case No. CH/98/268 the applicant was required to pay 0 dinars on top of such contribution.

13. It should be further noted that in Case No. CH/98/174 the applicant instituted court proceedings seeking to establish that she was entitled to recognition as owner of the apartment. It appears from the files that the other five applicants did not attempt to initiate court proceedings. Several applicants stated that their reason for this was the compulsory adjournment of civil proceedings under Decree No. 5/95.

14. The facts of these cases may be summarised as follows:

1. The case of Mr. Ivan VIDOVIĆ (CH/98/174)

15. On 15 March 1992 the applicant concluded a purchase contract for a JNA apartment at Šoše Mažara No. 5A (now Grozd No.13), Travnik, and paid the purchase price due (319, 182 Dinars).

16. On 26 September 1995 the applicant submitted an application to the Court of First Instance Travnik seeking to establish that he was entitled to recognition as owner of the apartment and to be registered in the Land Registry as such. On 4 June 1996 the Court issued a decision adjourning the applicant's case under the Decree of 3 February 1995, (Official Gazette No. 5/95). The proceedings have remained adjourned since.

2. The case of Mr. Slavko GLIGORIĆ (CH/98/180)

17. On 7 March 1992 the applicant concluded a purchase contract for a JNA apartment at Maršala Tita No. 62, Tuzla, and paid the purchase price due (100,989 Dinars).

3. The case of Mrs. L.R. (CH/98/268)

18. In February 1992 the applicant's deceased husband concluded a purchase contract for a JNA apartment at the street of Buka (formerly Stake Skenderove), Sarajevo, and paid the purchase price due (830, 299 Dinars).

4. The case of Mrs. Stanojka ŠUTALO (CH/98/270)

19. On 28 October 1991 the applicant concluded a purchase contract for a JNA apartment at Igmanska No.9/IV, Sarajevo, and paid the purchase price due (454,513 Dinars).

5. The case of Mr. Ivan VULIĆ (CH/98/280)

20. On 3 April 1992 the applicant concluded a purchase contract for a JNA apartment at Slatina No. 3 (formerly Bratstva i jedinstva No. 12), Tuzla, and paid the purchase price due (90,869 Dinars).

IV. COMPLAINTS

21. The applicants essentially complain that the retroactive annulment of the purchase contracts in question and the compulsory adjournment of civil proceedings under the Decree No. 5/95 (see paragraphs 10-11 above) involved violations of their rights under Article 6 and 13 of the Convention and Article 1 of Protocol 1 to the Convention.

V. SUBMISSIONS OF THE PARTIES

A. The respondent Parties

1. Bosnia and Herzegovina

22. No observations have been received from the State of Bosnia and Herzegovina.

2. The Federation of Bosnia and Herzegovina

23. The Federation of Bosnia and Herzegovina primarily refers to the liability of the State of Bosnia and Herzegovina for the impugned measures. Regarding the succession of the former SFRJ, the Federation maintains that it is impossible for the Federation to fulfil its obligations flowing from the Chamber's decision in *Medan and Others* (loc. cit.).

24. The Federation furthermore argues that the Chamber lacks competence *ratione temporis* to deal with the cases. In some of the cases the Federation, moreover, argues that the cases have been lodged past the six months' period stipulated in Article VIII(2)(a) of the Agreement, since the essential grievance concerns the Decree of 22 December 1995 which was adopted as law in January 1996. This enactment constituted the "final decision" within the meaning of Article VIII(2)(a) of the Agreement. Consequently, the applications should have been lodged by July 1996.

25. It is further alleged that the issue at stake in these cases is the constitutionality of a law and not the infringement of human rights. These cases would therefore fall within the jurisdiction of the Constitutional Court. Moreover, the impugned legal acts were designed to support those citizens who were prevented from buying JNA apartments and to protect State property. The measures were therefore justified under the second paragraph of Article 1 of Protocol No. 1 to the Convention.

B. The Applicants

26. The applicants maintain their complaints. Regarding the Federation's argument that other citizens were not treated equally to those who had the opportunity to purchase JNA apartments, the applicants stress the fact that the purchasers were all employees of the former JNA and had contributed to the Army Housing Fund. The apartments they purchased were constructed with means from this fund and not from the Housing Fund of the then Republic of Bosnia and Herzegovina. Consequently, the applicants cannot be compared with those who did not contribute to the Army Housing Fund.

VI. OPINION OF THE CHAMBER

A. Admissibility

27. Before considering the cases on their merits the Chamber must decide whether to accept them, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement which, so far as relevant, provides as follows:

> "2. The Chamber shall decide which applications to accept … . In so doing the Chamber shall take into account the following criteria:
>
> (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted and that the application has been filed with the Commission within six months from such date on which the final decision was taken.
>
> …
>
> (c) The Chamber shall also dismiss any application which it considers incompatible with this Agreement, … "

28. In accordance with generally accepted principles of international law, it is outside the competence of the Chamber *ratione temporis* to decide whether events occurring before the coming into force of the Agreement on 14 December 1995 gave rise to violations of human rights. Evidence relating to such events may, however, be relevant as a background to events which occurred after the Agreement entered into force. Moreover, in so far as an applicant alleges a continuing violation of his rights after 14 December 1995, the case may fall within the Chamber's competence *ratione temporis* (*see Bastijanović* v. *Bosnia and Herzegovina and The Federation of Bosnia and Herzegovina*, Case No. CH/96/8, decision of 4 February 1997, Decisions 1996-97).

29. The Chamber recalls that the present cases were introduced between January and February 1998. The applicants essentially complain about the effects of the decrees of 3 February and 22 December 1995. In previous JNA cases the Chamber has found the Federation to be in violation of the Agreement because of its recognition and application of those decrees (see, e.g., the aforementioned *Medan and Others* decision, loc. cit., paragraphs 38 and 41). The present applicants must also be understood as alleging that the effects of those decrees have been ongoing up to this day. The Chamber notes that the Decree of 22 December 1995 also provided that questions connected with the purchase of real estate which was the subject of annulled contracts would be resolved under a new law to be adopted in the future. Indeed, legislation to that effect was enacted in December 1997 and March 1998 (see paragraph 11 above). In these circumstances the Chamber is unable to identify any "final decision" whereby the six months' period stipulated in Article VIII(2)(a) could be considered to have commenced on 18 January 1996. Given this ongoing situation, the Chamber is also competent *ratione temporis* to examine the present cases. It follows that the Federation's objections must be rejected.

30. The Federation of Bosnia and Herzegovina argues that the present cases would fall within the jurisdiction of the Constitutional Court and presumably be incompatible with the Agreement within the meaning of Article VIII(2)(c) (see paragraph 25 above). However, the Chamber recalls that it is competent to consider "alleged and apparent violations of human rights as provided in the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto" (Article II(2)(a) of the Agreement). The Federation's argument must therefore be rejected.

31. In the case of *Blentić v. Republika Srpska* (Case No. CH/96/17, decision of 3 December

1997, paragraphs 19-21, with further reference) the Chamber considered the admissibility criterion in Article VIII(2)(a) of the Agreement in light of the corresponding requirement in Article 35 (formerly Article 26) to the Convention to exhaust domestic remedies. It noted that the European Court of Human Rights has found that such remedies must be sufficiently certain not only in theory but in practice, failing which they will lack the requisite accessibility and effectiveness. The Court has, moreover, considered that in applying the rule on exhaustion it is necessary to take realistic account not only of the existence of formal remedies in the legal system of the Contracting Party concerned but also of the general legal and political context in which they operate as well as of the personal circumstances of the applicants.

32. In the present case neither Party has argued, for the purposes of Article VIII(2)(a) of the Agreement, that an effective remedy was available to the applicants. Under the Decree of 3 February 1995 courts and other state authorities were to adjourn proceedings relating to the purchase of JNA apartments and under the Decree of 22 December 1995 the contracts for the sale of these apartments were retroactively declared invalid (see paragraphs 10 and 11 above).

33. The experience of the applicant who instituted court proceedings in these cases considered together with attempts made by previous applicants before the Chamber, indicates that redress was not available through the courts. Accordingly, the Chamber finds that none of the applicants had any effective remedies available to them within the meaning of Article VIII(2)(a) of the Agreement.

34. Neither respondent Party has raised any other objection to the admissibility of the applications in light of the criteria set out in Article VIII(2) of the Agreement.

35. The Chamber concludes therefore, that all the applications, including those where the applicants did not institute any court proceedings, are admissible.

B. Merits

36. Under Article XI of the Agreement the Chamber must next address the question whether the facts established above indicate a breach by one or both of the respondent Parties of its or their obligations under the Agreement. In terms of Article I of the Agreement the Parties are obliged to "secure to all persons within their jurisdiction the highest level of internationally recognised human rights and fundamental freedoms", including the rights and freedoms provided for in the Convention. The Chamber will therefore consider whether the retroactive annulment of the applicants' purchase contracts and the compulsory adjournment of any related civil proceedings constitutes a breach of the applicants' rights under Article I of the Agreement.

1. Article 1 of Protocol No. 1 to the Convention

37. The applicants complain that the contracts which they entered into for the purchase of their apartments were annulled retroactively by the Decree issued on 22 December 1995, which was confirmed as a law on 18 January 1996 and later promulgated on 25 January 1996 (*Official Gazette* of RBiH, No. 2/96). They allege a breach of Article 1 of Protocol No. 1 to the Convention, which is in the following terms:

> "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."

38. As to whether, at the time when the December 1995 Decree came into force, the applicants had any rights under their contracts which constituted "possessions" for the purposes of Article 1 of Protocol No. 1, the Chamber refers to its decisions in the cases of *Medan and Others* (loc. cit., paragraph 33). The answer to this question is therefore affirmative. The effect of the Decree was to annul those rights and the applicants were therefore deprived of their possessions. It is accordingly

necessary for the Chamber to consider whether these deprivations were justified under Article 1 of the Protocol as being "in the public interest" and "subject to the conditions provided for by law".

39. The Federation of Bosnia and Herzegovina argues that the legal acts in question were designed to equalise the applicants' positions with those who were prevented from buying JNA apartments and to protect State property. These acts would therefore correspond with the requirements of Article 1 paragraph 2 of Protocol No. 1 to the Convention and justify the measures concerned in the present cases.

40. The applicants stress the fact that the purchasers were all employees of the former JNA and had contributed to the Army Housing Fund. The apartments in question were constructed with means from this fund and not from the Housing Fund of the then Republic of Bosnia and Herzegovina. Consequently, the purchasers cannot be compared with those who had not contributed to the Army Housing Fund.

41. The Chamber finds that there is no material distinction between the present cases and those of *Medan and Others* (loc. cit.), *Podvorac and 15 other JNA cases* (Case No. CH/96/2 et al., decision on the admissibility and merits of 12 June 1998, Decisions and Reports 1998), *Grbavac and 26 other JNA cases* (Case No. CH/97/81 et al., decision on the admissibility and merits of 15 January 1999) and *Ostojic and 31 other JNA cases* (Case No. 97/82 et al., decision on the admissibility and merits of 15 January 1999). Moreover, the new legislation issued after the Chamber's decision in *Medan and Others* (see paragraph 10 above) did not change the present applicants' situation (see also the aforementioned *Grbavac* and *26 other JNA cases* and *Ostojić* and *31 other JNA cases)*. Accordingly, the Chamber finds, as in the earlier JNA cases decided on the merits, that the present applicants were also made to bear an "individual and excessive burden" and that there has been a violation of Article 1 of Protocol No. 1 to the Convention.

2. Article 6 of the Convention

42. Applicant Vidović (CH/98/174) complains that the civil proceedings instituted with a view to obtaining recognition of his ownership and registration in the Land Registry, have been compulsorily adjourned by virtue of the February 1995 Decree. There is an apparent breach of Article 6 of the Convention in this respect. Those applicants who did not institute proceedings allege a violation of Article 6 on the ground that the aforementioned Decree deprived them of their right of access to court. Article 6 reads, as far as relevant, as follows:

> "1. In the determination of his civil rights and obligations....everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law..."

43. As in the cases of *Medan and Others* and the other *JNA* cases cited above the Chamber notes that the court proceedings in question either were or would have been adjourned after the Decree in question entered into force. As far as the Chamber is aware, this situation has continued up to this day. Accordingly, there is a continuing deprivation of the applicants' right of access to court for the purpose of having their civil claims determined, as guaranteed by Article 6 (see e.g., the Chamber's decision in the cases of *Medan and Others* paragraph 40, and the European Court of Human Rights in the case of *Golder v. United Kingdom*, judgement of 21 February 1975, Series A No. 18, paragraphs 35 and 36). The Chamber sees no justification for this state of affairs in light of the conclusion which it has reached under Article 1 of Protocol 1 to the Convention. It follows that there is a breach of Article 6 of the Convention in the case of each applicant, in so far as the compulsory adjournment of his or her case has or would have continued after 14 December 1995, when the Agreement came into force. Moreover, any proceedings initiated would by now have lasted beyond a "reasonable time" due to the February 1995 Decree.

3. Article 13 of the Convention

44. Some applicants also maintain that they have been the victims of a breach of Article 13 of the Convention in that no effective remedy has been available to them in respect of their complaints. Article 13 provides as follows:

> "Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

45. In view of its decision under Article 6(1) of the Convention to the effect that the applicants have been denied access to court to establish their property rights, the Chamber considers it unnecessary also to examine the complaints under Article 13. The requirements of Article 13 are less strict than those of Article 6 and are absorbed by the latter (see, e.g., European Court of Human Rights, *Hentrich v. France* judgment of 22 September 1994, Series A No. 296, para. 65).

VII. REMEDIES

46. Under Article XI paragraph 1(b) of the Agreement the Chamber must also address the question what steps shall be taken by the respondent Party or Parties to remedy the breaches of the Agreement which it has found.

47. The Chamber notes that the legal situation remains essentially the same as that which it addressed in its decisions in the cases of *Medan and Others* and the other JNA cases mentioned above. It is therefore appropriate to make orders similar to those issued in those cases.

48. The breaches of Article 1 of Protocol No. 1 arose from the legislation already referred to. The State is responsible for having passed that legislation, but the matters which it deals with are now within the responsibility of the Federation, which recognises and applies this legislation. In these circumstances the Chamber considers that it is the responsibility of the Federation to take the necessary legislative or administrative action to render ineffective the annulment of the purchase contracts in question. It will therefore make an order against the Federation to that effect.

49. The Chamber will also order the Federation to take all necessary steps to lift the compulsory adjournment of the court proceedings instituted by the applicant in Case No. CH/98/174 and which the Chamber has found to be in violation of Article 6 of the Convention, and to take all necessary steps to secure the applicants' right of access to court.

50. With regard to possible compensatory awards, the Chamber first recalls that in accordance with its order for the proceedings in the respective cases, all applicants were afforded the possibility of claiming compensation within the time limit fixed for any reply to observations submitted by a respondent Party.

51. Only one of the applicants, Mr. Vidović (CH/98/174) claims compensation amounting to a total of 37,800 DEM: 36,000 DEM for the removal in January 1995 of furniture and items from the apartment and 1,800 DEM for lawyer's fees. The applicant accounted for the lawyers' for the fees as follows: 450 DEM for the submission of an application to the domestic court, 450 DEM for representing the applicant before the domestic court, 450 DEM for the submission of the application before the Chamber, and 450 DEM for the applicant's observations to the Chamber.

52. The respondent Parties have not commented on the above claim.

53. The Chamber first recalls that its jurisdiction *ratione temporis* is limited to the period after the entry into force of the Agreement on 14 December 1995. This means that the Chamber cannot award any compensation for damage suffered before that date or relating to events before that date. Compensation may be awarded in particular in respect of pecuniary or non-pecuniary (moral) damage as well as for costs and expenses incurred by the applicants in order to prevent the breach found or to obtain redress therefor. Any costs and expenses claimed should be specified (see, e.g., CH/96/30, *Damjanović v. The Federation of Bosnia and Herzegovina*, decision of 11 March 1998, Decisions and Reports 1998, p. 80, paragraph 23).

54. The Chamber notes that part of the compensation claim relates to loss of property allegedly suffered in January 1995, i.e. prior to the entry into force of the Agreement. This part of the claim must therefore be rejected. As for the remainder of the claim, the Chamber finds it appropriate, taking

into account the Advocates' Tariff, to award the applicant a total of 200 KM in compensation for legal costs and expenses incurred in the proceedings before the Court in Travnik in 1996 and before the Chamber (50 and 150 KM, respectively; see *Ostojić and 31 Other JNA Cases,* loc. cit., paragraph 123).

VIII. CONCLUSIONS

55. For the above reasons, the Chamber decides:

1. unanimously, to declare the applications admissible;

2. unanimously, that the passing of legislation providing for the retroactive nullification of the purchase contracts in question violated the applicants' rights under Article 1 of Protocol No. 1 to the Convention, Bosnia and Herzegovina thereby being in breach of its obligations under Article I to the Agreement;

3. unanimously, that the recognition and application of the legislation providing for the retroactive nullification of the purchase contracts in question has violated the applicants' rights under Article 1 of Protocol No. 1 to the Convention, the Federation thereby being in breach of its obligations under Article I of the Agreement;

4. unanimously, that the continuing adjournment after 14 December 1995 of court proceedings aiming at formal recognition of the applicants' property rights (whether or not actually initiated by them) has violated their right of access to a court and to a hearing within a reasonable time as guaranteed by Article 6 of the Convention, the Federation thereby being in breach of its obligations under Article I of the Agreement;

5. unanimously, that it is unnecessary to examine the applicants' complaints based on Article 13 of the Convention;

6. unanimously, to order the Federation to render ineffective the annulment of the purchase contracts in question imposed by the Decree of 22 December 1995 and the Law of 18 January 1996;

7. unanimously, to order the Federation to take effective steps to lift the adjournment by the Decree of 3 February 1995 of court proceedings aiming at formal recognition of the applicants' property right and to take all necessary steps to secure in this matter their right of access to court and to a hearing within a reasonable time;

8. unanimously, to order the Federation to pay applicant Vidović (CH/98/174), within three months of this decision, 200 KM in compensation for fees and expenses;

9. unanimously, to reject the remainder of his claim for compensation;

10. unanimously, to order that simple interest at an annual rate of four per cent will be payable over the awarded sums or any unpaid portion thereof, from the date of expiry of the above-mentioned three month period until the date of settlement; and

11. unanimously, to order the Federation to report to it by 14 August 1999 on the steps taken by it to give effect to this decision.

(signed)
Leif BERG
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel

DECISION ON ADMISSIBILITY AND MERITS

(delivered on 6 July 2001)

Cases nos. CH/98/232 and CH/98/480

Milan BANJAC and M.M.

against

BOSNIA AND HERZEGOVINA
and
THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 5 June 2001 with the following members present:

Mr. Giovanni GRASSO, President
Mr. Viktor MASENKO-MAVI, Vice-President
Mr. Jakob MÖLLER
Mr. Mehmed DEKOVIĆ
Mr. Manfred NOWAK
Mr. Vitomir POPOVIĆ
Mr. Mato TADIĆ

Mr. Peter KEMPEES, Registrar
Ms. Olga KAPIĆ, Deputy Registrar

Having considered the aforementioned applications introduced pursuant to Article VIII(1) of the Human Rights Agreement ("the Agreement") set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Adopts the following decision pursuant to Article VIII(2) and Article XI of the Agreement and Rules 52, 57 and 58 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The applicants are citizens of Bosnia and Herzegovina living in the territory of the Federation of Bosnia and Herzegovina. They are former officers of the Yugoslav National Army ("JNA") who retired before 1992. Until the outbreak of the war in Bosnia and Herzegovina they received their pensions from the Institute for Social Insurance of Army Insurees in Belgrade, to which they had paid contributions during their life as active soldiers. In September 1992 the Republic of Bosnia and Herzegovina issued a decree with force of law to the effect that pensioners of the JNA would be paid a pension amounting to 50 percent of their previous pension. This decree was confirmed by a law of the Republic of Bosnia and Herzegovina passed in June 1994 and by Article 139 of the Law on Pensions and Disability Insurance of the Federation of Bosnia and Herzegovina, which entered into force on 31 July 1998.

2. The applications raise issues under Article 1 of Protocol No. 1 to the European Convention on Human Rights, and of discrimination in the enjoyment of the right to social security guaranteed by Article 9 of the International Covenant on Economic, Social and Cultural Rights ("ICESCR").

3. On 9 March 2000 the Chamber adopted a first decision on the admissibility and merits of three applications concerning the issue of the pensions paid by the Pension and Disability Insurance Fund of Bosnia and Herzegovina (Fond za penzijsko I invalidsko osiguranje BiH –hereinafter "PIO BiH") to JNA pensioners (*Šećerbegović, Biočić and Oroz v. Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina*, cases nos. CH/98/706, 740 and 776, delivered on 7 April 2000, Decisions January-June 2000). In deciding the present cases, the Chamber has relied on its findings made in the *Šećerbegović, Biočić and Oroz* decision, which was adopted after proceedings involving a public hearing and ample submissions by both respondent Parties and the Ombudsperson for Bosnia and Heregovina as *amica curiae*.

II. PROCEEDINGS BEFORE THE CHAMBER

4. The application of Mr. Banjac was introduced on 13 October 1997 and registered on 25 November 1997. The application of M.M. was introduced on 13 October 1997 and registered on 10 April 1998. The applicants are not represented by lawyers.

5. On 10 June 1998 the Chamber decided to join the two cases. The applications were transmitted to the respondent Parties for their observations on the admissibility and merits of the cases on 17 June 1998. No such observations were received. On 8 October 1998 both applicants submitted their claims for compensation, which were transmitted to the respondent Parties. No reply to the compensation claims was received.

6. On 10 April 2000 the Chamber requested that the Federation offer submissions in relation to certain allegations made by the applicants. A reply was received on 28 April 2000, which, however, did not address the issues raised by the Chamber. On 10 May 2000 the Chamber again requested that the Federation offer submissions in relation to the same issue. The Chamber received the Federation's submissions on 25 May 2000 and transmitted them the applicants. The Chamber received the applicants' reply observations on 7 June 2000 and an additional observation from applicant M.M. on 17 April 2000.

7. The Chamber considered the cases on 4 April 2000, 10 May 2001, and 5 and 8 June 2001. On 5 June 2001, the Chamber adopted the present decision.

III. ESTABLISHMENT OF THE FACTS

1. Case no. CH/98/232 Milan Banjac

8. The applicant is a citizen of Bosnia and Herzegovina living in Sarajevo. He was born in 1923 and fought as a partisan during the Second World War from 1 July 1941 to 8 May 1945. After the

Second World War he became a JNA officer. He retired as of 31 October 1963 with the rank of lieutenant colonel. From April 1992 until January 1994, due to the hostilities in Bosnia and Herzegovina, the applicant has not received any payments on account of his pension from the Institute for Social Insurance of Army Insurees in Belgrade (hereinafter "the JNA Pension Fund"). Since January 1994, however, the applicant has been receiving an amount equivalent to 50 percent of his original pension from the PIO BiH in Sarajevo. In November 1997 the applicant was receiving a monthly pension of 250 Convertible Marks (*Konvertibilnih Maraka*; KM).

2. Case no. CH/98/480 M.M.

9. The applicant is a citizen of Bosnia and Herzegovina living in Sarajevo. He was born in 1923 and fought as a partisan during the Second World War from 1941 to 1945. After the Second World War he became a JNA officer. The applicant has not indicated the date of his retirement and the rank with which he retired. Since April 1992, due to the hostilities in Bosnia and Herzegovina, the applicant has not received any payments on account of his pension from the JNA Pension Fund. Since January 1994, however, the applicant has been receiving an amount equivalent to 50 percent of his original pension from the PIO BiH in Sarajevo, with the exception of July, August and September 1996, for which the applicant did not receive any pension in cash (instead, the applicant was given certificates for these unpaid pensions which are registered in the unique citizen's accounts for use in the privatization process). In July 1997 the applicant received a pension of KM 240.

IV. RELEVANT DOMESTIC LEGISLATION REGARDING THE PENSION SYSTEM, IN PARTICULAR JNA PENSIONS

A. Legislation of the Socialist Federal Republic of Yugoslavia and of the Socialist Republic of Bosnia and Herzegovina

1. Civilian pensions

10. According to Article 281, paragraph 3, of the 1974 Constitution of the Socialist Federal Republic of Yugoslavia (hereinafter "SFRY"), the SFRY established the fundamental rights of the workers with regard to pensions and social security. This constitutional provision was implemented through the Law on Fundamental Rights of Pension and Disability Insurance (Official Gazette of the SFRY - hereinafter "OG SFRY" – nos. 23/82, 77/82, 75/85, 8/87, 65/87, 44/90 and 84/90).

11. The regulation of the pension system beyond the principles established in the SFRY law was within the competence of the republics of the SFRY, so that each Republic had its own pension legislation and its own (public) pension fund. In the Socialist Republic of Bosnia and Herzegovina (hereinafter "SRBiH") pensions were governed by the SRBiH Law on Pension and Disability Insurance (OG SRBiH nos. 38/90 and 22/91).

12. All employees, except for the military personnel of the JNA, paid into the pension fund of their republic of residence. This applied also to the employees of the ministries and agencies of the Federal Government. The pension funds in the republics worked together closely. If an individual worked and contributed into a pension Fund in one republic, he or she could choose to retire to a second republic and still receive his or her pension from the first republic's pension fund through the distribution system of the second republic. If an individual lived and worked and therefore paid his contributions in more than one republic throughout his working life, upon retirement he would be entitled to receive his pension from the fund to which he had contributed most.

2. Military pensions

13. According to Article 281, paragraph 6, of the 1974 Constitution of the SFRY, the SFRY regulated and secured through the federal authorities the pension rights of the military staff of the JNA and of the members of their families.

14. The specific aspects of military pensions were regulated by the Law on Pensions and Disability Insurance of Insured Military Personnel (OG SFRY nos. 7/85, 74/87 and 20/89). This law provided for several mechanisms which rendered the pension treatment of former JNA military personnel more favourable than that of other categories. For the purpose of their pension treatment JNA pensioners were generally credited 15 months of service for every year of actual service. Moreover, the determination of the salary relevant to the calculation of the amount of the pension was more favourable than for the other categories of pensioners (in the case of the JNA pension the basis for calculation was the salary of the last December in active service, while for the other categories the basis was the average of the ten consecutive years with the highest income, now raised to the consecutive fifteen years with the highest income by the 1998 Federation Law on Pension and Disability Insurance).

15. The JNA military employees paid their contributions to and received their pensions from the JNA Pension Fund. This was the only pension fund existing at the Federal level.

B. Legislation of the Republic of Bosnia and Herzegovina

16. The SFRY Law on Pensions and Disability Insurance of Insured Military Personnel was taken over as a law of the Republic of Bosnia and Herzegovina by the Decree with force of law on the Adoption and the Application of Federal Laws applicable in Bosnia and Herzegovina as Republic Laws (Official Gazette of the Republic of Bosnia and Herzegovina - hereinafter "OG RBiH" - no. 2/92).

17. Article 5 of the Decree with Force of Law on Pension and Disability Insurance During the State of War or Immediate Threat of War (OG RBiH nos. 16/92, 8/93) of 18 September 1992, however, provided that:

> "(1) The Fund decides on the right to pension and disability insurance of the military insurees who are citizens of the Republic of Bosnia and Herzegovina and who reside within the territory of the Republic of Bosnia and Herzegovina.
>
> "(2) The pensions of military insurees are paid in the amount of 50 percent of the pension as determined in accordance with the Law on Pensions and Disability Insurance of Insured Military Personnel and are adjusted to the amount and in the way established by the Law on Fundamental Rights of Pension and Disability Insurance and the Law on Pension and Disability Insurance.
>
> "(3) The pensions of military insurees are paid in the amount and in the way determined in paragraph 2 of this Article, starting with April 1992."

18. This provision was amended by the Law on the Amendments and Changes to the Decree with Force of Law on Pensions and Disability Insurance During the State of War or Immediate Threat of War (OG RBiH no. 13/94), which entered into force on 9 June 1994. Article 2 of this Law reads:

> "Article 5 is amended as follows:
>
> "Pensions of Insured Military Personnel of the former JNA who are citizens of the Republic and who reside within the territory of the Republic (hereinafter "Insured Military Personnel") will be paid 50 percent of the pension established under the Law on Pensions and Disability Insurance of Insured Military Personnel.
>
> "Where the pension of Insured Military Personnel established under the Law on Pensions and Disability Insurance of Insured Military Personnel is lower than the guaranteed pension established under the Law on Pensions and Disability Insurance (hereinafter "guaranteed pension"), pensions will be paid in the amount established under the Law on Pensions and Disability Insurance of Insured Military Personnel.

> "Where the pension established under the Law on Pensions and Disability Insurance of Insured Military Personnel is higher than the guaranteed pension, and by the application of paragraph 1 of this Article is an amount lower than the guaranteed pension, the amount of the guaranteed pension will be paid."

C. Legislation of the Federation of Bosnia and Herzegovina

19. Article III(1) of the Constitution of Bosnia and Herzegovina (Annex 4 to the General Framework Agreement) establishes the matters that are the responsibility of the institutions of (the State of) Bosnia and Herzegovina. Article III(3)(a) provides that all governmental functions and powers not expressly assigned in the Constitution to the institutions of Bosnia and Herzegovina shall be those of the Entities, *i.e.*, the Federation of Bosnia and Herzegovina and the Republika Srpska. The pension system is not among the matters listed in Article III(1).

20. The Law on Pensions and Disability Insurance of the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of Bosnia and Herzegovina, - hereinafter "OG FBiH" - no. 29/98, as amended by OG FBiH 49/00), which entered into force on 31 July 1998, establishes at Article 4 that:

> "Pension and disability insurance shall be funded, in accordance with this law, from contributions and other resources."

21. Article 139 is the provision concerning JNA pensioners. It reads:

> "To the military insured members of the former JNA, who are citizens of Bosnia and Herzegovina residing within the territory of the Federation, the pension will be paid in the amount of 50 percent of the amount of the pension determined in accordance with the rules on pension and disability insurance of the military insured in force until the day of coming into force of this law."

22. Article 140 provides for the cases in which the pension as determined under the preceding Article is below the guaranteed minimum pension. It reads:

> "If the pension of the military insured of former JNA, determined in accordance with the military insured rules, is below the minimum guaranteed pension determined in the Article 72 of this law, the pension will be paid in the amount defined in accordance with the military insured rules.
>
> "If the pension determined in accordance to the military insured rules amounts to more than the minimum pension guaranteed by this law, but is below the guaranteed minimum pension after application of paragraph 1 of Article 139 of this law, the pension will be paid in the amount of guaranteed minimum pension determined by this law."

23. Article 141 provides that:

> "If the holder of the insurance, *e.g.*, the insured, does not have at his disposal the records on his salary in order to determine the pension basis of the military insured of the former JNA, the pension will be determined on the basis of the average pension of the pensioners holding the same rank as the insured pension being determined."

24. Article 148 of the law envisages that separate legislation shall provide for compensation for the difference between the amounts pensioners were entitled to and the amounts actually paid from 1992 to the entry into force of the law, *i.e.*, the arrears accumulated within the pension system in that period. On 23 October 1998 the Law on Claims in the Process of Privatisation on the Ground of Difference in Payment to the Holders of Pension and Disability Insurance Rights (OG FBiH no. 41/98, 55/00) entered into force. This law entitles pensioners to receive certificates to be used in the privatisation process for the part of their pension that has remained unpaid. At the public hearing in the *Šećerbegović, Biočić and Oroz* case, the Federation clarified that the 50 percent of the original pension that was not paid out to the JNA pensioners since June 1992 does not constitute an arrear owed to them for the purposes of this law. The applicants are therefore not entitled to certificates to use in the privatisation process on account of the 50 percent of their JNA pension that was not paid

out to them. They are, however, entitled to certificates for any amount due to them under the 1992 Decree which was not paid to them.

25. As to the pension treatment of those employees of the JNA who subsequently served in the Army of the Republic of Bosnia and Herzegovina or in the Army of the Federation, and who have retired or will retire after 30 July 1998, the Federation submits that their pension is determined in full accordance with the Federation Law on Pension and Disability Insurance. For these pensioners, the length of the service in the JNA before 6 April 1992 is taken into account in order to determine whether they fulfil the conditions to be entitled to a pension, but not for the purposes of calculating the amount to which they are entitled.

26. Those former JNA employees who subsequently served in the Army of the Republic of Bosnia and Herzegovina or in the Army of the Federation, and who retired before 30 July 1998, receive credit for the time served in the JNA also for the purposes of calculating the amount to which they are entitled.

V. GENERAL FACTUAL BACKGROUND CONCERNING THE NATIONAL PENSION SYSTEM

27. The following information is based on the report "Falling Through the Cracks: the Bosnian Pension System and its Current Problems" issued by the Organization for Security and Co-operation in Europe (OSCE) – Mission to Bosnia and Herzegovina, on statistical data contained in the economic *Newsletter* of the Office of the High Representative (OHR) of February 2000, and on the submissions of the respondent Parties at the public hearing in the *Šećerbegović, Biočić and Oroz* case (see paragraph 3 above).

28. During the war, the Pension and Disability Insurance Fund of the Republic of Bosnia and Herzegovina split into three separate funds, headquartered in Sarajevo, West Mostar, and Pale, each fund becoming exclusively competent for the pensioners living within its region. The 1998 Federation Law on Pension and Disability Insurance provides for the continued existence of two pension funds within the Federation on a transitional basis (Article 6 of the Law). Unless otherwise specified, the Chamber has in the following decision disregarded the separate existence of two funds within the Federation, as it is not relevant to its decision. The applicants receive payments from the PIO BiH with its headquarters in Sarajevo. The Chamber notes that on 12 November 2000, the High Representative imposed the Decision on the Law on the Organisation of Pension and Disability Insurance in the Federation of Bosnia and Herzegovina (OG FBiH no. 49/00), in which it is established one Federal Institute for Pension and Disability Insurance with its headquarters in Mostar. This Decision on the Law entered into force on 5 December 2000, and it provides that the deadline for commencing the Federal Institute is 30 April 2001.

29. The assets and obligations of the JNA Pension Fund in Belgrade are among the subjects of the Yugoslav succession negotiations among the former Republics of the SFRY. The Chamber has not received any information as to when the negotiations on the pension issue are expected to be concluded, or whether they actually have begun at all.

30. According to the Federation, approximately 1,500 JNA pensioners are currently receiving pension payments from the PIO BiH. The average monthly pension of the JNA pensioners, *i.e.*, the average benefit paid to JNA pensioners in accordance with Article 139 of the Federation Law on Pension and Disability Insurance, amounts to about KM 325, according to the information submitted at the public hearing in the *Šećerbegović, Biočić and Oroz* case. This is about 80 percent higher than the average of the pensions paid to all other categories of pensioners, which amounts to KM 180. The maximum monthly pension paid by the PIO BiH amounts to KM 613.

31. The economic *Newsletter* published by the OHR in February 2000 contains the following data

concerning the income distribution structure of the beneficiaries of the Sarajevo-based PIO BiH:

Monthly amount of pension in KM	No. of pensioners
less than 117	57,829
117-170	67,347
170-190	18,871
190-250	41,867
250-400	30,386
400-550	4,008
550-613	800
Total	221,108

32. According to information provided by the Federation in the *Šećerbegović, Biočić and Oroz* case, in September 1999 the average pension paid by the PIO BiH under the 1998 Law on Pension and Disability Insurance to former JNA personnel that subsequently served in the Army of the Republic of Bosnia and Herzegovina or in the Army of the Federation, amounted to KM 573.50.

33. According to the submissions made by respondent Parties in the *Šećerbegović, Biočić and Oroz* case, one of the conditions imposed by the World Bank for its continued financial support is that the PIO BiH may not indebt itself, which also means that it may not receive means from sources different than the contributions paid. (This condition appears to have been taken into account in The Decision of Amendments of the Law on Pensions and Disability Insurance (OG FBiH 49/00), which entered into force on 19 December 2000, which provides that the successor pension fund to PIO BiH may only distribute pensions in accordance with available funds.) On 24 February 2000 the Federation stated that the PIO BiH is currently paying the pensions due in September 1999.

VI. COMPLAINTS

34. The applicants allege a violation of their right to receive the full pension in accordance with the procedural decisions on their retirement. They add that they have not received any procedural decision establishing the revised amount to which they are entitled, that it was not explained to them on which basis their pensions were reduced, and that their pensions were not increased in accordance with the general increases of salaries and pensions in the Federation. The applicants further complain that they are being treated differently from their former colleagues living in the Republika Srpska and in the Federal Republic of Yugoslavia, who still receive their full JNA pensions. Mr. Banjac states that the JNA pensioners do not deserve to have inflicted upon them "such a serious and long lasting penalty by the respondent Party". M.M. claims that he is being subjected to a "punishment inappropriate for a democratic society".

VII. SUBMISSIONS OF THE PARTIES

35. The State of Bosnia and Herzegovina submitted no observations on the applications or the applicants' claims for compensation. The Federation of Bosnia and Herzegovina, in response to a specific inquiry by the Chamber, filed observations on 28 April 2000 and 25 May 2000 concerning harmonisation of pensions with the increase of salaries. The Federation further objects to the applications as ill-founded on the merits.

36. The applicants confirmed their complaints and claim full compensation for the difference between the amounts due to them on the basis of the procedural decisions on their retirement, as adjusted in accordance with the factors for the automatic increase of salaries and pensions in the Federation since 1992, and the amounts actually paid to them by the PIO BiH.

VIII. OPINION OF THE CHAMBER

A. Admissibility

37. Before considering the cases on their merits the Chamber must decide whether to accept them, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement. Under Article VIII(2)(c) the Chamber shall dismiss any application which it considers incompatible with the Agreement.

38. The Chamber notes that pensions are not among the matters within the responsibilities of the Institutions of the State of Bosnia and Herzegovina listed in Article III of the Constitution of Bosnia and Herzegovina (Annex 4 to the General Framework Agreement). However, until 31 July 1998, when the Federation Law on Pensions and Disability Insurance entered into force, the payment to the applicants of 50 percent of their JNA pension was due to legislation enacted by organs of the Republic of Bosnia and Herzegovina, which, according to Article I paragraph 1 of the Constitution, is to "continue its legal existence under international law as a state", henceforth named "Bosnia and Herzegovina".

39. The Chamber recalls that also in the "JNA apartment cases" it was called upon to decide whether legislation enacted by organs of the Republic of Bosnia and Herzegovina, in subject matters that under the Constitution are within the competence of the Entities, gives rise to responsibility of Bosnia and Herzegovina (see cases nos. CH/96/3, 8 and 9, *Medan, Baštijanović and Marković*, decision on the merits delivered on 7 November 1997, paragraphs 44-47, Decisions on Admissibility and Merits 1996-97). However, in those cases the former institutions of the Republic, including the legislative institutions, had continued to operate after the entry into force of the State Constitution, while the legislative organs provided for in the Constitutions of both the State and the Federation had not yet been established. On 22 December 1995 the Presidency of the Republic had issued the Decree which annulled the applicants' purchase contracts. This Decree was adopted as law by the Assembly of the Republic of Bosnia and Herzegovina on 16 January 1996. The Chamber found that insofar as the former institutions of the Republic, including the legislative institutions, continued to operate, they functioned as institutions of the continuing State of Bosnia and Herzegovina, which was therefore responsible for their actions. It concluded that since institutions of the State were responsible for passing the legislation which annulled the applicants' contracts, the State was responsible for the violations of Article 1 of Protocol No. 1 which the Chamber found (see *Medan, Baštijanović and Marković*, paragraph 47).

40. In the present case, however, the State of Bosnia and Herzegovina has not taken any legislative or administrative action affecting the applicants, nor have institutions of the Republic of Bosnia and Herzegovina done so, since the entry into force of the Agreement. The Chamber therefore concludes that no responsibility for the matters complained of can attach to Bosnia and Herzegovina and that it has no competence *ratione personae* to continue consideration of the applications insofar as they are directed against Bosnia and Herzegovina. The applications are, therefore, inadmissible insofar as they are directed against Bosnia and Herzegovina.

41. The Federation of Bosnia and Herzegovina objects to the admissibility of the applications only on the ground that the applications are ill-founded on the merits. The Chamber does not see the need to raise *proprio motu* any other issues regarding admissibility, and the applications are declared admissible insofar as they are directed against the Federation and relate to the following issues: whether the applicants have a protected interest within the meaning of Article 1 to Protocol No. 1 of the Convention to full pension payments, and whether the applicants suffered unlawful discrimination in the payment of their pensions. Insofar as the applicants' claim that their pension payments were not increased in accordance with general increases of salaries and pensions in the Federation, the Chamber notes that there is no such right protected under the Convention; therefore, such claims are inadmissible as manifestly ill-founded. The applicants' claims with respect to discrimination in the increase of their pension payments are inadmissible as manifestly ill-founded because the applicants did not substantiate these claims. The remainder of the claims raised in the applications are also declared inadmissible as manifestly ill-founded.

B. Merits

42. Under Article XI of the Agreement the Chamber must next address the question whether the facts established above indicate a breach by the Federation of its obligations under the Agreement. In terms of Article I of the Agreement the Parties are obliged to "secure to all persons within their jurisdiction the highest level of internationally recognised human rights and fundamental freedoms", including the rights and freedoms provided for in the Convention and the other international agreements listed in the Appendix to the Agreement.

43. Under Article II(2) of the Agreement the Chamber has competence to consider (a) alleged or apparent violations of human rights as provided in the Convention and its Protocols and (b) alleged or apparent discrimination arising in the enjoyment of the rights and freedoms provided for in the 16 international agreements listed in the Appendix to the Agreement (including the Convention), where such a violation is alleged to or appears to have been committed by the Parties, including by any organ or official of the Parties, Cantons or Municipalities or any individual acting under the authority of such an official or organ.

1. Article 1 of Protocol No. 1 to the Convention

44. The applicants complain primarily of the fact that under the 1992 Decree and the 1998 Law on Pension and Disability Insurance they are entitled to receive only 50 percent of their original JNA pensions. The Chamber has examined whether this constitutes a violation by the Federation of Article 1 of Protocol No. 1 to the Convention, which reads:

> "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."

45. The Chamber notes that the European Commission of Human Rights has held that where a person has contributed to an old age pension fund, this may give rise to a property right in a portion of such a fund, and a modification of the pension rights under such a system could in principle raise an issue under Article 1 of Protocol No. 1 to the Convention. The Commission has, however, also held that the Convention does not guarantee a right to a specific social welfare benefit (see, e.g., *Müller v. Austria*, decision of 1 October 1975, application no. 5849/72, D.R. 3, p. 31; and *Tricković v. Slovenia*, application no. 39914/98, decision of 27 May 1998). In particular, the Commission has emphasised that there is no right to receive social welfare benefits in a specific amount. The European Court of Human Rights has stated that the right to a certain social security benefit – insofar as it is provided for in the applicable legislation – is an economic right for the purposes of Article 1 of Protocol No. 1 (Eur. Court H.R., *Gaygusuz v. Austria*, judgment of 31 August 1996, Reports of Judgments and Decisions 1996-IV, paragraph 41).

46. The applicants argue that they are entitled to receive from the PIO BiH the full amount of their JNA pension.

47. The Chamber notes that it is true that the language both of Article 5 of the 1992 Decree, as amended by Article 2 of the 1994 Law, and of Article 139 of the 1998 Law might be interpreted in the sense that the Republic of Bosnia and Herzegovina first, and then the Federation, took over the obligation of the JNA Pension Fund to pay the applicants' JNA pensions and thereafter decided to pay only 50 percent of the amount due. The amended Article 5 of the 1992 Decree (see paragraphs 17 and 18 above) provided:

> "Pensions of Insured Military Personnel of the former JNA who are citizens of the Republic and who reside within the territory of the Republic (...) will be paid 50 percent of the pension established under the Law on Pensions and Disability Insurance of Insured Military Personnel."

Article 139 of the 1998 Law (see paragraph 21 above) reads:

> "To the military insured members of the former JNA, who are citizens of Bosnia and Herzegovina residing within the territory of the Federation, the pension will be paid in the amount of 50 percent of the amount of the pension in accordance to the rules on pension and disability insurance of the military insured being in force until the day of coming into force of this Law."

48. The Chamber recalls that at the public hearing in the *Šećerbegović, Biočić and Oroz* case, the representative of Bosnia and Herzegovina explained that the decision to pay JNA pensioners a pension in the amount of 50 percent of the pension they were entitled to under the Law on Pensions and Disability Insurance of Insured Military Personnel was taken in order to ensure that these persons, who at the outbreak of the war had ceased to receive their pension payments, had the means to survive. The Chamber furthermore recalls that the assets of the Belgrade JNA Pension Fund are among the subjects of the succession negotiations (see paragraph 29 above).

49. The Chamber notes that the applicants have not paid any contributions to the PIO BiH in Sarajevo, nor to any other pension fund in the Republic of Bosnia and Herzegovina or in the Federation. They had no legal relation to the PIO BiH before the issuing of the 1992 Decree with Force of Law on Pension and Disability Insurance During the State of War or Immediate Threat of War. Moreover, the competent authorities of the Federation do not have access to the employment records of the former JNA employees, so they are not in a position to determine the entitlement of these pensioners and the amount to which they are entitled under provisions - different from Articles 139 to 141 - of the Federation Law on Pension and Disability Insurance.

50. The Chamber concludes that the applicants have no claims against the PIO BiH or against the Federation beyond those attributed to them by the 1992 Decree and 1998 Law or which could be regarded as a possession for the purposes of Article 1 of Protocol No. 1 to the Convention. The applicants' claim towards the JNA Pension Fund, which is not at issue before the Chamber, appears to remain untouched by the mentioned legislation. The Chamber concludes that the applications do not reveal any interference with the applicants' enjoyment of their possessions by the Federation, and, accordingly, no violation of Article 1 of Protocol No. 1 to the Convention can be established.

2. Discrimination in the enjoyment of the right to social security guaranteed by Article 9 of the ICESCR

(a) Alleged discrimination in comparison to JNA pensioners living in the Republika Srpska and in the Federal Republic of Yugoslavia

51. The applicants complain that that they are being treated differently from their former colleagues living in the Republika Srpska and in the Federal Republic of Yugoslavia, who still receive their full JNA pensions.

52. The Chamber finds that the pension treatment former JNA members receive in the Republika Srpska and in the Federal Republic of Yugoslavia is outside the responsibility of the Federation. Moreover, as the Chamber has found in the *Šećerbegović, Biočić and Oroz* case, the applicants' claim towards the JNA Pension Fund in Belgrade, from which the JNA pensioners living in the Republika Srpska and in the Federal Republic of Yugoslavia receive their pension payments, appears to remain untouched by the legislation enacted by the Republic of Bosnia and Herzegovina and by the Federation. Therefore, the Chamber concludes that the applicants' complaint of discrimination is ill-founded.

(b) Alleged discrimination in comparison to other categories of pensioners

53. The Ombudsperson found in her Special Report that under Article 139 of the Federation Law on Pension and Disability Insurance, JNA pensioners were treated differently from the military

pensioners of the Army of the Republic of Bosnia and Herzegovina and the Army of the Federation, and from the civilian pensioners. She further considered that this difference in treatment was not based on an objective and reasonable justification and concluded that the JNA pensioners were being discriminated against on the ground of their status.

54. The Chamber has found that the fact that former JNA members in the Republika Srpska and in the Federal Republic of Yugoslavia still receive their full pensions from the JNA Pension Fund does not raise any issues under the Agreement. The Chamber notes, however, that the JNA pensioners are the only category of pensioners in the Federation who are paid by the PIO BiH a pension in the amount of 50 percent of the pension entitlement accrued before 1992. The Chamber shall therefore examine *proprio motu* whether the applications reveal discrimination against the applicants in the enjoyment of the right guaranteed by Article 9 of the ICESCR, which reads:

> "The States Parties to the present Covenant recognise the right of everyone to social security, including social insurance."

55. The Chamber will first compare the pension treatment of the applicants to that of the civilian pensioners of the PIO BiH, and then to the treatment of the military pensioners of the PIO BiH who served in the JNA before joining the Army of Bosnia and Herzegovina or the Army of the Federation.

(c) Possible discrimination in comparison to the civilian pensioners

56. In order to determine whether the applicants have been discriminated against, the Chamber must first determine whether they were treated differently from others in the same or relevantly similar situations. Any differential treatment found is to be deemed discriminatory if it has no reasonable and objective justification, that is, if it does not pursue a legitimate aim or if there is no reasonable relationship of proportionality between the means employed and the aim sought to be realised (see case no. CH/97/67, *Zahirović*, decision on admissibility and merits, delivered on 8 July 1999, paragraph 120, Decisions January-July 1999).

57. In accordance with the approach outlined above, the Chamber has considered whether the other categories of pensioners mentioned by the Ombudsperson constitute "others in the same or relevantly similar situations". As to the civilian pensioners, the Chamber is of the opinion that they are not in a relevantly similar position. Firstly, the civilian pensioners paid their contributions into the PIO BiH and thereby acquired a right to a pension from that fund in accordance with the provisions of the SRBiH Law on Pension and Disability Insurance, as subsequently taken over and amended by the Republic of Bosnia and Herzegovina and the Federation. Secondly, the JNA pension scheme contained mechanisms that rendered it unique and very favourable to JNA pensioners. The Chamber recalls that JNA pensioners were generally credited 15 months of service for every year of actual service for the purposes of the calculation of the years of service attained. Moreover, the determination of the salary relevant as basis for the calculation of the amount of the pension was significantly more favourable than for the other categories of pensioners. In light of these considerations, the Chamber concludes that no issue of differential treatment of the applicants, and therefore no issue of discrimination in the enjoyment of the right to social security, arises in relation to the civilian pensioners, since they do not constitute a relevantly comparable group.

58. The Chamber additionally notes that the pensions the applicants receive from the PIO BiH are higher than the average pension paid by that fund to its insurees, by 38.8 percent in the case of Mr. Banjac and by 33.3 percent in the case of Mr. M.M. (see paragraphs 8-9 and 30 above). Considering that the applicants did not contribute to the PIO BiH, and considering that the fund is not able to meet its obligations towards its insurees (see paragraph 33 above), the Chamber does not find that the applications could reveal any possible discrimination to the detriment of the applicants in the enjoyment of the right to social security, even if the civilian pensioners were to be considered a comparable group.

(d) Possible discrimination in comparison to former JNA members who retired after having served in the Army of the Republic of Bosnia and Herzegovina or the Army of the Federation

59. The situation is different in relation to the former JNA members who retired after having served in the Army of the Republic of Bosnia and Herzegovina or the Army of the Federation, in particular those who retired before 30 July 1998 (see paragraphs 25 and 26 above). The latter category apparently receive the full pension as established under the Federation Law on Pension and Disability Insurance and full credit is given for the time served in the JNA, both for the purpose of the determination of the entitlement and of the amount of the pension to which they are entitled. The Chamber notes that the mechanism by which this category's entitlement to pensions is calculated has not been completely clarified. The fact, however, that the average pension of the pensioners of the Army of the Republic of Bosnia and Herzegovina and of the Army of the Federation amounts to KM 573.50, whereas the average pension of the JNA pensioners is KM 325 and the maximum pension obtainable is KM 613, leaves little doubt as to the favourable treatment of these pensioners (see paragraphs 30-32 above).

60. This statistical data show that veterans of the 1991-95 war in Bosnia and Herzegovina are put in a position of considerable economic advantage in comparison to the entire remaining population of the Federation, not only as compared to members of the JNA who retired before 1992 and did not join the Army of the Republic of Bosnia and Herzegovina, the HVO, or the Army of the Federation. Furthermore, the JNA pensioners who joined these armed forces served either the government of the Republic of Bosnia and Herzegovina or of the Federation and thereby established a legal relationship to one or both of these governments. The Chamber notes that the privileged treatment of veterans is a feature that is not peculiar to the society of the post-war Federation of Bosnia and Herzegovina. Also the applicants received double credit for the years served as partisans during the Second World War for the purposes of their entitlement to their pension.

61. In the light of these considerations, the Chamber concludes that the difference in treatment between the JNA pensioners on the one hand, and the pensioners of the Army of the Republic of Bosnia and Herzegovina and of the Army of the Federation on the other hand, including the former JNA members who served in these armed forces, has an objective justification in the fact that the members of the second group are former soldiers of the armed forces of the country or government whose pension fund is paying their pensions. As the applicants still receive a pension that is higher than the average pension paid by the PIO BiH, the Chamber does not find that the Federation exceeded its margin of appreciation in not extending the favourable treatment granted to its own pensioners to the JNA pensioners. Therefore, the Chamber concludes that there is no discrimination against the applicants in the enjoyment of the right to social security in comparison to the military pensioners of the Army of the Republic of Bosnia and Herzegovina and of the Army of the Federation either.

(e) Conclusion on discrimination in the enjoyment of the right to social security guaranteed by Article 9 of the ICESCR

62. In summary, the Chamber finds that the position of the applicants, and of the JNA pensioners in general, within the pension and social security system of the Federation of Bosnia and Herzegovina, is characterised by elements which exclude any comparison to the civilian pensioners as a group in the same or a relevantly similar position. As to the difference in treatment with regard to pensioners of the Army of the Republic of Bosnia and Herzegovina and of the Army of the Federation, the Chamber finds that the difference in treatment is justifiable in the light of the above considerations. Thus, the Chamber concludes that the cases before it do not disclose discrimination against the applicants in the enjoyment of their right to social security guaranteed by Article 9 of the ICESCR.

X. CONCLUSIONS

63. For the above reasons the Chamber decides:

1. by 6 votes to 1, to declare the applications inadmissible insofar as they are directed against Bosnia and Herzegovina;

2. unanimously, to declare the applications admissible against the Federation of Bosnia and Herzegovina insofar as they relate to whether the applicants have a protected interest within the meaning of Article 1 to Protocol No. 1 of the Convention to full pension payments, and whether the applicants suffered unlawful discrimination in the payment of their pensions;

3. unanimously, to declare the remainder of the applications inadmissible as manifestly ill-founded insofar as they are directed against the Federation of Bosnia and Herzegovina;

4. by 6 votes to 1, that there has been no violation of the applicants' right to peaceful enjoyment of their possessions under Article 1 of Protocol No. 1 to the European Convention on Human Rights; and

5. by 6 votes to 1, that there has been no discrimination against the applicants in the enjoyment of their right to social security under Article 9 of the International Covenant on Economic, Social and Cultural Rights.

(signed)
Peter KEMPEES
Registrar of the Chamber

(signed)
Giovanni GRASSO
President of the Second Panel

HUMAN RIGHTS COMMISSION
WITHIN THE CONSTITUTIONAL COURT
OF BOSNIA AND HERZEGOVINA

KOMISIJA ZA LJUDSKA PRAVA
PRI USTAVNOM SUDU
BOSNE I HERCEGOVINE

ODLUKA O PRIHVATLJIVOSTI I MERITUMU

Predmeti br. CH/98/240, CH/98/344, CH/98/846, CH/99/1558, CH/99/1703, CH/99/2707 i CH/99/2881

D.I, Vasil PANOV, D.H., Tomislav RADOVANOVIĆ, Ljuban IVKOVIĆ,

Bogdan IVANOVIĆ i Risto JANKULOVSKI

protiv

BOSNE I HERCEGOVINE

i

FEDERACIJE BOSNE I HERCEGOVINE

Komisija za ljudska prava pri Ustavnom sudu Bosne i Hercegovine, na zasjedanju Velikog vijeća od 9. februara 2005. godine, sa sljedećim prisutnim članovima:

Gosp. Miodrag PAJIĆ, predsjednik
Gosp. Mehmed DEKOVIĆ, potpredsjednik
Gosp. Želimir JUKA, član
Gosp. Ćazim SADIKOVIĆ, član
Gosp. Mato TADIĆ, član

Gosp. Nedim ADEMOVIĆ, arhivar

Razmotrivši gore spomenute prijave podnesene Domu za ljudska prava za Bosnu i Hercegovinu (u daljnjem tekstu: Dom) u skladu sa članom VIII(1) Sporazuma o ljudskim pravima (u daljnjem tekstu: Sporazum) sadržanom u Aneksu 6 uz Opći okvirni sporazum za mir u Bosni i Hercegovini;

Konstatujući da je Dom (u daljnjem tekstu: Dom) prestao postojati 31. decembra 2003. godine i da je Komisija za ljudska prava pri Ustavnom sudu Bosne i Hercegovine (u daljnjem tekstu: Komisija) dobila mandat prema sporazumima u skladu sa članom XIV Aneksa 6 uz Opći okvirni sporazum za mir u Bosni i Hercegovini koji su zaključeni u septembru 2003. i januaru 2005. godine (u daljnjem tekstu: Sporazum iz 2005. godine) da odlučuje o predmetima podnesenim Domu do 31. decembra 2003. godine;

Usvaja sljedeću odluku u skladu sa članom VIII(2)(d) Sporazuma, čl. 3. i 8. Sporazuma iz 2005. godine, kao i pravilom 21. stav 1(a) u vezi sa pravilom 51. stavom 1(a). Pravila procedure Komisije:

I. UVOD

1. Predmeti se tiču pokušaja podnosilaca prijava pripadnika bivše Jugoslovenske narodne armije (u daljnjem tekstu: JNA), da vrate u posjed stanove u Bosni i Hercegovini i da budu priznati kao njihovi vlasnici.

2. Prijave pokreću pitanja u vezi s čl. 6. i 8. Evropske konvencije za zaštitu ljudskih prava i temeljnih sloboda (u daljnjem tekstu: Evropska konvencija) i članom 1. Protokola broj 1 uz Evropsku konvenciju, te članom II(2)(b) Sporazuma.

3. S obzirom na sličnost između činjenica u predmetima i žalbenih navoda podnosilaca prijava, Komisija je odlučila da ove prijave spoji u skladu s pravilom 33. Pravila procedure Komisije.

II. POSTUPAK PRED DOMOM/KOMISIJOM

4. Prijave su podnesene i registrovane između januara 1998. godine i septembra 1999. godine.

5. Dom, odnosno Komisija, su prijave proslijedili tuženim stranama prema čl. 6. i 8. Evropske konvencije i članu 1. Protokola broj 1 uz Evropsku konvenciju, te članu II(2)(b) Sporazuma u periodu između 25. juna 1998. i 25. marta 2004. godine. Do dana donošenja ove odluke, tužene strane dostavile su pismena zapažanja u svim prijavama.

6. Pismena zapažanja proslijeđena su podnosiocima prijava u periodu između 14. septembra 1998. i 11. maja 2004. godine.

7. Malo vijeće Komisije je 8. februara 2005. godine, u skladu sa pravilom 51. stavom 2. Pravila procedure Komisije, usvojilo prijedlog o meritumu prijave.

III. UTVRĐIVANJE ČINJENICA

a. Činjenice koje su zajedničke svim predmetima

8. Svi predmetni stanovi su bili u društvenom vlasništvu. Imaoci društvene svojine u Socijalističkoj Federativnoj Republici Jugoslaviji su bili državni organi ili pravna lica. JNA je bila jedan takav državni organ koji je kontrolisao određeni dio imovine u društvenom vlasništvu. Svi podnosioci prijava su bili u službi JNA kao vojna ili civilna lica. Svi stanovi se nalaze u Sarajevu. Svaki podnosilac prijave je uživao stanarsko pravo na svom stanu koji mu je dodijelila JNA.

9. Svi podnosioci prijava su sa JNA, u periodu između 23. decembra 1991. i 12. februara 1992. godine zaključili ugovor o kupoprodaji stanova na kojima su imali stanarsko pravo. Ugovori su zaključeni u skladu sa Zakonom o stambenom obezbjeđivanju u Jugoslovenskoj narodnoj armiji (vidi tačke 56. i 57 ove odluke) sa državom SFRJ – SSNO – Vojnom ustanovom za upravljanje stambenim fondom Jugoslovenske narodne armije (u daljnjem tekstu: Stambeni fond bivše JNA). Ovim zakonom, koji je donesen 1990. godine i koji je stupio na snagu 6. januara 1991. godine, su, u osnovi, regulisane stambene potrebe vojnih i civilnih pripadnika JNA.

10. Svi podnosioci prijava su stanove napustili početkom ratnih dejstava u Bosni i Hercegovini (u daljnjem tekstu: BiH). Svi podnosioci prijava su pokrenuli upravne postupke pred nadležnim organima za povrat posjeda svojih stanova. U svim predmetima, nadležni organi su osporili njihove zahtjeve za povrat. Podnosioci prijava nisu bili u mogućnosti da povrate u posjed svoje stanove u BiH zbog primjene člana 3a. Zakona o prestanku primjene Zakona o napuštenim stanovima u vezi sa članom 39e. Zakona o prodaji stanova na kojima postoji stanarsko pravo (vidi tačke od 69. do 82. ove odluke). Član 3a. je stupio na snagu 1. jula 1999. godine.

11. Svi ugovori su potpisani od strane oba ugovarača, potvrđena im je pravovaljanost ugovora od strane vojnog pravobranioca. Ugovori sadrže popunjen ili bjanko pečat nadležne poreske službe. Svi podnosioci prijava dostavili su dokaze u vidu kopija uplatnica ili potvrda banaka o potpunoj ili većinskoj uplati kupoprodajne cijene stana. Potpisi na nekim ugovorima nisu ovjereni kod nadležnog suda. Neki od podnosioca prijava to nisu uspjeli učiniti nakon zaključivanja ugovora, zbog obustave procesa otkupa stanova iz Vojnostambenog fonda JNA od strane izvršne vlasti Socijalističke Republike Bosne i Hercegovine 1992. godine. Međutim, prema članu 9. stavu 4. Zakona o prometu nepokretnosti, oni to nisu ni bili u obavezi učiniti (vidi tačku 64. dole).

b. Činjenice u pojedinačnim predmetima

b.1 Predmet broj CH/98/240, D.I. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

12. Podnosilac prijave je 15. februara 1992. godine zaključio ugovor o kupoprodaji stana u ulici Trg heroja broj 13/1 u Sarajevu (raniji naziv Trg Pere Kosorića). Ugovor je potpisan od strane oba ugovarača, ovjeren od strane vojnog pravobranioca, a potpisi ovjereni pred nadležnim sudom. Ugovor sadrži pečat nadležne poreske službe. Podnosilac prijave je dostavio kopiju uplatnica o plaćenoj kupoprodajnoj cijeni u cjelokupnom iznosu.

13. Podnosilac prijave je 11. avgusta 1998. godine podnio Upravi za stambena pitanja Kantona Sarajevo (u daljnjem tekstu: Uprava) zahtjev za povrat stana u posjed. Uprava je donijela rješenje broj: 23/6-372-P-3278/98 od 22. aprila 2003. godine kojim se zahtjev podnosioca prijave odbija.

14. Podnosilac prijave je protiv rješenja Uprave podnio žalbu Ministarstvu za stambene poslove Kantona Sarajevo (u daljnjem tekstu: Ministarstvo). Ministarstvo je donijelo rješenje broj: 27/02-23-2682/03 od 21. novembra 2003. godine kojim se žalba podnosioca prijave odbija.

15. Podnosilac prijave je protiv rješenja Ministarstva podnio tužbu Kantonalnom sudu u Sarajevu (u daljnjem tekstu: Kantonalni sud) i pokrenuo upravni spor. Kantonalni sud je donio rješenje, broj: U-8/04 od 22. juna 2004. godine, kojim se postupak prekida uz obrazloženje da je Odlukom Predstavničkog doma Parlamenta Federacije Bosne i Hercegovine („Službene novine Federacije Bosne i Hercegovine" broj 28/04) određeno da se prekinu svi upravni i sudski postupci za povrat vojnih stanova do donošenja izmjena i dopuna Zakona o prodaji stanova na kojima postoji stanarsko pravo.

16. Paralelno sa navedenim postupkom, podnosilac prijave je 30. marta 1999. godine podnio tužbu Općinskom sudu II u Sarajevu protiv tuženih Federacije Bosne i Hercegovine i Federalnog Ministarstva odbrane radi priznavanja prava vlasništva na predmetnom stanu. Općinski sud II u Sarajevu je donio rješenje, broj: P-765/99 od 28. septembra 1999. godine, kojim se oglašava apsolutno nenadležnim za rješavanje u ovoj pravnoj stvari i odbacio tužbu.

17. Podnosilac prijave je protiv rješenja Općinskog suda II u Sarajevu podnio žalbu Kantonalnom sudu u Sarajevu. Komisija nema informacija da li je Kantonalni sud donio odluku po žalbi podnosioca prijave.

b.2 Predmet broj CH/98/344, Vasil PANOV protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

18. Podnosilac prijave je 23. decembra 1991. godine zaključio ugovor o kupoprodaji stana u ulici Gradačačka broj 23/4 u Sarajevu (raniji naziv Palmira Toljatija). Ugovor je potpisan od strane oba ugovarača, ovjeren od strane vojnog pravobranioca, a potpisi ovjereni pred nadležnim sudom. Ugovor sadrži pečat nadležne poreske službe. Podnosilac prijave je dostavio kopiju uplatnica o plaćenoj kupoprodajnoj cijeni u cjelokupnom iznosu.

19. Podnosilac prijave je podnio Upravi zahtjev za povrat stana u posjed. Uprava je donijela rješenje, broj: 23/5-372-1262/98 od 9. juna 1999. godine kojim se potvrđuje da je podnosilac prijave nosilac stanarskog prava na predmetnom stanu i dozvoljava mu se vraćanje u posjed predmetnog stana.

20. Postupajući po službenoj dužnosti u obnovljenom postupku, Uprava je poništila gore navedeno rješenje, te odbila zahtjev podnosioca prijave za povrat stana u posjed. Prema stanju spisa, Komisija nema dodatnih podataka o ovom rješenju, ali se, uvidom u ostalu dokumentaciju, čini da je doneseno između juna 1999. i maja 2000. godine. Podnosilac prijave je 31. maja 2000. godine, protiv ovog rješenja, donesenog u obnovljenom postupku podnio žalbu Ministarstvu.

21. Ministarstvo je donijelo rješenje broj: 27/02-23-1626/00 od 6. februara 2001. godine kojim se poništava rješenje Uprave koje je donešeno po zahtjevu podnosioca prijave i u obnovljenom postupku, te predmet vratilo prvostepenom organu na ponovni postupak.

22. Uprava je u ponovnom postupku donijela rješenje, broj: 23/5-372-1262/98 od 20. februara 2003. godine, kojim se odbija zahtjev podnosioca prijave za vraćanje stana u posjed zbog toga što je utvrđeno da je podnosilac prijave na dan 30. aprila 1991. godine bio aktivno lice JNA, zbog čega se ne može smatrati izbjeglicom.

23. Podnosilac prijave je protiv ovog rješenja podnio žalbu Ministarstvu. Ministarstvo je rješenjem, broj: 27/02-23-2362/03 od 24. septembra 2003. godine, poništilo rješenje Uprave i predmet vratilo prvostepenom organu na ponovni postupak.

24. Podnosilac prijave je 23. januara 2003. godine podnio tužbu Općinskom sudu II u Sarajevu protiv Ministarstva radi utvrđenja i uknjižbe prava vlasništva na predmetnom stanu. Postupak po tužbi podnosioca prijave je još uvijek u toku.

b.3 Predmet broj CH/98/846, D.H. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

25. Podnosilac prijave je 10. februara 1992. godine zaključio Ugovor o kupoprodaji stana u ulici Topal Osman Paše broj 13. u Sarajevu (raniji naziv Milutina Đuraskovića). Ugovor je potpisan, ovjeren od strane vojnog pravobranioca, a potpisi ovjereni pred nadležnim sudom. Ugovor sadrži pečat nadležne poreske službe. Podnosilac prijave je dostavio kopiju uplatnica o plaćenoj kupoprodajnoj cijeni u cjelokupnom iznosu.

26. Podnosilac prijave je 6. avgusta 1998. godine Upravi podnio zahtjev za povrat stana u posjed. Uprava je donijela rješenje, broj: 23/6-372-P-3158/98 od 30. marta 2000. godine, kojim se odbija zahtjev podnosioca prijave za vraćanje stana u posjed.

27. Podnosilac prijave je protiv ovog rješenja podnio žalbu Ministarstvu. Ministarstvo je donijelo rješenje, broj: 27/02-23-2672/00 od 14. decembra 2000. godine kojim se žalba podnosioca prijave odbija.

28. Protiv ovog rješenja podnosilac prijave je podnio tužbu Kantonalnom sudu. Kantonalni sud je donio presudu, broj: U-239/01 od 16. maja 2002. godine, kojom se tužba uvažava, osporeno, kao i prvostepeno rješenje poništavaju i predmet vraća na ponovni postupak.

29. U ponovljenom postupku, Uprava je donijela rješenje broj: 23/6-372-P-3158/98 od 11. oktobra 2002. godine kojim se zahtjev podnosioca prijave za vraćanje stana u posjed odbija zbog toga što je utvrđeno da je podnosilac prijave na dan 30. aprila 1991. godine bio aktivno lice u JNA, zbog čega se ne može smatrati izbjeglicom.

30. Podnosilac prijave je protiv ovog rješenja podnio žalbu Ministarstvu. Ministarstvo je donijelo rješenje, broj: 27/02-23-54/03 od 13. avgusta 2003. godine, kojim se žalba podnosioca prijave odbija.

31. Čini se da podnosilac prijave ima, takođe, odluku Komisije za imovinske zahtjeve izbjeglica i raseljenih lica (u daljnjem tekstu CRPC), kojom je potvrđeno njegovo pravo povrata predmetnog stana u posjed. Iz dodatnih informacija, koje je tužena strana Federacija Bosne i Hercegovine dostavila 30. aprila 2004. godine, proizilazi da je podnosilac prijave 30. oktobra 2003. godine podnio zahtjev Upravi za izvršenje CRPC odluke. Postupak po tom zahtjevu je, čini se u toku.

b.4 Predmet broj CH/99/1558, Tomislav RADOVANOVIĆ protiv Federacije Bosne i Hercegovine

32. Podnosilac prijave je 11. februara 1992. godine zaključio ugovor o kupoprodaji stana u ulici Topal Osman Paše broj 24 (raniji naziv Milutina Đuraskovića), u Sarajevu. Ugovor je potpisan, ovjeren od strane vojnog pravobranioca, a potpisi ovjereni pred nadležnim sudom. Ugovor sadrži pečat nadležne poreske službe. Podnosilac prijave je dostavio kopiju uplatnica o plaćenoj kupoprodajnoj cijeni u cjelokupnom iznosu.

33. Podnosilac prijave je 15. jula 1998. godine podnio zahtjev Upravi za vraćanje predmetnog stana u posjed. Uprava je donijela rješenje, broj: 23/6-372-2459/98 od 9. maja 2000. godine, kojim je odbijen zahtjev podnosioca prijave za vraćanje stana u posjed.

34. Protiv ovog rješenja, podnosilac prijave je podnio žalbu Ministarstvu. Ministarstvo je donijelo rješenje, broj: 27/02-23-2558/00 od 17. novembra 2000. godine, kojim se žalba podnosioca prijave odbija.

35. Podnosilac prijave je protiv ovog rješenja pokrenuo upravni spor pred Kantonalnim sudom. Kantonalni sud je donio presudu, broj: U-348/02 od 23. januara 2003. godine, kojom je uvažio tužbu, osporeno kao i prvostepeno rješenje poništio i predmet vratio na ponovni postupak.

36. Uprava je, u ponovljenom postupku, donijela rješenje, broj: 23/6-372-2459/98 od 3. oktobra 2003. godine, kojim se zahtjev podnosioca prijave za vraćanje u posjed predmetnog stana odbija, jer je utvrđeno da je podnosilac prijave nakon 19. maja 1992. godine ostao u službi JNA.

37. Podnosilac prijave je protiv ovog rješenja podnio žalbu Ministarstvu. Ministarstvo je donijelo rješenje, broj: 27/02-23-172/04 od 20. maja 2004. godine, kojim se žalba podnosioca prijave odbija.

38. Uprava je, u postupku pokrenutom po službenoj dužnosti donijela rješenje broj: 23-04/II-23-52/01 od 26. jula 2001. godine, kojim je privremenom korisniku predmetnog stana N.K. naloženo da se iseli iz predmetnog stana. Stan je 21. decembra 2001. godine zapečaćen.

39. Podnosilac prijave je 30. marta 1999. godine Općinskom sudu II u Sarajevu podnio tužbu radi utvrđenja prava vlasništva na predmetnom stanu. Općinski sud II u Sarajevu je donio rješenje, broj: P-763/99 od 14. februara 2001. godine, kojim se postupak po tužbi podnosioca prijave prekida dok se ne okonča postupak za povrat stana pred nadležnim organom.

b.5 Predmet broj CH/99/1703, Ljuban Ivković protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

40. Podnosilac prijave je 10. februara 1992. godine zaključio ugovor o kupoprodaji stana u ulici Husrefa Redžića, broj 15/4, u Sarajevu. Ugovor je potpisan od strane oba ugovarača i sadrži bjanko pečat Gradske uprave prihoda Grada Sarajeva. Iz dostavljene kopije uplatnica proizilazi da je podnosilac prijave platio na ime kupoprodajne cijene iznos od 700.000 jugoslovenskih dinara, iako je kupoprodajna cijena iznosila 616.777.

41. Zastupnica podnosioca prijave je podnijela zahtjev za povrat stana u posjed Upravi 11. avgusta 1998. godine. Uprava je rješenjem, broj: 23/1-372-P-1720/99 od 30. decembra 1999. godine odbila zahtjev podnosioca prijave za vraćanje stana u posjed kao neosnovan, jer je utvrđeno da je podnosilac prijave ostao aktivno vojno lice bivše JNA nakon 4. aprila 1994. godine.

42. Podnosilac prijave je 26. januara 2004. godine Upravi podnio prijedlog za obnovu postupka, obrazlažući da nikada nije primio rješenje od 30. decembra 1999. godine. Čini se da je postupak još uvijek u toku.

43. Podnosilac prijave je 29. juna 2004. godine pokrenuo parnični postupak pred Općinskim sudom u Sarajevu radi utvrđenja valjanosti ugovora o otkupu stana i uknjižbe prava vlasništva na stanu. Postupak je u toku.

b.6 Predmet broj CH/99/2707, Bogdan IVANOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

44. Podnosilac prijave je 10. februara 1992. godine zaključio ugovor o kupoprodaji stana u ulici Patriotske lige broj 14 A/1 (bivša ul. Hasana Brkića broj 48), u Sarajevu. Ugovor sadrži potpise oba ugovarača, ovjeren je od strane vojnog pravobranioca i sadrži pečat nadležne poreske službe. Obavezu plaćanja kupoprodajne cijene podnosilac prijave je ispunio, jer je cijena stana umanjena za puni iznos po osnovu plaćenog stambenog doprinosa i iznosi 0 jugoslovenskih dinara.

45. Odlučujući o zahtjevu podnosioca prijave za povrat stana, Uprava je rješenjem, broj: 23/1-372-14218/98 od 19. septembra 2000. godine odbila zahtjev podnosioca prijave za povrat stanarskog prava, jer je utvrđeno da je podnosilac prijave ostao u aktivnoj vojnoj službi u Vojsci Jugoslavije do 31. decembra 1993. godine kada je penzionisan. Podnosilac prijave je podnio žalbu protiv ovog rješenja, koju je Ministarstvo stambenih poslova Kantona Sarajevo, rješenjem od 26. februara 2001. godine, odbilo kao neosnovanu.

46. Povodom istog predmeta, CRPC je donijela odluku, broj: 514-2632-1/1 od 2. septembra 2003. godine, kojom je potvrdila da je podnosilac prijave 1. aprila 1992. godine bio savjestan posjednik predmetnog stana i da ima pravo da bude uveden u posjed stana.

47. Služba za upravu, imovinsko-pravne poslove, geodetske poslove i katastar nekretnina Općine Centar Sarajevo (u daljnjem tekstu: Služba) je donijela zaključak, broj 27. februara 2004. godine, o dozvoli izvršenja odluke CRPC-a, kojom je određeno da se predmetni stan vraća podnosiocu prijave u posjed.

48. Služba je donijela zaključak, broj: 05-31-76/03 od 7. maja 2004. godine, o privremenoj obustavi izvršenja odluke CRPC-a, od 2. septembra 2003. godine, do donošenja drugostepene odluke CRPC-a po zahtjevu za preispitivanje koji je podnijelo Federalno ministarstvo odbrane 30. septembra 2003. godine.

b.7 Predmet broj CH/99/2881, Risto JANKULOVSKI protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

49. Podnosilac prijave je 12. februara 1992. godine zaključio ugovor o kupoprodaji stana u ulici Malta broj 17, u Sarajevu. Ugovor je potpisan od strane oba ugovarača. Ugovor sadrži pečat nadležne poreske službe. Podnosilac prijave je dostavio kopiju uplatnice od 13. februara 1992. godine iz koje se vidi da je plaćena kupoprodajna cijena u cjelokupnom iznosu.

50. Supruga podnosioca prijave je 16. juna 1998. godine podnijela zahtjev za vraćanje stana u posjed Upravi. Uprava je donijela rješenje, broj: 23/6-372-P-1674/98 od 16. oktobra 2000. godine, kojim se odbija «zahtjev za povrat stanarskog prava» supruge podnosioca prijave kao neosnovan, jer je utvrđeno da je podnosilac prijave imao svojstvo aktivnog vojnog lica bivše JNA, te da mu je profesionalna vojna služba prestala 13. marta 1994. godine. Takođe, utvrđeno je da podnosilac prijave 30. aprila 1991. godine nije bio državljanin Socijalističke Republike Bosne i Hercegovine .

51. Podnosilac prijave je protiv rješenja od 16. oktobra 2000. godine podnio žalbu Ministarstvu. Ministarstvo je donijelo rješenje, broj: 27/02-23-3757/00 od 10. decembra 2000. godine, kojim je žalba podnosioca prijave odbijena kao neosnovana.

52. Protiv rješenja Ministarstva, podnosilac prijave je pokrenuo upravni spor pred Kantonalnim sudom. Kantonalni sud je donio presudu, broj U-849/00 od 19. marta 2002. godine, kojom je usvojio tužbu, poništio osporeno rješenje, a prvostepeno rješenje oglasio ništavim, jer, po ocjeni suda, nadležni organ nije mogao rješavati po zahtjevu supruge podnosioca prijave za povrat stanarskog prava, jer takav zahtjev nije ni postavljen.

53. U ponovnom postupku, Uprava je donijela rješenje, broj: 23/76-372-P-1674/98 od 23. septembra 2002. godine, kojim je odbila zahtjev za vraćanje stana u posjed s obzirom da je podnosilac prijave 30. aprila 1991. godine bio aktivno vojno lice u JNA i nije bio državljanin Socijalističke Republike Bosne i Hercegovine.

54. Podnosilac prijave je podnio žalbu protiv rješenja Uprave. U žalbi, podnosilac prijave je ponovo istakao da je pogrešno utvrđena činjenica da je aktivna vojna služba podnosioca prijave prestala na osnovu naredbe od 17. marta 1993. godine. Podnosilac prijave navodi da je 21. jula 1992. godine registrovan kao izbjeglica u Ohridu, u Makedoniji, i da je naredba o prestanku njegove profesionalne vojne službe donesena tek 1993. godine usljed sporosti i nemara personalne službe Vojske Jugoslavije.

55. Ministarstvo je 15. decembra 2003. godine donijelo rješenje kojim se žalba podnosioca prijave odbija kao neosnovana. Čini se da podnosilac prijave nije pokrenuo upravni spor protiv ovog rješenja.

56. Podnosilac prijave je 26. oktobra 1999. godine pokrenuo parnični postupak pred Općinskim sudom II, u Sarajevu, radi utvrđenja prava vlasništva na predmetnom stanu. Općinski sud II još uvijek nije odlučio po tužbi podnosioca prijave.

IV. RELEVANTNE ZAKONSKE ODREDBE

A. Relevantno zakonodavstvo Socijalističke Federativne Republike Jugoslavije i Socijalističke Republike Bosne i Hercegovine

1. Zakon o stambenom obezbjeđenju u JNA

57. Podnosioci prijave su otkupili stan prema Zakonu o stambenom obezbjeđenju u JNA ("Službeni list Socijalističke Federativne Republike Jugoslavije“, broj 84/90). Ovaj zakon je usvojen 1990. godine, a na snagu je stupio 6. januara 1991. godine. Zakon je, u osnovi, regulisao stambene potrebe vojnih i građanskih lica na službi u JNA.

58. Član 21. navodi opšti način na koji se trebala odrediti otkupna cijena stana. Cijena se trebala odrediti uzimajući u obzir revalorizovanu građevinsku vrijednost, a biće umanjena za vrijednost amortizacije stana i dalje smanjena revalorizovanim iznosom troškova nabavnih i komunalnih objekata građevinskog zemljišta, te revalorizovanim iznosom doprinosa za stambenu izgradnju koji se uplaćivao Stambenom fondu JNA. Federalni sekretar je takođe bio ovlašten da propiše tačnu metodologiju za određivanje cijene otkupa.

2. Uputstvo o metodologiji za utvrđivanje otkupne cene stanova stambenog fonda Jugoslovenske narodne armije (u daljnjem tekstu: Uputstvo)

59. Ovo Uputstvo je objavljeno u aprilu 1991. godine u Vojnom službenom listu i predviđalo je način izračunavanja otkupne cijene stanova koji su se trebali otkupiti iz Stambenog fonda JNA.

3. Pravilnik o otkupu stanova iz stambenog fonda Jugoslovenske narodne armije (u daljnjem tekstu: Pravilnik)

60. Ovaj pravilnik objavljen je u aprilu 1991. godine u Vojnom službenom listu i utvrdio je proceduru koja će se slijediti u otkupu stana od Stambenog fonda JNA.

4. Zakon o porezu na promet nepokretnosti i prava

61. Zakon o porezu na promet nepokretnosti i prava ("Službeni list Socijalističke Republike Bosne i Hercegovine"– br. 37/71, 8/72, 37/73, 23/76, 21/77, 6/78, 13/82 i 29/91) bio je na snazi u vrijeme kada su podnosici prijava zaključili kupoprodajni ugovor sa JNA. Član 3, stav 1, tačka 18. predviđao je da se ne plaća porez na promet nepokretnosti u slučaju otkupa stana od Stambenog fonda JNA.

B. Relevantno zakonodavstvo Republike Bosne i Hercegovine

1. Zakon o napuštenim stanovima

62. Predsjedništvo tadašnje Republike Bosne i Hercegovine je 15. juna 1992. godine donijelo Uredbu sa zakonskom snagom o napuštenim stanovima ("Službeni list Republike Bosne i Hercegovine", br. 6/92, 8/92, 16/92, 13/94, 36/94, 9/95 i 33/95). Skupština Republike Bosne i Hercegovine usvojila je ovu Uredbu 17. juna 1994. godine kao "Zakon o napuštenim stanovima". Zakonom su regulisani uslovi pod kojima se određene kategorije stanova u društvenom vlasništvu proglašavaju napuštenim i pod kojima se ponovo dodjeljuju.

63. Članom 2. određuje se da se napuštenim stanom smatra stan kojeg su prijeratni nosilac stanarskog prava i članovi njegovog porodičnog domaćinstva napustili, čak i privremeno. Ukoliko prijeratni nosilac stanarskog prava nije ponovo otpočeo koristiti stan u roku određenom članom 3. ovoga zakona (tj. do 6. januara 1996. godine), smatraće se da je stan trajno napustio.

64. U skladu sa izmijenjenim i dopunjenim članom 10, ako nosilac stanarskog prava ne otpočne koristiti stan u propisanom roku smatra se da je stan trajno napustio. Prestanak stanarskog prava se utvrđuje rješenjem nadležnog organa.

2. Zakon o prometu nepokretnosti

65. Član 9. stav 2. Zakona o prometu nepokretnosti ("Službeni list Socijalističke Republike Bosne i Hercegovine" br. 38/78, 4/89, 29/90 i 22/91; "Službeni list Republike Bosne i Hercegovine" br. 21/92, 3/93, 17/93, 13/94, 18/94 i 33/94) predviđa da ugovor o prenosu nepokretnosti mora biti sačinjen u pismenom obliku, a potpisi ugovarača ovjereni u nadležnom sudu. Stavom 4. se, između ostalog, predviđa da je pismeni ugovor o prenosu nepokretnosti koji je u potpunosti ili značajnom dijelu izvršen valjan čak iako potpisi ugovornih strana nisu ovjereni kod nadležnog suda.

C. Relevantno zakonodavstvo Federacije Bosne i Hercegovine

1. Zakon o prestanku primjene Zakona o napuštenim stanovima

66. Zakon o prestanku primjene Zakona o napuštenim stanovima (u daljnjem tekstu: Zakon o prestanku primjene) stupio je na snagu 4. aprila 1998. godine i potom je u više navrata dopunjavan i mijenjan ("Službene novine Federacije Bosne i Hercegovine", br. 11/98, 38/98, 12/99, 18/99, 27/99, 43/99, 31/01, 56/01, 15/02 i 29/03). Zakonom o prestanku primjene je ukinut raniji Zakon o napuštenim stanovima.

67. Prema Zakonu o prestanku primjene, nadležni organi vlasti ne mogu dalje donositi odluke kojima se stanovi proglašavaju napuštenima (član 1, stav 2). Svi upravni, sudski i drugi akti kojima je nosiocu stanarskog prava prestalo stanarsko pravo oglašavaju se ništavim (član 2, stav 1). Ipak, akti kojima je dodijeljen stan na privremeno korištenje ostaju na snazi dok se ne ponište u skladu sa Zakonom o prestanku primjene (član 2, stav 2).

68. Sva stanarska prava ili ugovori o korištenju koji su zaključeni od 1. aprila 1992. do 7. februara 1998. godine prestaju da važe (član 2, stav 3). Osoba koja koristi stan po osnovu poništenog stanarskog prava ili odluke o privremenom korištenju smatraće se privremenim korisnikom (član 2, stav 3).

69. Nositelj stanarskog prava na stanu koji je proglašen napuštenim, ili član njegovog porodičnog domaćinstva, ima pravo na povrat stana u skladu sa Aneksom 7 uz Opći okvirni sporazum za mir u Bosni i Hercegovini (član 3, stav 1. i 2).

70. Raniji član 3a., st. 1. i 2, koji su bili na snazi između 4. jula 1999. godine i 1. jula 2003. godine, određivao je slijedeće:

> *Izuzetno od odredbe člana 3. stav 1. i 2. ovog zakona, u vezi sa stanovima koji su proglašeni napuštenim na teritoriji Federacije Bosne i Hercegovine, a koji su na raspolaganju Federalnog ministarstva odbrane, nosilac stanarskog prava ne smatra se izbjeglicom ako je 30. aprila 1991. godine bio u aktivnoj službi u SSNO – u JNA (tj. nije bio penzionisan) i nije bio državljanin SR Bosne i Hercegovine prema evidenciji državljana, izuzev ako mu je odobren boravak u statusu izbjeglice ili drugi vid zaštite koji odgovara ovom statusu u nekoj od zemalja van bivše SFRJ prije 14. decembra 1995. godine.*
>
> *Nosilac stanarskog prava na stan iz stava 1. ovog člana ne smatra se izbjeglicom ukoliko je poslije 14. decembra 1995. godine ostao u aktivnoj službi u bilo kojim oružanim snagama van teritorije Bosne i Hercegovine, ili ako je stekao novo stanarsko pravo van teritorije Bosne i Hercegovine.*

71. Član 3a, koji je stupio na snagu 1. jula 2003. godine, određuje slijedeće:

> *Izuzetno od odredbe člana 3. st. 1. i 2. Zakona, stanovi koji su proglašeni napuštenim na teritoriju Federacije Bosne i Hercegovine, a kojima raspolaže Federalno ministarstvo odbrane čiji je nosilac stanarskog prava nakon 19. maja 1992. godine ostao u službi vojnog ili civilnog lica u bilo kojim oružanim snagama izvan teritorija Bosne i Hercegovine, ne smatra se izbjeglicom niti ima pravo na povrat stana u Federaciji Bosne i Hercegovine, izuzev ako mu je odobren boravak u statusu izbjeglice ili drugi oblik zaštite koji odgovara tom statusu u nekoj od zemalja izvan bivše SFRJ prije 14. decembra 1995. godine.*
>
> *Izbjeglicom se ne smatra niti ima pravo na povrat stana u Federaciji Bosne i Hercegovine ni nosilac stanarskog prava na stanove iz stava 1. ovog člana, koji je iz istoga stambenog fonda bivše JNA ili utemeljenih fondova oružanih snaga država nastalih na prostorima bivše SFRJ stekao novo stanarsko pravo koje odgovara tom pravu.*

2. Odluka Zastupničkog doma Federacije Bosne i Hercegovine

72. Odluka Zastupničkog doma Federacije Bosne i Hercegovine je objavljena u Službenim novinama broj 28/04 i stupila je na snagu 26. maja 2004. godine, a, u relevantnom dijelu, ova odluka glasi:

[...]…i obustavi sve upravne i sudske postupke za vraćanje u posjed vojnih stanova do usvajanja izmjena i dopuna Zakona o prodaji stanova na kojima postoji stanarsko pravo, a koje su trenutno u parlamentarnoj proceduri.

3. Zakon o prodaji stanova na kojima postoji stanarsko pravo

73. Član 27. Zakona o prodaji stanova na kojima postoji stanarsko pravo („Službene novine Federacije Bosne i Hercegovine“, br. 27/97, 11/98, 22/99, 27/99, 7/00, 32/01, 61/0, 15/02 i 54/04) prvi put je stupio na snagu 1997. godine. Članovi 39a, 39b, 39c, 39d. i 39e. su stupili na snagu 5. jula 1999. godine, kada su objavljeni u „Službenim novinama Federacije Bosne i Hercegovine“, nakon što ih je nametnuo Visoki predstavnik za Bosnu i Hercegovinu. Odredbe, koje se odnose na otkup vojnih stanova, su značajno izmijenjene i dopunjene 16. oktobra 2004. godine, a posebno članovi 39, 39a. i 39e. Prvobitna i izmijenjena verzija su dole citirane.

74. Član 18.

Vrijednost stana čini gradjevinska vrijednost stana korigirana koeficijentom položajne pogodnosti stana. Građevinska vrijednost stana je 600 DEM po m2. Koeficijent položajne pogodnosti stana utvrđuje nadležna vlada kantona-županije u rasponu od 0,80 do 1,20 ovisno o zoni naselja u kojem se stan nalazi, opremljenosti naselja, katnosti i drugih bitnih elemenata.

75. Član 27. predviđa da se pravo vlasništva na stanu stiče uknjižbom tog prava u zemljišne knjige nadležnog suda.

76. Član 39. je, u relevantnom dijelu, predviđao:

Nositeljima stanarskog prava koji su zaključili ugovor o otkupu stana na osnovu Zakona o obezbjeđenju u JNA [...], prilikom zaključenja ugovora o prodaji stana u skladu sa odredbama ovog zakona priznat će se uplaćeni iznos iskazan u DEM po kursu na dan uplate.

77. Izmijenjeni član 39, koji je na snazi od 16. oktobra 2004. godine, predviđa:

Nositelj prava iz kupoprodajnog ugovora zaključenog s bivšim SSNO-om, na temelju Zakona o stambenom obezbjeđenju u JNA (”Službeni list SFRJ”, broj 84/90) i podzakonskih akata za njegovu provedbu, za stan koji je na raspolaganju Federalnom ministarstvu obrane, zaključio je pravno obvezujući ugovor ako je zaključio pisani ugovor o otkupu stana do 06. travnja 1992. godine i ugovor dostavio na ovjeru nadležnoj poreznoj službi, te ukoliko je kupoprodajna cijena utvrđena sukladno tada vrijedećem Zakonu i iznos cijene izmirio u ugovorenom roku.

78. Član 39a. predviđa sljedeće:

Ako nosilac stanarskog prava na stanu koji je na raspolaganju Ministarstva odbrane Federacije taj stan koristi legalno, i ako je prije 6. aprila 1992. zaključio pravno obavezujući ugovor o otkupu stana sa Saveznim sekretarijatom za narodnu odbranu (SSNO) u skladu sa zakonima navedenim u članu 39. ovog zakona, Ministarstvo odbrane Federacije izdaje nalog da se nosilac stanarskog prava uknjiži kao vlasnik stana u nadležnom sudu.

79. Član 39b., u relevantnom dijelu, određuje:

U slučaju kada nosilac stanarskog prava iz člana 39a. ovog zakona nije izvršio uplatu cijelog iznosa prodajne cijene stana u skladu sa kupoprodajnim ugovorom, onda će platiti ostatak prodajne cijene navedene u tom ugovoru Ministarstvu odbrane Federacije.

[...]

Odredbe člana 39a. ovog zakona i st. 1. i 2. ovog člana primjenjuju se i na ugovore o otkupu stana koji su zaključeni prije 6. aprila 1992. godine u slučajevima kada nije izvršena ovjera potpisa kod nadležnog suda.

80. Član 39c. određuje:

Odredbe člana 39a. i 39b. primjenjuju se i na nosioca stanarskog prava koji je ostvario pravo na povrat stana prema odredbama Zakona o prestanku primjene Zakona o napuštenim stanovima ("Službene novine Federacije Bosne i Hercegovine", br. 11/98 i 18/99).

81. Član 39d. Određuje da ako neko lice ne ostvari svoje pravo u vezi sa stanom, kako je određeno Zakonom o prodaji stanova, ili ako ne pokrene zahtjev za vraćanje stana u posjed, ono može pokrenuti postupak kod nadležnog suda.

82. Član 39e. je predviđao:

Nosilac stanarskog prava koji nema pravo na povrat stana ili ne podnese zahtjev za povrat stana u skladu sa odredbama iz čl. 3. i 3a. Zakona o prestanku primjene Zakona o napuštenim stanovima, a koji je prije 6. aprila 1992. godine zaključio pravno obavezujući ugovor o kupovini stana sa bivšim Saveznim sekretarijatom za narodnu odbranu (SSNO), ima pravo da podnese zahtjev Ministarstvu odbrane Federacije za nadoknadu sredstava plaćenih po ovom osnovu, izuzev ako se dokaže da su mu ta sredstva priznata za otkup stana van teritorije Bosne i Hercegovine.

83. Izmijenjeni član 39e. predviđa sljedeće:

Nositelju prava iz kupoprodajnog ugovora koji je zaključio pravno obvezujući ugovor iz članka 39. stavak 1. Zakona, a koji je napustio stan u Federaciji Bosne i Hercegovine i nakon toga iz istoga stambenog fonda ili novoutemeljenih stambenih fondova oružanih snaga država nastalih iz bivše SFRJ stekao novo stanarsko pravo ili pravo koje odgovara tome pravu, stjecanjem novoga stana raskinut je ugovor o otkupu stana u Federaciji Bosne i Hercegovine, te nema pravo na upis prava vlasništva nad tim stanom.

Nositelj prava iz kupoprodajnog ugovora koji je zaključio pravno obvezujući ugovor iz članka 39. stavak 1. Zakona, koji je nakon 14. prosinca 1995. godine ostao u službi u oružanim snagama izvan teritorija Bosne i Hercegovine, a nije stekao novo stanarsko pravo ili pravo koje odgovara tome pravu, umjesto upisa prava vlasništva po zaključenom ugovoru ima pravo na naknadu od Federacije Bosne i Hercegovine, utvrđenu sukladno članku 18. Zakona, umanjenu za amortizaciju.

Nositelj prava iz kupoprodajnog ugovora koji je zaključio pravno obvezujući ugovor iz članka 39. stavak 1. Zakona za čiji stan je sadašnji korisnik, sukladno vrijedećim zakonima, zaključio ugovor o korištenju stana ili ugovor o otkupu stana, umjesto upisa prava vlasništva na stanu, ima pravo na naknadu od Federacije Bosne i Hercegovine, utvrđenu na način iz stavka 2. ovoga članka, izuzev nositelja prava kupoprodajnog ugovora iz stavka 1. ovoga članka.

4. Zakon o parničnom postupku

84. Član 54. Zakona o parničnom postupku („Službene novine Federacije Bosne i Hercegovine“, br. 42/98, 3/99 i 53/03) određuje sljedeće:

> *Tužitelj može u tužbi tražiti da sud samo utvrdi postojanje odnosno nepostojanje kakva prava ili pravnog odnosa, ili istinitost odnosno neistinitost kakve isprave.*
>
> *Takva se tužba može podići kad je to posebnim propisima predviđeno, kad tužitelj ima pravni interes da sud utvrdi postojanje odnosno nepostojanje kakva prava ili pravnog odnosa ili istinitost odnosno neistinitost kakve isprave prije dospjelosti zahtjeva za činidbu iz istog odnosa ili kad tužitelj ima kakav drugi pravni interes za podizanje takve tužbe.*
>
> *Ako odluka o sporu ovisi o tome postoji li ili ne postoji kakav pravni odnos koji je tokom parnice postao sporan, tužitelj može, pored postojećeg zahtjeva, istaknuti i tužbeni zahtjev da sud utvrdi da takav odnos postoji odnosno da ne postoji, ako je sud pred kojim parnica teče nadležan za takav zahtjev.*
>
> *Isticanje zahtjeva prema odredbi stava 3. ovog članka neće se smatrati preinakom tužbe.*

V. ŽALBENI NAVODI

85. Podnosioci prijava se žale na činjenicu da nisu vraćeni u posjed svojih stanova i da nisu priznati njihovi ugovori o otkupu stanova. Oni smatraju da su vlasnici stanova i da im se mora omogućiti raspolaganje sa njima. Takođe, se žale na trajanje postupka odlučivanja o njihovim zahtjevima za povrat stana.

VI. ODGOVOR TUŽENIH STRANA

a) Odgovor tužene strane Bosne i Hercegovine

86. U vezi sa činjenicama, tužena strana, Bosna i Hercegovina, ne spori postojanje kupoprodajnih ugovora podnosilaca prijava. Međutim, objašnjava da je Uredbom Vlade Bosne i Hercegovine nametnuta privremena zabrana prodaje stanova u društvenoj svojini. Takođe naglašava da su istom Uredbom ugovori proglašeni ništavim.

87. Po pitanju prihvatljivosti, tužena strana, Bosna i Hercegovina, predlaže da prijave budu proglašene neprihvatljivim zbog toga što podnosioci prijava nisu iskoristili pravna sredstva u sudskom postupku, naročito postupak radi utvrđenja prava koji im je stajao na raspolaganju u skladu sa Zakonom o parničnom postupku (vidi tačku 83. gore).

88. U pogledu merituma prijava, tužena strana, Bosna i Hercegovina, predlaže da prijave budu odbijene i u meritumu, jer je procedura otkupa stanova regulisana Zakonom o prodaji stanova na kojima postoji stanarsko pravo, što uključuje i raniji otkup stanova izvršen prema Zakonu o stambenom obezbjeđenju JNA. Drugim riječima, Zakonom o prodaji stanova predviđeno je da će se prilikom zaključenja ugovora o prodaji stana priznati uplaćeni iznos iskazan u DEM po kursu na dan uplate.

b) Odgovor tužene strane Federacije Bosne i Hercegovine

89. Federacija Bosne i Hercegovine je osporavala prihvatljivost prijava zbog toga što ih je smatrala preuranjenim, uglavnom, jer su u vrijeme dostavljanja zapažanja, upravni postupci pred prvostepenim ili drugostepenim upravnim organima bili u toku. Federacija Bosne i Hercegovine je, takođe, isticala prigovor neiscrpljivanja djelotvornih pravnih lijekova, jer je smatrala da su podnosioci prijava, koji to nisu učinili, trebali pokrenuti postupke radi utvrđivanja pravne valjanosti ugovora koje su zaključili krajem 1991. godine ili početkom 1992. godine, ili tražiti izdavanje naloga za uknjiženje prava vlasništva od Federalnog ministarstva odbrane, što su neki od podnosilaca prijava propustili učiniti.

90. U pogledu merituma prijave, tužena strana navodi da nije došlo do povrede članova Evropske konvencije. U vezi sa članom 6. Evropske konvencije, Federacija Bosne i Hercegovine navodi da domaći organi nisu prekršili navedeni član, jer je postupak pred njima još u toku. Što se tiče člana 8. Evropske konvencije, Federacija Bosne i Hercegovine navodi da nije prekršila njihovo pravo na poštivanje doma, jer je utvrdila da im u skladu sa Zakonom o prestanku primjene Zakona o napuštenim stanovima Federacije Bosne i Hercegovine, ne pripada pravo na povrat stana, jer nisu bili državljani Bosne i Hercegovine na dan 30. aprila 1991. godine i jer su na taj datum bili pripadnici JNA, zbog čega se nisu mogli smatrati izbjeglicama. Federacija Bosne i Hercegovine se, takođe, u nekim slučajevima pozvala na odluke Komisije za imovinske zahtjeve izbjeglica i raseljenih lica, koja je zahtjeve za povrat stanova u posjed podnosilaca prijava odbacila zbog nenadležnosti, odnosno, jer se nisu mogli smatrati izbjeglicama. U odnosu na navodnu povredu člana II(2)(b) Sporazuma, Federacija Bosne i Hercegovine smatra da podnosioci prijava nisu diskriminisani u uživanju prava i sloboda ni po jednom osnovu, jer je Federacija Bosne i Hercegovine donijela niz zakona kojima se svim izbjeglim i raseljenim licima omogućava povratak njihovim domovima bez obzira na nacionalnu, vjersku ili drugu pripadnost, ili političko uvjerenje.

91. U vezi sa članom 1. Protokola broj 1 uz Evropsku konvenciju, Federacija Bosne i Hercegovine smatra da podnosioci prijava moraju ispuniti uslove predviđene u Zakonu o prodaji stanova, prema kojem podnosioci prijava ne mogu izvršiti upis prava vlasništva na stanu ako nisu ostvarili pravo na vraćanje stana u posjed u skladu sa Zakonom o prestanku primjene. U vezi s tim treba uzeti u obzir i uspostavljanje ravnoteže između interesa zajednica i osnovnih prava pojedinaca, tako da podnosioci prijava koji su ostali u oružanim snagama drugih država, nakon 1995. godine moraju biti ograničeni u pravu na povrat u posjed stanova. Tužena strana zaključuje da u ovom predmetu nije prekršila član 1. Protokola broj 1 uz Evropsku konvenciju.

VII. MIŠLJENJE KOMISIJE

A. Prihvatljivost

92. Komisija podsjeća da su prijave podnesene Domu u skladu sa Sporazumom. S obzirom da Dom o njima nije odlučio do 31. decembra 2003. godine, Komisija je, u skladu sa članom 3. Sporazuma iz 2005. godine, sada nadležna da odlučuje o ovim prijavama. Pri tome, Komisija će uzimati u obzir kriterije za prihvatljivost prijave sadržane u članu VIII(2) i (3) Sporazuma. Komisija, takođe, zapaža da se Pravila procedure kojima se uređuje njeno postupanje ne razlikuju, u dijelu koji je relevantan za predmete podnosilaca prijava, od Pravila procedure Doma, izuzev u pogledu sastava Komisije.

1. Prihvatljivost prijave u dijelu upućenom protiv Bosne i Hercegovine

93. U skladu sa članom VIII(2) Sporazuma, "[Komisija] će odlučiti koje prijave će prihvatiti [...] Pri tome će [Komisija] uzeti u obzir sljedeće kriterije: [...] (c) [Komisija] će takođe odbiti svaku žalbu koju bude smatrala nespojivom sa ovim Sporazumom, ili koja je očigledno neosnovana, ili predstavlja zloupotrebu prava žalbe."

94. Komisija zapaža da podnosioci prijava upućuju svoju prijavu protiv Bosne i Hercegovine Federacije Bosne i Hercegovine.

95. U ranijim predmetima, u kojima je Dom odlučio o pitanju u vezi sa JNA stanovima, Dom je smatrao da je Bosna i Hercegovina odgovorna za donošenje zakona kojima su ugovori o otkupu JNA stanova retroaktivno poništeni (vidi, na primjer, odluke o meritumu, CH/96/3, CH/96/8 i CH/96/9, *Medan, Baštijanović i Marković*, od 3. novembra 1997. godine, Odluke o prihvatljivosti i meritumu mart 1996. - decembar 1997.; CH/96/22, *Bulatović*, od 3. novembra 1997. godine, Odluke o prihvatljivosti i meritumu mart 1996. - decembar 1997; Odluku o prihvatljivosti i meritumu CH/96/2 i dr, *Podvorac i dr*, od 14. maja 1998., Odluke i izvještaji 1998).

96. Međutim, Komisija zapaža da u ovim predmetima postupanje organa, koji su odgovorni za postupke na koje se podnosioci prijave žale, kao što su Uprava za stambene poslove Kantona Sarajevo, Ministarstvo za stambene poslove Kantona Sarajevo i Ministarstvo odbrane uključuje odgovornost Federacije Bosne i Hercegovine, a ne Bosne i Hercegovine, u smislu člana II(2) Sporazuma. Prema tome, u dijelu u kome je upućena protiv Bosne i Hercegovine prijava je nespojiva *ratione personae* sa odredbama Sporazuma u smislu člana VIII(2)(c).

97. Komisija zbog toga odlučuje da prijavu proglasi neprihvatljivom protiv Bosne i Hercegovine.

2. Prihvatljivost prijave u dijelu upućenom protiv Federacije Bosne i Hercegovine

98. U skladu sa članom VIII(2) Sporazuma, Komisija će odlučiti koje prijave će prihvatiti. Pri tome će Komisija uzeti u obzir sljedeće kriterije: (a) postoje li djelotvorni pravni lijekovi i da li je podnosilac prijave dokazao da ih je iscrpio, da li je prijava u biti ista kao i stvar koju su Dom/Komisija već ispitali, ili je već podnesena u nekom drugom postupku, ili je već predmet međunarodne istrage ili rješenja. Komisija će, također, odbiti svaku žalbu koju bude smatrala nespojivom sa ovim Sporazumom, ili koja je očigledno neosnovana, ili predstavlja zloupotrebu prava žalbe.

99. U skladu sa članom VIII(3) Sporazuma "[Komisija] u bilo kojem trenutku svog postupka može obustaviti razmatranje neke žalbe, odbaciti je ili brisati iz razloga (a) što podnosilac prijave namjerava odustati od žalbe; (b) što je stvar već riješena; ili (c) što iz bilo kojeg drugog razloga, koji utvrdi [Komisija], više nije opravdano nastaviti s razmatranjem žalbe; pod uslovom da je takav rezultat u skladu s ciljem poštivanja ljudskih prava."

a. Iscrpljivanje domaćih pravnih lijekova u vezi sa zahtjevom za povrat stana u posjed

100. Podnosioci prijava tvrde da nemaju mogućnost da dođu do konačnog meritornog odlučenja povodom povrata njihovih stanova, da postupci traju van razumnog roka, te da im nije omogućen djelotvoran pravni lijek, uzimajući u obzir cjelokupnu situaciju.

101. Federacija navodi da podnosioci prijava nisu iscrpili djelotvorne pravne lijekove u postupcima vraćanja u posjed predmetnih stanova i uknjiženja vlasništva na stanu.

102. Komisija zapaža da su podnosioci prijava pokrenuli svoje postupke 1998. ili 1999. godine. Od tada je prošlo 6, tj. 7 godina, a postupci vraćanja nisu meritorno okončani.

103. Pravilo iscrpljivanja pravnih lijekova se mora fleksibilno primjenjivati i podnosiocima prijava se moraju uzeti posebne okolnosti u obzir, ako one postoje (vidi odluku Ustavnog suda Bosne i Hercegovine, *U 22/00*, od 22. i 23. juna 2001. godine, tačka 20, «Službeni glasnik Bosne i Hercegovine», broj 25/01). Komisija naglašava da Aneks 7 uz Opći okvirni sporazum za mir u Bosni i Hercegovini, s obzirom na svoje ciljeve i zadatke, podrazumijeva obavezu nadležnih državnih organa za uspostavljanje sistema i procedure, koji bi zadovoljili hitnost rješavanja svih predmeta koji se tiču povrata imovine i ljudi. Prema tome, hitno postupanje kod povrata, bez obzira što sami postupci, pozitivno-pravnim propisima, nisu definisani kao takvi, mogu se posmatrati kao takve posebne okolnosti, na koje je ukazivao Ustavni sud Bosne i Hercegovine.

104. Komisija, nadalje, zapaža da se u nekim slučajevima, o predmetima odlučivalo i više puta nakon što su vraćeni na ponovno odlučivanje od strane Kantonalnog suda, ali i nakon ponovnog postupka o zahtjevu je odlučeno na isti način – podnosiocima prijava nije priznato pravo na povrat stana (vidi, na primjer, predmet broj CH/98/344, *Vasil PANOV protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*). Štaviše, u mnogim predmetima je prekinuto odlučivanje o meritumu do donošenja novih zakonskih odredbi (vidi, na primjer, predmet broj CH/98/240, *D.I protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*). Konačno, za vrijeme postupaka, pravna osnova se mijenjala više puta, što je dodatno otežavalo situaciju podnosiocima prijava.

105. Dovodeći u vezu dvije prethodne tačke ove Odluke sa činjenicom da podnosioci prijava smatraju da im je povrijeđeno pravo pristupa sudu, zbog nemogućnosti da dođu do konačne odluke, Komisija zaključuje da podnosioci prijava nemaju izgled za okončanje postupaka u prolongiranom postupku povrata stana u posjed. Ovakav stav je opravdan štaviše činjenicom da u Bosni i Hercegovini, u konkretnom slučaju u Federaciji Bosne i Hercegovine, ne postoji djelotvorno pravno sredstvo koje bi omogućilo apelantu da se žali zbog predugog trajanja postupka ili pristupa sudu (vidi, odluku Ustavnog suda Bosne i Hercegovine, *AP 769/04*, od 30. novembra 2004. godine, tačka 31, sa uputom na daljnju praksu Evropskog suda za ljudska prava).

b. Iscrpljivanje domaćih pravnih lijekova u vezi sa zahtjevom za priznavanje vlasništva

106. Federacija Bosne i Hercegovine, *inter alia* tvrdi da podnosioci prijava nisu iscrpili domaće pravne lijekove koji su im dostupni u vezi s uknjižbom vlasništva na stanu, jer podnosioci prijava nisu pokrenuli sudski postupak za utvrđivanje valjanosti svog kupoprodajnog ugovora (vidi tačku 88. gore).

107. Komisija potvrđuje da Zakon o parničnom postupku predviđa pravni lijek kojim se utvrđuje postojanje ili nepostojanje nekog prava, ili autentičnost nekog dokumenta. Komisija podsjeća da je ranije Dom utvrdio da je član 54. Zakona o parničnom postupku (ili član 172., prema bivšem Zakonu o parničnom postupku) djelotvoran domaći pravni lijek koji se mora iscrpiti u slučaju kada podnosilac prijave nema u posjedu kupoprodajni ugovor, nego se mora utvrditi da je vlasnik na osnovu koraka koje je preduzeo u otkupu stana tokom 1991. i 1992. godine (vidi npr. predmete br. CH/98/1160, CH/98/1177, CH/98/1264, *Pajagić, Kuruzović i M.P.*, odluka o prihvatljivosti od 9. maja 2003.). Komisija je nastavila sa istim pristupom ovom pravnom lijeku (vidi, naprimjer, Odluku o prihvatljivosti, CH/99/1921, *Blagojević*, od 16. januara 2004. godine). U takvim predmetima Komisija smatra razumnim da očekuje da podnosioci prijave moraju podnijeti teret pokretanja sudskog spora radi utvrđivanja postojanja ugovornog odnosa ili bilo kog ugovornog prava.

108. U svim prijavama, podnosioci prijava posjeduju kuporodajni ugovor, koji je u svim aspektima, pravovaljan ugovor. Potpisale su ga sve strane, ugovor uključuje otkupnu cijenu i uslove plaćanja, a ima i pečat nadležne poreske službe. Komisija smatra da teret pokretanja postupka radi utvrđivanja valjanosti ugovora treba pasti na stranu koja ga želi osporiti, a ne na nosioca ugovora, koji uopšte nema razloga da sumnja u pravovaljanost ugovora koji posjeduje.

109. Pošto podnosioci prijava posjeduju kupoprodajni ugovor koji je pravovaljan, Komisija zaključuje da pokretanje sudskog spora prema članu 54. Zakona o parničnom postupku nije domaći pravni lijek koji podnosioci prijava moraju iscrpiti u smislu člana VIII(2)(a) Sporazuma.

A.1. Zaključak u pogledu prihvatiljivosti

110. Komisija proglašava prijavu neprihvatljivom *ratione personae* u dijelu u kojem je upućena protiv Bosne i Hercegovine i prihvatljivom u dijelu u kojem je upućena protiv Federacije Bosne i Hercegovine.

B. Meritum

111. Prema članu XI Sporazuma, Komisija mora obraditi pitanje da li utvrđene činjenice otkrivaju da je tužena strana prekršila svoje obaveze iz Sporazuma. Kao što je već naglašeno, prema članu I Sporazuma, strane su obavezne "osigurati svim licima pod svojom nadležnošću najviši stepen međunarodno priznatih ljudskih prava i osnovnih sloboda", uključujući prava i slobode predviđene Evropskom konvencijom i drugim sporazumima nabrojanim u Dodatku Sporazuma.

112. Komisija zaključuje da predmetna prijava mora biti ispitana u pogledu čl. 6. i 8. Evropske konvencije i članom 1. Protokola broj 1 uz Evropsku konvenciju, te članom II(2)(b) Sporazuma.

B.1. Član 6. Evropske konvencije

113. Član 6. stav 1. Evropske konvencije, u relevantnom dijelu, glasi:

> *Prilikom utvrđivanja građanskih prava i obaveza ili osnovanosti bilo kakve krivične optužbe protiv njega, svako ima pravo na pravično suđenje i javnu raspravu u razumnom roku pred nezavisnim i nepristrasnim, zakonom ustanovljenim sudom.*

114. Podnosioci prijava žalili su se na pravo efektivnog pristupa sudu, jer dužina trajanja postupaka vraćanja njihovih stanova u posjed nije razumna i onemogućava ih da dođu do konačne odluke povodom njihovih zahtjeva.

115. Nema sumnje, što je potvrđeno dugogodišnjom praksom sudskih organa u Bosni i Hercegovini, da je pravo pristupa sudu elemenat inherentan pravu iskazanom u članu 6. stavu 1. Evropske konvencije (vidi odluku Ustavnog suda Bosne i Hercegovine, *U 3/99*, od 17. marta 2000. godine, "Službeni glasnik Bosne i Hercegovine", broj 21/00). Pravo na pristup sudu iz člana 6. stava 1. Evropske konvencije podrazumijeva, prije svega, široke proceduralne garancije i zahtjev za hitni i javni postupak (neobjavljena odluka Ustavnog suda Bosne i Hercegovine, *U 107/03*, od 19. novembra 2004. godine, tač. 7. i 21). Pravo pristupa sudu ne znači samo formalni pristup sudu, već efikasan pristup sudu. Da bi nadležni organ bio efikasan, on mora obavljati svoju funkciju na zakonit i djelotvoran način, što zavisi od datih okolnosti svakog pojedinog slučaja. Obaveza obezbjeđivanja efikasnog prava na pristup nadležnim organima spada u kategoriju dužnosti, tj. pozitivne obaveze države (vidi presudu Evropskog suda za ljudska prava, *Airey protiv Irske,* od 9. oktobra 1979. godine, Serija A, broj 32, stav 25).

116. Komisija napominje da ima zadatak, u skladu sa članom I Sporazuma, da osigura najviši stepen zaštite ljudskih prava i sloboda. S druge strane, pravo povratka imovine i lica, u smislu Aneksa 7. uz Opći okvirni sporazum za mir u Bosni i Hercegovini, mora da bude jedan od prioriteta u Bosni i Hercegovini. U vezi s tim, Aneks 7 zahtijeva da se član 6. Evropske konvencije i član 1. Protokola broj 1 uz Evropsku konvenciju tumače na širi način, tj. da se tuženim stranama nametne viši standard pozitivne obaveze zaštite u vezi sa povratkom. To znači da su strane potpisnice Sporazuma dužne obezbijediti brz i djelotvoran način povratka imovine i ljudi i djelotvornu zaštitu istih. Drugim riječima, Aneksi 7 i 6 Sporazuma, garantuju pravo na pravično suđenje, koje obuhvata kako efikasan pristup sudu tako i odlučivanje o predmetu spora u "razumnom roku" u vezi povratka.

117. Komisija, najprije, zapaža da su zahtjevi za povrat stanova u posjed podneseni uglavnom 1998. i 1999. godine. Evidentno je da su se postupci vodili od tada sve do današnjeg dana. *In conclusio*, postupci, koji su još u toku, traju već 6-7 godina. Takav zaključak, sam po sebi, je protivan navodima iz prethodne tačke ove odluke.

118. Za razliku od „klasičnih“ slučajeva pristupa sudu, konkretni predmetni vode ka zaključku da je pristup sudu bio formalno omogućen, ali da nije bio djelotvoran. U svim postupcima, predmeti su po žalbi ili nakon okončanog upravnog spora vraćani na ponovno odlučivanje, mada je rezultat postupaka bio isti. Ovim se može zaključiti da su organi bili aktivni, ali da podnosioci prijava nisu mogli doći do konačnog mišljenja nadležnih organa, znači ne i efikasni. Postavlja se pitanje da li tužena strana ima opravdanje za ovakvo postupanje.

119. Ukidanje odlučenja nižih organa pred višim organima i vraćanje na ponovni postupak, što je bio najčešći slučaj u predmetima, u principu, ne čini pravne lijekove nedjelotvornim (vidi *mutatis mutandis* odluku Ustavnog suda Bosne i Hercegovine, *U 14/99,* od 29. septembra 2000. godine, "Službeni glasnik Bosne i Hercegovine", broj 36/00). Međutim, stalno vraćanje na ponovni postupak može učiniti pravne lijekove iluzornim, a postupak beskonačnim i bespredmetnim. Pravni put, od niže ka višoj instanci, treba da bude pravilo, jer omogućava aplikantu da brzo i djelotvorno dobije odlučenje od najvišeg organa, kao najdemokratičnijeg u vertikalnoj skali lijekova. Samo u izuzetnim slučajevima, ukidanje i poništavanje odlučenja, vraćanje nižestepenim organima i ponavljanje postupka može biti opravdano, pogotovo ako se radi o hitnim postupcima.

120. Konačno, u predmetu broj CH/98/240, Kantonalni sud je prekinuo postupak po pokrenutom upravnom sporu da bi sačekao izmjene i dopune Zakona o prodaji stanova. Komisija, međutim, smatra da je ovakvo postupanje jednog suda u suprotnosti sa članom 6, koji zahtijeva da sud donese odluku u skladu sa zakonom. Naime, pravo pristupa sudu zahtijeva odlučivanje po pozitivno-pravnim propisima (*op. cit*. odluka Ustavnog suda Bosne i Hercegovine, *U 107/03*). Konačno, to zahtijeva princip zakonitosti iz člana I/2 Ustava Bosne i Hercegovine. Prema tome, Sud je imao obavezu odlučiti u skladu sa svojom nadležnošću o pravnoj stvari koja se pred njim nalazila u skladu sa važećim propisima, ne čekajući propise koji bi eventualno tek trebali stupiti na snagu. Takođe, nužno je istaći da je postupak, koji je prekinut 2004. godine, započeo zahtjevom za povrat stana u posjed podnesenim 1998. godine. Dakle, podnosilac prijave nema mogućnost da se o njegovom zahtjevu odluči ni nakon punih 6 godina. Na ovaj način, direktno je povrijeđeno pravo podnosioca prijave na pristup sudu prema članu 6. Evropske konvencije.

121. Komisija zbog svega navedenog zaključuje da je Federacija Bosne i Hercegovine prekršila pravo podnosilaca prijava prema članu 6. Evropske konvencije, zbog toga što im nije omogućila djelotvoran pristup sudu.

B.2. Član 1. Protokola broj 1 uz Evropsku konvenciju

122. Član 1. Protokola broj 1 uz Evropsku konvenciju glasi:

> *Svako fizičko i pravno lice ima pravo uživati u svojoj imovini. Niko ne može biti lišen imovine, osim u javnom interesu i pod uvjetima predviđenim zakonom i općim načelima međunarodnog prava.*
>
> *Prethodne odredbe, međutim, ne utiču ni na koji način na pravo države da primjenjuje zakone koje smatra potrebnim da bi se regulisalo korištenje imovine u skladu sa općim interesima ili da bi se obezbijedila napalata poreza ili drugih dadžbina i kazni.*

123. Prema jurisprudenciji Evropskog suda za ljudska prava, član 1. Protokola broj 1 uz Evropsku konvenciju obuhvata tri različita pravila. Prvo, koje je izraženo u prvoj rečenici prvog stava i koje je opće prirode, izražava princip mirnog uživanja u imovini. Drugo pravilo, u drugoj rečenici istog stava, bavi se lišavanjem imovine i podvrgava ga izvjesnim uvjetima. Treće, sadržano u drugom stavu, dozvoljava da države potpisnice imaju pravo, između ostalog, da kontrolišu korištenje imovine u skladu sa općim interesom, sprovođenjem onih zakona koje smatraju potrebnim za tu svrhu (vidi Odluku Ustavnog suda Bosne i Hercegovine, *U 3/99*, od 17. marta 2000. godine, "Službeni glasnik Bosne i Hercegovine", broj 21/00).

124. Dom, odnosno Komisija, je u svojoj dosadašnjoj praksi naglasila da su podnosioci prijava dužni imati valjan ugovor o kupoprodaji stana (vidi, na primjer, Odluku o prihvatljivosti Komisije, CH/98/514, *Putnik*, od 7. jula 2004. godine, tač. 60-62, Odluke juli – decembar 2004). U principu, pitanje valjanosti ugovora je pitanje koje treba da riješi nadležni organ. Dom, odnosno Komisija, je u nekoliko navrata naveo da nema općtu nadležnost da zamijeni svojom vlastitom ocjenu činjenica i primjenu prava od strane domaćih organa (vidi, na primjer, Odluku o prihvatljivosti Doma, CH/99/2565, *Banović*, od 8. decembra 1999. godine, tačka 11, Odluke august – decembar 1999). Obzirom da je tužena strana u određenim slučajevima (vidi, na primjer, Odluku o prihvatljivosti Komisije, CH/98/514, *Putnik*, od 7. jula 2004. godine, tačka 75, Odluke juli – decembar 2004) zlupotrebljavala svoje zakonske ovlasti u vezi nametanja kriterija za ispitivanje valjanosti predmetnih ugovora, Dom je bio prisiljen da utvrdi koji su stvarni kriteriji koje određeni ugovor mora ispuniti. Tako je Komisija utvrdila da podnosilac prijave mora imati valjan ugovor, koji u smislu člana 39. Zakona o prodaji stanova na kojima postoji stanarsko pravo („Službene novine Federacije Bosne i Hercegovine, br. 27/97, 11/98, 22/99, 27/99, 7/00, 32/01, 15/02 i 54/04) podrazumijeva da je ugovor zaključen do 6. aprila 1992. godine, da je dostavljen nadležnoj poreznoj službi na ovjeru, kod kojeg je kupoprodajna cijena utvrđena u skladu sa tada važećim zakonom i kod kojeg je iznos cijene u cijelosti izmiren u ugovorenom roku.

125. Obzirom da su podnosioci prijava zadovoljili navedene kriterije, nema sumnje da stan za njih predstavlja imovinu u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju. Za Komisiju ostaje još pitanje da riješi da li je došlo do miješanja, ako jeste, kakva je njegova priroda i da li je ono opravdano u smislu stava 2. člana 1. Protokola broj 1 uz Evropsku konvenciju.

126. Član 1. Protokola broj 1 uz Evropsku konvenciju ima svoj proceduralni i svoj meterijalno-pravni aspekt. Kada se govori i proceduralnom aspektu, on zahtijeva od svake države da omogući djelotvornu institucionalnu zaštitu privatne imovine određenog lica. Ustavni sud Bosne i Hercegovine je naglasio da član 1. Protokola broj 1 uz Evropsku konvenciju može da ukazuje na pozitivne obaveze vlasti da obezbijede djelotvornu zaštitu individualnog prava (vidi Odluku Ustavnog suda Bosne i Hercegovine, *U 18/00,* od 10. maja 2002. godine, tačka 53, "Službeni glasnik Bosne i Hercegovine", broj 30/02). Ovo je slučaj, štaviše, i kada se radi o regulisanju pravnih odnosa između privatnih pravnih i fizičkih lica, jer država uživa monopol nad kontrolom tih odnosa (vidi Odluku Ustavnog suda Bosne i Hercegovine, *U 35/00*, od 27. juna 2003. godine, "Službeni glasnik Bosne i Hercegovine", broj 31/03).

127. Ovaj proceduralni aspekt obuhvata, bez sumnje, zahtjev da predviđena institucionalna zaštita funkcioniše u skladu sa zakonom i datim okolnostima. Prema tome, zaštita imovine bi bila iluzorna ako je priznata, nadležni organi za njenu zaštitu postoje, ali ne funkcionišu po zahtjevima zakona, tj. članu 6. Evropske konvencije.

128. Komisija naglašava da se ovaj aspekt navedenog člana razlikuje od materijalno-pravnog aspekta, koji reguliše pitanja kao što su pojam imovine, ograničenje i lišenje imovine, itd. Djelujući zajedno, svaka individua ima pravo da mu se utvrdi da li uživa imovinu, te da li postoje razlozi za primjenu stava 2. člana 1. Protokola broj 1 uz Evropsku konvenciju u pravilno funkcionirajućim institucionalnim okvirima.

129. Slijedeći dato obrazloženje i primjenjujući ga u konkretnim slučajevima, te uzimajući u obzir povredu člana 6. Evropske konvencije, jasno je da je Federacija Bosne i Hercegovine propustila da pruži adekvatnu institucionalnu zaštitu imovine podnosilaca prijava. Drugim riječima, tužena strana se miješala u pravo na imovinu podnosilaca prijava na način što nije odlučila o predmetima, u skladu sa svojom pozitivnom obavezom. Komisija ima zadatak, u skladu sa članom I Sporazuma, da osigura najviši stepen zaštite ljudskih prava i sloboda. Komisija ne može naći opravdanje za ovakvo postupanje. Komisija je, u dijelu koji se tiče dopustivosti prijava, apostrofirala značaj Aneksa 7. uz Opći okvirni sporazum za mir u Bosni i Hercegovini, koji nalaže hitno postupanje po zahtjevima za povrat.

130. Komisija naglašava da se ovdje ne radi o pitanju da li je tužena strana trebala vratiti imovinu podnosiocima prijava, već o pitanju da li je omogućila adekvatan postupak koji bi riješio pitanje zaštite imovine i sve njegove modalitete, obzirom da konkretne okolnosti.

B.3. Zaključak o meritumu

131. Komisija zaključuje da je došlo do povrede prava podnosilaca prijava na pravično suđenje u razumnom roku koje štiti član 6. Evropske konvencije i prava na imovinu koje štiti član 1. Protokola broj 1 uz Evropsku konvenciju.

132. U svjetlu svog gornjeg zaključka o povredi člana 6. i člana 1. Protokola broj 1 uz Evropsku konvenciju, Komisija smatra nepotrebnim da ispita prijavu u vezi sa članom 8. Evropske konvencije i članom II(2)(b) Sporazuma.

VIII. PRAVNI LIJEKOVI

133. Prema članu XI(1)(b) Sporazuma, a u vezi sa pravilom 58. stavom 1(b) Pravila procedure Komisije, Komisija mora razmotriti pitanje o koracima koje Federacija Bosne i Hercegovine mora preduzeti da ispravi kršenja Sporazuma koja je Komisija utvrdila, uključujući naredbe da sa kršenjima prestane i od njih odustane, te novčanu nadoknadu.

134. Komisija smatra da bi, uzevši u obzir dugotrajnost nastojanja podnosilaca prijava da ostvare svoja prava pred upravnim, odnosno sudskim organima, bilo korisno da podnosioci prijava dobiju konačne odluke u vezi sa svojim zahtjevima. Komisija zbog toga odlučuje da naredi Federaciji Bosne i Hercegovine da preduzme neophodne korake i osigura konačno rješavanje upravnih postupaka i sporova za povrat stana podnosilaca prijava. U provođenju navedenih mjera, Federacija Bosne i Hercegovine će uzeti u obzir hitnost u rješavanju ovih postupaka u skladu sa obrazloženjem ove odluke. Komisija zbog toga nalaže Federaciji Bosne i Hercegovine:

a) da svakom od podnosilaca prijava isplati iznos od po 1000 KM (hiljadu konvertibilnih maraka) na ime materijalne i nematarijalne štete u roku od mjesec dana od dana prijema ove odluke i da svakom od podnosilaca prijava isplati zateznu kamatu od 10 % (deset posto) na ovaj dosuđeni iznos ili na svaki njegov neisplaćeni dio po isteku jednomjesečnog roka predviđenog za tu isplatu do datuma pune isplate ovog naređenog iznosa;

b) da u predmetu CH/98/240, D.I. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine obezbijedi nastavak postupka broj: U-8/04, koji je prekinut 22. juna 2004. godine, i da isti meritorno okonča po hitnom postupku u skladu sa standardima iz člana 6. i člana 1. Protokola broj 1 uz Evropsku konvenciju;

c) da postupak u predmetu CH/98/344, Vasil PANOV protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine, meritorno okonča po hitnom postupku u skladu sa standardima iz člana 6. i člana 1. Protokola broj 1 uz Evropsku konvenciju;

d) da u predmetu CH/98/846, D.H. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine, Uprava po hitnom postupku odluči o zahtjevu za izvršenje odluke Komisije za imovinske zahtjeve izbjeglica i raseljenih lica;

e) da u predmetu CH/99/1558, Tomislav RADOVANOVIĆ protiv Federacije Bosne i Hercegovine, podnosiocu prijave omogući ulaganje tužbe i pokretanje upravnog spora kod nadležnog Kantonalnog suda u skladu sa relevantnim zakonskim rokom od dana prijema ove odluke i da se isti meritorno okonča po hitnom postupku u skladu sa standardima iz člana 6. i člana 1. Protokola broj 1 uz Evropsku konvenciju;

f) da u predmetu CH/99/1703, Ljuban IVKOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine, omogući obnovu postupka i da se isti meritorno okonča po hitnom postupku u skladu sa standardima iz člana 6. i člana 1. Protokola broj 1 uz Evropsku konvenciju;

g) da u predmetu CH/99/2707, Bogdan IVANOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine, bez odlaganja donese odluku o preispitivanju odluke Komisije za imovinske zahtjeve izbjeglica i raseljenih lica i da po hitnom postupku okonča postupak po zahtjevu za povrat stana u posjed podnosiocu prijave u skladu sa standardima iz člana 6. i člana 1. Protokola broj 1 uz Evropsku konvenciju;

h) da u predmetu broj CH/99/2881, Risto JANKULOVSKI protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine podnosiocu prijave omogući ulaganje tužbe i pokretanje upravnog spora kod nadležnog Kantonalnog suda u skladu sa relevantnim zakonskim rokom od dana prijema ove odluke i da se isti meritorno okonča po hitnom postupku u skladu sa standardima iz člana 6. i člana 1. Protokola broj 1 uz Evropsku konvenciju;

IX. ZAKLJUČAK

135. Iz ovih razloga, Komisija odlučuje,

1. jednoglasno da prijave proglasi neprihvatljivim u dijelu koji se odnosi na navodne povrede ljudskih prava počinjene od strane Bosne i Hercegovine;

2. jednoglasno da prijave proglasi prihvatljivim u dijelu koji se odnosi na navodne povrede ljudskih prava počinjene od strane Federacije Bosne i Hercegovine;

3. jednoglasno da je prekršeno pravo podnosilaca prijava na pravično suđenje prema članu 6. Evropske konvencije, čime je Federacija Bosne i Hercegovine prekršila član I Sporazuma;

4. jednoglasno da je prekršeno pravo podnosilaca prijava na mirno uživanje imovine prema članu 1. Protokola broj 1 uz Evropsku konvenciju, čime je Federacija Bosne i Hercegovine prekršila član I Sporazuma;

5. da nije potrebno ispitivati prijave prema članu 8. Evropske konvencije;

6. jednoglasno da nije potrebno ispitivati prijave prema članu II(2)(b) Sporazuma;

7. jednoglasno da naredi Federaciji Bosne i Hercegovine da svakom od podnosilaca prijava isplati iznos od po 1000 KM (hiljadu konvertibilnih maraka) na ime materijalne i nematarijalne štete u roku od mjesec dana od dana prijema ove odluke;

8. jednoglasno da naredi Federaciji Bosne i Hercegovine da podnosiocima prijava isplati zateznu kamatu od 10 % (deset posto) na iznos dosuđen u prethodnom zaključku ili na svaki njegov neisplaćeni dio po isteku jednomjesečnog roka predviđenog za tu isplatu do datuma pune isplate iznosa naređenog u ovoj odluci;

9. jednoglasno da naredi Federaciji Bosne i Hercegovine da preduzme neophodne korake i osigura konačno rješavanje zahtjeva za povrat stana podnosilaca prijava u hitnom postupku, a najkasnije u roku od 6 mjeseci od dana prijema ove odluke;

10. jednoglasno da naredi Federaciji Bosne i Hercegovine da Komisiji u roku od mjesec dana od dana isteka roka navedenog u tački 9. Zaključka ove Odluke dostavi informaciju o preduzetim mjerama po pravnim lijekovima.

(potpisao)
Nedim Ademović
Arhivar Komisije

(potpisao)
Miodrag Pajić
Predsjednik Komisije

HUMAN RIGHTS CHAMBER
FOR BOSNIA AND HERZEGOVINA

ДОМ ЗА ЉУДСКА ПРАВА
ЗА БОСНУ И ХЕРЦЕГОВИНУ

DECISION ON ADMISSIBILITY AND MERITS
(delivered on 10 December 1999)

Case no. CH/98/271

Meliha FILIPOVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 3 November 1999 with the following members present:

Mr. Rona AYBAY, Acting President
Mr. Hasan BALIĆ
Mr. Dietrich RAUSCHNING
Mr. Želimir JUKA
Mr. Miodrag PAJIĆ
Mr. Andrew GROTRIAN

Mr. Anders MÅNSSON, Registrar
Ms. Olga KAPIĆ, Deputy Registrar

Having considered the aforementioned application introduced pursuant to Article VIII(1) of the Human Rights Agreement ("the Agreement") set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Adopts the following decision pursuant to Articles VIII(2) and XI of the Agreement and Rules 52, 57 and 58 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The applicant is a citizen of Bosnia and Herzegovina, resident in Banja Luka, Republika Srpska. On 23 January 1995 she rented her apartment (one floor of her house) to Mr. L.N. ("the occupant"). Since the occupant has not been complying with his contractual obligations she tried to terminate the contract. On 15 March 1996 the applicant initiated proceedings before the Municipal Court in Banja Luka, requesting termination of the contract. Her request is still pending before the court.

2. On 18 June 1998 the Commission for Accommodation of Refugees and Administration of Abandoned Property ("the Commission") issued a decision allocating the apartment to the occupant. The decision was quashed by a judgment of the Supreme Court of the Republika Srpska, and the case was sent back to the Commission for consideration. The Commission again allocated the apartment to the occupant. The applicant appealed to the Ministry for Refugees and Displaced Persons ("the Ministry") and the case is still pending before it.

3. The case raises issues principally under Articles 6 and 8 of the European Convention on Human Rights and under Article 1 of Protocol No. 1 to the Convention.

II. PROCEEDINGS BEFORE THE CHAMBER

4. The application was introduced on 23 February 1998 and registered on 10 April 1998. On 29 September 1998 the Chamber requested the applicant to submit additional information about any developments in the proceedings. On 15 October 1998 the applicant's additional information was received. From the applicant's submission it appeared that there were no developments in the proceedings.

5. The case was transmitted to the respondent Party for its observations under Articles 6 and 8 of the Convention and Article 1 of Protocol No. 1 to the Convention. The respondent Party's observations were due by 18 March 1999. No observations were received within that time-limit.

6. On 22 April 1999 the applicant was invited to submit any further observations and claim for compensation she wished to make.

7. On 18 May 1999 the applicant submitted her further observations which contained a compensation claim. This compensation claim was transmitted to the respondent Party for any further observations by 24 June 1999. No observations have been received.

III. ESTABLISHMENT OF THE FACTS

A. The particular facts of the case

8. The facts of the case have not been contested by the respondent Party and can be summarised as follows.

1. The lease contract and the attempts to terminate it

9. On 23 January 1995 the applicant entered into a lease contract with the occupant regarding the above-mentioned apartment. The occupant did not comply with his contractual obligations, and the applicant decided to terminate the contract. On an unspecified date in 1996 the applicant tried to deliver a written termination of the contract to the occupant, but he refused to receive it. On 15 March 1996 the applicant initiated civil proceedings before the Municipal Court in Banja Luka requesting the court to terminate the contract and order the occupant to return the apartment into her possession.

10. The Municipal Court scheduled a hearing in the case and on that occasion the occupant submitted a copy of the decision mentioned in paragraph 11 below. There have been no further

developments in the proceedings to date. On 10 December 1996 the Regional Court in Banja Luka adopted a general standing that the civil courts were not competent to deal with cases involving abandoned property. Therefore the applicant claims that she has no prospect of success in the court proceedings.

2. The first set of administrative proceedings

11. On 18 June 1996 the Commission issued a decision allocating the right to use the property to the occupant. The property was allocated to him on the ground that the premises were surplus of the applicant's housing space. The applicant and other owners of the house appealed against the decision to the Ministry. They appealed on the ground that the decision named only one co-owner – the applicant – and one of her sisters who was no longer the co-owner of the property. They further stated that they had exchanged the property with a certain Mr. R.B, and that they had cancelled the lease contract. On 7 October 1996 the Department of the Ministry ("the Department") refused their appeal. The Department examined the owners' complaints and found that there had been no irregularities in the proceedings.

12. On 29 October 1996 the applicant initiated an administrative dispute before the Supreme Court of the Republika Srpska against the Department's decision of 7 October 1996. On 10 April 1997 the Supreme Court passed a judgement by which it, *ex officio*, invalidated the decision as it had been taken by an organ that was not competent to examine the appeal. The case-file was then sent to the Ministry for reconsideration.

13. After it had been sent to the Ministry the file apparently got lost. The applicant contacted the Supreme Court and the Ministry, but both organs claimed that they did not have the file. On 9 April 1998 the applicant received a letter from the Ministry in which it was stated that the Supreme Court's decision has never been received by the Ministry. On the same day the applicant received a letter from the Supreme Court from which it appears that the file was received by the Ministry on 3 July 1997.

3. The second set of administrative proceedings

14. On 4 August 1998 the applicant unofficially received a decision of the Ministry, dated 4 May 1998, by which the Commission's decision of 18 June 1996 was invalidated and the case was sent to the Commission for reconsideration. The decision of the Ministry was based on the owners' complaint that one of the persons named to be the owner of the property is not the owner at all, and that there are more co-owners of the property than were named in the decision. The Commission was instructed to establish the facts of the case properly, and than to examine whether there was any surplus of housing space.

15. The applicant then addressed the Commission, requesting them to conduct the proceedings as instructed by the Ministry. On 22 October 1998, after re-examining the case, the Commission issued a decision again allocating the property to the occupant. The decision was delivered to the applicant on 22 December 1998. The applicant appealed to the Ministry on 5 January 1999. There have been no developments in the proceedings to date.

B. Relevant legislation

1. The Law on the Use of Abandoned Property

16. Article 17 of the Law on the Use of Abandoned Property (Official Gazette of Republika Srpska – hereinafter "OG RS" – no. 3/96) reads as follows:

> "If persons referred to in Article 1 of this Law (i.e. refugees and displaced persons) cannot be accommodated in the apartments and residential buildings referred to in Article 11 of this Law, then they will be temporarily accommodated in apartments and residential buildings in which there is a surplus of housing space. There is a surplus of housing space if there is more that 15 m^2 per member of a family household. They will be accommodated according to the following criteria:

- into the apartments of the owners of users that have not regulated their military obligation;
- into the apartments of owners or users if members of their family household left Republika Srpska;
- into the other residential buildings where there is a surplus of housing space.

Temporary accommodation in the objects referred to in the preceding paragraph will last as long as the temporary users of those premises are not provided with an alternative accommodation."

2. The Law on the Cessation of Application of the Law on the Use of Abandoned Property

17. The Law on the Cessation of Application of the Law on the Use of Abandoned Property (OG RS no. 38/98) puts the old Law on the Use of Abandoned Property out of force.

18. Article 2 states that all decisions made under the old law granting temporary or permanent rights to occupy property shall be treated as being of a temporary nature and shall remain effective until cancelled in accordance with the new law.

19. Article 3 gives the owner, possessor or user of real property who abandoned such property the right to repossess it and enjoy it on the same terms as he or she did before 30 April 1991 or the date of its becoming abandoned. Article 4 states that the terms "owner", "possessor" and "user" shall mean the persons who had such status under the applicable legislation at the time the property concerned became abandoned.

20. Article 7 states that the owner, possessor or user of real property shall have the right to submit a claim for repossession of his or her property at any time. Article 8 states that such claims may be filed with the responsible body of the Ministry (i.e. the local Commission). This Article also sets out the procedure for the lodging of claims and the information that must be contained in such a claim.

3. The Law on General Administrative Proceedings

21. The Law on General Administrative Proceedings (Official Gazette of the Socialist Federal Republic of Yugoslavia – hereinafter "OG SFRY" – no. 47/86) is set out to be a *lex generalis*, and applies when an issue is not regulated by the Law on the Use of Abandoned Property. Article 218 of the Law on General Administrative Proceedings sets out time-limits for issuing decisions. If a case concerns an issue which does not require separate investigation proceedings or other immediate action, the decision should be issued and delivered to the claimant within 30 days from the date the request was filed. In all the other cases, the decision should be issued and delivered within two months from the day the request was filed.

22. The appeal against the first instance administrative decision is to be filed to the second instance body through the first instance body. Even if the appeal was sent directly to the second instance body that organ will forward it to the first instance body (Article 233).

23. Article 238 reads as follows:

"(1) When the organ that issued the decision finds that the appeal is allowed, filed within time-limit and by the authorised person (…), that organ is obliged to send the appeal to the organ competent to deal with it. This has to be done immediately, at the latest within 15 days from the day the appeal was received.

(2) The first instance organ is obliged to forward, with the appeal, all the documents related to the case."

24. Under Article 247, the decision on the appeal has to be issued within two months from the day the appeal was lodged. Article 248 sets out that the second instance organ is to send its decision and the case-file to the first instance, which is then obliged to deliver the decision to the

parties within eight days from the day it received the case-file.

4. The Law on Administrative Disputes

25. Article 61 of the Law on Administrative Disputes (OG RS no. 12/94) sets out that after the court has invalidated a decision and ordered a new decision to be issued, such a decision needs to be made within 30 days from the day of delivery of the court's judgment.

26. Under Article 63, if the competent organ does not issue a decision within 30 days, a party to the proceedings can submit a reminder. If the organ does not issue decision within seven days, the party can request the court (i.e. the Supreme Court) to make a decision. Then the court will request the competent organ to give reasons for not complying with its obligation. If the reasons are not satisfactory or not received within the next seven days the court will issue the decision itself.

5. The Law on Basic Property Relations

27. Article 43 of the Law on Basic Property Relations (OG SFRY no. 6/80) provides for one of the co-owners of a property to initiate proceedings for the protection of the whole property or only his or her part of the property.

IV. COMPLAINTS

28. The applicant generally complains of a violation of her property rights and the treatment she has had before the administrative bodies and the Supreme Court.

V. SUBMISSIONS OF THE PARTIES

29. The respondent Party has not submitted any observations in the case. The applicant maintains her complaints. She further requests to be paid compensation in the amount of 700 German Marks (DEM) per month starting from 1 July 1996, as lost rent for the premises (which makes DEM 25,200 as of May 1999). The sum is based on the fact that the applicant was renting the ground floor of the house for DEM 1,300 during the same period (a copy of the contract submitted). The applicant's reasons for claiming a lower amount in compensation are that the occupant is using a smaller apartment than the one the applicant rented and that it is on the second floor of the house.

VI. OPINION OF THE CHAMBER

A. Admissibility

30. Before considering the merits of the case the Chamber must decide whether to accept it, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement.

1. As to the alleged violation of the applicant's property rights

31. To the effect that the applicant has complained of allocation of her property to other persons the Chamber notes that in accordance with the Law on the Cessation of Application of the Law on the Use of Abandoned Property the applicant has the right to request the return of her apartment into her possession. This request can be lodged at any time. The Chamber notes that the applicant has not filed such a request as to date. She has not sought to demonstrate that such a request would be ineffective.

32. Accordingly, the Chamber decides not to accept this part of the application pursuant to Article VIII(2)(a) of the Agreement, as the applicant has not demonstrated that the effective domestic remedies have been exhausted.

2. As to the alleged violation of Article 6 of the Convention

33. The applicant has complained of the administrative proceedings and the proceedings before the courts. The Chamber notes that the respondent Party has not put forward any objection to the admissibility of the case. It has not suggested that the case should be declared inadmissible on any of the grounds as set out in Article VIII(2) of the Agreement. Since this part of the case does not appear to be *prima facie* inadmissible, the Chamber finds no obstacles to considering the merits of the application.

34. Accordingly, the Chamber decides to accept this part of the application pursuant to Article VIII of the Agreement.

B. Merits

35. Under Article XI of the Agreement the Chamber must next address the question whether the facts established above disclose a breach by the respondent Party of its obligations under the Agreement. Under Article I of the Agreement the Parties are obliged to "secure to all persons within their jurisdiction the highest level of internationally recognised human rights and fundamental freedoms", including the rights and freedoms provided for in the Convention and the other treaties listed in the Appendix to the Agreement.

1. Article 6 of the Convention

36. The applicant generally complains of irregularities in the administrative proceedings. The respondent Party has not submitted any observations.

37. Article 6 of the Convention, insofar as relevant to the present case, reads as follows:

> "1. In the determination of his civil rights and obligations ..., everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law...."

38. The Chamber has already established that the right to enjoyment of one's property is a civil right within the meaning of Article 6 of the Convention (see e.g. case no. CH/98/777, *Pletilić*, decision on admissibility and merits delivered on 8 October 1999, paragraph 97, to be published).

39. The Chamber notes that the applicant initiated various proceedings in order to regain possession of her property, none of which was successful. The Chamber needs to consider these proceedings as a whole. But firstly, the Chamber needs to consider whether the administrative proceedings the applicant has initiated fall within the scope of Article 6 of the Convention. The European Court of Human Rights has held that the character of the legislation which governs how the matter is to be determined (ordinary court, administrative body etc) is of little consequence (see e.g. the *Ringeisen v. Austria* judgment of 16 July 1971, Series A no. 13, p. 39, paragraph 94). Therefore, the Chamber considers that it can evaluate the conduct of the administrative proceedings in determining whether there has been a violation of the applicant's right to a hearing within a reasonable time.

40. The period of time the Chamber should take into consideration is three years and eight months (as of November 1999), starting from 15 March 1996, when the applicant initiated civil proceedings before the Municipal Court.

41. The Chamber has held that the factors to be taken into account in determining whether the length of civil proceedings has been reasonable are as follows: the complexity of the case, the conduct of the applicant and the conduct of the national authorities (see e.g. case no. CH/98/1237, *F.G.*, decision on admissibility and merits delivered on 8 October 1999, paragraph 47, to be published).

(a) The complexity of the case

42. According to the documents in the case-file the case does not appear to be a complex one. It is about the owner requesting the court and administrative organs to enable her to regain possession of her apartment. Her ownership is not disputed.

(b) The conduct of the applicant

43. There is no information in the case-file that there has been any conduct on the part of the applicant which could be considered as causing a delay in the proceedings. The respondent Party has not attempted to demonstrate that the delay in the case could have been caused by the applicant's actions.

(c) The conduct of the national authorities

44. The Chamber notes that the applicant initiated court proceedings on 15 March 1996. These proceedings are still pending before the Municipal Court, without any developments since October 1996. Taking into consideration the standing of the Regional Court in Banja Luka (see paragraph 10 above) the applicant had no prospect of success in these proceedings.

45. The administrative bodies that were competent to deal with the applicant's case apparently failed to follow the time-limits set out in the Law on General Administrative Proceedings, which is a *lex generalis* to the Law on the Use of Abandoned Property. The applicant's case-file got lost on its way from Pale (where the Supreme Court was sitting at that time) to Banja Luka. The Ministry denied that it had ever got the file back. However, according to the Supreme Court the case-file was received in the Ministry in Banja Luka on 3 July 1997. The Ministry was obliged to decide in accordance with the Supreme Court's judgment by 3 August 1997. But it took ten months – until 4 May 1998 – for the Ministry to comply with the judgment, and then another four months for it to be delivered to the applicant. It took another five months for the Commission to issue a new decision and then two months to deliver it to the applicant. The applicant's case is currently at the same stage of the proceedings as it was on 14 August 1996.

46. The Chamber further notes that on 5 January 1999 the applicant appealed against the Commission's decision of 22 October 1998, and that there have been no developments in the proceedings upon her appeal, although the Ministry was obliged to decide upon it by 5 March 1999 (see paragraph 20 above).

47. Having regard to the above, the Chamber finds that the respondent Party can be held responsible for the delay of the case.

48. Accordingly, the Chamber considers that the applicant's right to a "hearing within a reasonable time", as provided for by Article 6 paragraph 1 of the Convention has been violated.

VII. REMEDIES

49. Under Article XI(1)(b) of the Agreement the Chamber must address the question of what steps shall be taken by the respondent Party to remedy the established breaches of the Agreement. In this connection the Chamber shall consider issuing orders to cease and desist, monetary relief as well as provisional measures. The Chamber is not necessarily bound by the claims of an applicant.

50. The applicant requests to be enabled to enter into possession of the apartment and to be compensated for the lost rent in the amount of DEM 700, starting from July 1996.

51. However, in the view of the findings in paragraphs 31-32 above, the Chamber must reject the applicant's claim for compensation under this title.

52. The Chamber notes that it has found a violation of the applicant's right to a fair hearing within a reasonable time as guaranteed by Article 6 paragraph 1 of the Convention. It considers it appropriate to order the respondent Party to take all necessary steps to ensure that the applicant's proceedings are decided upon by the Ministry within the time-limits provided for by the Law on General Administrative Proceedings and that the continued proceedings are conducted entirely in accordance

with the applicant's rights as guaranteed by the Agreement.

53. Furthermore, the Chamber considers it appropriate to award a sum to the applicant in recognition of the sense of injustice she has suffered as a result of her inability to have her case decided before the domestic organs.

54. Accordingly, the Chamber will order the respondent Party to pay to the applicant the sum of 500 Convertible Marks (*Konvertibilnih Maraka*) in recognition of her suffering as a result of her inability to have her case decided within a reasonable time.

55. Additionally, the Chamber awards 4% interest as of the date of expiry of the three-month period set for the implementation of the present decision, on the sum awarded in the preceding paragraph.

VIII. CONCLUSIONS

56. For these reasons, the Chamber decides,

1. unanimously, to declare inadmissible the part of the application concerning the allocation of the applicant's property;

2. unanimously, to declare the remainder of the application admissible;

3. unanimously, that the conduct of the Ministry for Refugees and Displaced Persons and the Commission for Accommodation of Refugees and Administration of Abandoned Property in Banja Luka constituted a violation of the applicant's right to a hearing within a reasonable time within the meaning of Article 6 paragraph 1 of the European Convention on Human Rights, the Republika Srpska thereby being in breach of Article I of the Human Rights Agreement;

4. unanimously, to order the respondent Party to take all necessary steps to ensure that the applicant's proceedings before the Ministry are decided upon within the time-limits as specified by the Law on General Administrative Proceedings and in accordance with the applicant's rights as guaranteed by the Agreement;

5. unanimously, to order the respondent Party:

    (a) to pay to the applicant within three months of the delivery of this decision the sum of 500 (five hundred) Convertible Marks (*Konvertibilnih Maraka*) by way of compensation for mental suffering;

    (b) to pay simple interest at the rate of 4 (four) per cent per annum over the above sum or any unpaid portion thereof from the date of expiry of the above three-month period until the date of settlement;

6. unanimously, to reject the remainder of the applicant's compensation claim; and

7. unanimously, to order the Republika Srpska to report to it by 10 March 2000 on the steps taken by it to comply with the above orders.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Rona AYBAY
Acting President of the First Panel

DECISION ON ADMISSIBILITY AND MERITS

Case no. CH/98/293

Anica GALIĆ-LUKIĆ

against

BOSNIA AND HERZEGOVINA
AND
THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Commission within the Constitutional Court of Bosnia and Herzegovina, sitting in plenary session on 7 July 2004 with the following members present:

Mr. Jakob MÖLLER, President
Mr. Miodrag PAJIĆ, Vice-President
Mr. Želimir JUKA
Mr. Mehmed DEKOVIĆ
Mr. Andrew GROTRIAN

Mr. J. David YEAGER, Registrar
Ms. Olga KAPIĆ, Deputy Registrar
Ms. Meagan HRLE, Deputy Registrar

Having considered the aforementioned application introduced to the Human Rights Chamber for Bosnia and Herzegovina pursuant to Article VIII(1) of the Human Rights Agreement (“the Agreement”) set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Noting that the Human Rights Chamber for Bosnia and Herzegovina (“the Chamber”) ceased to exist on 31 December 2003 and that the Human Rights Commission within the Constitutional Court of Bosnia and Herzegovina (“the Commission”) has been mandated under the Agreement pursuant to Article XIV of Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina entered into on 22 and 25 September 2003 (“the 2003 Agreement”) to decide on cases received by the Chamber through 31 December 2003;

Adopts the following decision pursuant to Article VIII(2) and XI of the Agreement, Articles 5 and 9 of the 2003 Agreement and Rules 50, 54, 56 and 57 of the Commission’s Rules of Procedure:

I. INTRODUCTION

1. The application concerns the applicant's attempts to enter into possession of her pre-war apartment located at Antuna Hangija 11 in Sarajevo, which she purchased from the former Yugoslav National Army ("the JNA") Housing Fund (*Vojna Ustanova za upravljanje stambenih fondom JNA—Beograd, Odeljenje Sarajevo*), according to a purchase contract dated 5 December 1991. The applicant also seeks to be registered as the owner of the apartment.

2. The application appears to raise issues in connection with Article 8 of the European Convention on Human Rights ("the Convention") and Article 1 of Protocol No. 1 to the Convention.

II. PROCEEDINGS BEFORE THE CHAMBER AND THE COMMISSION

3. The application was introduced to the Chamber on 6 February 1998 and registered on 10 April 1998.

4. On 15 June 1999 the application was transmitted to the respondent Parties in connection with Article 8 and Article 1 of Protocol No. 1 to the Convention.

5. On 16 August 1999 the Federation of Bosnia and Herzegovina submitted its observations on the admissibility and merits of the application, which were transmitted to the applicant, who replied on 8 November 1999. Bosnia and Herzegovina did not submit observations to the Chamber, and has never made any submission to the Chamber or Commission in connection with this application. Therefore, throughout this decision, the term "respondent Party" in the singular refers to the Federation of Bosnia and Herzegovina.

6. On 25 December 2001 the applicant sent a request for urgency to the Chamber that was transmitted to both respondent Parties.

7. On 12 September 2003, 21 November 2003, and 21 June 2004, the Federation of Bosnia and Herzegovina submitted further information, which was transmitted to the applicant and Bosnia and Herzegovina.

8. The applicant submitted further observations on 29 October 2003, 9 April 2004, and 13 April 2004. As of 8 April 2004, the applicant was represented before the Commission by Snježana Jokić, a lawyer practicing in Srpsko Sarajevo, the Republika Srpska.

9. On 3 May 2004 and 7 July 2004, the Commission deliberated on the admissibility and merits of the application, and on the latter date it adopted the present decision.

III. ESTABLISHMENT OF THE FACTS

10. The applicant is the pre-war occupancy right holder over an apartment located at Antuna Hangija 11 in Sarajevo. The applicant was allocated the apartment in 1987 as a doctor at the Military Hospital in Sarajevo (*Vojna bolnica*) and a civilian member of the JNA. The applicant concluded a contract on use for the apartment on 12 July 1998.

11. On 5 December 1991 the applicant concluded a purchase contract for the apartment with the JNA Housing Fund, in accordance with the Law on Securing Housing for the JNA. The contract provided for the applicant to pay the purchase price in monthly instalments. The signatures on the purchase contract were verified before the First Instance Court (*Osnovni sud II*) in Sarajevo, apparently on 6 December 1991, according to the information on the back of the contract.

12. On 13 February 1992 the applicant paid 618,792 Yugoslav Dinars toward the purchase of the apartment. On 15 February 1992 the applicant concluded an Annex to the purchase contract that changed the terms of the contract such that the purchase price was to be paid in the lump sum of 618,792 Yugoslav Dinars. The Annex was verified at the First Instance Court in Sarajevo on 9 March 1992.

13. The applicant was transferred to the Military Medicine Academy (*Vojno medicinskoj akademji*) in Belgrade pursuant to an order of 11 March 1992, and in April 1992 she left the apartment, together with her daughter, and went to Belgrade.

14. On 23 May 1996 the apartment was declared permanently abandoned, and was allocated to R.S., an official in the Army of the Federation of Bosnia and Herzegovina. The respondent Party states that R.S. presently uses the apartment as alternative accommodation (*sekundarni smješta*).

15. On 17 August 1998 the applicant filed a request for repossession of the apartment to the Administration for Housing Affairs of Sarajevo Canton ("the Administration", *Uprava za stambena pitanje Kanton Sarajevo*).

16. According to the applicant's representative, on 7 December 1998 the applicant submitted a repossession request for the apartment to the Commission for Real Property Claims of Displaced Persons and Refugees ("the CRPC").

17. On 6 February 2002 the Administration issued a procedural decision rejecting the applicant's request for repossession of the apartment as ill-founded pursuant to Article 3a, paragraph 2 of the Law on Cessation of Application of the Law on Abandoned Apartments ("the Law on Cessation", see paragraph 34 below). It emphasized that the applicant was a civilian member of the Yugoslav Army after 14 December 1995, such that she cannot be considered a refugee or a displaced person for the purposes of the Law on Cessation. The Administration relied on a document (*potvrda*) from the Military Medicine Academy of 24 January 2002 confirming her employment with that institution.

18. On 24 June 2002 the applicant filed an appeal to the Ministry of Housing Affairs of Sarajevo Canton ("the Ministry", *Ministarstvo stambenih poslova*) against the 6 February 2002 procedural decision.

19. On 9 July 2002 the CRPC issued a decision (*odluka*) rejecting the applicant's claim and declaring itself unable to decide in the matter as the applicant served in a foreign army after 14 December 1995 and could not therefore be considered a refugee.

20. On 24 December 2002 the Ministry issued a procedural decision rejecting the applicant's appeal against the 6 February 2002 decision. The Ministry noted that it was undisputed that the applicant served in the JNA on 30 April 1991 and that after 14 December 1995 she continued to serve in the Yugoslav Army, as evidenced by the document of 24 January 2002 (see paragraph 17 above). Thus, according to Article 3a, paragraph 2 of the Law on Cessation, the applicant cannot be considered a refugee or displaced person and does consequently not have the right to repossess the apartment. As to the applicant's alleged ownership, the Ministry noted that Article 39e of the Law on Sale of Apartments with an Occupancy Right ("the Law on Sale of Apartments", see paragraph 43 below) allows the applicant to seek compensation for the amount she paid for the apartment from the Federation Ministry of Defence.

21. In a letter of 9 April 2004 the applicant's representative informed the Commission that the applicant did not initiate an administrative dispute against the decision of 24 December 2002 because she considered she would have received a negative decision, and because she was waiting for the outcome of the proceedings before the CRPC and the Human Rights Chamber.

IV. RELEVANT DOMESTIC LEGISLATION

A. Relevant legislation of the Socialist Federal Republic of Yugoslavia

1. Law on Securing Housing for the Yugoslav National Army

22. The applicant purchased the apartment under the Law on Securing Housing for the Yugoslav National Army (Official Gazette of the Socialist Federal Republic of Yugoslavia ("OG SFRJ") no. 84/90). This Law was passed in 1990 and came into force on 6 January 1991. It essentially regulated the housing needs for military and civilian members of the JNA.

23. Article 21 set forth the general manner in which the purchase price of the apartment was to be determined, which included reductions for the revaluated construction value, the depreciation value, the revaluated amount of procurement and communal facilities costs of the construction land, and the revaluated amount of the housing construction contribution that was paid to the JNA Housing Fund. The Federal Secretary was also authorized to prescribe the exact methodology for determining the purchase price.

2. Instructions on the methodology to determine the purchase price for JNA apartments ("the Instructions", *Upustvo o metodoligiji za utvrđivanje otkupne cene stanova stambenog fonda jugoslovenske narodne armije*)

24. These Instructions were published in the Military Official Gazette in April 1991 and set forth the manner of calculating the purchase price of apartments that were to be purchased from the JNA Housing Fund.

3. Guidelines for purchasing an apartment from the JNA Housing Fund ("the Guidelines", *Pravilinik o otkupu stanova iz stambenog fonda jugoslovenske narodne armije*)

25. These Guidelines were published in the Military Official Gazette in April 1991 and set forth the procedure to be followed in order to purchase an apartment from the JNA Housing Fund.

B. Relevant legislation of the Republic of Bosnia and Herzegovina

1. Law on Abandoned Apartments

26. On 15 June 1992 the Presidency of the then Republic of Bosnia and Herzegovina issued a Decree with Force of Law on Abandoned Apartments (Official Gazette of the Republic of Bosnia and Herzegovina ("OG RBiH") nos. 6/92, 8/92, 16/92, 13/94, 36/94, 9/95, and 33/95). The Parliament of the Republic of Bosnia and Herzegovina approved this Decree on 17 June 1994 and renamed the Decree the "Law on Abandoned Apartments". The Law governed the declaration of abandonment of certain categories of socially owned apartments and their re-allocation.

27. Article 2 set forth that apartments were to be considered abandoned if the pre-war occupancy right holder and his family members left the apartment, even if only temporarily. If the pre-war occupancy right holder failed to resume using the apartment within the applicable time limit laid down in Article 3 (i.e. before 6 January 1996), he or she was regarded as having abandoned the apartment permanently.

28. According to Article 10, as amended, the failure to resume using the apartment within the time limit would result in deprivation of the occupancy right. The resulting loss of the occupancy right was to be recorded in a decision by the competent authority.

2. Law on the Transfer of Real Estate

29. Article 9 of the Law on the Transfer of Real Estate (Official Gazette of the Socialist Republic of Bosnia and Herzegovina ("OG SRBiH") nos. 38/78, 4/89, 29/90, and 22/91; OG RBiH nos. 21/92, 3/93, 17/93, 13/94, 18/94 and 33/94) provided that a contract on the transfer of real estate must be made in written form and that the signatures must be verified by the competent court.

C. Relevant legislation of the Federation of Bosnia and Herzegovina

1. The Law on Cessation of the Application of the Law on Abandoned Apartments ("Law on Cessation")

30. The Law on Cessation entered into force on 4 April 1998 and has been thereafter amended (Official Gazette of the Federation of Bosnia and Herzegovina ("OG FBiH") nos. 11/98, 38/98, 12/99, 18/99, 27/99, 43/99, 31/01, 56/01, 15/02, and 29/03). The Law on Cessation repealed the former Law on Abandoned Apartments.

31. According to the Law on Cessation, the competent authorities may make no further decisions declaring apartments abandoned (Article 1, paragraph 2). All administrative, judicial and other decisions terminating occupancy rights based on regulations issued under the Law on Abandoned Apartments are null and void (Article 2, paragraph 1).

32. All occupancy rights or contracts on use made between 1 April 1992 and 7 February 1998 were cancelled (Article 2, paragraph 3). A person occupying an apartment on the basis of a cancelled occupancy right or decision on temporary occupancy is to be considered a temporary user (Article 2, paragraph 3).

33. The occupancy right holder of an apartment declared abandoned, or a member of his or her household, has a right to return to the apartment in accordance with Annex 7 of the General Framework Agreement for Peace in Bosnia and Herzegovina (Article 3, paragraphs 1 and 2).

34. The former Article 3a, paragraphs 1 and 2, which were in force between 4 July 1999 and 1 July 2003, provided as follows:

> "As an exception to Article 3, paragraphs 1 and 2 of this Law, regarding apartments declared abandoned on the territory of the Federation of Bosnia and Herzegovina, at the disposal of the Federation Ministry of Defence, the occupancy right holder shall not be considered a refugee if on 30 April 1991 s/he was in active service in the SSNO (Federal Secretariat for National Defence) – JNA (i.e. not retired) and was not a citizen of Bosnia and Herzegovina according to the citizenship records, unless s/he had residence approved to him or her in the capacity of a refugee, or other equivalent protective status, in a country outside the former Socialist Federal Republic of Yugoslavia before 14 December 1995.
>
> "A holder of an occupancy right from paragraph 1 of this Article will not be considered a refugee if s/he remained in the active military service of any armed forces outside the territory of Bosnia and Herzegovina after 14 December 1995, or if s/he has acquired another occupancy right outside the territory of Bosnia and Herzegovina."

35. The present Article 3a, which came into force on 1 July 2003, provides as follows:

> "As an exception to Article 3, paragraph 1 and 2 of the Law, regarding apartments declared abandoned on the territory of the Federation of Bosnia and Herzegovina at the disposal of the Federation Ministry of Defence, the occupancy right holder shall not be considered a refugee nor have the right to repossess the apartment if after 19 May 1992, she or he remained in the active service as a military or civilian personnel of any armed forces outside the territory of Bosnia and Herzegovina, unless she or he had residence approved to him or

her in the capacity of a refugee, or other equivalent protective status, in a country outside the former Socialist Federal Republic of Yugoslavia before 14 December 1995.

"A holder of an occupancy right from paragraph 1 of this Article will not be considered a refugee or have the right to repossess the apartment in the Federation of Bosnia and Herzegovina, if she or he has acquired another occupancy right or other equivalent right from the same housing fund of the former JNA or newly-established funds of armed forces of states created on the territory of the former Socialist Federal Republic of Yugoslavia."

2. The Law on Sale of Apartments with an Occupancy Right ("Law on Sale of Apartments")

36. Article 27 of the Law on Sale of Apartments (OG FBiH nos. 27/97, 11/98, 22/99, 27/99, 7/00, 32/01, 61/01 and 15/02) provides that the ownership right to an apartment shall be acquired upon registration of that right in the Land Registry books of the competent court.

37. Article 39 provides, in relevant part:

"The occupancy right holders who previously concluded a contract on purchase of an apartment in accordance with the Law on Securing Housing for JNA … shall have the amount they paid, expressed in German Marks ("DEM") according to the applicable exchange rate on the day of purchase, recognised when the new contract on purchase of the apartment is concluded in accordance with this Law."

38. Articles 39a, 39b, 39c, 39d, and 39e came into force on 5 July 1999, the date of their publication in the Official Gazette of the Federation of Bosnia and Herzegovina, as a result of their imposition by the High Representative of Bosnia and Herzegovina.

39. Article 39a provides:

"If the occupancy right holder of an apartment at the disposal of the Federation Ministry of Defence uses the apartment legally and s/he entered into a legally binding contract on purchase of the apartment with the Federal Secretariat for National Defence (SSNO) before 6 April 1992 in accordance with the Law referred to in Article 39 of this Law, the Federation Ministry of Defence shall issue an order for the registration of the occupancy right holder as the owner of the apartment with the competent court."

40. Article 39b, in relevant part, provides,

"In the event that the occupancy right holder referred to in Article 39a of this Law did not effect the payment of the total amount of the sale price of the apartment in accordance with the purchase contract, s/he shall pay the remainder of the amount specified in that contract to the Ministry of Defence of the Federation.

….

"The provisions of Articles 39a of this Law and paragraph 1 and 2 of this Article shall also be applied to contracts on the purchase of apartments concluded before 6 April 1992, in cases where the verification of signatures has not been done before the responsible court."

41. Article 39c provides:

"The provisions of Articles 39a and 39b shall also be applicable to an occupancy right holder who has exercised the right to repossess the apartment pursuant to the provisions of the Law on Cessation of the Application of the Law on Abandoned Apartments (Official Gazette of the Federation of Bosnia and Herzegovina nos. 11/98 and 18/99)."

42. Article 39d provides:

> "A person who does not realise his or her right with the Ministry of Defence, as provided for in this Law, may initiate proceedings before the competent court."

43. Article 39e provides:

> "The occupancy right holder who is not entitled to the repossession of the apartment or does not submit a claim for the repossession of the apartment in accordance with the provisions of Article 3 and 3a of the Law on Cessation of the Application of the Law on Abandoned Apartments and who entered into a legally binding contract on purchase of the apartment with the former Federal Secretariat for National Defence (SSNO) before 6 April 1992, shall have the right to submit a request to the Federation Ministry of Defence for compensation of the funds paid on that basis, unless it is proved that these funds were acknowledged for purchase of an apartment outside the territory of Bosnia and Herzegovina"

3. Law on Civil Procedure

44. Article 54 of the Law on Civil Procedure (OG FBiH nos. 42/98, 3/99, and 53/03) provides as follows:

> "A plaintiff may initiate a lawsuit and request that the court establish the existence or non-existence of some right or legal relationship, and the authenticity or non-authenticity of some document, respectively.
>
> "Such a lawsuit may be initiated when a special regulation provides so, or when the plaintiff has a legal interest that the court establish the existence or non-existence of some right or legal relationship and the authenticity or non-authenticity of a document before the maturity date of the claim for enforcement from the same relationship.
>
> "If the decision in the dispute depends on whether some legal interest, which during the lawsuit became disputable, exists or not, the plaintiff may file, in addition to the existing claim, a complaint requesting that the court establish the existence or non-existence of such relationship, if the court before which the lawsuit is pending is competent for such a complaint.
>
> "Filing a complaint under the provision in paragraph 3 of this Article shall not be deemed modification of the lawsuit."

V. COMPLAINTS

45. The applicant complains that her right to her home in connection with Article 8 of the Convention, and her right to the peaceful enjoyment of her property, in connection with Article 1 of Protocol No. 1 to the Convention, have been violated.

VI. SUBMISSIONS OF THE PARTIES

A. The Federation of Bosnia and Herzegovina

46. The Federation of Bosnia and Herzegovina submitted its observations on the admissibility and merits on 16 August 1999. As to the admissibility of the application, the respondent Party suggests to declare the application inadmissible for non-exhaustion of domestic remedies. The respondent Party notes that, at the time of her application to the Chamber, the applicant had not even addressed the competent body for the repossession of the apartment. With the passage of the amendments to the Law on Sale of Apartments in July 1999, the applicant has also had the legal possibility to request the Federation Ministry of Defence to issue an order to be registered as

the owner of the apartment, and if she does not realize her rights in that manner, she can initiate a dispute before the competent court in accordance with Article 39d of the Law on Sale of Apartments. If she fails to realize her rights in this manner, she may still submit a compensation claim to the Federation Ministry of Defence to be reimbursed for the amount she paid for the apartment. The respondent Party asserts that the applicant has taken no steps regarding the recognition of her ownership right to the apartment as provided for by the Law on Sale of Apartments.

47. With respect to the merits of the application in connection with Article 8 of the Convention, the Federation of Bosnia and Herzegovina notes that it is undisputed that the applicant voluntarily left her apartment upon her transfer to the Military Medical Academy in Belgrade; that she served in the JNA before the war and during the war; and that after the war she continued to serve in its successor, the Army of Yugoslavia. Because the applicant has moved to another country, where she is employed, the apartment in Sarajevo cannot be regarded as her home within the meaning of Article 8 of the Convention. Therefore, the respondent Party asserts that it has not interfered with the applicant's rights in connection with Article 8 of the Convention.

48. With respect to the merits of the application in connection with Article 1 of Protocol No. 1 to the Convention, the respondent Party first asserts that Articles 39a and 39b of the Law on Sale of Apartments provides that persons who concluded legally binding contracts on purchase prior to 6 April 1992, and who use their apartment legally, will have their rights to the apartment recognized, including registration of their ownership in the relevant Land Registry books. The Federation of Bosnia and Herzegovina also notes that Article 3a of the Law on Cessation prevents some persons from repossessing their apartments, but that Article 39e allows those persons to obtain compensation for the purchase price paid for the apartment. In the present case, the respondent Party notes that the applicant has not even submitted a repossession request for the apartment, and without wishing to prejudice the possible response of the administrative organ, points out that the applicant has continually served with the JNA since 20 April 1992, and that she is a citizen of Yugoslavia (as otherwise she could not serve in the Yugoslav Army). In any case, the applicant has the possibility of obtaining compensation from the Federation Ministry of Defence for the amount paid for the apartment in accordance with Article 39e of the Law on Sale of Apartments. Furthermore, because the applicant voluntarily abandoned her apartment and has not sought to repossess it, the respondent Party holds that it has not violated Article 1 of Protocol No. 1 to the Convention.

B. The applicant

49. The applicant maintains her application in full. The applicant asserts that she is the owner of the apartment, and that she paid the entire purchase price and verified the purchase contract and the Annex to the contract at the court. She states that she also submitted the purchase contract to the competent organ to be registered as the owner of the apartment on 8 December 1991, but that the laws in force did not permit this at that time.

50. In the applicant's submission of 8 November 1999, she states that she addressed the municipal housing bodies seeking the repossession of her apartment but that she has received no response to her requests and subsequent requests for urgency. The applicant states that she was born in Sarajevo and has lived and worked there for most of her life, and as a doctor and humanist she has cared for persons regardless of their national origin or religious affiliations.

51. As to having not initiated an administrative dispute, the applicant states that she determined that it did not make sense to initiate this because all her previous appeals and requests had a negative outcome and because it was obvious that any administrative dispute would also be negatively decided upon. The applicant expected that her case would be positively resolved before the CRPC and the Chamber.

VII. OPINION OF THE COMMISSION

A. Admissibility

52. The Commission recalls that the application was introduced to the Human Rights Chamber under the Agreement. As the Chamber had not decided on the application by 31 December 2003, in accordance with Article 5 of the 2003 Agreement, the Commission is now competent to decide on the application. In doing so, the Commission shall apply the admissibility requirements set forth in Article VIII(2) of the Agreement. Moreover, the Commission notes that the Rules of Procedure governing its proceedings do not differ, insofar as relevant for the applicant's case, from those of the Chamber, except for the composition of the Commission.

1. Admissibility as against Bosnia and Herzegovina

53. In accordance with Article VIII(2) of the Agreement, "the [Commission] shall decide which applications to accept.... In so doing, the [Commission] shall take into account the following criteria: ... (c) The [Commission] shall also dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or an abuse of the right of petition."

54. The Commission notes that the applicant directs her application against Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina.

55. In the previous cases decided by the Chamber on the subject of JNA apartments, the Chamber held Bosnia and Herzegovina responsible for passing the legislation that retroactively annulled the contracts on purchase of JNA apartments (see, e.g., case nos. CH/96/3, CH/96/8 and CH/96/9, *Medan, Bastijanović and Marković,* decision on merits of 3 November 1997, Decisions on Admissibility and Merits March 1996-December 1997; case no. CH/96/22, *Bulatović,* decision on merits of 3 November 1997, Decisions on Admissibility and Merits March 1996–December 1997; case nos. CH/96/2 *et al., Podvorac and others,* decision on admissibility and merits of 14 May 1998, Decisions and Reports 1998; case nos. CH/97/82 *et al., Ostojić and others,* decision on admissibility and merits of 13 January 1999, Decisions January–July 1999; case nos. CH/97/60 *et al., Miholić and others,* decision on admissibility and merits of 9 November 2001, Decisions July–December 2001).

56. The Commission notes that in the present case, the conduct of the bodies responsible for the proceedings complained of by the applicant, such as the Administration and the Ministry of Defence, engages the responsibility of the Federation of Bosnia and Herzegovina, not of Bosnia and Herzegovina, for the purposes of Article II(2) of the Agreement. . Accordingly, as directed against Bosnia and Herzegovina, the application is incompatible *ratione personae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c).

57. The Commission therefore decides to declare the application inadmissible against Bosnia and Herzegovina.

2. Admissibility as against the Federation of Bosnia and Herzegovina

58. In accordance with Article VIII(2) of the Agreement, "the [Commission] shall decide which applications to accept.... In so doing, the [Commission] shall take into account the following criteria: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted ...."

59. In its submission of 16 August 1999, the Federation of Bosnia and Herzegovina generally asserts that the applicant has not exhausted the domestic remedies available to her in relation to the repossession and registration of ownership over the apartment, and it states that the applicant has not yet addressed a repossession request to the domestic organs for the apartment.

60. The Commission notes that it is true that the applicant, at the time she submitted her application to the Chamber, had not yet addressed the domestic organs regarding the repossession of the apartment. However, the Law on Cessation was not yet in force at the time of the applicant's application to the Chamber, and therefore the legal framework allowing the applicant to repossess her apartment was not yet in place. The Law on Cessation entered into force on 4 April 1998, and on 17 August 1998 the applicant submitted a repossession request for the apartment to the Administration.

61. The Commission also notes that the applicant received a negative decision from the first and second instance administrative organs in her case, and did not initiate an administrative dispute before the competent court regarding her repossession request. The Commission, however, takes seriously the applicant's assertion that this remedy posed no prospect of success, because it is not disputed by any of the parties that the applicant worked for the successor to the JNA, the Yugoslav Army, after 14 December 1995. Given that Article 3a of the Law on Cessation provided no legal possibility for the domestic organs to reinstate the applicant into the apartment, the Commission holds that initiating an administrative dispute was not an effective remedy in the instant case. For these reasons, the Commission decides to declare the application admissible against the Federation of Bosnia and Herzegovina.

B. Merits

62. Under Article XI of the Agreement, the Commission must next address the question of whether the facts established above disclose a breach by the respondent Party of its obligations under the Agreement. Under Article I of the Agreement, the parties are obliged to "secure to all persons within their jurisdiction the highest level of internationally recognised human rights and fundamental freedoms," including the rights and freedoms provided for in the Convention and the other international agreements listed in the Appendix to the Agreement.

1. As to the alleged violation of Article 1 of Protocol No. 1 to the Convention

63. The applicant alleges a violation of the peaceful enjoyment of her possessions with regard to the use and enjoyment of the apartment over which she was the pre-war occupancy right holder and which she purchased in December1991.

64. Article 1 of Protocol No. 1 to the Convention provides 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."

65. Article 1 of Protocol No. 1 to the Convention thus contains three rules. The first rule enunciates the general principle that one has the protected right to the peaceful enjoyment of one's property. The second rule covers deprivation of property and subjects it to the requirements of the public interest and conditions laid out in law. The third rule recognises that States are entitled to control the use of property and it subjects such control to the general interest and domestic law. It must then be determined in respect of these conditions whether a fair balance has been struck between the demands of the general interest of the community and the requirements of the protection of the individual applicant's rights, bearing in mind that the last two rules should be construed in light of the general principle (*see, e.g.*, case no. CH/96/17 *Blentić,* decision on admissibility and merits of 5 November 1997, paragraphs 31-32, Decisions on Admissibility and Merits March 1996-December 1997). Thus, there must be a reasonable relationship of proportionality between the means employed and the aim sought to be realised.

66. The Commission must first consider whether the applicant has any rights under the contract that constitute "possessions" for the purposes of Article 1 of Protocol No. 1 to the Convention. In this regard, the Commission refers to the Chamber's decisions in case no. CH/96/3 *et al. Medan and others*, decision on merits of 3 November 1997, Decisions on Admissibility and Merits March 1996–December 1997; and case no. CH/97/60 *et al. Miholić and others*, decision on admissibility and merits of 9 November 2001, Decisions July–December 2001. In the aforementioned cases, the Chamber consistently found that the rights under a contract to purchase an apartment concluded with the JNA, pursuant to the Law on Securing Housing for the JNA, constitute "possessions" for the purposes of Article 1 of Protocol No. 1 to the Convention. The Commission notes that in the present case the applicant concluded a contract under factual circumstances similar to those in the cases cited, and therefore, the Commission sees no reason to differ from the previous jurisprudence of the Chamber in this regard.

a. Interference with the applicant's rights

67. The Commission must next determine the nature of the interference, if any, with the applicant's rights flowing from the purchase contract. The Commission is aware that the applicant has not requested the Federation Ministry of Defence (*Federalno ministarstvo odbrane*) to issue an order to be registered as the owner of the apartment. It is apparent from Article 39c of the Law on Sale of Apartments that the applicant would have no prospect of success, because this provision clearly requires the applicant to repossess the apartment in accordance with the Law on Cessation before the Federation Ministry of Defence will issue the order to be registered as owner. The respondent Party also states that Article 39d of the Law on Sale of Apartments further provides that a person who does not realise his or her rights to the apartment in accordance with the Law on Sale of Apartments may initiate court proceedings in order to do so, and Article 39e provides that persons may be reimbursed for the amount paid for the apartment. The Commission therefore concludes that interference with the applicant's rights flowing from the purchase contract is caused by the Law on Sale of Apartments.

b. Public interest

68. The central issue of this case, and what the Commission must now examine, is whether the continuing interference with the applicant's property rights resulting from the application of Articles 39a, 39c, 39d, and 39e of the Law of Sale of Apartments can be justified as "in the public interest."[1]

69. When considering whether the taking of property is "in the public interest", it must be determined whether a "fair balance" has been struck between the demands of the general interest of the community and the requirements of the protection of the individuals' fundamental rights. Thus, there must be a reasonable relationship of proportionality between the means employed and the aim to be achieved. The requisite balance will not be found if the persons concerned had to bear "an excessive burden" (see e.g., Eur. Court HR, *Sporrong and Lönnroth v. Sweden,* judgement of 23 September 1982, Series A no. 52, pp. 26-28, paragraphs 70-73).

70. The European Court has acknowledged that in taking decisions involving the deprivation of property rights of individuals, national authorities enjoy a wide margin of appreciation because of their direct knowledge of their society and its needs. Further, the decision to expropriate property will often involve consideration of political, economic and social issues on which opinions within a democratic society may reasonably differ. Therefore, the judgement of the national authorities will be respected unless it was "manifestly without reasonable foundation" (Eur. Court HR, *James and Others v. United Kingdom*, judgement of 21 February 1986, Series A no. 98, p. 40, paragraph 46).

[1] The Commission has excluded Article 39b from this assessment because it does not deny recognition of the applicant's ownership right to the apartment.

71. Nevertheless, respondent Parties have not been granted *carte blanche* when deciding upon appropriate measures of their social and economic policies. Those measures are still subject to the scrutiny of the European Court: (a) They must pursue a legitimate aim; and (b) there must be a "reasonable relation of proportionality between the means employed and the aim sought to be realised" (see the above-mentioned *James and others* judgement, p. 34, paragraph 50). The latter requirement was expressed also by the notion of the "fair balance" that must be struck between the demands of the communal interest and the requirements of the protection of the individual's fundamental rights. There is no "fair balance" if the person concerned has had to bear "an individual and excessive burden" (see the above-mentioned *Sporrong and Lönnroth* judgement, p. 26, paragraphs 69 and 73).

72. In its submission received on 16 August 1999, the respondent Party states that, per the decision of the High Representative of 2 July 1999, the Law on Sale of Apartments was amended to allow a person who concluded a legally binding contract with the JNA prior to 6 April 1992 to be registered as the owner of the apartment on the condition that they use the apartment legally. The Commission recalls that Article 39a of the Law on Sale of Apartments specifies that only persons who are in possession of the apartment may obtain an order from the Federation Ministry of Defence to be registered as the owner. Article 39c prevents persons who have not repossessed their apartment in accordance with the Law on Cessation from obtaining the order to be registered as owner. The respondent Party has asserted no legitimate aim for either of these two provisions, or even reasons supporting such an extraordinary requirement for contract holders. The Commission, *proprio motu*, cannot find any reason for conditioning one's ownership rights upon possession of the property, as provided for in both Articles 39a and 39c of the Law on Sale of Apartments. Lacking any legitimate aim, the Commission therefore must find that the requirement that a contract holder be legally in possession of the apartment before being granted the right to register his or her ownership rights, is not "in the public interest". As such, Articles 39a and 39c of the Law on Sale of Apartments are not compatible with the requirements of Article 1 of Protocol No. 1 to the Convention.

73. The respondent Party also submits that the applicant can avail herself of Article 39d of the Law on Sale of Apartments, which would allow her to initiate a court dispute to determine her ownership rights to the apartment. The respondent Party did not, however, submit any reasons why contract holders who are in possession of their apartment should have their contract recognized, while contract holders who are not in possession must initiate a civil dispute to have their contract declared legally valid. The Commission accepts that such a requirement is appropriate in cases where the purchase contract was never concluded, or is in some form incomplete or lost, etc. (see, e.g., case no. CH/99/1921, *Blagojević*, decision on admissibility of 16 January 2004). When, however, as in the present case, there are no apparent flaws in the purchase contract, the Commission considers that requiring the applicant to initiate court proceedings places an excessive burden on the contract holder, and that this burden is not proportional to any legitimate aim. In coming to this conclusion, the Commission also bears in mind that the same burden is not placed on contract holders who are legally in possession of their apartment. Therefore, the Commission finds that the blanket requirement to initiate court proceedings, as provided for in Article 39d of the Law on Sale of Apartments is not "in the public interest", and as such, it is incompatible with the requirements of Article 1 of Protocol No. 1 to the Convention.

74. Finally, the respondent Party submits that, if the applicant does not realize her rights to the apartment, she may request the Federation Ministry of Defence to reimburse her for the amount paid towards the purchase of the apartment in accordance with Article 39e of the Law on Sale of Apartments. The applicant has not commented on this, nor has she sought to be reimbursed for the funds paid in 1991 for the apartment. The Commission notes that the European Court has consistently held that compensation terms under the relevant legislation are material to the assessment of whether the contested measure strikes a fair balance and whether it imposes a disproportionate burden on the applicant. In *The Holy Monasteries v. Greece*, the European Court noted: "In this connection, the taking of property without payment of an amount reasonably related

to its value will normally constitute a disproportionate interference and a total lack of compensation can be justifiable under Article 1 in exceptional circumstances only" (Eur. Ct. HR, Judgement of 9 December 1994, Series A, no. 301-A, p. 35, paragraph 71). The Commission recalls that the price of the apartment was calculated on the basis of the provisions of the Law on Securing Housing for the JNA, and the accompanying Instructions and Guidelines (see paragraphs 22 to 25 above). These provisions established a somewhat complicated system of determining the purchase price by taking into account the revaluated construction value of the apartment (depending on the quality of the furnishing of the apartment and its location, among other things), the depreciation value of the apartment, and the buyer's contribution to the JNA Housing Fund during the years of service with the JNA. In some cases, the purchase price of the apartment amounted to 0.0 Yugoslav Dinars, depending on the contributions already paid to the JNA Housing Fund. In the present case, the applicant paid 618,792 Yugoslav Dinars for the apartment, which was calculated according to the Instructions and Guidelines. This sum of money, calculated in today's market, would amount to approximately 16,786.08 Convertible Marks ("KM").[2] Although the Commission does not wish to conduct an economic assessment of the price of the apartment, it is clear that the purchase price paid in no way reflects the present day market value.

75. The respondent Party has submitted no purpose or reasons for crafting a compensation provision which provides compensation only for the purchase price paid, without taking into account that the calculated purchase price included substantial reductions based on previous payments to the JNA Housing Fund, and without taking into account the present day real market value of the apartment. The Commission can only conclude that such provision does not allow the contract holder to be reimbursed for the taking of his or her property in an amount "reasonably related to its value", and therefore poses a disproportionate interference with the applicant's rights. Furthermore, the respondent Party has submitted no legitimate aim for such a compensation scheme, nor is it apparent to the Commission. The Commission finds that Article 39e does not strike the requisite fair balance between the protection of the applicant's property and the requirements of the general interest. Therefore, the Commission also finds that Article 39e of the Law Sale of Apartments is not compatible with Article 1 of Protocol No. 1 to the Convention.

c. Conclusion

76. Having regard to the above, the Commission finds that the provisions set forth in Articles 39a, 39c, 39d, and 39e of the Law on Sale of Apartments are not in the public interest, and are therefore not compatible with Article 1 of Protocol No. 1 to the Convention. The Commission therefore finds a violation of the right to the peaceful enjoyment of the applicant's possessions under Article 1 of Protocol No. 1 to the Convention, the Federation of Bosnia and Herzegovina being responsible for this violation.

2. Alleged violation in connection with Article 8 of the Convention

77. Article 8 of the Convention provides as follows,

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> "2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

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[2] This figure is based on the current value of 618,792.00 CSD (Serbian Dinar) in KM (Convertible Marks) on 5 July 2004.

78. In light of its finding above of a violation of Article 1 of Protocol No. 1 to the Convention, the Commission considers it unnecessary to also examine the application in connection with Article 8 of the Convention.

VIII. REMEDIES

79. The Commission has established that the Federation of Bosnia and Herzegovina violated the right of the applicant to the peaceful enjoyment of her possessions flowing from the purchase contract that she concluded with the JNA in 1991 in connection with Article 1 of Protocol No. 1 to the Convention. Under Article XI(1)(b) of the Agreement, the Commission must next address the question of what steps shall be taken by the respondent Party to remedy the established breaches of the Agreement. In this connection the Commission shall consider issuing orders to cease and desist, monetary relief (including pecuniary and non-pecuniary damages), as well as provisional measures.

80. The Commission recalls that the applicant has not submitted a compensation claim.

81. In view of the finding of a violation, the Commission considers it appropriate to order the Federation of Bosnia and Herzegovina to ensure that the applicant is allowed to repossess the apartment located at Antuna Hangija 11 within three months from the date of receipt of this decision, and to ensure that the applicant is registered as the owner over the apartment in the appropriate Land Registry books of the competent court within four months from the date of receipt of this decision. The Commission considers that this remedy is sufficient satisfaction for the violations found.

82. The Commission will order the Federation of Bosnia and Herzegovina to submit to the Commission, or its successor institution, a report on the steps taken by it to comply with these orders within four months of receipt of the present decision.

IX. CONCLUSIONS

83. For the above reasons, the Commission decides;

1. unanimously, to declare the application inadmissible as directed against Bosnia and Herzegovina;

2. unanimously, to declare the application admissible as against the Federation of Bosnia and Herzegovina;

3. unanimously, that the right of the applicant to the peaceful enjoyment of her possessions flowing from the purchase contract, within the meaning of Article 1 of Protocol No. 1 to the European Convention on Human Rights, has been violated, the Federation of Bosnia and Herzegovina thereby being in breach of Article I of the Human Rights Agreement;

4. unanimously, that it is not necessary to examine the application in connection with Article 8 of the European Convention on Human Rights ;

5. unanimously, to order the Federation of Bosnia and Herzegovina to ensure that the applicant is permitted to repossess the apartment within three months of the date of receipt of this decision, and to ensure that the applicant is registered as the owner over the apartment at Antuna Hangija 11 in the Land Registry books of the competent court within four months from the date of receipt of this decision; and,

6. unanimously, to order the Federation of Bosnia and Herzegovina to submit to the Commission, or its successor institution, a report on the steps taken by it to comply with these orders within four months of receipt of the present decision.

(signed) J. David YEAGER Registrar of the Commission	(signed) Jakob MÖLLER President of the Commission

HUMAN RIGHTS COMMISSION
WITHIN THE CONSTITUTIONAL COURT
OF BOSNIA AND HERZEGOVINA

KOMISIJA ZA LJUDSKA PRAVA
PRI USTAVNOM SUDU
BOSNE I HERCEGOVINE

DECISION ON ADMISSIBILITY AND MERITS

Case no. CH/98/364

S.Š.

against

BOSNIA AND HERZEGOVINA
and
THE FEDERATION OF BOSNIA AND HERZEGOVINA

The Human Rights Commission within the Constitutional Court of Bosnia and Herzegovina, sitting in plenary session on 8 September 2004 with the following members present:

Mr. Jakob MÖLLER, President
Mr. Miodrag PAJIĆ, Vice-President
Mr. Želimir JUKA
Mr. Mehmed DEKOVIĆ
Mr. Andrew GROTRIAN

Mr. J. David YEAGER, Registrar
Ms. Olga KAPIĆ, Deputy Registrar
Ms. Meagan HRLE, Deputy Registrar

Having considered the aforementioned application introduced to the Human Rights Chamber for Bosnia and Herzegovina pursuant to Article VIII(1) of the Human Rights Agreement ("the Agreement") set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Noting that the Human Rights Chamber for Bosnia and Herzegovina ("the Chamber") ceased to exist on 31 December 2003 and that the Human Rights Commission within the Constitutional Court of Bosnia and Herzegovina ("the Commission") has been mandated under the Agreement pursuant to Article XIV of Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina entered into on 22 and 25 September 2003 ("the 2003 Agreement") to decide on cases received by the Chamber through 31 December 2003;

Adopts the following decision pursuant to Article VIII(2) and XI of the Agreement, Articles 5 and 9 of the 2003 Agreement and Rules 50, 54, 56, and 57 of the Commission's Rules of Procedure:

I. INTRODUCTION

1. The application concerns the applicant's attempts to enter into possession of her pre-war apartment located at Topal Osman Paše 18 in Sarajevo, which she purchased from the former Yugoslav National Army ("JNA") Housing Fund (*Vojna Ustanova za upravljanje stambenih fondom JNA—Beograd, Odeljenje Sarajevo*), according to a purchase contract dated 23 December 1991. The applicant also seeks to be registered as the owner of the apartment.

2. The application appears to raise issues in connection with Article 8 of the European Convention on Human Rights ("the Convention") and Article 1 of Protocol No. 1 to the Convention.

II. PROCEEDINGS BEFORE THE CHAMBER AND THE COMMISSION

3. The application was introduced 18 February 1998 and registered on 10 April 1998.

4. On 12 November 1998 the Chamber decided to transmit the application to the respondent Parties in connection with Articles 6 and 8 of the Convention and Article 1 of Protocol No. 1 to the Convention.

5. On 24 March 1999 the applicant submitted a compensation claim for the taking of her movable property from her apartment.

6. On 23 April 1999 the Federation of Bosnia and Herzegovina submitted its observations on the compensation claim, which were transmitted to the applicant on 27 April 1999.

7. Bosnia and Herzegovina submitted its observations on the admissibility and merits of the application on 29 April 1999, which were transmitted to the applicant on 18 May 1999. The applicant replied on 21 June 1999.

8. On 23 June 2004 the Federation of Bosnia and Herzegovina submitted its observations on the admissibility and merits of the application, which were transmitted to the applicant on 28 June 2004. On 22 July 2004 the applicant submitted her reply. On 14 July 2004 and 2 August 2004 the Federation of Bosnia and Herzegovina submitted additional information, which was also transmitted to the applicant.

9. On 8 September 2004 the Commission deliberated on the admissibility and merits of the application and on the same date it adopted the present decision.

III. ESTABLISHMENT OF THE FACTS

10. The applicant was the pre-war occupancy right holder over an apartment located at Topal Osman Paše 18 (formerly Milutin Đurašković 18) in Sarajevo. The applicant was allocated the apartment in 1990 as a civilian member of the JNA. The applicant concluded a contract on use for the apartment on 1 August 1991.

11. On 23 December 1991 the applicant concluded a purchase contract for the apartment with the JNA Housing Fund, in accordance with the Law on Securing Housing for the JNA. The contract provided for the applicant to pay the purchase price in total amount of 678,569 Yugoslav dinars. The signatures on the purchase contract were verified before the competent court, and the contract contains the seal of the Tax Administration dated 27 December 1991 noting that no taxes need to be paid.

12. On 9 January 1992 the applicant paid the purchase price in amount of 659,900 Yugoslav dinars, as evidenced by the payment slip.

13. On 15 February 1992 the applicant concluded an annex to the 23 December 1991 purchase contract with the JNA, which reduced the purchase price to 659,886 Yugoslav dinars. The signatures on this annex were verified on 13 March 1992.

14. On 11 May 1992 the applicant, together with her family, left the apartment and went to Serbia and Montenegro.

15. On 24 September 1996 the apartment was declared permanently abandoned. Mrs. G.T. presently uses the apartment without any legal basis.

16. On 17 July 1998 the applicant filed a repossession request to the Administration for Housing Affairs of Sarajevo Canton ("the Administration", *Uprava za stambena pitanje Kantona Sarajevo*).

17. On 28 August 2001 the applicant submitted a request for registration of her property right over the apartment to the Municipal Court I in Sarajevo.

18. On 14 December 2001 the Administration issued a procedural decision rejecting the applicant's repossession request as ill-founded, pursuant to Article 3a, paragraph 2 of the Law on Cessation of Application of the Law on Abandoned Apartments ("Law on Cessation", see paragraph 35 below). The procedural decision states that the applicant cannot be considered a refugee or a displaced person for the purposes of the Law on Cessation, because she continued to serve in the Yugoslav Army after 14 December 1995. On 23 March 2002 the applicant filed an appeal to the Ministry of Housing Affairs of Sarajevo Canton ("the Ministry", *Ministarstvo stambenih poslova*) against the14 December 2001 procedural decision.

19. On 8 November 2002 the Ministry upheld the procedural decision issued by the Administration, stating that in accordance with a notification issued by the Federal Ministry of Defence of the Federal Republic of Yugoslavia *(Savezno Ministarstvo za odbranu Savezne Republike Jugoslavije)* of 27 November 2001, and the statement of the applicant given at the hearing before the Administration on 26 November 2001, the applicant continued to serve in the Yugoslav Army, working for the Federal Ministry of Defence in Belgrade as an economist. Thus, according to Article 3a, paragraph 2 of the Law on Cessation the applicant cannot be considered a refugee or displaced person and consequently does not have the right to repossess the apartment.

20. On 13 February 2002 the applicant initiated an administrative dispute against the 8 November 2002 procedural decision before the Cantonal Court in Sarajevo, requesting the Court to annul the mentioned procedural decision because she claims that she purchased the apartment in 1991.

21. On 13 February 2004 the Cantonal Court issued a judgement accepting the applicant's appeal, annulling the first and second instance decisions and returning the case to the first instance organ for renewed proceedings. The Cantonal Court found that the first and second instance organs had not taken into consideration the provisions of the Constitution of Bosnia and Herzegovina, and Article 8 of the Convention and Article 1 of Protocol No. 1 to the Convention. The Cantonal Court instructed the first instance organ to determine if the applicant was in possession of the apartment on 30 April 1991, and whether the disputed apartment is her "home" in the sense of Article 8 of the Convention. The proceedings before the first instance organ are still pending.

IV. RELEVANT DOMESTIC LEGISLATION

A. Relevant legislation of the Socialist Federal Republic of Yugoslavia and of the Socialist Republic of Bosnia and Herzegovina

1. Law on Securing Housing for the Yugoslav National Army

22. The applicant purchased the apartment under the Law on Securing Housing for the Yugoslav National Army (Official Gazette of the Socialist Federal Republic of Yugoslavia ("OG SFRJ") no. 84/90). This Law was passed in 1990 and came into force on 6 January 1991. It essentially regulated the housing needs for military and civilian members of the JNA.

23. Article 21 set forth the general manner in which the purchase price of the apartment was to be determined, which included reductions for the revaluated construction value, the depreciation value, the revaluated amount of procurement and communal facilities costs of the construction land, and the revaluated amount of the housing construction contribution that was paid to the JNA Housing Fund. The Federal Secretary was also authorized to prescribe the exact methodology for determining the purchase price.

2. Instructions on the methodology to determine the purchase price for JNA apartments ("the Instructions", *Upustvo o metodoligiji za utvrđivanje otkupne cene stanova stambenog fonda jugoslovenske narodne armije*)

24. These Instructions were published in the Military Official Gazette (*Službeni vojni list*) no.9 on 22 April 1991 and set forth the manner of calculating the purchase price of apartments that were to be purchased from the JNA Housing Fund.

3. Guidelines for purchasing an apartment from the JNA Housing Fund ("the Guidelines", *Pravilinik o otkupu stanova iz stambenog fonda jugoslovenske narodne armije*)

25. These Guidelines were published in the Military Official Gazette no. 9 on 22 April 1991 and set forth the procedure to be followed in order to purchase an apartment from the JNA Housing Fund.

4. Law on Taxes on the Transfer of Real Estate and Rights

26. The Law on Taxes on the Transfer of Real Estate and Rights (*Zakon o porezu na promet nepokretnosti i prava*) (Official Gazette of the Socialist Republic of Bosnia and Herzegovina ("OG SRBiH" nos. 37/71, 8/72, 37/73, 23/76, 21/77, 6/78, 13/82, and 29/91) was in force at the time the applicant concluded the purchase contract with the JNA. Article 3 paragraph 1, point 18 provided that tax on the transfer of real estate does not incur on the purchase of socially owned apartments.

B. Relevant legislation of the Republic of Bosnia and Herzegovina

1. Law on Abandoned Apartments

27. On 15 June 1992 the Presidency of the then Republic of Bosnia and Herzegovina issued a Decree with Force of Law on Abandoned Apartments (Official Gazette of the Republic of Bosnia and Herzegovina ("OG RBiH") nos. 6/92, 8/92, 16/92, 13/94, 36/94, 9/95, and 33/95). The Parliament of the Republic of Bosnia and Herzegovina approved this Decree on 17 June 1994 and renamed the Decree the "Law on Abandoned Apartments". The Law governed the declaration of abandonment of certain categories of socially owned apartments and their re-allocation.

28. Article 2 set forth that apartments were to be considered abandoned if the pre-war occupancy right holder and his family members left the apartment, even if only temporarily. If the

pre-war occupancy right holder failed to resume using the apartment within the applicable time limit laid down in Article 3 (i.e., before 6 January 1996), he or she was regarded as having abandoned the apartment permanently.

29. According to Article 10, as amended, the failure to resume using the apartment within the time limit would result in deprivation of the occupancy right. The resultant loss of the occupancy right was to be recorded in a decision by the competent authority.

2. Law on the Transfer of Real Estate

30. Article 9 of the Law on the Transfer of Real Estate (Official Gazette of the Socialist Republic of Bosnia and Herzegovina ("OG SRBiH") nos. 38/78, 4/89, 29/90, and 22/91; OG RBiH nos. 21/92, 3/93, 17/93, 13/94, 18/94, and 33/94) provides that a contract on the transfer of real estate must be made in written form and that the signatures must be verified by the competent court. Paragraph 4, among other things, provides that written contracts on the transfer of real estate that have been completely or substantially performed are valid even if the signatures of the contractual parties were not verified by the competent court.

C. Relevant legislation of the Federation of Bosnia and Herzegovina

1. The Law on Cessation of the Application of the Law on Abandoned Apartments (“Law on Cessation”)

31. The Law on Cessation entered into force on 4 April 1998 and has been thereafter amended (Official Gazette of the Federation of Bosnia and Herzegovina (“OG FBiH”) nos. 11/98, 38/98, 12/99, 18/99, 27/99, 43/99, 31/01, 56/01, 15/02, and 29/03). The Law on Cessation repealed the former Law on Abandoned Apartments.

32. According to the Law on Cessation, the competent authorities may make no further decisions declaring apartments abandoned (Article 1, paragraph 2). All administrative, judicial and other decisions terminating occupancy rights based on regulations issued under the Law on Abandoned Apartments are null and void (Article 2, paragraph 1).

33. All occupancy rights or contracts on use made between 1 April 1992 and 7 February 1998 were cancelled (Article 2, paragraph 3). A person occupying an apartment on the basis of a cancelled occupancy right or decision on temporary occupancy is to be considered a temporary user (Article 2, paragraph 3).

34. The occupancy right holder of an apartment declared abandoned, or a member of his or her household, has a right to return to the apartment in accordance with Annex 7 of the General Framework Agreement for Peace in Bosnia and Herzegovina (Article 3, paragraphs 1 and 2).

35. The former Article 3a, paragraphs 1 and 2, which was in force between 4 July 1999 and 1 July 2003, provided as follows:

> “As an exception to Article 3, paragraphs 1 and 2 of this Law, regarding apartments declared abandoned on the territory of the Federation of Bosnia and Herzegovina, at the disposal of the Federation Ministry of Defence, the occupancy right holder shall not be considered a refugee if on 30 April 1991 he or she was in active service in the SSNO [Federal Secretariat for National Defence] – JNA (i.e. not retired) and was not a citizen of the Socialist Republic of Bosnia and Herzegovina according to the citizenship records, unless he or she had residence approved to him or her in the capacity of a refugee, or other equivalent protective status, in a country outside the former Socialist Federal Republic of Yugoslavia before 14 December 1995.
>
> "A holder of an occupancy right from paragraph 1 of this Article will not be considered a refugee if s/he remained in the active military service of any armed forces outside the

territory of Bosnia and Herzegovina after 14 December 1995, or if he or she has acquired another occupancy right outside the territory of Bosnia and Herzegovina."

36. The present Article 3a, which came into force on 1 July 2003, provides as follows:

"As an exception to Article 3, paragraph 1 and 2 of the Law, regarding apartments declared abandoned on the territory of the Federation of Bosnia and Herzegovina at the disposal of the Federation Ministry of Defence, the occupancy right holder shall not be considered a refugee nor have the right to repossess the apartment if after 19 May 1992, she or he remained in the active service as a military or civilian personnel of any armed forces outside the territory of Bosnia and Herzegovina, unless she or he had residence approved to him or her in the capacity of a refugee, or other equivalent protective status, in a country outside the former Socialist Federal Republic of Yugoslavia before 14 December 1995.

"A holder of an occupancy right from paragraph 1 of this Article will not be considered a refugee or have the right to repossess the apartment in the Federation of Bosnia and Herzegovina, if she or he has acquired another occupancy right or other equivalent right from the same housing fund of the former JNA or newly-established funds of armed forces of states created on the territory of the former Socialist Federal Republic of Yugoslavia."

2. The Law on Sale of Apartments with an Occupancy Right ("Law on Sale of Apartments")

37. Article 27 of the Law on Sale of Apartments (OG FBiH nos. 27/97, 11/98, 22/99, 27/99, 7/00, 32/01, 61/01, and 15/02) provides that the ownership right to an apartment shall be acquired upon registration of that right in the Land Registry books of the competent court.

38. Article 39 reads, in relevant part:

"The occupancy right holders who previously concluded a contract on purchase of an apartment in accordance with the Law on Securing Housing for JNA … shall have the amount they paid, expressed in German Marks ("DEM") according to the applicable exchange rate on the day of purchase, recognised when the new contract on purchase of the apartment is concluded in accordance with this Law."

39. Articles 39a, 39b, 39c, 39d, and 39e came into force on 5 July 1999, the date of their publication in the Official Gazette of the Federation of Bosnia and Herzegovina, as a result of their imposition by the High Representative of Bosnia and Herzegovina.

40. Article 39a provides:

"If the occupancy right holder of an apartment at the disposal of the Federation Ministry of Defence uses the apartment legally and he or she entered into a legally binding contract on purchase of the apartment with the Federal Secretariat for National Defence (SSNO) before 6 April 1992 in accordance with the Law referred to in Article 39 of this Law, the Federation Ministry of Defence shall issue an order for the registration of the occupancy right holder as the owner of the apartment with the competent court."

41. Article 39b, in relevant part, provides,

"In the event that the occupancy right holder referred to in Article 39a of this Law did not effect the payment of the total amount of the sale price of the apartment in accordance with the purchase contract, he or she shall pay the remainder of the amount specified in that contract to the Ministry of Defence of the Federation.

….

"The provisions of Articles 39a of this Law and paragraph 1 and 2 of this Article shall also be applied to contracts on the purchase of apartments concluded before 6 April 1992, in cases where the verification of signatures has not been done before the responsible court."

42. Article 39c provides:

"The provisions of Articles 39a and 39b shall also be applicable to an occupancy right holder who has exercised the right to repossess the apartment pursuant to the provisions of the Law on Cessation of the Application of the Law on Abandoned Apartments (Official Gazette of the Federation of Bosnia and Herzegovina nos. 11/98 and 18/99)."

43. Article 39d provides:

"A person who does not realise his or her rights with the Ministry of Defence, as provided for in this Law, may initiate proceedings before the competent court."

44. Article 39e provides:

"The occupancy right holder who is not entitled to the repossession of the apartment or does not submit a claim for the repossession of the apartment in accordance with the provisions of Article 3 and 3a of the Law on Cessation of the Application of the Law on Abandoned Apartments and who entered into a legally binding contract on purchase of the apartment with the former Federal Secretariat for National Defence (SSNO) before 6 April 1992, shall have the right to submit a request to the Federation Ministry of Defence for compensation of the funds paid on that basis, unless it is proved that these funds were acknowledged for purchase of an apartment outside the territory of Bosnia and Herzegovina"

3. Law on Civil Procedure

45. Article 54 of the Law on Civil Procedure (OG FBiH no. 53/03) provides as follows:

"A plaintiff may initiate a lawsuit and request that the court establish the existence or non-existence of some right or legal relationship, and the authenticity or non-authenticity of some document, respectively.

"Such a lawsuit may be initiated when a special regulation provides so, or when the plaintiff has a legal interest that the court establish the existence or non-existence of some right or legal relationship and the authenticity, or non-authenticity, of some document before the maturity date of the claim for enforcement from the same relationship.

"If the decision in the dispute depends on whether some legal interest, which during the lawsuit became disputable, exists or not, the plaintiff may file, in addition to the existing claim, a complaint requesting that the court establish the existence or non-existence of such relationship, if the court before which the lawsuit is pending is competent for such a complaint.

"Filing a complaint under the provision in paragraph 3 of this Article shall not be deemed modification of the lawsuit."

V. COMPLAINTS

46. The applicant complains that her right to her home in connection with Article 8 of the Convention, and her right to the peaceful enjoyment of her property, in connection with Article 1 of Protocol No. 1 to the Convention, have been violated.

VI. SUBMISSIONS OF THE PARTIES

A. Bosnia and Herzegovina

47. The respondent Party, Bosnia and Herzegovina submitted its observations on the admissibility and merits of the application on 29 April 1999. Bosnia and Herzegovina did not dispute the facts as set forth in the application.

48. As to the admissibility of the application, Bosnia and Herzegovina states that the applicant's claim is premature because she did not exhaust other available effective remedies. For example, at the time she submitted her application, the applicant had not initiated court proceedings to determine the validity of her purchase contract, nor had she availed herself of any administrative or judicial remedies to repossess her apartment.

49. As to the merits of the application, Bosnia and Herzegovina notes that with the passage of Article 39 of the Law on Sale of Apartments, the applicant has the possibility to have the sum that she paid for the apartment recognized when concluding a new purchase contract, and in this manner, achieve her rights. Bosnia and Herzegovina points out that the Office of the High Representative participated in the adoption of the Law on Sale of Apartments, and did not have objections to these provisions. Bosnia and Herzegovina concluded that the application should be declared inadmissible, or, with regard to the merits of the application, rejected in its entirety as against Bosnia and Herzegovina.

50. Bosnia and Herzegovina made no further submissions in the course of the proceedings.

B. The Federation of Bosnia and Herzegovina

51. On 23 April 1999 the Federation of Bosnia and Herzegovina submitted its observations on the applicant's compensation claim. The Federation of Bosnia and Herzegovina asserts that the applicant did not specify her claim, nor did she submit any evidence to substantiate her allegation that she had sustained damages on any grounds. The Federation of Bosnia and Herzegovina also notes that the applicant did not specify her claim in terms of the amount that would compensate her for the damages. The Federation of Bosnia and Herzegovina concludes that the applicant's compensation claim should be declared inadmissible.

52. The Federation of Bosnia and Herzegovina submitted its observations on the admissibility and merits of the application on 23 June 2004. The Federation of Bosnia and Herzegovina does not dispute the facts, and only highlights that the applicant has not requested the Federation Ministry of Defence (*Federalno ministarstvo odbrane*) to issue an order for her to be registered as the owner of the apartment.

53. As to the admissibility of the application, the Federation of Bosnia and Herzegovina notes that in the present case the applicant did not exhaust the domestic remedies because the renewed proceedings before the first instance organ are still pending according to the instructions of the Cantonal Court's judgement of 13 February 2004. The Federation of Bosnia and Herzegovina also notes that the applicant did not initiate court proceedings to determine the validity of her purchase contract, and that she still has the possibility to use this remedy.

54. With regard to the merits of the application, the Federation of Bosnia and Herzegovina asserts that the application is manifestly ill-founded. In connection with Article 6 of the Convention, the Federation of Bosnia and Herzegovina states that the domestic organs timely issued and delivered all decisions upon her request for repossession of the apartment. The Federation of Bosnia and Herzegovina also notes that the proceedings before the domestic organs are still pending. The Federation of Bosnia and Herzegovina therefore concludes that there is no violation of Article 6 of the Convention. In connection with Article 8 of the Convention, the Federation of Bosnia and Herzegovina states that it has not violated the applicant's right to her home, because

rejecting the applicant's request for repossession of the apartment, the domestic organs have acted in accordance with the Law on Cessation. In connection with Article 1 of Protocol No. 1 to the Convention, the Federation of Bosnia and Herzegovina notes that the applicant uses the term "ownership" for the apartment over which she had the occupancy right. If the applicant considers herself the owner, she should have initiated court proceedings to confirm her property rights to the apartment. Therefore, the Federation of Bosnia and Herzegovina states that in the present case there is no violation of Article 1 of the Protocol No. 1 to the Convention.

C. The applicant

55. The applicant submitted her response to Bosnia and Herzegovina's written observations on on 21 June 1999. She maintains her application in full and requested the Chamber again to find a violation of her property rights to the disputed apartment, noting that she had concluded a valid purchase contract. She disputed Bosnia and Herzegovina's assertion that she hadn't exhausted any domestic remedies, and attached her repossession request submitted to the Administration on 17 July 1998, for which she had not yet obtained any response.

56. On 22 July 2004 the applicant submitted her response to the Federation of Bosnia and Herzegovina's written observations. The applicant holds that she is the owner of the apartment as evidenced by the contract on purchase, annex to the contract, and payment slip. The applicant highlights that she purchased the apartment in accordance with the legal provisions in force at the time.

VII. OPINION OF THE COMMISSION

A. Admissibility

57. The Commission recalls that the application was introduced to the Human Rights Chamber under the Agreement. As the Chamber had not decided on the application by 31 December 2003, in accordance with Article 5 of the 2003 Agreement, the Commission is now competent to decide on the application. In doing so, the Commission shall apply the admissibility requirements set forth in Article VIII(2) of the Agreement. Moreover, the Commission notes that the Rules of Procedure governing its proceedings do not differ, insofar as relevant for the applicant's case, from those of the Chamber, except for the composition of the Commission.

1. Admissibility as against Bosnia and Herzegovina

58. In accordance with Article VIII(2) of the Agreement, "the [Commission] shall decide which applications to accept.… In so doing, the [Commission] shall take into account the following criteria: … (c) The [Commission] shall also dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or an abuse of the right of petition."

59. The Commission notes that the applicant directs her application against Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina.

60. In the previous cases decided by the Chamber on the subject of JNA apartments, the Chamber held Bosnia and Herzegovina responsible for passing the legislation that retroactively annulled the contracts on purchase of JNA apartments (*see, e.g.,* case no. CH/96/3, CH/96/8 and CH/96/9, *Medan, Baštijanović, and Marković,* decision on merits of 3 November 1997, Decisions on Admissibility and Merits March 1996–December 1997; case no. CH/96/22, *Bulatović,* decision on merits of 3 November 1997, Decisions on Admissibility and Merits March 1996–December 1997; case no. CH/96/2 *et al., Podvorac and others,* decision on admissibility and merits of 14 May 1998, Decisions and Reports 1998; case nos. CH/97/82 *et al., Ostojić and others,* decision on admissibility and merits of 13 January 1999, Decisions January–July 1999; case no. CH/97/60

et al., Miholić and others, decision on admissibility and merits of 9 November 2001, Decisions July-December 2001).

61. The Commission notes that, in the present case, the conduct of the bodies responsible for the proceedings complained of by the applicant, such as the Administration for Housing Affairs of Sarajevo Canton, the Ministry of Housing Affairs of Sarajevo Canton, and the Ministry of Defence, engages the responsibility of the Federation of Bosnia and Herzegovina, not of Bosnia and Herzegovina, for the purposes of Article II(2) of the Agreement. Accordingly, as directed against Bosnia and Herzegovina, the application is incompatible *ratione personae* with the provisions of the Agreement, within the meaning of Article VIII(2)(c).

62. The Commission therefore decides to declare the application inadmissible against Bosnia and Herzegovina.

2. Admissibility as against the Federation of Bosnia and Herzegovina

a. Claim in relation to movable property

63. In accordance with Article VIII(2) of the Agreement, "the [Commission] shall decide which applications to accept.… In so doing, the [Commission] shall take into account the following criteria: … (c) The [Commission] shall also dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or an abuse of the right of petition."

64. The applicant submitted a compensation claim for her movable property located in her apartment. The Commission notes that the applicant has not shown that this alleged damage or loss was directly caused by the respondent Party or any person acting on its behalf. Therefore, the Commission finds that this part of the application does not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. It follows that this part of the application is manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement. The Commission therefore decides to declare this part of the application inadmissible.

b. Exhaustion of domestic remedies in relation to the ownership claim

65. In accordance with Article VIII(2) of the Agreement, "the [Commission] shall decide which applications to accept…. In so doing, the [Commission] shall take into account the following criteria: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted …."

66. In its written submission, the Federation of Bosnia and Herzegovina asserts that the applicant has not exhausted the domestic remedies available with regard to the registration of ownership over the apartment because she has not initiated court proceedings to determine the validity of her purchase contract (see paragraphs 53 and 54 above).

67. The Commission acknowledges that the Law on Civil Procedure provides a remedy to determine whether some right exists or not, or the authenticity of a document. The Commission recalls that previously the Chamber found Article 54 of the Law on Civil Procedure (or Article 172, under the former Law on Civil Procedure) was an effective domestic remedy that must be exhausted in cases where the applicants did not have a purchase contract in their possession, but rather asserted that they were the owners based on the steps taken towards the purchase of the apartment in 1991 and 1992 (*see, e.g.,* case nos. CH/98/1160, CH/98/1177, CH/98/1264, *Pajagić, Kurozović and M.P.*, decision on admissibility of 9 May 2003). The Commission has also adopted the same approach (*see, e.g.* case no. CH/99/1921, *Blagojević,* decision on admissibility of 16 January 2004). In such cases, the Commission considers it reasonable to expect that the applicant must bear the burden of initiating a lawsuit to determine the existence of a contractual relationship or of any contractual rights.

68. In the case at hand, the applicant has a purchase contract that appears, in all aspects, to be a valid contract. It has been signed by the parties, includes the purchase price and terms of payment, the signatures on the purchase contract were verified before the competent court and the contract also contains the seal of the Tax Administration noting that no taxes need to be paid. The Commission considers that the burden of initiating proceedings to determine the validity of the contract should fall on the party who wishes to dispute the contract, and not on the contract holder who otherwise has no reason to doubt the validity of the contract he or she possesses.

69. The Commission concludes that, because the applicant possesses a purchase contract which appears on its face to be valid, initiating a lawsuit in accordance with Article 54 of the Law on Civil Procedure is not a domestic remedy that the applicant must exhaust, within the meaning of Article VIII(2)(a) of the Agreement.

3. Conclusion as to admissibility

70. In summary, the Commission declares the application inadmissible *ratione personae* as directed against Bosnia and Herzegovina, inadmissible as to the claim in relation to the movable property in the apartment, and admissible in all other respects as directed against the Federation of Bosnia and Herzegovina.

B. Merits

71. Under Article XI of the Agreement, the Commission must next address the question of whether the facts established above disclose a breach by the respondent Party of its obligations under the Agreement. Under Article I of the Agreement, the parties are obliged to "secure to all persons within their jurisdiction the highest level of internationally recognised human rights and fundamental freedoms," including the rights and freedoms provided for in the Convention and the other international agreements listed in the Appendix to the Agreement.

1. As to the alleged violation of Article 1 of Protocol No. 1 to the Convention

72. The applicant alleges a violation of the peaceful enjoyment of her possessions with regard to the use and enjoyment of the apartment over which she was the pre-war occupancy right holder and which she purchased in December 1991.

73. Article 1 of Protocol No. 1 to the Convention provides 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."

74. Article 1 of Protocol No. 1 to the Convention thus contains three rules. The first rule enunciates the general principle that one has the protected right to the peaceful enjoyment of one's property. The second rule covers deprivation of property and subjects it to the requirements of the public interest and conditions laid out in law. The third rule recognises that States are entitled to control the use of property and it subjects such control to the general interest and domestic law. It must then be determined in respect of these conditions whether a fair balance has been struck between the demands of the general interest of the community and the requirements of the protection of the individual applicant's rights, bearing in mind that the last two rules should be construed in light of the general principle (*see, e.g.*, case no. CH/96/17, *Blentić,* decision on admissibility and merits of 5 November 1997, paragraphs 31-32, Decisions on Admissibility and

Merits March 1996-December 1997). Thus, there must be a reasonable relationship of proportionality between the means employed and the aim sought to be realised.

75. The Commission must first consider whether the applicant has any rights under the contract that constitute "possessions" for the purposes of Article 1 of Protocol No. 1 to the Convention. In this regard, the Commission refers to the Chamber's decisions in case no. CH/96/3 *et al., Medan and others*, decision on merits of 3 November 1997, Decisions on Admissibility and Merits March 1996–December 1997; and case no. CH/97/60 *et al., Miholić and others*, decision on admissibility and merits of 9 November 2001, Decisions July–December 2001. In the aforementioned cases, the Chamber consistently found that the rights under a contract to purchase an apartment concluded with the JNA, pursuant to the Law on Securing Housing for the JNA, constitute "possessions" for the purposes of Article 1 of Protocol No. 1 to the Convention. The Commission notes that in the present case the applicant concluded a contract under factual circumstances similar to those in the cases cited, and therefore, the Commission sees no reason to differ from the previous jurisprudence of the Chamber in this regard.

a. Interference with the applicant's rights

76. The Commission must next determine the nature of the interference, if any, with the applicant's rights flowing from the purchase contract. The Commission is aware that the applicant has not requested the Federation Ministry of Defence to issue an order to be registered as the owner of the apartment. It is apparent from Article 39c of the Law on Sale of Apartments that the applicant would have no prospect of success if she were to do so, because this provision clearly requires the applicant to first repossess the apartment in accordance with the Law on Cessation before the Federation Ministry of Defence will issue the order for her to be registered as owner. In the present case the applicant has been unsuccessful in her attempts to repossess the apartment, and the provisions of the Law on Sale of Apartments therefore prevents her from realizing her contractual rights to the apartment. The Commission therefore concludes that the interference with the applicant's rights flowing from the purchase contract is caused by the Law on Sale of Apartments.

b. Public interest

77. The central issue of this case, and what the Commission must now examine, is whether the continuing interference with the applicant's property rights resulting from the application of the Law of Sale of Apartments can be justified as "in the public interest."

78. When considering whether the taking of property is "in the public interest", it must be determined whether a "fair balance" has been struck between the demands of the general interest of the community and the requirements of the protection of the individuals' fundamental rights. Thus, there must be a reasonable relationship of proportionality between the means employed and the aim to be achieved. The requisite balance will not be found if the persons concerned had to bear "an excessive burden" (*see e.g.,* Eur. Court HR, *Sporrong and Lönnroth v. Sweden,* judgement of 23 September 1982, Series A no. 52, pp. 26-28, paragraphs 70-73).

79. The European Court has acknowledged that in taking decisions involving the deprivation of property rights of individuals, national authorities enjoy a wide margin of appreciation because of their direct knowledge of their society and its needs. Further, the decision to expropriate property will often involve consideration of political, economic and social issues on which opinions within a democratic society may reasonably differ. Therefore, the judgement of the national authorities will be respected unless it was "manifestly without reasonable foundation" (Eur. Court HR, *James and Others v. United Kingdom*, judgement of 21 February 1986, Series A no. 98, p. 40, paragraph 46).

80. Nevertheless, respondent Parties have not been granted *carte blanche* when deciding upon appropriate measures of their social and economic policies. Those measures are still subject to the scrutiny of the European Court: (a) They must pursue a legitimate aim; and (b) there must

be a “reasonable relation of proportionality between the means employed and the aim sought to be realised” (see the above-mentioned *James and others* judgement, p. 34, paragraph 50). The latter requirement was expressed also by the notion of the “fair balance” that must be struck between the demands of the communal interest and the requirements of the protection of the individual’s fundamental rights. There is no “fair balance” if the person concerned has had to bear “an individual and excessive burden” (see the above-mentioned *Sporrong and Lönnroth* judgement, p. 26, paragraphs 69 and 73).

81. In its written submission, the Federation of Bosnia and Herzegovina did not provide any comments on the Law on Sale of Apartments specifically. The Commission recalls that Article 39a of the Law on Sale of Apartments specifies that only a person who concluded a legally binding contract with the JNA prior to 6 April 1992, and who is in possession of the apartment may obtain the order from the Federation Ministry of Defence to be registered as the owner of the apartment. Article 39c prevents a person who has not repossessed his or her apartment in accordance with the Law on Cessation from obtaining the order to be registered as owner of the apartment. The Federation of Bosnia and Herzegovina has asserted no legitimate aim for either of these two provisions, or even reasons supporting such an extraordinary requirement for contract holders. The Commission, *proprio motu*, cannot find any reason for conditioning one’s ownership rights upon possession of the property, as provided for in both Articles 39a and 39c of the Law on Sale of Apartments. Lacking any legitimate aim, the Commission therefore must find that the requirement that a contract holder be legally in possession of the apartment before being permitted to register his or her ownership rights, is not “in the public interest”. As such, Articles 39a and 39c of the Law on Sale of Apartments are not compatible with the requirements of Article 1 of Protocol No. 1 to the Convention.

82. The Federation of Bosnia and Herzegovina generally submits that the applicant should have initiated civil proceedings to determine the validity of her purchase contract. The Commission recalls that Article 39d of the Law on Sale of Apartments provides that persons who do not realize their rights to the apartment through this Law may initiate court proceedings to do so. The Federation of Bosnia and Herzegovina, however, did not submit any reasons why contract holders who are in possession of their apartment should have their contract recognized, while contract holders who are not in possession must initiate a civil dispute to have their contract declared legally valid. As discussed above in paragraph 56, the Commission accepts that such a requirement is appropriate in cases where the purchase contract was never concluded, or is in some form incomplete or lost, etc. (*see, e.g.,* case no. CH/99/1921, *Blagojević*, decision on admissibility of 16 January 2004). When, however, as in the present case, there are no apparent flaws in the purchase contract, the Commission considers that requiring the applicant to initiate court proceedings places an excessive burden on the contract holder, and that this burden is not proportional to any legitimate aim. In coming to this conclusion, the Commission also bears in mind that the same burden is not placed on contract holders who are in possession of their apartment. In this sense, the Commission finds that the blanket requirement to initiate court proceedings, as set forth in Article 39d of the Law on Sale of Apartments, is not “in the public interest”, and as such, it is incompatible with the requirements of Article 1 of Protocol No. 1 to the Convention.

c. Conclusion

83. Having regard to the above, the Commission finds that the provisions set forth in Articles 39a, 39c, and 39d of the Law on Sale of Apartments are not in the public interest, and therefore not compatible with Article 1 of Protocol No. 1 to the Convention. The Commission therefore finds a violation of the right to the peaceful enjoyment of the applicant’s possessions under Article 1 of Protocol No. 1 to the Convention, the Federation of Bosnia and Herzegovina being responsible for this violation.

2. Alleged violation in connection with Article 6 of the Convention

84. Article 6, paragraph 1 of the Convention provides, in relevant part, as follows,

> "In the determination of his civil rights and obligations …everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by the law."

85. In light of its finding above of a violation of Article 1 of Protocol No. 1 to the Convention, the Commission considers it unnecessary to also examine the application in connection with Article 6 of the Convention.

3. Alleged violation in connection with Article 8 of the Convention

86. Article 8 of the Convention provides as follows,

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> "2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

87. In light of its finding above of a violation of Article 1 of Protocol No. 1 to the Convention, the Commission considers it unnecessary to also examine the application in connection with Article 8 of the Convention.

VIII. REMEDIES

88. The Commission has established that the Federation of Bosnia and Herzegovina violated the right of the applicant to the peaceful enjoyment of her possessions flowing from the purchase contract that she concluded with the JNA in 1991 in connection with Article 1 of Protocol No. 1 to the Convention. Under Article XI(1)(b) of the Agreement, the Commission must next address the question of what steps shall be taken by the respondent Party to remedy the established breaches of the Agreement. In this connection the Commission shall consider issuing orders to cease and desist, monetary relief (including pecuniary and non-pecuniary damages), as well as provisional measures.

89. The Commission recalls that the applicant submitted a compensation claim in her 24 March 1999 submission.

90. In view of the finding of a violation, the Commission considers it appropriate to order the Federation of Bosnia and Herzegovina to ensure that the applicant is allowed to repossess the apartment at Topal Osman Paše 18 with no further delay, and at the latest three months from the date of receipt of this decision, and to ensure that the applicant is registered as the owner of the apartment at Topal Osman Paše 18 in the Land Registry books of the competent court within three months from the date of receipt of this decision. The Commission considers that this remedy is sufficient satisfaction for the violations found.

91. The Commission will also order the Federation of Bosnia and Herzegovina to submit to it, or its successor institution, a report on the steps taken by it to comply with these orders within three months of the date of receipt of this decision.

IX. CONCLUSIONS

92. For the above reasons, the Commission decides,

1. unanimously, to declare the application inadmissible as directed against Bosnia and Herzegovina;

2. unanimously, to declare the applicant's claim for the loss of her movable property inadmissible as manifestly ill-founded;

3. unanimously, to declare the remainder of the application admissible in its entirety as directed against the Federation of Bosnia and Herzegovina;

4. unanimously, that the right of the applicant to the peaceful enjoyment of her possessions flowing from the purchase contract, within the meaning of Article 1 of Protocol No. 1 to the European Convention on Human Rights has been violated, the Federation of Bosnia and Herzegovina thereby being in breach of Article I of the Human Rights Agreement;

5. unanimously, that it is not necessary to examine the application in connection with Articles 6 and 8 of the European Convention on Human Rights;

6. unanimously, to order the Federation of Bosnia and Herzegovina to ensure that the applicant is permitted to repossess the apartment with no further delay, and at the latest three months from the date of receipt of this decision, and to ensure that the applicant is registered as the owner of the apartment at Topal Osman Paše 18 in Sarajevo in the Land Registry books of the competent court within three months from the date of receipt of this decision; and,

7. unanimously, to order the Federation of Bosnia and Herzegovina to submit to the Commission, or its successor institution, a report on the steps taken by it to comply with these orders within three months of the date of receipt of this decision.

(signed)
J. David YEAGER
Registrar of the Commission

(signed)
Jakob MÖLLER
President of the Commission

ODLUKA O PRIHVATLJIVOSTI I MERITUMU

Predmet broj CH/98/366 i dr.

Rabija HALILOVIĆ i drugi

protiv

BOSNE I HERCEGOVINE

I

FEDERACIJE BOSNE I HERCEGOVINE

Komisija za ljudska prava pri Ustavnom sudu Bosne i Hercegovine, na zasjedanju Velikog vijeća od 12. maja 2005. godine, sa sljedećim prisutnim članovima:

Gosp. Miodrag PAJIĆ, predsjednik
Gosp. Mehmed DEKOVIĆ, potpredsjednik
Gosp. Želimir JUKA, član
Gosp. Miodrag SIMOVIĆ, član
Gđa Valerija Galić, član

Gosp. Nedim ADEMOVIĆ, arhivar

Razmotrivši gore spomenute prijave podnesene Domu za ljudska prava za Bosnu i Hercegovinu (u daljnjem tekstu: Dom) u skladu sa članom VIII(1) Sporazuma o ljudskim pravima (u daljnjem tekstu: Sporazum) sadržanom u Aneksu 6 uz Opći okvirni sporazum za mir u Bosni i Hercegovini;

Konstatujući da je Dom prestao postojati 31. decembra 2003. godine i da je Komisija za ljudska prava pri Ustavnom sudu Bosne i Hercegovine (u daljnjem tekstu: Komisija) dobila mandat prema sporazumima u skladu sa članom XIV Aneksa 6 uz Opći okvirni sporazum za mir u Bosni i Hercegovini koji su zaključeni u septembru 2003. i januaru 2005. godijne (u daljnjem tekstu: Sporazum iz 2005. godine) da odlučuje o predmetima podnesenim Domu do 31. decembra 2003. godine;

Usvaja sljedeću odluku u skladu sa članom VIII(2)(d) Sporazuma, čl. 3. i 8. Sporazuma iz 2005. godine, kao i pravilom 21. stavom 1(a) u vezi sa pravilom 53. Pravila procedure Komisije:

I. UVOD

1. Podnosioci prijava su prije raspada Socijalističke Federativne Republike Jugoslavije (u daljnjem tekstu: SFRJ), polagali devizna sredstva kod komercijalnih banaka sa sjedištem u Republici Bosni i Hercegovini i kod jedne, ili obje, "strane" banke tj. Osnovne privredno investicione banke u Beogradu-Investbanke (u daljnjem tekstu: Investbanka Beograd), sa sjedištem u bivšoj Republici Srbiji i Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo, sa sjedištem u bivšoj Republici Sloveniji. Zbog rastuće nestašice deviza i drugih ekonomskih problema isplata sredstava sa ovih "starih" deviznih štednih računa progresivno je organičavana po zakonima koji su stupili na snagu tokom 1980-tih i početkom 1990-tih.

2. Neposredno pred početak, kao i u toku oružanih sukoba u Bosni i Hercegovini, podnosioci prijava uglavnom nisu bili u mogućnosti da podižu novac sa svojih štednih računa. Također, svi njihovi pokušaji da podignu novac u poslijeratnom periodu bili su odbijeni bez obrazloženja ili uz pozivanje na zakone koje su usvojile SFRJ, Republika Bosna i Hercegovina i kasnije Federacija Bosne i Hercegovine.

3. Neki od podnosilaca prijava pokrenuli su sudske postupke, kako bi ostvarili svoja potraživanja po osnovu stare devizne štednje, međutim, niti jedan sudski postupak nije rezultirao ostvarenjem potraživanja, tako da su ti postupci do danas ostali bez rezultata.

4. U skladu sa zakonima, koje je Federacija Bosne i Hercegovine usvojila u toku 1997. i 1998. godine, a posebno Zakonom o utvrđivanju i realizaciji potraživanja građana u procesu privatizacije (u daljnjem tekstu: Zakon o potraživanjima građana), potraživanja po osnovu stare devizne štednje trebala su biti riješena u procesu privatizacije imovine u društvenom i državnom vlasništvu. Prema Zakonu o potraživanjima građana, stanja devizne štednje su trebala biti evidentirana na "Jedinstvenom računu građana", koji je vodio Federalni zavod za platni promet. Umjesto isplate štednje, Zavod je izdavao certifikate u odgovarajućem iznosu. Prema relevantnim zakonskim odredbama, ovi certifikati su se mogli koristiti u procesu privatizacije za kupovinu stanova, poslovnih prostora u državnom vlasništvu, dionica preduzeća ili drugih sredstava. Ova procedura je sačinjena kako bi se riješila potraživanja građana i na taj način zaštitio sistem isplate javnog duga i spriječio kolaps bankovnog sistema.

5. Dom je 9. juna 2000. godine uručio svoju Odluku o prihvatljivosti i meritumu u predmetu *CH/97/48 i dr.*, *Poropat i drugi protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine,* koja se tiče zahtjeva podnosilaca prijava za ostvarenje potraživanja po osnovu stare devizne štednje. Dom je odlučio da su Bosna i Hercegovina i Federacija Bosne i Hercegovine prekršile prava podnosilaca prijava na mirno uživanje imovine prema članu 1. Protokola broj 1 uz Evropsku konvenciju za zaštitu ljudskih prava i temeljnih sloboda (u daljnjem tekstu: Evropska konvencija). Dom je naredio, *inter alia*, da Federacija Bosne i Hercegovine treba "izmijeniti i dopuniti program privatizacije tako da postigne pravičnu ravnotežu između općeg interesa i zaštite imovinskih prava podnosilaca prijava kao imalaca stare devizne štednje".

6. Od 2. novembra 2000. do 8. februara 2002. godine, Federacija je dopunila razne odredbe Zakona o potraživanjima građana u pokušaju da izvrši naredbu Doma iz odluke *Poropat i drugi*.

7. Međutim, Ustavni sud Federacije Bosne i Hercegovine je 8. januara 2001. godine donio odluku kojom se utvrđuje da ključne odredbe Zakona o potraživanjima građana nisu u skladu sa Ustavom Federacije Bosne i Hercegovine. Na taj način, efikasnost i daljnja primjena ovog Zakona su dovedeni u pitanje.

8. Dom je 11. oktobra 2002. godine uručio odluku o prihvatljivosti i meritumu u predmetu broj *CH/97/104 i dr.*, *Todorović i drugi protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine* (u daljnjem tekstu: odluka *Todorović i drugi)*. U ovoj odluci, Dom je odlučio, *inter alia*, da stanje pravne nesigurnosti koje proističe iz odluke Ustavnog suda Federacije Bosne i Hercegovine, te

činjenica da Federacija Bosne i Hercegovine nastavlja da primjenjuje zakone koji su proglašeni neustavnima, nepostojanja odgovarajućih izmjena tih zakona, te nedostupnosti obeštećenja na domaćim sudovima, sve zajedno, predstavlja nesrazmjerno uplitanje u imovinska prava podnosilaca prijava. Time Federacija Bosne i Hercegovine krši prava podnosilaca prijava na mirno uživanje imovine u skladu s članom 1. Protokola broj 1 uz Evropsku konvenciju. Dom je utvrdio da je i Bosna i Hercegovina prekršila član 1. Protokola broj 1 uz Evropsku konvenciju po osnovu opće angažovanosti i odgovornosti Države za staru deviznu štednju, te njenog nepreduzimanja odgovarajućih radnji s tim u vezi. Dom je naredio, *inter alia*, da Federacija Bosne i Hercegovine, u roku od šest mjeseci od dana donošenja odluke, donese relevantne i obavezujuće zakone i propise kojima se jasno reguliše problem stare devizne štednje na način koji je u skladu sa članom 1. Protokola broj 1 uz Evropsku konvenciju.

9. Dom je 4. jula 2003. godine uručio Odluku o daljnjim pravnim lijekovima u predmetu broj CH/97/48 i dr, *Poropat i drugi*, uključujući sve podnosioce prijava iz prethodnih odluka *Poropat i drugi* i *Todorović i drugi*. Dom je zaključio da ni Bosna i Hercegovina, niti Federacija Bosne i Hercegovine, nisu preduzele nikakve relevantne korake za izvršenje odluka Doma. Time su nastavile s kršenjem prava podnosilaca prijava prema članu 1. Protokola broj 1 uz Evropsku konvenciju. Dom je, zbog toga, smatrao odgovarajućim da naredi daljnje pravne lijekove, uključujući, *inter alia*, isplatu novca svakom od podnosilaca prijava. Dom je, između ostalog, naredio da se u roku jednog mjeseca od datuma uručenja odluke, svakom konkretnom podnosiocu prijave isplati iznos od 2.000 konvertibilnih maraka (u daljnjem tekstu: KM), ili puni iznos njene/njegove stare devizne štednje, u zavisnosti od toga koji je iznos manji, te da će teret ovih isplata snositi tužene strane podjednako.

10. Dom je 7. novembra 2003. godine uručio Odluku u prihvatljivosti i meritumu u predmetu broj *CH/98/377 i dr, Đurković i drugi protiv Bosne i Hercegovine, Federacije Bosne i Hercegovine i Republike Srpske.* U ovoj Odluci, Dom je zaključio, *inter alia*, da situacija u Federaciji Bosne i Hercegovine u pogledu stare devizne štednje, uzeta u cjelini, stavlja pojedinačan i pretjeran teret na mnoge štediše, uključujući i podnosioce prijava. Dom je priznao napore Federacije Bosne i Hercegovine da uspostavi "pravičnu ravnotežu" raznim izmjenama i dopunama važećih zakona koje su uslijedile nakon usvojenih odluka Doma. Međutim, zaključuje se da kakav god da je bio mogući uticaj tih izmjena, odlukom Ustavnog suda Federacije Bosne i Hercegovine, njihova efikasnost je dovedena u pitanje. Dom je utvrdio da stvoreno stanje pravne neizvjesnosti – nastavljena primjena zakona u svjetlu odluke Ustavnog suda Federacije, nedostatak blagovremenih odgovarajućih izmjena tih zakona i očigledna nemogućnost obraćanja domaćim sudovima – stvara neproporcionalno uplitanje u imovinska prava podnosilaca prijava. U pogledu odgovornosti Bosne i Hercegovine, Dom je ostao na stanovištu da je Država generalno odgovorna za pitanja u vezi sa starom deviznom štednjom.

11. Na tragu novih rješenja, Parlament Federacije Bosne i Hercegovine je 20. novembra 2004. godine usvojio Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine ("Službene novine Federacije Bosne i Hercegovine", broj 64/04), (u daljnjem tekstu: Zakon o izmirenju obaveza). Ovim Zakonom, Federacija Bosne i Hercegovine je utvrdila da će se sveobuhvatno izmirenje unutrašnjeg duga prema fizičkim i pravnim licima izvršiti na način koji osigurava i podržava makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine. Utvrđeno je da se unutrašnji dug, između ostalog, odnosi i na obaveze po osnovu stare devizne štednje ostvarene kod najnižih poslovnih jedinica banaka na teritoriji Federacije Bosne i Hercegovine, u iznosu koji se utvrđuje u postupku verifikacije obaveza na način propisan ovim Zakonom. Međutim, u odnosu na obaveze po osnovu stare devizne štednje deponovane u Ljubljanskoj banci i Invest banci, Zakon o izmirenju obaveza je izričito propisao da će se iste rješavati u procesu sukcesije imovine bivše SFRJ.

12. Predmetne prijave se odnose na zahtjeve podnosilaca prijava da ostvare svoja potraživanja po osnovu stare devizne štednje, deponovane kod banaka sa sjedištem u bivšoj Republici Bosni i Hercegovini i kod banaka koje su imale sjedište u drugim republikama bivše SFRJ, sa najnižim poslovnim jedinicama na teritoriji današnje Federacije Bosne i Hercegovine. Čini se da su, na

podlozi zakonske regulative iz 1997. i 1998. godine, banke prebacile staru deviznu štednju ovih podnosilaca prijava na Jedinstvene račune građana u Federalnom zavodu za platni promet (u daljnjem tekstu: Zavod). Izuzetak čine određeni predmeti, gdje podnosioci prijave izričito navode da njihova devizna štednja nije evidentirana na Jedinstvenom računu građana kod Zavoda.

13. Prijave pokreću pitanja u vezi sa pravom podnosilaca prijava na mirno uživanje imovine po članu 1. Protokola broj 1 uz Evropsku konvenciju i pravom na pravičnu raspravu u razumnom roku u smislu člana u 6. Evropske konvencije.

II. POSTUPAK PRED DOMOM/KOMISIJOM

14. S obzirom na sličnost između činjenica u predmetima i žalbenih navoda podnosilaca prijava, Komisija je odlučila da prijave br. CH/98/366, CH/98/426, CH/98/430, CH/98/459, CH/98/462, CH/98/466, CH/98/469, CH/98/485, CH/98/486, CH/98/499, CH/98/505, CH/98/512, CH/98/513, CH/98/518, CH/98/527, CH/98/537, CH/98/538, CH/98/557, CH/98/568, CH/98/587, CH/98/589, CH/98/591, CH/98/593, CH/98/599, CH/98/600, CH/98/609, CH/98/621, CH/98/629, CH/98/630, CH/98/633, CH/98/639, CH/98/650, CH/98/674, CH/98/683, CH/98/684, CH/98/805, CH/98/1070, CH/98/1089, CH/99/1759, CH/99/1768, CH/99/2026, CH/99/2053, CH/99/2060, CH/99/2138, CH/99/2145, CH/99/2287, CH/99/2292, CH/99/2513, CH/99/2549, CH/99/2560, CH/99/2566, CH/99/2651, CH/99/2652, CH/99/2657, CH/99/2677, CH/99/2709, CH/99/2784, CH/99/2856, CH/99/2907, CH/99/2909, CH/99/2924, CH/99/2925, CH/99/2952, CH/99/2953, CH/99/2958, CH/99/2959, CH/99/2968, CH/99/2970, CH/99/2975, CH/99/2977, CH/99/2984, CH/99/3017, CH/99/3095, CH/99/3120, CH/99/3134, CH/99/3143, CH/99/3162, CH/99/3198, CH/99/3222, CH/99/3224, CH/99/3225, CH/99/3230, CH/99/3241, CH/99/3246, CH/99/3270, CH/99/3283, CH/99/3288, CH/99/3289, CH/99/3301, CH/99/3302, CH/99/3303, CH/99/3314, CH/99/3316, CH/99/3317, CH/99/3346, CH/99/3361, CH/99/3362 i CH/99/3384 spoji u skladu s pravilom 33. Pravila procedure Komisije istoga dana kada je usvojila ovu odluku.

15. Prijave su podnesene Domu u periodu od 18. februara 1998. do 22. decembra 1999. godine.

16. Dom je 30. maja 2003. godine proslijedio tuženim stranama, Bosni i Hercegovini i Federaciji Bosne i Hercegovine, jednu grupu predmeta, radi dostavljanja pismenih zapažanja o prihvatljivosti i meritumu prema članu 1. Protokola broj 1 uz Evropsku konvenciju. Tužena strana, Bosna i Hercegovina, je 10. juna 2003. godine dostavila Domu svoja pismena zapažanja. Federacija Bosne i Hercegovine je svoja pismena zapažanja dostavila 30. jula 2003. godine i dodatne informacije 12. decembra 2003. godine. Dom je podnosiocima prijava proslijedio pismena zapažanja tuženih strana i dodatne informacije tužene strane Federacije Bosne i Hercegovine.

17. Dom je 12. decembra 2003. godine proslijedio tuženim stranama, Bosni i Hercegovini i Federaciji Bosne i Hercegovine, grupu predmetnih prijava, radi dostavljanja pismenih zapažanja o prihvatljivosti i meritumu prema članu 6. Evropske konvencije i članu 1. Protokola broj 1 uz Evropsku konvenciju. Federacija Bosne i Hercegovine je svoja pismena zapažanja dostavila Komisiji 13. februara 2004. godine. Komisija je podnosiocima prijava proslijedila zapažanja o prihvatljivosti i meritumu tužene strane, Federacije Bosne i Hercegovine.

18. Tužena strana, Federacija Bosne i Hercegovine, je 8. decembra 2004. godine dostavila Komisiji dodatne informacije. Komisija je podnosiocima prijava proslijedila dodatne informacije tužene strane Federacije Bosne i Hercegovine.

19. Komisija je 27. januara 2005. godine proslijedila tuženim stranama, Bosni i Hercegovini i Federaciji Bosne i Hercegovine, preostali dio predmetnih prijava, radi dostavljanja pismenih zapažanja o prihvatljivosti i meritumu prema članu 1. Protokola broj 1 uz Evropsku konvenciju.

20. Komisija je 24. februara 2005. godine zaprimila pismena zapažanja tužene strane, Bosne i Hercegovine, a 25. februara 2005. godine je zaprimila pismena zapažanja Federacije Bosne i Hercegovine.

21. Komisija je podnosiocima prijava proslijedila zapažanja o prihvatljivosti i meritumu tuženih strana do dana donošenja ove Odluke.

22. Komisija je 31. januara 2005. godine zatražila od Kantonalnog suda u Sarajevu (u daljnjem tekstu: Kantonalni sud) Izvod iz sudskog registra za Ljubljansku banku d.d. Ljubljana i Investbanku Beograd, za period od 1990. godine do 6. aprila 1992. godine. Kantonalni sud je 10. februara 2005. godine dostavio Komisiji tražene informacije.

23. Komisija je pismenim dopisom od 18. februara 2005. godine pozvala Ured visokog predstavnika za Bosnu i Hercegovinu (u daljnjem tekstu: Ured Visokog predstavnika) da u postupku rješavanja predmeta devizne štednje pred Komisijom učestvuje u svojstvu *amicus curiae*. Ured Visokog predstavnika je 1. aprila 2005. godine dostavio svoje mišljenje.

24. Komisija je pismenim dopisom od 24. februara 2005. godine pozvala zastupnika Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini (u daljnjem tekstu: Udruženje štediša), da u postupku rješavanja predmeta devizne štednje pred Komisijom, učestvuje u svojstvu *amicus curiae*. Udruženje štediša je 14. marta 2005. godine dostavilo svoje mišljenje.

25. Mišljenje Udruženja štediša je proslijeđeno tuženim stranama 23. i 25. marta 2005. godine.

III. ČINJENICE

A. Činjenice u pojedinačnim predmetima

1. Predmet broj CH/98/366, Rabija HALILOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

26. Prijava je podnesena Domu 18. februara i registrovana je 10. aprila 1998. godine.

27. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 23.668,48 DEM, 1.609,14 USD i 4.957,85 LIT, a kod Ljubljanske banke 23.159,76 DEM, 1.258 LIT i 2.400,64 USD.

28. Podnosilac prijave je 11. februara 2005. godine obavijestila Komisiju da je opunomoćila gđu Amilu Omersoftić da zastupa njena prava preko Udruženja štediša kod Suda Bosne i Hercegovine i Evropskog suda za ljudska prava u Strazburu.

2. Predmet broj CH/98/426, Hašmeta ALIKADIĆ protiv Federacije Bosne i Hercegovine

29. Prijava je podnesena Domu 10. marta, a registrovana je 10. aprila 1998. godine.

30. Podnosilac prijave je polagala sredstva na devizne štedne knjižice Jugobanke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 98.503,73 DEM, a kod Ljubljanske banke 72.757,74 DEM.

31. Podnosilac prijave je 13. februara 2005. godine dostavila Komisiji informacije da je potpisala punomoć gđi Amili Omersoftić kao član Udruženja štediša, koje je pokrenulo postupke pred Sudom Bosne i Hercegovine i Evropskog suda za ljudska prava u Strazburu.

3. Predmet broj CH/98/430, Ekrem ULAK protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

32. Prijava je podnesena Domu 10. marta, a registrovana je 10. aprila 1998. godine.

33. Podnosilac prijave navodi da je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Podnosilac prijave navodi u prijavi da je iznos njegovog pologa kod Jugobanke 15.500 DEM, ali svoje navode nije potkrijepio relevantnom dokumentacijom. Čini se da je iznos njegovih pologa kod Ljubljanske banke 50.293,97 DEM i 2.732 ITL.

34. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

4. Predmet broj CH/98/459, Atija SABRIHAFIZOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

35. Prijava je podnesena Domu 19. marta, a registrovana je 13. aprila 1998. godine.

36. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 4.421,79 CHF, 1.628,87 USD i 4.517,64 DEM, kod Privredne banke 263,44 DEM, 395,6 USD, 119,55 CHF i kod Ljubljanske banke 67,24 SEK, 845,18 FRF, 4.288 ITL, 39,16 DEM, 584,32 CHF i 527,84 USD.

37. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

5. Predmet broj CH/98/462, M.Ć. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

38. Prijava je podnesena Domu 20. marta, a registrovana je 13. aprila 1998. godine.

39. Podnosilac prijave je bila ovlaštena da raspolaže sredstvima na deviznim štednim knjižicama svoga supruga M.Ć. kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih kod Jugobanke 24.287,45 DEM, 333,1 GBP i 7.457,31 CHF, a kod Ljubljanske banke 6.268,45 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 15. septembra 1999. godine, ukupano potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 31.370,02 KM.

40. Podnosilac prijave je 18. februara 2005. godine obavijestila Komisiju da je dio stare devizne štednje, koja je pretvorena u certifikate, u procesu privatizacije iskoristila za otkup stana. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 12. januara 2001. godine, preostali iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 7.876,26 KM.

41. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

6. Predmet broj CH/98/466, Ragib JASIKA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

42. Prijava je podnesena Domu 24. marta, a registrovana je 13. aprila 1998. godine.

43. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke 69.393,71 DEM, a kod Ljubljanske banke 67.720,53 DEM. Prema izvodu sa Jedinstvenog računa građana

Zavoda, od 10. februara 2005. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 69.905,63 KM.

44. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

7. Predmet broj CH/98/469, Dragoljub JANKOVIĆ protiv Federacije Bosne i Hercegovine

45. Prijava je podnesena Domu 24. marta, a registrovana je 13. aprila 1998. godine.

46. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Investbanke Beograd. Čini se da je iznos njegovih pologa kod Jugobanke 29.243,45 DEM i 9.854,67 USD, a kod Investbanke 8.380 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 72.750,42 KM.

47. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

8. Predmet broj CH/98/485, Maksim JOVANOVIĆ protiv Federacije Bosne i Hercegovine

48. Prijava je podnesena Domu 30. marta, a registrovana je 11. aprila 1998. godine.

49. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo, Ljubljanske banke d.d. Ljubljana i Investbanke Beograd. Čini se da je iznos pologa kod Jugobanke 8.199,74 DEM, kod Privredne banke 9.477,04 DEM, kod Ljubljanske banke na jednoj knjižici 2.126,79 DEM, a na drugoj 1.142,72 DEM i kod Investbanke 6.335,89 DEM. Podnosilac prijave navodi da je dio svoje stare devizne štednje pretvorio u certifikate i da preostali dio stare devizne štednje iznosi 17.805,14 DEM i 5.772,01 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 10. jula 2002. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 17.903,48 KM.

50. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

9. Predmet broj CH/98/486, Hankija HAJDARPAŠIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

51. Prijava je podnesena Domu 30. marta, a registrovana je 11. aprila 1998. godine.

52. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Privredne banke 874,07 DEM i 82,26 USD, kod Jugobanke 3.480,56 DEM i kod Ljubljanske banke 918,89 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 16. septembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 8.247,71 KM.

53. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

10. Predmet broj CH/98/499, Suada SARADŽIĆ protiv Bosne i Hercegovine

54. Prijava je podnesena Domu 3. aprila, a registrovana je 12. maja 1998. godine.

55. Podnosilac prijave navodi da je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Navodi da je iznos njene štednje kod Privredne banke 37.026,49 DEM, međutim ona nije dostavila kopiju štedne knjižice. Na osnovu kopije

devizne knjižice Ljubljanske banke, čini se da je iznos njenih pologa na jednoj štednoj knjižici 29.931,66 DEM, na drugoj 4.200,91 DEM, te na trećoj 1.524,68 DEM.

56. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

11. Predmet broj CH/98/505, Nimeta KULENOVIĆ protiv Federacije Bosne i Hercegovine i Rebublike Slovenije

57. Prijava je podnesena Domu 6. aprila 1998. godine i registrovana istog dana.

58. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, kod Ljubljanske banke d.d. Ljubljana i kod Investbanke Beograd. Čini se da je ukupan iznos njenih pologa kod Jugobanke 5,35 USD, kod Ljubljanske banke na jednoj štednoj knjižici 891,01 DEM, 647,17 USD, 1.110 FRF, a na drugoj 581,41 USD i na trećoj 464,95 DEM, 1.094,55 USD, 2.060,99 ATS i 92.111 ITL i kod Investbanke 234,98 DEM.

59. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

12. Predmet broj CH/98/512, Milan STANIĆ protiv Federacije Bosne i Hercegovine

60. Prijava je podnesena Domu 9. aprila 1998. godine i registrovana istog dana.

61. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je ukupan iznos njegovih pologa kod Jugobanke na jednoj knjižici 300 DEM, 5.003,25 ATS, a na drugoj knjižici 5.800 DEM i 110,36 CHF, te kod Ljubljanske banke 2.258,74 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 23. decembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 9.380,75 KM.

62. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

13. Predmet broj CH/98/513, Bosa RODIĆ protiv Federacije Bosne i Hercegovine

63. Prijava je podnesena Domu 9. aprila 1998. godine i registrovana istog dana.

64. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Privredne banke na jednoj knjižici 1.685,07 DEM i na drugoj knjižici 292,8 DEM i 67,73 USD, a kod Ljubljanske banke 6 CAD, 408,07 DEM i 1.430,87 USD.

65. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

14. Predmet broj CH/98/518, Ale LIZALOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

66. Prijava je podnesena Domu 10. aprila, a registrovana je 12. aprila 1998. godine.

67. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo, Ljubljanske banke d.d. Ljubljana i Investbanke Beograd. Čini se da je iznos njegovih pologa kod Jugobanke 18.835,34 USD, kod Privredne banke 8.499,82 DEM, kod Ljubljanske banke 1.795,63 CHF, 3.265,8 DEM, 1.150,83 USD i 4.846,26 ATS i kod Investbanke 186,87 USD i 5.132,91 FRF.

68. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

15. Predmet broj CH/98/527, Dimšo ĐURIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

69. Prijava je podnesena Domu 13. aprila, a registrovana je 12. maja 1998. godine.

70. Podnosilac prijave postavlja zahtjev za povrat stare devizne štednje koju su on, njegova supruga M.Đ. i njihove kćerka O.Đ. i S.Đ. polagali kod Privredne banke Sarajevo, Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana.

71. Čini se da je iznos njihovih pologa kod Privredne banke 8.762,6 DEM (knjižica glasi na ime podnosioca prijave), 1.530,45 DEM (na ime O.Đ) i 4.752,41 DEM (na ime S.Đ). Iznos pologa kod Jugobanke je 1.687,66 DEM i glasi na ime podnosioca prijave, te 1.004,89 DEM na ime kćerke O.Đ. Iznos pologa kod Ljubljanske banke je 2.608,77 DEM na ime supruge M. Đ.

72. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 6. marta 2001. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 17.013,89 KM (čini se da su u ovaj iznos uračunata i devizna sredstva ostvarena na štednim knjižicama kćerki podnosioca prijave). Također, podnosilac prijave je dostavio kopiju izvoda sa Jedinstvenog računa građana Zavoda, od 19. maja 2000. godine, na ime njegove supruge M.Đ, kojim se utvrđuje da njeno potraživanje po osnovu stare devizne štednje iznosi 2.628,34 KM.

73. Međutim, Komisija zapaža da podnosilac prijave nije dostavio ovjerene punomoći kojima ga supruga i kćerke ovlašćuju za zastupanje pred Komisijom u postupku povrata stare devizne štednje.

74. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

16. Predmet broj CH/98/537, Fatima ARAPOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

75. Prijava je podnesena Domu 15. aprila, a registrovana je 13. maja 1998. godine.

76. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Također, ovlaštena je da raspolaže sredstvima stare devizne štednje svoje kćerke, S.A. Čini se da je ukupan iznos pologa kod Jugobanke 3.906,69 USD i 4.347,94 DEM, a kod Ljubljanske banke 7.305,65 DEM. Čini se da je iznos koji je polagan kod Ljubljanske banke, na ime S.A, 11.393,87 DEM.

77. Podnosilac prijave je 5. februara 2004. godine dostavila Komisiji pismo u kojem navodi da je pored gore navedenog iznosa stare devizne štednje polagala i 332,38 CHF kod Jugobanke, ali svoje navode nije potkrijepila relevantom dokumentacijom.

78. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

17. Predmet broj CH/98/538, Zejnil BRKOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

79. Prijava je podnesena Domu 16. aprila, a registrovana je 13. maja 1998. godine.

80. Podnosioca prijave je ovlastio njegov sin, M.B, da raspolaže sredstvima na deviznim štednim knjižicama kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je

ukupan iznos pologa na ime M.B. kod Jugobanke 3.944,43 DEM i 236,19 CHF, a kod Ljubljanske banke 9.600,01 DEM i 21,19, USD.

81. Podnosilac prijave je 13. februara 2005. godine dostavio pismo Komisiji u kojem navodi da je sredstva stare devizne štednje u iznosu od 13.814,21 KM uložio u PIF "Bonus" d.d. Sarajevo.

82. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

18. Predmet broj CH/98/557, Ljubica PJANIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

83. Prijava je podnesena Domu 21. aprila, a registrovana je 14. maja 1998. godine.

84. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 5.523,72 DEM, a kod Ljubljanske banke na jednoj knjižici 19.858,8 DEM, a na drugoj 6.693,06 DEM.

85. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

19. Predmet broj CH/98/568, V.S. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

86. Prijava je podnesena Domu 22. aprila, a registrovana je 15. maja 1998. godine.

87. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, kod Investbanke Beograd i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke na jednoj štednoj knjižici 1.112,91 DEM, na drugoj 7.839,39 DEM i na trećoj 10.433,63 DEM, kod Investbanke 19.703,48 DEM i 77,01 USD, a kod Ljubljanske banke 15.776,7 DEM i 4.679,71 CHF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 26. septembra 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 29.018,79 KM.

88. Podnosilac prijave je 19. maja 2004. godine podnio zahtjev Agenciji za privatizaciju Federacije Bosne i Hercegovine radi ostvarenja potraživanja stare devizne štednje.

20. Predmet broj CH/98/587, Krešimir FILIPOVIĆ protiv Federacije Bosne i Hercegovine

89. Prijava je podnesena Domu 24. aprila, a registrovana je 15. maja 1998. godine.

90. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Investbanke Beograd i kod Jugoslovenske izvozne i kreditne banke. Čini se da je iznos njegovih pologa kod Investbanke 630 USD, a kod Jugoslovenske izvozno kreditne banke 1.003,51 DEM, 405,89 CHF i 34 USD.

91. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

21. Predmet broj CH/98/589, Vjekoslava BOŠNJAK protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

92. Prijava je podnesena Domu 24. aprila, a registrovana je 15. maja 1998. godine.

93. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Prema izvodu sa Jedinstvenog

računa građana Zavoda, od 8. maja 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje iznosi 3.870,37 KM. Podnosilac prijave nije dostavila kopiju knjižice kojom bi potvrdila svoje navode.

94. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

22. Predmet broj CH/98/591, Štefica MIJIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

95. Prijava je podnesena Domu 24. aprila, a registrovana je 15. maja 1998. godine.

96. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Privredne banke 46.586,59 DEM, a kod Ljubljanske banke 3.191,8 DEM i 440 CHF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 20. januara 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 50.147,87 KM.

97. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

23. Predmet broj CH/98/593, Lejla OSMANKOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

98. Prijava je podnesena Domu 24. aprila, a registrovana je 15. maja 1998. godine.

99. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Privredne banke 12.260,61 DEM i 2.564,96 CHF, kod Ljubljanske banke na jednoj štednoj knjižici 562,66 DEM, a na drugoj 2.027,07 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 2. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 15.201,57 KM.

100. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

24. Predmet broj CH/98/599, Šimo BOŠNJAK protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

101. Prijava je podnesena Domu 24. aprila, a registrovana je 15. maja 1998. godine.

102. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Privredne banke na jednoj knjižici 12.130,08 DEM, 244,5 USD, 50,04 FRF, 9,63 ATS (što potvrđuje kopija devizne knjižice) i na drugoj knjižici 1.048,14 DEM (nije dostavio kopiju devizne knjižice).

103. Podnosilac prijave navodi da su iznosi pologa kod Ljubljanske banke 96,3 DEM i kod Jugobanke 1.497,49 DEM, međutim, nije dostavio kopije deviznih knjižica.

104. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 14. maja 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 2.556,67 KM. Podnosilac prijave navodi da ovaj iznos obuhvata devizna sredstva polagana kod Ljubljanske banke, Jugobanke i sredstva polagana na drugoj knjižici kod Privredne banke.

105. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

25. Predmet broj CH/98/600, S.A. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

106. Prijava je podnesena Domu 24. aprila, a registrovana je 15. maja 1998. godine.

107. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini da je iznos njenih pologa kod Jugobanke 15.804,65 DEM, a kod Ljubljanske banke 6.197,92 DEM.

108. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

26. Predmet broj CH/98/609, H.A. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

109. Prijava je podnesena Domu 27. aprila, a registrovana je 15. maja 1998. godine.

110. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo, Ljubljanske banke d.d. Ljubljana, te Investbanke Beograd. Čini se da je iznos njegovih pologa kod Jugobanke 3.232,97 DEM, kod Privredne banke 8.569,04 DEM, kod Ljubljanske banke 1.821 DEM i kod Investbanke 3.320,88 USD.

111. Podnosilac prijave je 13. februara 2005. godine dostavio pismo Komisiji sa dodatnim informacijama u kojima navodi da, pored gore navedenih iznosa potraživanja stare devizne štednje, potražuje i 84.192,70 KM u “raznim bankama”, međutim svoje navode nije potkrijepio relevantnom dokumentacijom. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 16. oktobra 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 103.476,41 KM.

112. Podnosilac prijave navodi da je kao član Udruženja štediša podnio tužbu pred Evropskim sudom za ljudska prava u Strazburu i Sudom Bosne i Hercegovine.

113. Podnosilac prijave je 26. oktobra 2004. godine podnio zahtjev Agenciji za privatizaciju u Federaciji Bosne i Hercegovine, radi ostvarenja potraživanja po osnovu stare devizne štednje.

27. Predmet broj CH/98/621, Mirjana VUKOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

114. Prijava je podnesena Domu 30. aprila, a registrovana je 15. maja 1998. godine.

115. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 14.536,32 DEM, 17.646,66 ATS 78,65 USD i 6,93 GBP, a kod Ljubljanske banke 1.169,31 DEM, 3.287,02 ATS, 78,18 USD i 1,35 AUD.

116. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

28. Predmet broj CH/98/629, Danko BRNJIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

117. Prijava je podnesena Domu 6. maja, a registrovana je 15. maja 1998. godine.

118. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke na jednoj štednoj knjižici 2.604,43 DEM i na drugoj 7.203,36 DEM, kod Privredne banke 7.187,57 DEM, te kod Ljubljanske banke 12.079,49 DEM. Prema izvodu sa

Jedinstvenog računa građana Zavoda, od 30. decembra 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 29.440,07 KM.

119. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

29. Predmet broj CH/98/630, Fikreta MULAOMEROVIĆ protiv Federacije Bosne i Hercegovine

120. Prijava je podnesena Domu 6. maja, a registrovana je 15. maja 1998. godine.

121. Podnosilac prijave je polagala sredstva na devizne štedne knjižice Jugobanke Sarajevo i Investbanke Beograd. Čini se da je iznos pologa kod Jugobanke 42.738,28 DEM, 241,38 GBP, 564,36 USS, 805,80 ASCH, 4.767,60 FF i 31.491,15 DEM, a kod Investbanke 10.240,05 USD.

122. Podnosilac prijave je 15. februara 2005. godine dostavio pismo Komisiji u kojem navodi da je dio svoje stare devizne štednje u iznosu od 16.936,13 KM uložila u PIF "Profi Plus" d.d. Sarajevo. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 30. januara 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje iznosi 0,00 KM, s obzirom da je 16.936,13 KM uložila u PIF "Profi Plus" d.d. Sarajevo. S obzirom da je iznos stare devizne štednje uložen u PIF "Profi Plus" d.d. Sarajevo bitno manji od ukupnog iznosa gore navedene stare devizne štednje, visina iznosa potraživanja prema bankama će se utvrditi u postupku verifikacije.

123. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

30. Predmet broj CH/98/633, Karmena DUDAK protiv Federacije Bosne i Hercegovine

124. Prijava je podnesena Domu 8. maja, a registrovana je 15. maja 1998. godine.

125. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 5.818,48 DEM, a kod Ljubljanske banke 3.654.64 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 1. oktobra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 4.305,20 KM.

126. Podnosilac prijave je 21. februara 2005. godine dostavila pismo Komisiji u kojem navodi da je jedan dio devizne štednje, položene kod Jugobanke, iskoristila u procesu privatizacije za otkup svog prijeratnog stana. Podnosilac prijave također navodi da je preostali iznos pologa kod Jugobanke 608,2 DEM, a kod Ljubljanske banke 3.697 DEM.

127. Podnosilac prijave je 15. maja 1991. godine podnijela tužbu Osnovnom sudu I u Sarajevu protiv Ljubljanske banke radi isplate devizne štednje. Osnovni sud I u Sarajevu je 24. septembra 1991. godine donio rješenje, broj P. 1487/91, kojim se određuje mirovanje postupka.

128. Osnovni sud I u Sarajevu je 23. januara 1992. godine donio rješenje, broj: P-1487/9, kojim se tužba u navedenoj pravnoj stvari smatra povučenom, jer stranke (podnosilac prijave i zastupnik Ljubljanske banke), iako uredno obaviještene, nisu pristupile ročištu zakazanom 23. januara 1992. godine.

31. Predmet broj CH/98/639, Momir ĆEĆEZ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

129. Prijava je podnesena Domu 11. maja, a registrovana je 25. maja 1998. godine.

130. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke na jednoj štednoj knjižici 20.885,15 DEM, na drugoj 21.210,13 DEM i na trećoj 48.581,99 DEM, kod Privredne banke 20.125,29 DEM i kod Ljubljanske banke 23.021,08 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 5. decembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 145.107,38 KM.

131. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

32. Predmet broj CH/98/650, Uzeir BAŠIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

132. Prijava je podnesena Domu 19. marta, a registrovana je 9. juna 1998. godine.

133. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke 391,26 DEM i kod Ljubljanske banke 3.390,14 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 12. maja 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 3.810,03 KM.

134. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

33. Predmet broj CH/98/674, Ana MRDOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

135. Prijava je podnesena Domu 4. juna, a registrovana je 9. juna 1998. godine.

136. Suprug podnosioca prijave je polagao sredstva na deviznu štednu knjižicu kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Ljubljanske banke 37.342,44 USD, 1.167,75 DEM, 764,81 CHF, 708,21 ATS i 18.647 ITL. Na kopiji štedne knjižice stoji naznaka banke da je podnosilac prijave rješenjem o nasljeđivanju br.0-675/96 od 3. juna 1996. godine naslijedila deviznu štednju nakon smrti svoga supruga. Podnosilac prijave nije dostavila Komisiji rješenje o nasljeđivanju.

137. Podnosilac prijave je 15. februara 2005. godine dostavila pismo Komisiji u kojem navodi da je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo, međutim nije dostavila kopiju štedne knjižice kojom bi potkrijepila svoje navode. Prema Izvodu sa Jedinstvenog računa građana Zavoda, od 30. augusta 2002. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 643,15 KM.

138. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

34. Predmet broj CH/98/683, J.S. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

139. Prijava je podnesena Domu 11. juna 1998. godine i registrovana istog dana.

140. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke na jednoj štednoj knjižici 21.250,75 DEM, 475,97 GBP, 3.270,69 USD, na drugoj 2.413,72 DEM 16,05 LSTG i 9,91 GBP, te na trećoj 974,79 DEM i 46,64 GBP, kod Privredne banke na jednoj štednoj knjižici 21.862,44 DEM i na drugoj 9.508,85 DEM i kod

Ljubljanske banke na jednoj štednoj knjižici 8,67 DEM i 245,89 USD, te na drugoj 17.388,37 DEM, 13.167,02 FRF, 6.635,00 ITL, 490,28 USD.

141. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

35. Predmet broj CH/98/684, M.S. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

142. Prijava je podnesena Domu 11. juna 1998. godine i registrovana istog dana.

143. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke 32.818,68 DEM, 3762,06 FRF, 3.729,26 ITL, 69,01 GBP, 66,28 CHF i 324,81 ATS, a kod Ljubljanske banke 10.389,56 DEM, 74,62 USD i 1.109 ITL.

144. Podnosilac prijave navodi da je imao još jednu štednu knjižicu kod Jugobanke gdje je iznos njegovih pologa bio 10.225,80 ATS, 22.780,80 FRF, 26.930,54 DEM, 11.226,97 ITL, 5,33 GBP i 72,85 USD. Međutim, nije dostavio relevantnu dokumentaciju kojom bi potkrijepio svoje navode.

145. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

36. Predmet broj CH/98/805, Husnija FETAHAGIĆ protiv Federacije Bosne i Hercegovine

146. Prijava je podnesena Domu 28. juna 1998. godine i registrovana istog dana.

147. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Privredne banke 6.170,67 DEM, a kod Ljubljanske banke 8.161,04 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 6. aprila 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 14.290, 35 KM.

148. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

37. Predmet broj CH/98/1070, Ljiljana VUKOVIĆ protiv Federacije Bosne i Hercegovine

149. Prijava je podnesena Domu 17. novembra, a registrovana je 18. novembra 1998. godine.

150. Podnosilac prijave je polagala sredstva na devizne štedne knjižice Privredne banke Sarajevo, Jugobanke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Privredne banke 511,83 DEM, a kod Ljubljanske banke 4.188,42 DM, 268.936,00 LIT i 1.817,96 DEM.

151. Podnosilac prijave je dostavila štedne knjižice svoga supruga Jugobanke i Privredne banke, na kojima nije ovlašteno lice. Čini se da je iznos pologa kod Jugobanke 1.086,14 DEM, 611,56 USD i 1.311,25 CHF, a kod Privredne banke 457,82 DEM.

152. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

38. Predmet broj CH/98/1089, A.S. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

153. Prijava je podnesena Domu 19. novembra, a registrovana je 24. novembra 1998. godine.

154. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Privredne banke 26.471,4 DEM, a kod Ljubljanske banke na jednoj štednoj knjižici 659,18 USD i 7.931,33 DEM, na drugoj 7.891,43 DEM, na trećoj 2.939,56 DEM i na četvrtoj knjižici 3.380,79 DEM.

155. Podnosilac prijave je 27. marta 1991. godine podnio tužbu Osnovnom sudu II u Sarajevu (u daljnjem tekstu: Osnovni sud) protiv Ljubljanske banke radi isplate devizne štednje. Osnovni sud je donio presudu, broj P-1443/91 od 23. septembra 1991. godine, kojom je naloženo Ljubljanskoj banci da podnosiocu prijave isplati cjelokupan iznos devizne štednje.

156. Ljubljanska banka je podnijela žalbu na navedenu presudu. Viši sud u Sarajevu je donio presudu, broj Gž:784/92, od 23. marta 1994. godine, kojom je uvažio žalbu i preinačio pobijanu presudu, tako da je odbio tužbeni zahtjev tužitelja. Podnosilac prijave je 10. juna 1997. godine izjavio reviziju protiv presude Višeg suda. Međutim, podnosilac prijave nije obavijestio Komisiju o daljnjem toku ovog postupka.

157. Podnosilac prijave je podnio tužbu Općinskom sudu u Konjicu (u daljnjem tekstu: Općinski sud) protiv Privredne banke Sarajevo, radi isplate devizne štednje. Općinski sud je donio presudu, broj P:72/92, od 20. novembra 2002. godine, kojom je odbijen tužbeni zahtjev podnosioca prijave. Odlučujući po žalbi podnosioca prijave, Kantonalni sud u Mostaru je donio presudu, broj Gž:149/03, od 4. septembra 2003. godine, kojom je žalba odbijena i potvrđena prvostepena presuda.

158. Podnosilac prijave je 11. februara 2005. godine obavijestio Komisiju da je jedan dio svoje devizne štednje iskoristio u procesu privatizacije za otkup stana, a drugi dio je uložio u PIF BIG-Investiciona grupa d.d. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 13. septembra 2000. godine, preostalo potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 63,46 KM.

39. Predmet broj CH/99/1759, Vahid BAHTIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

159. Prijava je podnesena Domu 23. marta, a registrovana je 25. marta 1999. godine.

160. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Privredne banke na jednoj štednoj knjižici 768,12 USD i 174,29 DEM, te na drugoj 51.219,49 DEM, a kod Ljubljanske banke 5.516,97 DEM i 272,89 CHF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, čini se da je podnosilac prijave dio svoje stare devizne štednje iskoristio u procesu privatizacije za kupovinu dionica PIF BIG Investiciona grupa d.d, tako da je preostali iznos njegovog potraživanja po osnovu stare devizne štednje 51.219,49 KM.

161. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

40. Predmet broj CH/99/1768, Fajik ČELJO protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

162. Prijava je podnesena Domu 25. marta 1999. godine i registrovana istog dana.

163. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Privredne banke 2,776.51 DEM, a kod Ljubljanske banke na jednoj štednoj knjižici 945,66 DEM i na drugoj 12.360 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 2.815.98 KM.

164. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

41. Predmet broj CH/99/2026, E.D. i Dž.D. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

165. Prijava je podnesena Domu 7. aprila 1999. godine i registrovana istog dana.

166. Podnosioci prijave su polagali sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana.

167. Čini se da je iznos pologa podnosioca prijave E.D. kod Privredne banke na jednoj štednoj knjižici 47.040,15 DEM, 11.719,23 USD i 7.169,95 CHF i na drugoj 13.415,74 DEM, 4.778,61 USD, 4.516,44 ITL i 1.581,84 FRF, a kod Ljubljanske banke 2.053,23 USD.

168. Čini se da je iznos pologa podnosioca prijave Dž.D. kod Ljubljanske banke 3.608,63 USD.

169. Podnosioci prijave su 31. marta 1992. godine podnijeli tužbu Osnovnom sudu I Sarajevo protiv Ljubljanske banke, radi naplate duga, povrata dinarskog depozita i isplate kamate. Općinski sud I Sarajevo je dopisom, broj P.1366/92, od 7. jula 1998. godine, pozvao podnosioce prijave da se izjasne da li ostaju kod tužbe. Podnosioci prijave su odgovorili da ostaju kod svog tužbenog zahtjeva. Ročišta po tužbi podnosilaca prijave su održana 24. novembra 1998. godine, 23. marta i 6. maja 1999. godine. Općinski sud I Sarajevo je 3. decembra 2002. godine donio rješenje, broj: P-1366/92, kojim se postupak u ovoj pravnoj stvari prekida. Podnosioci prijave su 31. januara 2003. godine Kantonalnom sudu Sarajevo izjavili žalbu protiv prvostepenog rješenja.

170. U vezi sa rješavanjem potraživanja stare devizne štednje ostvarene u Privrednoj banci Sarajevo, čini se da se podnosioci prijave nisu obraćali ni domaćim ni međunarodnim institucijama.

42. Predmet broj CH/99/2053, Radivoje ĐORDAN protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

171. Prijava je podnesena Domu 15. aprila 1999. godine i registrovana istog dana.

172. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke na jednoj štednoj knjižici 270,81 DEM i na drugoj 5.078,31 DEM, kod Privredne banke 127,54 DEM i kod Ljubljanske banke 5.206,39 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 10.768,82 KM.

173. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

43. Predmet broj CH/99/2060, Miralem i Zifa DAUTBEGOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

174. Prijava je podnesena Domu 19. aprila 1999. godine i registrovana istog dana.

175. Podnosioci prijave su polagali sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo, Ljubljanske banke d.d. Ljubljana i kod Investbanke Beograd. Čini se da je iznos pologa kod Jugobanke podnosioca prijave M.D. na jednoj štednoj knjižici 8.879,73 DEM i na drugoj 193,80 DEM, kod Privredne banke 6.348,37 DEM, kod Ljubljanske banke na jednoj štednoj knjižici 2.518,25 USD i 169,87 DEM i na drugoj 2.154,59 USD i kod Investbanke 82,09 DEM i 65,69 USD.

176. Čini se da je iznos pologa kod Privredne banke podnosioca prijave Z.D. na jednoj štednoj knjižici 827,46 DEM i na drugoj 123 DEM, 552,47 USD i 192.635,45 ITL, kod Ljubljanske banke 733,64 USD i 929,43 DEM.

177. Podnosioci prijava se nisu obraćali ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

44. Predmet broj CH/99/2138, Olivera NASTIĆ protiv Bosne i Hercegovine

178. Prijava je podnesena Domu 7. maja, a registrovana je 10. maja 1999. godine.

179. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 20.710,19 DEM, a kod Ljubljanske banke 2.342,38 DEM i 926,91 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 19. oktobra 1999. godine, čini se da je podnosilac prijave iskoristila dio svoje devizne štednje u iznosu od 3.325,92 DEM, tako da je preostali iznos njenog potraživanja po osnovu stare devizne štednje 17.587,7 KM.

180. Podnosilac prijave se obraćala Federalnoj agenciji za privatizaciju sa zahtjevom za rješavanje potraživanja stare devizne štednje.

45. Predmet broj CH/99/2145, Ivka LIVAJA protiv Federacije Bosne i Hercegovine

181. Prijava je podnesena Domu 10. maja, a registrovana je 11. maja 1999. godine.

182. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Također, navodi da je polagala devizna sredstva na štednoj knjižici kod Jugobanke, međutim, nije dostavila kopiju devizne štedne knjižice jer, kako navodi, štedne knižice su izgorjele u njenoj kući u toku ratnih dejstava. Na osnovu izvoda Central profit banke od 21. aprila 1998. godine, čini se da je iznos pologa ostvaren kod Privredne banke 16.157,15 DEM. Također, Ljubljanska banka je 27. maja 1998. godine izdala potvrdu o evidenciji deviznog štednog uloga podnosioca prijave u kojem se potvrđuje da je iznos njenog pologa kod Ljubljanske banke 5.405,8 DEM

183. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

46. Predmet broj CH/99/2287, Ž.K. protiv Federacije Bosne i Hercegovine

184. Prijava je podnesena Domu 4. juna, a registrovana je 9. juna 1999. godine.

185. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, kod Privredne banke Sarajevo, kod Investbanke Beograd i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke 1.961,52 CHF, kod Privredne banke 22.219,61 DEM, kod Investbanke 16.642,30 ATS i kod Ljubljanske banke 5.234,69 CHF.

186. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

47. Predmet broj CH/99/2292, Jela BALABAN protiv Federacije Bosne i Hercegovine

187. Prijava je podnesena Domu 7. juna, a registrovana je 14. juna 1999. godine.

188. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 11.324,89 DEM, kod Privredne banke 33.239,97 DEM i kod Ljubljanske banke 5.110,53 DEM i 7.945,98 DEM. Prema izvodu sa Jedinstvenog računa građana

Zavoda, od 20. juna 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 58.617,14 KM.

189. Podnosilac prijave navodi da je član Udruženja štediša, te da se pridružila kolektivnoj tužbi Udruženja pred Sudom za ljudska prava u Strazburu.

48. Predmet broj CH/99/2513, Dragan VUKŠA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

190. Prijava je podnesena Domu 9. juna, a registrovana je 15. juna 1999. godine.

191. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke 2.130,55 DEM i 13.822,98 USD, kod Privredne banke 426,89 DEM i kod Ljubljanske banke 14.823,15 DEM, 2.346,30 CHF i 125,32 DEM.

192. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

49. Predmet broj CH/99/2549, Ivan ĆUBEL protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

193. Prijava je podnesena Domu 17. juna, a registrovana je 21. juna 1999. godine.

194. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Investbanke Beograd. Čini se da je iznos njegovih pologa kod Privredne banke 5.270,98 CHF, 58.257,27 CHF, 206,75 DEM, 7.273,70 ATS i 1.830 DEM, a kod Investbanke 60.178,79 CHF i 582,32 CHF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 5. maja 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 256.166,51 KM.

195. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

50. Predmet broj CH/99/2560, Marko ANDRIJANIĆ protiv Bosne i Hercegovine

196. Prijava je podnesena Domu 18. juna, a registrovana je 22. juna 1999. godine.

197. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Investbanke Beograd. Čini se da je iznos njegovih pologa kod Privredne banke 13.887,09 DEM i 14.166,57 CHF, a kod Investbanke 4.035,49 DEM.

198. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

51. Predmet broj CH/99/2566, Mirjana PETROVIĆ protiv Federacije Bosne i Hercegovine

199. Prijava je podnesena Domu 21. juna, a registrovana je 23. juna 1999. godine.

200. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 1.181,12 AUD, a kod Ljubljanske banke 4.523,64 USD,71,27 CHF i 19,98 USD.

201. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

52. Predmet broj CH/99/2651, Miroslav BUKVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

202. Prijava je podnesena Domu 5. jula, a registrovana je 6. jula 1999. godine.

203. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, Jugobanke i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Privredne banke 2.170,72 DEM, kod Jugobanke 49,47 CAN, 1.305,35 USD, 4.221,67 DEM na jednom računu, 1.397,35 CHF, 21.193,89 USD, 209,30 DEM na drugom računu, 1.514,99 CHF, 9.641,49 DEM, 464,92 FRF, 29.027,29 USD,123,51 CAD, te kod Ljubljanske banke na jednoj štednoj knjižici 17.537,04 USD, 2.918,97 DEM, 366,06 CAD, 89,37 GBP i 141,49 CHF, na drugoj 3.131,90 DEM, 103,44 CHF, 4.769,96 USD, 340,63 GBP, 172,90 CAD i 4,55 ATS, na trećoj 6.535 USD, 1.387,74 CHF, 6.893,98 DEM i 1.400 CAD i na četvrtoj 298,18 USD.

204. Prema stanju spisa, čini se da je podnosilac prijave jedan dio deviznih sredstava uložio u Privatizacijski investicioni fond "MI-GROUP" d.d. Sarajevo. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 12. jula 2004. godine, ukupan preostali iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 45.956,18 KM.

205. Podnosilac prijave navodi da je član Udruženja štediša, te da se pridružio kolektivnoj tužbi Udruženja pred Evropskim sudom za ljudska prava u Strazburu i Sudom Bosne i Hercegovine.

53. Predmet broj CH/99/2652, Nenad BUKVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

206. Prijava je podnesena Domu 5. jula, a registrovana je 6. jula 1999. godine.

207. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke na jednoj knjižici 830 USD, na drugoj 5,41 DEM, 2.200 ASCH, 213,61 USD, na trećoj 14,87 USD i na četvrtoj knjižici 7.275,03 DEM i 1.077,3 USD, te kod Ljubljanske banke na jednoj štednoj knjižici 389,22 DEM, na drugoj 5.530,82 DEM i na trećoj 124,25 LSTG i 37,87 DEM.

208. Prema stanju spisa, čini se da je podnosilac prijave jedan dio deviznih sredstava uložio u Privatizacijski investicioni fond "MI-GROUP" d.d. Sarajevo. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 12. jula 2004. godine, ukupan preostali iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 10.691,45 KM.

209. Podnosilac prijave navodi da je član Udruženja štediša, te da se pridružio kolektivnoj tužbi Udruženja pred Evropskim sudom za ljudska prava u Strazburu i Sudom Bosne i Hercegovine.

54. Predmet broj CH/99/2657, Danica TUCAK protiv Federacije Bosne i Hercegovine

210. Prijava je podnesena Domu 5. jula, a registrovana je 9. jula 1999. godine.

211. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 5.456,29 DEM, a iznos njenih pologa kod Ljubljanske banke 3.434,36 DEM.

212. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

55. Predmet broj CH/99/2677, Abdulah MEZILDŽIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

213. Prijava je podnesena Domu 12. jula, a registrovana je 14. jula 1999. godine.

214. Podnosilac prijave je tražio od Doma da izda privremenu mjeru zabrane privatizacije banaka do isplate duga. Predsjednica Doma je 15. jula 1999. godine donijela odluku da ne izda naredbu za privremenu mjeru.

215. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Privredne banke 1.380,71 DEM i 160,19 USD, kod Jugobanke, na jednoj knjižici 1.746,63 DEM, 218,74 CHF i 1.302,76 USD, a na drugoj, 6.200,76 DEM, te kod Ljubljanske banke 1.764,79 DEM.

216. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

56. Predmet broj CH/99/2709, Đorđo SULAVER protiv Federacije Bosne i Hercegovine

217. Prijava je podnesena Domu 19. jula, a registrovana je 26. jula 1999. godine.

218. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke na jednoj knjižici 46.166,21 DEM, 3.108,94 USD, a na drugoj 29.528,62 DEM i kod Ljubljanske banke 6.130,81 DEM.

219. Podnosilac prijave navodi da je član Udruženja štediša, te da se pridružio kolektivnoj tužbi Udruženja pred Evropskim sudom za ljudska prava u Strazburu i Sudom Bosne i Hercegovine.

57. Predmet broj CH/99/2784, Fuad AGANOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

220. Prijava je podnesena Domu 17. augusta, a registrovana je 20. augusta 1999. godine.

221. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Ljubljanske banke d.d. Ljubljana i kod Investbanke Beograd. Čini se da je iznos njegovih pologa kod Ljubljanske banke 752,44 CHF, 586 SCH, a kod Investbanke 146.387,61 LIT, 16,44 DEM, 1.212,32 USD, 3.197,45 ATS, 85,1 HFL.

222. Podnosilac prijave navodi da je polagao devizna sredstva na štednu knjižicu kod Jugobanke, te da je ostvario ukupan iznos štednje 2.865,43 DEM i 1.110,41 USA, međutim, nije dostavio kopiju devizne knjižice kojom bi potkrijepio svoje navode.

223. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

58. Predmet broj CH/99/2856, Milan MILJANOVIĆ protiv Federacije Bosne i Hercegovine

224. Prijava je podnesena Domu 10. septembra, a registrovana je 13. septembra 1999. godine.

225. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke na jednoj štednoj knjižici 1.152,77 ATS, 3.060,07 FRF, 4.106,31 DEM, 485.992,99 ITL, 0,67 NLG, 2.582,45 CHF, 74,96 GBP, 6.426,98 USD, a na drugoj 1.012,69 USD, 3.448,56 DEM, a kod Ljubljanske banke 590,99 USD.

226. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 24.802,01 KM.

227. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

59. Predmet broj CH/99/2907, Milivoj STAJIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

228. Prijava je podnesena Domu 23. septembra, a registrovana je 27. septembra 1999. godine.

229. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Investbanke Beograd i Ljubljanske banke d.d. Ljubljana. Čini se da je ukupan iznos njegovih pologa kod Jugobanke 3.394,71 DEM i 229,62 DEM, kod Investbanke 16.903,65 DEM, a kod Ljubljanske banke 5.568,43 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 23. septembra 2002. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 20.910,84 KM.

230. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

60. Predmet broj CH/99/2909, Kristina POPOVIĆ protiv Federacije Bosne i Hercegovine

231. Prijava je podnesena Domu 23. septembra, a registrovana je 27. septembra 1999. godine.

232. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 45.930,23 DEM, a kod Ljubljanske banke 2.287,27 CHF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 8. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 46.287,37 KM.

233. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

61. Predmet broj CH/99/2924, Milenka TOLEVSKI protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

234. Prijava je podnesena Domu 27. septembra, a registrovana je 28. septembra 1999. godine.

235. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Privredne banke 71,75 FRF, 987,98 DEM, 777,57 CHF i 1.147,74 LIT, a kod Ljubljanske banke 5.612,63 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 31. januara 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 5.690,60 KM.

236. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

62. Predmet broj CH/99/2925, Pavle TOLEVSKI protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

237. Prijava je podnesena Domu 27. septembra, a registrovana je 28. septembra 1999. godine.

238. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, Jugobanke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je ukupan iznos njegovih pologa kod Privredne banke 1.453,78 DEM, kod Jugobanke 3.429,91 DEM i 2.933,15 DEM, a kod Ljubljanske banke 355,79 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 31. januara 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 8.175,55 KM.

239. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

63. Predmet broj CH/99/2952, Ante SPAJIĆ protiv Bosne i Hercegovine

240. Prijava je podnesena Domu 1. oktobra, a registrovana je 4. oktobra 1999. godine.

241. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Privredne banke 17.681,94 DEM, kod Jugobanke 15.565,65 DEM i kod Ljubljanske banke 10.188,31 USD i 18.623,23 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. decembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 33.426,7 KM.

242. Podnosilac prijave navodi da je 21. septembra 2004. godine Kantonalnoj agenciji za privatizaciju podnio zahtjev za vraćanje devizne štednje u matične banke.

64. Predmet broj CH/99/2953, Ambrozije STANIĆ protiv Bosne i Hercegovine

243. Prijava je podnesena 1. oktobra, a registrovana je 4. oktobra 1999. godine.

244. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Privredne banke 2.170,48 DEM i 13.612,66 DEM, a kod Ljubljanske banke 11.646,25 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 27.878,35 KM.

245. Podnosilac prijave navodi da je 11. oktobra 2004. godine Kantonalnoj agenciji za privatizaciju podnio zahtjev za vraćanje devizne štednje u matične banke.

65. Predmet broj CH/99/2958, Mara HOFMAN protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

246. Prijava je podnesena 4. oktobra 1999. godine i registrovana istog dana.

247. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Investbanke Beograd i Ljubljanske banke d.d. Ljubljana. Čini se da je ukupan iznos njenih pologa kod Jugobanke 908,34 DEM, kod Investbanke 2.580,42 DEM, a kod Ljubljanske banke 3.108,44 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 6.649,24 KM.

248. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

66. Predmet broj CH/99/2959, Teodor HOFMAN protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

249. Prijava je podnesena Domu 4. oktobra 1999. godine i registrovana istoga dana.

250. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke 4.178,08 DEM, a kod Ljubljanske banke 765,90 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 4.998,05 KM.

251. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

67. Predmet broj CH/99/2968, D.Đ. protiv Federacije Bosne i Hercegovine

252. Prijava je podnesena Domu 5. oktobra 1999. godine i registrovana istog dana.

253. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo, Ljubljanske banke d.d. Ljubljana i Investbanke Beograd. Čini se da je iznos njegovih pologa kod Jugobanke 21,80 USD i 33,21 USD, kod Privredne banke 676,05 DEM i 7.146,91 DEM, kod Ljubljanske banke 421,43 USD, a kod Investbanke 2.493,71 USD, 544,71 USD, i 147,13 ASCH. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 9. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 13.046,94 KM. Podnosilac prijave je naveo da devizna štednja kod Ljubljanske banke nije evidentirana na jedinstvenom računu građana.

254. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

68. Predmet broj CH/99/2970, Smajil HADŽIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

255. Prijava je podnesena Domu 5. oktobra 1999. godine i registrovana istog dana.

256. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke 28.353,44 DEM, a kod Ljubljanske banke 10.458,73 DEM.

257. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

69. Predmet broj CH/99/2975, Branka TADIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

258. Prijava je podnesena Domu 6. oktobra 1999. godine i registrovana istog dana.

259. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenog pologa kod Privredne banke 2.682,68 DEM, a kod Ljubljanske banke 1.859,20 DEM.

260. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

70. Predmet broj CH/99/2977, Ranka VIDOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

261. Prijava je podnesena Domu 6. oktobra 1999. godine i registrovana istog dana.

262. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 7.422,07 USD, 36,25 CHF, 8.088,2 DEM, 3.826,76 USD i 3.245,78 DEM, a iznos njenih pologa kod Ljubljanske banke 21,42 NLG, 556,25 USD, 1.080,35 CHF, 103.699 ITL, 30,10 ATS, 2.053,69 DEM i 2.644,07 USD.

263. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

71. Predmet broj CH/99/2984, Darinka PLAVŠIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

264. Prijava je podnesena Domu 7. oktobra, a registrovana je 8. oktobra 1999. godine.

265. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Ljubljanske banke d.d. Ljubljana i Investbanke Beograd. Čini se da je iznos njenih pologa kod Jugobanke 3.499,76 DEM, kod Ljubljanske banke 3.780,51 DEM i kod Investbanke 1.229,22 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 8.652,72 KM.

266. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

72. Predmet broj CH/99/3017, Olga ALFIREVIĆ protiv Bosne i Hercegovine

267. Prijava je podnesena Domu 18. oktobra, a registrovana je 19. oktobra 1999. godine.

268. Suprug podnosioca prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke 2.369,21 DEM, a kod Ljubljanske banke 14.249,46 DEM.

269. Podnosilac prijave je 10. februara 2005. godine dostavila Komisiji rješenje o nasljeđivanju, broj 0:4942/96 od 12. decembra 1996. godine, kojim se ona iza smrti svog supruga P.A. proglašava nasljednikom prvog reda sa nasljednim dijelom 1/1.

270. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 21. aprila 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 16.753,8 KM.

271. Podnosilac prijave je član Udruženja štediša, te se pridružila kolektivnoj tužbi pred Evropskim sudom za ljudska prava u Strazburu i pred Sudom Bosne i Hercegovine.

73. Predmet broj CH/99/3095, Sulejman ŠEHOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

272. Prijava je podnesena Domu 2. novembra, a registrovana je 3. novembra 1999. godine.

273. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo, Ljubljanske banke d.d. Ljubljana i Investbanke Beograd. Čini se da je iznos njegovih pologa kod Jugobanke 1.326,92 DEM, kod Privredne banke 18.104,91 DEM, kod Ljubljanske banke 4.150,37 DEM i kod Investbanke 703,61 DEM.

274. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 2. maja 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 25.673,8 KM.

275. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

74. Predmet broj CH/99/3120, Đevdet DELALIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

276. Prijava je podnesena Domu 5. novembra, a registrovana je 8. novembra 1999. godine.

277. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, Jugobanke Sarajevo, Ljubljanske banke d.d. Ljubljana, Investbanke Beograd i Jugoslovenske izvozne i kreditne banke. Čini se da je iznos njegovih pologa kod Privredne banke

2.493,72 DEM, 18,53 USD i 27.997,29 LIT, kod Jugobanke banke 11.746,71 DEM i 404,17 USD, kod Ljubljanske banke 15.414,71 DEM, 13.922,45 DEM i 475,71 USD, kod Investbanke 13.177,47 DEM i 590,56 USD i kod Jugoslovenske izvozno kreditne banke 8.358,19 DEM, 300 USD i 581,15 CHF.

278. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

75. Predmet broj CH/99/3134, Atifa RAŠIDAGIĆ – FINCI protiv Bosne i Hercegovine

279. Prijava je podnesena Domu 8. novembra, a registrovana je 9. novembra 1999. godine.

280. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Ljubljanske banke d.d. Ljubljana i Privredne banke Sarajevo. Čini se da je iznos njenih pologa kod Jugobanke 2.886,08 DEM, kod Ljubljanske banke 4.195,52 DEM, 196,26 DEM i 7,08 CHF i kod Privredne banke 13,36 DEM, 73,57 USD i 510,53 CHF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 8.093,45 KM.

281. Podnosilac prijave navodi da je član Udruženja štediša, te da se pridružila kolektivnoj tužbi Udruženja pred Evropskim sudom za ljudska prava u Strazburu i Sudom Bosne i Hercegovine.

76. Predmet broj CH/99/3143, Mukerema SARAČEVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

282. Prijava je podnesena Domu 10. novembra, a registrovana je 11. novembra 1999. godine.

283. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 19.087,27 DEM, a kod Ljubljanske banke 22.170,41 DEM, 119,52 USD i 17.990,05 ATS.

284. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 44.344,90 KM.

285. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

77. Predmet broj CH/99/3162, Vasilije BJELICA protiv Bosne i Hercegovine

286. Prijava je podnesena Domu 11. novembra, a registrovana je 12. novembra 1999. godine.

287. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo i Investbanke Beograd. Čini se da je iznos njegovih pologa kod Jugobanke 235.654,50 DEM i 9.058,55 DEM, kod Privredne banke 56.727,46 DEM i kod Investbanke 22.171,3 USD i 4.096,67 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 5. februara 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 350.013,35 KM.

288. Podnosilac prijave je 18. februara 1992. godine podnio tužbu protiv Jugobanke Sarajevo pred Osnovnim sudom I Sarajevo, radi isplate devizne štednje. Osnovni sud je donio rješenje, broj P: 626/92 od 15. juna 1992. godine, kojim je određeno da se postupak u pravnoj stvari podnosioca prijave prekida sa danom 15. juni 1992. godine zbog proglašenja ratnog stanja u Republici Bosni i Hercegovini.

289. Podnosilac prijave navodi da je član Udruženja štediša, te da se pridružio kolektivnoj tužbi Udruženja pred Evropskim sudom za ljudska prava u Strazburu i Sudom Bosne i Hercegovine.

78. Predmet broj CH/99/3198, Mirko JARANOVIĆ protiv Bosne i Hercegovine

290. Prijava je podnesena Domu 19. novembra, a registrovana je 20. novembra 1999. godine.

291. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke 2.331,20 DEM, kod Privredne banke 4.655,56 DEM i kod Ljubljanske banke 8.942,98 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 20. oktobra 2000. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 27.320,56 KM.

292. Podnosilac prijave navodi da je kao član Udruženja štediša, pokrenuo postupke pred relevantnim domaćim i međunarodnim institucijama radi ostvarenja potraživanja po osnovu stare devizne štednje.

79. Predmet broj CH/99/3222, Čedomir KANDIĆ protiv Federacije Bosne i Hercegovine

293. Prijava je podnesena Domu 24. novembra i registrovana je istog dana.

294. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Privredne banke 2.184,53 DEM, a kod Ljubljanske banke na jednoj štednoj knjižici 15.529,21 DEM i na drugoj 3.691,16 DEM, 746,01 ATS i 124,06 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 20.795,71 KM.

295. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

80. Predmet broj CH/99/3224, Mirko ILIĆ protiv Bosne i Hercegovine

296. Prijava je podnesena Domu 24. novembra i registrovana je istog dana.

297. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke 11.591,23 DEM, a kod Ljubljanske banke 616,98 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 14. decembra 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 12.543,03 KM.

298. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

81. Predmet broj CH/99/3225, Kornelija ILIĆ protiv Bosne i Hercegovine

299. Prijava je podnesena Domu 24. novembra i registrovana je istog dana.

300. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 4.377,54 DEM, a kod Ljubljanske banke 345,54 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 14. decembra 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 4.767,56 KM.

301. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

82. Predmet broj CH/99/3230, A. H. protiv Federacije Bosne i Hercegovine

302. Prijava je podnesena Domu 24. novembra 1999. godine i registrovana je istog dana.

303. Podnosilac prijave je zajedno sa suprugom i djecom polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, Jugobanke Sarajevo i Investbanke Beograd. Čini se da su iznosi pologa kod Privredne banke na ime A.H. 1.125,28 DEM, 7.389,39 USD, 3.261,50 CHF i 1.087,73 DEM, 1.980,89 DEM, 2.813,59 DEM, 45.274,25 DEM, 90,71 USD i 568,8 USD, a na ime N.H. 338,48 DEM, na ime M.H. 761,31 DEM i 447 (oznaka valute nije čitljiva iz priložene kopije štedne knjižice), na ime H. A. 1.108,1 DEM. Čini se da su iznosi pologa kod Jugobanke na ime A.H. 4.293,06 DEM, 1,84 DEM i 2.007,17 BFRS, te kod Investbanke na ime H.A. 259,64 LIT. Podnosilac prijave nije dostavio punomoć kojom ga članovi obitelji ovlašćuju na zastupanje u postupku pred Komsiijom.

304. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

83. Predmet broj CH/99/3241, Miroslava VIDIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

305. Prijava je podnesena Domu 29. novembra, a registrovana je 30. novembra 1999. godine.

306. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 5.835,20 DEM, a kod Ljubljanske banke 3.317,91 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 5. februara 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 9.221,05 KM.

307. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

84. Predmet broj CH/99/3246, Miodrag SAVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

308. Prijava je podnesena Domu 29. novembra, a registrovana je 30. novembra 1999. godine.

309. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Ljubljanske banke d.d. Ljubljana i Investbanke Beograd. Čini se da je iznos njegovih pologa kod Jugobanke je 1.505,60 DEM, 1.002,9 USD, 382,52 ATS, 729,46 BEF, 55,58 FRF i 77,49 ITL, kod Ljubljanske banke na jednoj štednoj knjižici 6.818,86 DEM, 572,69 FRF i na drugoj 0,42 USD, 62.082 LIT, 27,79 DEM, 8,4 CHF, 15,96 SCH, 1.127,18 FRF i 6,14 ATS i kod Investbanke 1.111,87 ASCH, 171,212,90 LIT, 128,96 DEM i 475,18 FRF.

310. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

85. Predmet broj CH/99/3270, Nedica BOGIĆEVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

311. Prijava je podnesena Domu 2. decembra, a registrovana je 6. decembra 1999. godine.

312. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Privredne banke 52.250 DEM, a kod Ljubljanske banke 14.375,88 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 26. decembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 54.277,54 KM.

313. Podnosilac prijave navodi da je dio devizne štednje iskoristila u procesu privatizacije za otkup stana. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 30. augusta 2002. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 54.277,54 KM.

314. Podnosilac prijave navodi da je član Udruženja štediša, te da se pridružila kolektivnoj tužbi Udruženja pred Evropskim sudom za ljudska prava u Strazburu i Sudom Bosne i Hercegovine.

86. Predmet broj CH/99/3283, Sehija ŠAHOVIĆ - ALIREJSOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

315. Prijava je podnesena 3. decembra, a registrovana je 6. decembra 1999. godine.

316. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 19.637,23 DEM i 2.617,59 DEM, a kod Ljubljanske banke 16.387,56 DEM.

317. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 39.759,84 KM.

318. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

87. Predmeti broj CH/99/3288 i CH/99/3289, Nusreta GORO i Ismeta PLOČO protiv Federacije Bosne i Hercegovine

319. Prijave su podnesene 3. decembra, a registrovane su 6. decembra 1999. godine.

320. Podnosioci prijava postavljaju zahtjev za povrat devizne štednje koju su ulagale kod Investbanke Beograd. Čini se da je iznos pologa podnosioca prijave N.G. 3.438,88 ŠKR, a iznos pologa podnosioca prijave I.P. je 580,65 USD.

321. Također, podnosioci prijava postavljaju zahtjev za povrat devizne štednje koju su zajedno sa svojim umrlim bratom I.G. polagale kod Privredne banke Sarajevo i kod Investbanke Beograd. Na temelju zabilježbe koja je sačinjena na deviznoj knjižici Privredne banke 25. marta 1998. godine i 6. aprila 1998. godine saznaje se da su podnosioci prijava u ostavinskom postupku iza smrti I.G. stekle po ½ potraživanja njegove devizne ušteđevine kod Privredne banke što iznosi po 42.306,69 DEM. Također, u kopiji devizne knjižice Investbanke stoji zabilježba da podnosioci prijava stiču polovinu položenih deviznih sredstava iza svoga umrlog brata I.G. u iznosu od po 519,17 DEM i po 63.948,44 ŠKR.

322. Prema izvodu sa Jedinstvenog računa građana Zavoda na ime N.G, od 16. septembra 1999. godine, ukupan iznos njenog potraživanja po osnovu stare devizne štednje je 62.669,97 KM.

323. Prema izvodu sa Jedinstvenog računa građana Zavoda na ime I.P, od 4. maja 1999. godine, ukupan iznos njenog potraživanja po osnovu stare devizne štednje je 68.851,43 KM.

324. Podnosioci prijava se nisu obraćale ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

88. Predmeti broj CH/99/3301 Nadežda ŠEHOVAC-PAVIČEVIĆ protiv Bosne i Hercegovine, Federacije Bosne i Hercegovine i Republike Slovenije i CH/99/3303 Tomo GOLAC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

325. Prijave su podnesene 7. decembra, a registrovane su 10. decembra 1999. godine.

326. Podnosilac prijave N.Š.P. postavlja zahtjev za povrat devizne štednje koju je polagala kod Jugobanke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod

Jugobanke 89.316,21 DEM, 16.518,69 DEM i 1.227,15 DEM, a kod Ljubljanske banke na jednoj knjižici 6.797,24 USD, 10.975,39 DEM i 7.976,30 CHF, te na drugoj 428,89 USD. Također, ona postavlja zahtjev za povrat devizne štednje koju je naslijedila iza smrti podnosioca prijave T.G, polagane kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa na jednoj knjižici 15.936,24 DEM i na drugoj 1.905,11 DEM.

327. Općinski sud II Sarajevo je u ostavinskom postupku iza smrti T.G. donio rješenje o nasljeđivanju, broj:O-2118/02, od 26. marta 2003. godine, kojim se proglašava da je podnosilac prijave N.Š.P. testamentarna nasljednica sa dijelom 1/1.

328. Na osnovu rješenja o nasljeđivanju od 26. marta 2003. godine Zavod je potraživanje podnosioca prijave T.G. po osnovu stare devizne štednje prebacio na Jedinstveni račun građana na ime podnosioca prijave N.Š.P. Ukupan iznos potraživanja po osnovu stare devizne štednje koji je evidentiran na Jedinstvenom računu građana na ime N.Š.P, a koji uključuje njenu deviznu štednju, kao i deviznu štednju naslijeđenu iza podnosioca prijave, je 126.464,08 KM.

329. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

89. Predmet broj CH/99/3302, Nina SCIPIONI protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

330. Prijava je podnesena 7. decembra, a registrovana je 10. decembra 1999. godine.

331. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Ljubljanske banke d.d. Ljubljana i Privredne banke Sarajevo. Čini se da je iznos njenih pologa kod Jugobanke na jednoj štednoj knjižici 4.519,76 DEM i na drugoj 1.322,15 DEM i 1.759,20 dinara, te kod Ljubljanske banke 7.370,80 dinara i kod Privredne banke 7.226,50 dinara.

332. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

90. Predmet broj CH/99/3303, Tomo GOLAC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine (vidi redni broj predmeta 88)

91. Predmet broj CH/99/3314, Samija ZLATANIĆ protiv Bosne i Hercegovine

333. Prijava je podnesena 8. decembra, a registrovana je 10. decembra 1999. godine.

334. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i kod Investbanke Beograd. Čini se da je iznos njenih pologa kod Privredne banke 13.454,19 DEM, a kod Investbanke 4.362,16 DEM.

335. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 21. oktobra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 8.016,35 KM.

336. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

92. Predmet broj CH/99/3316 i CH/99/3317, Ruža BOŽIĆ i Ivan-Ivica BOŽIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

337. Prijave su podnesene 8. decembra, a registrovane su 10. decembra 1999. godine.

338. Podnosioci prijava su bili supružnici. Podnosilac prijave I.I.B. je preminuo.

339. Općinski sud II Sarajevo je 18. maja 1999. godine u ostavinskom postupku iza smrti podnosioca prijave Ivana-Ivice Božić donio rješenje o nasljeđivanju, broj O-37/99, kojim se supruga podnosioca prijave Ruža Božić proglašava nasljednicom novačanih potraživanja po osnovu stare devizne štednje, sa dijelom 1/1.

340. Podnosilac prijave R.B. je polagala devizna sredstva na štednoj knjižici kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 7.385,72 DEM.

341. Podnosilac prijave I.I.B. je polagao sredstva na deviznim štednim knjižicama kod Privredne banke Sarajevo, Jugobanke Sarajevo i Investbanke Beograd. Čini se da je iznos njegovih pologa kod Privredne banke 35.922,69 DEM, kod Jugobanke na jednoj knjižici 19.711,35 DEM i na drugoj 11.583,43 DEM, a kod Investbanke 4.934,79 DEM.

342. Podnosioci prijava se nisu obraćali ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

93. Predmet broj CH/99/3346 Samija ANDRIJIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

343. Prijava je podnesena 14. decembra, a registrovana je 15. decembra 1999. godine.

344. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo, kod Privredne banke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 2.789,08 DEM, kod Privredne banke 2.861,86 DEM i kod Ljubljanske banke 2.143,97 DEM.

345. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 9. maja 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 7.838,09 KM.

346. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

94. Predmet broj CH/99/3361, Zoran BILBIJA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

347. Prijava je podnesena Domu 16. decembra, a registrovana je 17. decembra 1999. godine.

348. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Investbanke Beograd. Čini se da je iznos njegovog pologa kod Jugobanke 28.568,69 DEM, a kod Investbanke 2.778,92 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 33.991,54 KM.

349. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

95. Predmet broj CH/99/3362, Majo ŠOTRA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

350. Prijava je podnesena Domu 16. decembra, a registrovana je 17. decembra 1999. godine.

351. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovog pologa kod Jugobanke na jednoj štednoj knjižici 275,36 DEM, na drugoj 1.678,87 DEM i na trećoj 1.515,73 DEM, a kod Ljubljanske banke na jednoj štednoj knjižici 14.320,63 DEM, na drugoj 4.534,27 DEM i na trećoj 15.926,79 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine,

ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje kod Jugobanke je 3.531,14 KM.

352. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

96. Predmet broj CH/99/3384, Dane REBIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

353. Prijava je podnesena Domu 22. decembra 1999. godine i registrovana istog dana.

354. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Investbanke Beograd. Čini se da je ukupan iznos njegovog pologa kod Jugobanke 2.262,3 DEM, a kod Investbanke 8.799,1 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 17. jula 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 11.142,46 KM.

355. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

B. Činjenice u odnosu na Ljubljansku banku d.d. Ljubljana

356. Prema podacima iz sudskog registra Kantonalnog suda, rješenjem Višeg suda u Sarajevu (u daljnjem tekstu: Viši sud), broj: UF/I-748/93, od 2. jula 1993. godine, izvršen je upis Ljubljanske banke d.d. Sarajevo nastale statusnom promjenom Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo. Iz rješenja je vidljivo da sredstva, prava i obaveze Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo, kao pravnog prednika, prelaze na Ljubljansku banku d.d. Sarajevo, kao pravnog sljednika. Osim toga, rješenjem Kantonalnog suda, broj: UF/I-1550/03, od 5. marta 2004. godine, izvršen je prenos vlasničkih prava na Federaciju Bosne i Hercegovine, odnosno Ministarstvo finansija Federacije Bosne i Hercegovine (u daljnjem tekstu: Ministarstvo finansija) kao osnivača banke sa temeljnim kapitalom od 300.000 KM.

357. Ljubljanska banka d.d Sarajevo je 18. februara 2002. godine podnijela tužbu Općinskom sudu u Sarajevu (u daljnjem tekstu: Općinski sud) protiv Ministarstva finansija, radi utvrđenja. Općinski sud je donio presudu, broj: Ps-595/03-III od 11. novembra 2004. godine, koja je postala pravosnažna 11. decembra 2004. godine. Navedenom presudom je utvrđeno da tužitelj, Ljubljanska banka d.d. Sarajevo, nije odgovorna za obaveze iz osnova "stare devizne štednje" deponovane kod Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo. Pored toga, ovom presudom je utvrđeno da tužitelj nije pravni sljednik Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo. Također je utvrđeno da je Ministarstvo finansija dužno trpiti da se na osnovu ove presude u registru Kantonalnog suda, u rješenju broj: UF/I-748/93, od 2. jula 1993. godine, izvrši brisanje dijela izvršenog upisa, koji glasi: "[...] nastalo statusnom promjenom Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo", te upis koji glasi:"[...] sredstva, prava i obaveze Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo kao pravnog prednika prelaze na Ljubljansku banku d.d. Sarajevo kao pravnog sljednika".

358. U presudi je navedeno da je Ljubljanska banka d.d. Sarajevo po svojoj zakonskoj regulativi osnovana kao nezavisna, nova banka koja je obavljala promet u svoje ime i za svoj račun i nije imala nikakvih prava i obaveza u okviru Ljubljanske banke d.d. Ljubljana, kao posebnom pravnom subjektu registrovanom u Republici Sloveniji. S obzirom da Glavna filijala Sarajevo nije bila pravno lice i da je u pravnom prometu sa trećim licima nastupala u ime i za račun Ljubljanske banke d.d. Ljubljana, te da nije nikada odgovarala za staru deviznu štednju, Općinski sud je zaključio da Ljubljanska banka d.d. Sarajevo, statusnom promjenom i registracijom, nije mogla preuzeti veća prava i obaveze nego što je imala ranija filijala u Sarajevu. Stoga, sasvim je osnovano da se iz sudskog registra ukloni obaveza tužitelja u pogledu stare devizne štednje.

359. U navedenom postupku je u svojstvu umješača učestvovalo Udruženje štediša. Udruženje štediša je istaklo da ima pravni interes da tužitelj uspije sa postavljenim tužbenim zahtjevom, jer ukoliko bi se utvrdilo da Ljubljanska banka d.d. Sarajevo odgovara za staru deviznu štednju, štediše bi ostale bez mogućnosti da ostvare pravo na povrat svojih sredstava, imajući u vidu činjenicu da ta banka nema sredstava za izmirenje obaveza po osnovu devizne štednje.

C. Činjenice u odnosu na Investbanku Beograd

360. Rješenjem Višeg suda, broj: UF/I-5368/92, od 9. marta 1993. godine, izvršen je upis osnivanja Depozitne banke d.d. Sarajevo, čiji je jedan od osnivača i Investbanka, poslovna jedinica Sarajevo sa svim svojim sredstvima. Iz rješenja Kantonalnog suda, broj: UF/I-188/01, od 16. aprila 2001. godine, kojim je izvršen upis promjene osnivača navedene banke, vidljivo je da Investbanka, poslovna jedinica Sarajevo, više nije među osnivačima Depozitne banke d.d. Sarajevo. Kantonalni sud je naveo da u svom registru nema podataka u vezi sa Osnovnom privredno investicionom bankom u Beogradu-Investbankom.

IV. RELEVANTNE ZAKONSKE ODREDBE

361. Zbog rastuće nestašice deviznih sredstava i drugih ekonomskih problema u bivšoj SFRJ, podizanje novca sa starih deviznih štednih računa je bilo strogo ograničeno zakonima koji su doneseni tokom 1980-tih i početkom 1990-tih godina. Poslije oružanog sukoba u Bosni i Hercegovini, bilo je pokušaja da se kroz legislativu privatizacije riješi nedostupnost stare devizne štednje. Međutim, nakon što su pokušaji ostvarenja potraživanja po osnovu stare devizne štednje u procesu privatizacije ostali uglavnom bezuspješni, Federacija Bosne i Hercegovine je usvojila novi zakon na osnovu kojeg stara devizna štednja postaje dio unutrašnjeg duga Federacije Bosne i Hercegovine. Međutim, u odnosu na obaveze po osnovu stare devizne štednje, deponovane u Ljubljanskoj banci d.d. Ljubljana, Glavna filijala Sarajevo i Investbanci Beograd, novi Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine ("Službene novine Federacije Bosne i Hercegovine", broj 64/04) je izričito propisao da će se iste rješavati u procesu sukcesije imovine bivše SFRJ.

A. Zakoni SFRJ

362. **Zakon o deviznom poslovanju** ("Službeni list Socijalističke Federativne Republike Jugoslavije", br. 66/85 i 71/86)

Član 14.

> Građani i građanska pravna lica mogu devize držati na deviznom računu ili deviznom štednom ulogu kod ovlaštene banke i koristiti za plaćanje u inostranstvu, u skladu sa odredbama ovog zakona.
>
> […]
>
> Za devize na deviznim računima i deviznim štednim ulozima jemči Federacija.

363. **Zakon o osnovama bankarskog i kreditnog sistema** ("Službeni list Socijalističke Federativne Republike Jugoslavije", br. 70/85, 9/86, 34/86, 72/86 i 65/87)

Član 183.

> […]
>
> Za štedne uloge u stranoj valuti i depozite na deviznim štednim računima građana i stranih fizičkih lica jemči Federacija.

364. **Zakon o bankama i drugim finansijskim organizacijama** ("Službeni list Socijalističke Federativne Republike Jugoslavije", br. 10/89, 40/89, 87/89, 18/90, 72/90 i 79/90)

Član 14.

> Banka je pravno lice [...].
>
> Statutom banke može se prenijeti u nadležnost dijelovima banke da u pravnom prometu sa trećim licima obavljaju određene poslove.

365. **Odluka o načinu na koji ovlaštene banke izvršavaju naloge za plaćanje domaćih fizičkih lica devizama s njihovih deviznih računa i deviznih štednih uloga** ("Službeni list Socijalističke Federativne Republike Jugoslavije", broj 28/91)

Tačka 2.

> Ovlaštene banke koje od dana stupanja na snagu ove odluke odobre devize deviznom štednom ulogu građana, dužne su da građanima obezbjede podizanje tih deviza s njihovih štednih uloga ili izvršavaju njihove naloge za plaćanje uvoza najkasnije u roku od sedam dana od dana kada su devize odobrene njihovom deviznom štednom ulogu, ako je građanin podnio uredan nalog za plaćanje, odnosno nalog za podizanje deviza sa njihovog deviznog štednog uloga.

366. **Odluka o načinu vođenja deviznog računa i deviznog štednog uloga domaćeg i stranog fizičkog lica** ("Službeni list Socijalističke Federativne Republike Jugoslavije", br. 6/91, 28/91, 34/91 i 36/91). Ovom odlukom je određeno da ovlaštene banke izvršavaju naloge za plaćanje domaćih fizičkih lica na teret deviza koje su položene na njihove devizne račune. Iznosi naloga i rokovi za isplatu su nekoliko puta mijenjani Odlukama o izmjenama i dopunama Odluke o načinu vođenja deviznog računa i deviznog štednog uloga domaćeg i stranog fizičkog lica. U posljednjim izmjenama, koje su stupile na snagu 18. maja 1991. godine, tačkom 2. utvrđeni su sljedeći rokovi i iznosi:

> do 500 njemačkih maraka-u roku od 15 dana za prvo plaćanje sa deviznog računa, a u roku od 30 dana za svako naredno plaćanje;
>
> do 1.000 njemačkih maraka-u roku od 30 dana za prvo plaćanje sa deviznog računa, a u roku od 45 dana za svako naredno plaćanje;
>
> do 3.000 njemačkih maraka-u roku od 90 dana;
>
> do 8.000 njemačkih maraka-u roku od 180 dana.

367. **Zakon o parničnom postupku SFRJ** ("Službeni list Socijalističke Federativne Republike Jugoslavije", br. 4/77, 36/77, 36/80, 69/82, 58/84, 74/87, 57/89, 20/90, 27/90 i 35/91)

Član 59.

> Za suđenje u sporovima protiv pravnog lica koje ima poslovnu jedinicu van svog sjedišta, ako spor proizilazi iz pravnog odnosa te jedinice, pored suda opšte mjesne nadležnosti, nadležan je i sud na čijem području se nalazi ta poslovna jedinica.

B. Zakoni Republike Bosne i Hercegovine i Bosne i Hercegovine

368. Dana 11. aprila 1992. godine, nakon sticanja nezavisnosti Republike Bosne i Hercegovine, usvojena je **Uredba sa zakonskom snagom o deviznom poslovanju** iz 1992. godine ("Službeni list Republike Bosne i Hercegovine", broj 2/92). Relevantnim odredbama ove Uredbe predviđeno je sljedeće:

Član 9, u relevantnom dijelu, glasi:

> Za devize na deviznim računima i deviznim štednim ulozima jamči Republika.

369. Uredba iz 1992. godine je kasnije zamijenjena **Uredbom sa zakonskom snagom o deviznom poslovanju** iz 1994. godine ("Službeni list Republike Bosne i Hercegovine", broj 10/94; kasnije usvojena kao zakon, "Službeni list Republike Bosne i Hercegovine", broj 13/94).

Slijedeće odredbe Uredbe iz 1994. godine su relevantne:

Član 3.

> Devize se mogu koristiti samo za plaćanje prema inozemstvu osim ako ovom uredbom nije drugačije određeno.

Član 12.

> Domaća i strana fizička lica mogu devize držati na računu kod banke i slobodno ih koristiti.

Član 44.

> Devizne rezerve čine potraživanja na računima u inostranstvu, efektivni strani novac i vrijednosni papiri izdati u inozemstvu [deponovani] kod Narodne banke [Bosne i Hercegovine] i [ovlaštenih] banaka.

370. **Odluka o ciljevima i zadacima monetarno kreditne politike**, objavljena je 9. aprila 1995. godine ("Službeni list Republike Bosne i Hercegovine", broj 11/95). Tačka 12. Odluke glasi:

> Deponovana devizna štednja građana trajno će se riješiti donošenjem zakona o javnom dugu Republike do kraja prvog polugodišta 1995. godine.

371. Ova Odluka je kasnije izmijenjena i dopunjena sa stupanjem na snagu 2. juna 1995. godine ("Službeni list Republike Bosne i Hercegovine", broj 19/95). Izmijenjena i dopunjena tačka 12. predviđa da treba donijeti zakon o javnom dugu prije kraja septembra 1995. godine. Dalje se dodaje da, do donošenja tog zakona, Narodna banka Bosne i Hercegovine može, uz saglasnost Ministarstva finansija, isplaćivati deviznu štednju u odgovarajućem iznosu u dinarima pripadnicima Armije Republike Bosne i Hercegovine za pokrivanje troškova njihovog liječenja i liječenja članova njihovih porodica.

372. **Odluka o ciljevima i zadacima devizne politike** donijeta je 10. aprila 1996. godine ("Službeni list Republike Bosne i Hercegovine", broj 13/96). Potvrđujući uglavnom Odluku iz 1995. godine, tačka 7. Odluke iz 1996. godine predviđala je bez posebnog određivanja datuma slijedeće:

> Devizna štednja građana deponovana kod bivše Narodne banke Jugoslavije zajedno sa kamatama na ovu štednju, rješavaće se donošenjem zakona o javnom dugu Bosne i Hercegovine, ili na drugi način u sklopu ukupne konsolidacije duga Bosne i Hercegovine zajedno sa međunarodnom zajednicom.

373. Visoki predstavnik u Bosni i Hercegovini donio je 22. jula 1998. godine **Okvirni zakon o privatizaciji preduzeća i banaka u Bosni i Hercegovini**, koji je stupio na snagu sljedećeg dana kao privremeni zakon ("Službeni glasnik Bosne i Hercegovine", broj 14/98). Konačno, Parlamentarna skupština Bosne i Hercegovine ga je usvojila 19. jula 1999. godine ("Službeni glasnik Bosne i Hercegovine“, broj 12/99).

374. **Zakon o utvrđivanju i načinu izmirenja unutrašnjeg duga Bosne i Hercegovine** ("Službeni glasnik Bosne i Hercegovine", broj 44/04)

Član 1.

> Ovim se zakonom uređuje način i postupak utvrđivanja i izmirivanja neizmirenog unutrašnjeg duga Bosne i Hercegovine prema budžetskim korisnicima do 31. decembra 2002. godine, isključujući obveze na temelju izvršnih odluka (u daljnjem tekstu: unutrašnji dug).

C. Odluka o ratifikaciji sporazuma o pitanjima sukcesije Socijalističke Federativne Republike Jugoslavije ("Službeni glasnik Bosne i Hercegovine", broj 10/01)

375. U sporazumu o sukcesiji SFRJ, Aneks C, u relevantnom dijelu, predviđa se sljedeće:

Član 2, stav 3.

> […]
>
> Ostala finansijska dugovanja (SFRJ) uključuju:
>
> (a) jamstva SFRJ ili njene narodne banke Jugoslavije za štednju u čvrstoj valuti položenu kod komercijalnih banaka ili njihovih filijala u bilo kojoj državi sljednici prije datuma kojeg je ona proglasila neovisnost;
>
> […].

Član 7.

> Jamstva bivše SFRJ ili njene NBJ za štednju čvrste valute položenu kod komercijalne banke ili neke od njenih filijala u bilo kojoj državi sljednici prije datuma kada je ta država proglasila neovisnost predmet se pregovara bez odlaganja, vodeći naročito računa o potrebi zaštite štednje čvrste valute pojedinaca. Ovi pregovori će se odvijati pod pokroviteljstvom Banke za međunarodna poravnanja.

D. Zakoni Federacije Bosne i Hercegovine o privatizaciji i izmjene i dopune

376. Osnovne pravne odredbe kojima se omogućava prenos stare devizne štednje na Jedinstveni račun građana radi korištenja u procesu privatizacije sadržane su u članovima 3, 7, 11. i 18. **Zakona o utvrđivanju i realizaciji potraživanja građana u postupku privatizacije** (u daljnjem tekstu: Zakon o potraživanjima građana), koji je stupio na snagu 28. novembra 1997. godine, a počeo se primjenjivati 27. februara 1998. godine, sa izmjenama i dopunama od 5. marta 1999. godine ("Službene novine Federacije Bosne i Hercegovine", br. 27/97 i 8/99). Ti članovi su propisivali:

Član 3:

> Lice koje ima deviznu štednju u bankama ili poslovnim jedinicama sa sjedištem na teritoriji Federacije Bosne i Hercegovine iznad 100 KM, a bilo je državljanin bivše Socijalističke Republike Bosne i Hercegovine i na dan 31. marta 1991. godine imalo prebivalište na teritoriji koja sada pripada Federaciji Bosne i Hercegovine stiče potraživanja prema Federaciji sa stanjem na dan 31. marta 1992. godine.
>
> Realizacija potraživanja građana koji su na dan 31. marta 1991. godine imali državljanstvo bivše Socijalističke Republike Bosne i Hercegovine, a koji nemaju prebivalište na teritoriji Federacije, kao i drugih lica, koja imaju devizna potraživanja u bankama na teritoriji Federacije, u smislu ovog zakona, uredit će se posebnim propisom.

> Licima iz stava 1. ovog člana s deviznom štednjom do 100 DEM banke će na njihov zahtjev isplatiti iznos štednje.
>
> Potraživanja iz stava 3. ovog člana su isplativa nakon isteka perioda od tri mjeseca od dana primjene ovog Zakona.

Član 7:

> Potraživanja iz člana 3. ovog zakona banka prenosi na Jedinstveni račun štediše.
>
> Način prenosa potraživanja građana … čiji se računi vode u bankama kod kojih su organizacione jedinice na teritoriji Federacije prestale s radom, uredit će se posebnim propisom Federalnog ministarstva finansija.

Član 11:

> Otvaranje Jedinstvenih računa vrši se po službenoj dužnosti na osnovu Jedinstvenog matičnog broja građana-nosilaca potraživanja iz ovog zakona.
>
> Jedinstveni račun predstavlja certifikat građanina.

Član 18:

> Potraživanja sa Jedinstvenog računa mogu se koristiti u postupku privatizacije u roku od dvije godine od dana izdavanja izvoda sa Jedinstvenog računa, a nakon upisa potraživanja po pojedinim vrstama.
>
> Istekom roka iz stava 1. ovog člana, potraživanja na Jedinstvenom računu se gase.

377. Nakon odluke Doma u predmetu *Poropat i drugi* u junu 2000. godine, Federacija je donijela razne izmjene i dopune ovih odredbi.

378. **Zakon o izmjenama i dopunama Zakona o utvrđivanju i realizaciji potraživanja građana u procesu privatizacije** ("Službene novine Federacije Bosne i Hercegovine", broj 45/00) stupio je na snagu 2. novembra 2000. godine. Ovim Zakonom član 18. je izmijenjen i dopunjen na taj način da je nosiocu stanarskog prava iz člana 8a.[1] Zakona o prodaji stanova na kojima postoji stanarsko pravo omogućeno da može koristiti svoja potraživanja sa Jedinstvenog računa građana u roku od tri mjeseca od dana ovjere potpisa na ugovoru o kupovini pred nadležnim sudom. Izmjenama i dopunama je dodat treći stav u članu 18, koji predviđa:

> Izuzetno od odredbe st. 1. i 2. ovog člana nosioci stanarskog prava iz člana 8a. Zakona o prodaji stanova na kojima postoji stanarsko pravo ("Službene novine Federacije BiH", br. 27/97, 11/98, 22/99 i 7/00) mogu koristiti potraživanja sa Jedinstvenog računa u roku od tri mjeseca od dana ovjere potpisa na kupoprodajnom ugovoru kod nadležnog suda.

379. Dodatne izmjene i dopune stava 1. člana 18. su stupile na snagu 8. februara 2002. godine. Tim izmjenama i dopunama opći rok za korištenje certifikata izmijenjen je sa dvije godine na četiri godine, tako da cijeli član, sa izmjenama i dopunama, glasi:

Član 18.

> Potraživanja sa Jedinstvenih računa građana mogu se upotrijebiti u procesu privatizacije u roku od četiri godine od dana izdavanja izvoda sa Jedinstvenog računa građana, nakon registracije svakog pojedinog potraživanja.

[1] Navedenim članom 8a. je regulisana kupovina napuštenih stanova od strane nosilaca stanarskih prava.

> Po isteku roka navedenog u stavu 1. ovog člana, potraživanja sa Jedinstvenih računa se gase.
>
> Izuzetno od odredbi stavova 1. i 2. ovog člana, nosioci stanarskog prava iz člana 8a. Zakona o prodaji stanova na kojima postoji stanarsko pravo ("Službene novine Federacije Bosne i Hercegovine", br. 27/97, 11/98, 22/99 i 7/00) mogu koristiti potraživanja sa Jedinstvenog računa u roku od tri mjeseca od dana ovjere potpisa sa kupoprodajnim ugovorom kod nadležnog suda.

380. Pored ovih izmjena Zakona o potraživanjima građana, Federacija je donijela dodatne izmjene i dopune procesa privatizacije kako bi ublažila položaj vlasnika stare devizne štednje. **Zakon o izmjenama i dopunama Zakona o privatizaciji preduzeća** ("Službene novine Federacije Bosne i Hercegovine", br. 45/00) je stupio na snagu 2. novembra 2000. godine. Ovim Zakonom je izmijenjen i dopunjen član 28. kako bi se certifikati po osnovu stare devizne štednje izjednačili sa gotovinom. Starom verzijom je propisano:

> Prodaja iz člana 26.[2] ovog zakona vrši se uz obavezno plaćanje u novcu najmanje 35 posto ugovorene prodajne cijene.
>
> Za svaki iznos plaćen u novcu preko 35% može se odobriti popust od 8%.

Novom verzijom je propisano:

> Prodaja iz člana 26. ovog zakona vrši se uz obavezno plaćanje u novcu ili certifikatima iz temelja stare devizne štednje najmanje 35 posto ugovorene prodajne cijene.
>
> Za svaki iznos plaćen u novcu ili ceritifikatom po osnovu stare devizne štednje preko 35% može se odobriti popust od 8%.

381. **Zakonom o izmjenama i dopunama Zakona o privatizaciji preduzeća** ("Službene novine Federacije Bosne i Hercegovine", broj 61/01) izmijenjen je član 27. stav 1. Starom verzijom je propisano:

> Mala privatizacija u smislu člana 26. ovog zakona provodi se javnom prodajom, koju je preduzeće dužno pripremiti i prijaviti nadležnoj agenciji (za privatizaciju) u roku od 12 mjeseci od dana početka primjene ovog zakona.

Novom verzijom je propisano:

> Mala privatizacija u smislu člana 26. ovog zakona provodi se javnom prodajom, koju je preduzeće dužno pripremiti i prijaviti nadležnoj agenciji (za privatizaciju) u roku koji odredi Agencija Federacije, i u roku važenja potraživanja građana iz Zakona o utvrđivanju i realizaciji potraživanja građana u postupku privatizacije (certifikati itd).

382. **Zakon o izmjenama i dopunama Zakona o prodaji stanova na kojima postoji stanarsko pravo** stupio je na snagu 8. januara 2002. godine (nakon datuma odluke Ustavnog suda Federacije). Novi član 24. tog zakona je izjednačio certifikate iz osnova stare devizne štednje sa novcem. Starom verzijom je propisano:

> Plaćanje otkupne cijene stana vrši se jednim od platežnih sredstava i to:
>
> a) gotovinom
>
> b) certifikatima na temelju tražbine građana, a koji su utvrđeni posebnim propisima
>
> Kada se plaćanje vrši novcem cijena stana se umanjuje za 20% utvrđene otkupne cijene.

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[2] Navedenim članom 26. regulisana je prodaja preduzeća u procesu male privatizacije.

Novom verzijom je propisano*:*

> Plaćanje otkupne cijene stana vrši se jednim od platežnih sredstava i to:
>
> a) novcem
>
> b) certifikatima na temelju tražbine građana, a koji su utvrđeni posebnim propisima.
>
> Kada se plaćanje vrši novcem ili certifikatom iz osnova stare devizne štednje cijena stana se umanjuje za 20% utvrđene otkupne cijene.

383. U pismu Domu za ljudska prava od 8. decembra 2000. godine, u vezi sa implementacijom odluke *Poropat i drugi*, Federacija navodi da ona, "preko nadležnih Ministarstava i agencija, vodi aktivnosti informisanja građana o važnosti posjeta bankama kako bi dali Jedinstveni matični broj s ciljem da omoguće prenos svoje stare devizne štednje na Jedinstveni račun građana i izdavanje certifikata kojim bi im omogućila da učestvuju u procesu privatizacije koji je u postupku jer nema drugog načina na koji bi građani Bosne i Hercegovine – imaoci stare devizne štednje, realizovali svoja potraživanja po tom osnovu na bilo koji drugi način osim putem procesa privatizacije“.

384. Federacija Bosne i Hercegovine je **Zakonom o izmjenama i dopunama Zakona o potraživanju građana** (“Službene novine Federacije Bosne i Hercegovine”, broj 57/03) izmijenila član 7. koji je glasio:

> Potraživanja iz člana 3. ovog zakona banka prenosi na Jedinstveni račun štediše.

Novom verzijom je propisano:

> Potraživanja iz člana 3. ovog zakona banka, na zahtjev štediše koji se podnosi u roku do šest mjeseci od dana usvajanja ovog zakona, prenosi na Jedinstveni račun štediše.

Također, izmijenjen je i član 11. koji je glasio:

> Otvaranje Jedinstvenih računa vrši se po službenoj dužnosti na osnovu matičnog broja građana-nosilaca potraživanja iz ovog zakona.

Novom verzijom je propisano:

> Otvaranje Jedinstvenih računa vrši se po službenoj dužnosti na osnovu matičnog broja građana-nosilaca potraživanja iz ovog zakona, a otvaranje Jedinstvenog računa po osnovu stare devizne štednje vrši se na zahtjev štediše.

385. Također, došlo je i do izmjene člana 18. koji se odnosio na rok upotrebe certifikata u procesu privatizacije, u smislu da je rok od 4 godine produžen na 6 godina, tako da član 18. sa izmjenama sada glasi:

> Potraživanja sa Jedinstvenog računa mogu se koristiti u postupku privatizacije u roku od šest godina od dana izdavanja izvoda sa Jedinstvenog računa, a nakon upisa potraživanja po pojedinim vrstama.

386. Član 20. Zakona o potraživanju građana je dopunjen sa dva nova stava 20a. i 20b. koji regulišu neiskorištena potraživanja podnosilaca prijava po osnovu stare devizne štednje koja su prenijeta na Jedinstveni račun, kao i sredstva koja su štediše utrošili u privatizacijske investicione fondove. Član 20. je glasio:

> Direktor Agencije za privatizaciju u Federaciji Bosne i Hercegovine će u roku od 30 dana od stupanja na snagu ovog zakona donijeti Uputstvo o evidenciji i realizaciji potraživanja sa Jedinstvenog računa.

Novi stavovi su:

> 20a. Agencija za privatizaciju u Federaciji BiH će neiskorištena potraživanja po osnovu stare devizne štednje koja su prenijeta na Jedinstveni račun vratiti na račun imaoca u roku od 30 dana od dana podnošenja zahtjeva štediše.
>
> 20b. Štediše koje su izvršile prijenos potraživanja iz osnova stare devizne štednje u privatizacijske investicione fondove, koja žele povratiti na svoje Jedinstvene račune, mogu podnijeti zahtjev privatizacijskim investicionim fondovima za povrat potraživanja u roku do šest mjeseci od dana stupanja na snagu ovog zakona.

387. Federacija Bosne i Hercegovine je usvojila nove izmjene i dopune Zakona o potraživanju objavljene u "Službenim novinama Federacije Bosne i Hercegovine", broj 20/04, tako da je član 5. dopunjen sa novim članom 5a. koji glasi:

> Član 5a. Izuzetno od člana 5. ovog Zakona potraživanje po osnovu stare devizne štednje postaje unutrašnji dug Federacije Bosne i Hercegovine koji se izmiruje u skladu sa posebnim zakonom, osim ako lice koje ima potraživanje na osnovu stare devizne štednje ne da izjavu da se ta potraživanja koriste za namjene iz člana 18. ovog Zakona.
>
> Izjava iz stava 1. ovog člana je neopoziva i podnosi se Federalnom ministarstvu finansija u roku od tri mjeseca od dana stupanja na snagu ovog Zakona.

31. Također, izmijenjen je i član 18. koji je regulisao način korištenja certifikata, i sada glasi:

> Potraživanja sa Jedinstvenog računa mogu se koristiti u procesu privatizacije:
>
> - za kupovinu dionica preduzeća, imovine preduzeća i druge imovine koja se bude prodavala u procesu privatizacije do 30. juna 2006. godine, pod uvjetom da učešće pojedinačne ponude ne prelazi 10% od ukupne kupovne cijene;
>
> - za kupovinu stanova na kojima postoji stanarsko pravo do 30. juna 2007. godine u visini do 100% od ukupne cijene.
>
> Istekom rokova iz stava 1. ovog člana potraživanja na Jedinstvenom računu se gase.
>
> Izuzetno od odredbe stava 2. ovog člana rok za kupovinu stanova na kojima postoji stanarsko pravo može se mijenjati zavisno od donošenja i promjena propisa o restituciji.

388. Posljednjim izmjenama i dopunama Zakona o potraživanju obuhvaćen je i član 20. koji sada glasi:

> Agencija za privatizaciju u Federaciji Bosne i Hercegovine dostavit će Federalnom ministarstvu finansija bazu podataka o stanju neiskorištenih potraživanja po osnovu stare devizne štednje na Jedinstvenom računu u roku od 30 dana od dana stupanja na snagu ovog Zakona.
>
> Član 20b. koji je davao štedišama koji su uložili svoja sredstva u PIF-ove mogućnost da traže povrat uloženih sredstava se novim zakonom briše.

389. Parlament Federacije Bosne i Hercegovine je 20. novembra 2004. godine usvojio **Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine** ("Službene novine Federacije Bosne i Hercegovine", broj 64/04), koji u relevantnom dijelu glasi:

Član 1.

Ovim Zakonom utvrđuju se unutrašnje obaveze Federacije Bosne i Hercegovine prema fizičkim i pravnim licima, nastale na osnovu: neisplaćenih invalidnina, neisplaćenih penzija, neisplaćenih naknada prema dobavljačima za robe, materijale i usluge, obaveze nastale na osnovu neisplaćenih plaća i dodataka, te ostale obaveze (u daljnjem tekstu: unutrašnji dug), odnosno način pojedinačne verifikacije utvrđenih potraživanja, kao i način njihovog izmirenja.

Član 2.

Ovim Zakonom utvrđuje se sveobuhvatno izmirenje unutrašnjeg duga na način koji osigurava i podržava makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine (u daljnjem tekstu: Federacija).

Unutrašnji dug Federacije procjenjuje se u iznosu od 1.858,9 miliona KM. Ova procjena isključuje iznos obaveza za staru deviznu štednju, s obzirom na to da će se oni utvrditi u postupku verifikacije.

Obaveze unutrašnjeg duga iz stava 1. ovog člana izmiruju se isplatom u gotovini, putem izdavanja obveznica (u daljnjem tekstu: obveznice) i otpisivanjem, prema odredbama ovog Zakona.

Izmirenje svih kategorija unutrašnjeg duga, uključujući i staru deviznu štednju, neće prelaziti iznos od 10% GDP za 2003. godinu i to u neto sadašnjoj vrijednosti za sve planirane isplate svih kategorija unutrašnjeg duga.

Član 3.

Unutrašnji dug Federacije iznosi 1.858,9 miliona KM, isključujući iznos obaveze za staru deviznu štednju koji će se utvrditi u postupku verifikacije, a čine ga:

- opće obaveze u iznosu od 947,9 miliona KM,
- obaveze na osnovu kredita komercijalnih banaka u iznosu od 11 miliona KM,
- obaveze za staru deviznu štednju u iznosu koji će se utvrditi prema verifikaciji obaveza na način propisan u članu 12. ovog Zakona.

Član 9.

Federacija preuzima obaveze na osnovu stare devizne štednje ostvarene u najnižim poslovnim jedinicama banaka (ekspozitura i/ili agencija) na teritoriji Federacije. Ukoliko banka nema poslovnih jedinica onda se smatra da je sjedište banke najniža poslovna jedinica.

Obaveze na osnovu stare devizne štednje, definirane stavom 1. ovog člana, ne obuhvataju obaveze na osnovu stare devizne štednje deponovane u Ljubljanskoj banci i Invest banci, s obzirom na to da će se one rješavati u procesu sukcesije imovine bivše SFRJ.

Obaveze na osnovu stare devizne štednje iz člana 3. ovog Zakona Federacija će izmiriti isplatom u gotovini i izdavanjem obveznica.

Kamate na staru deviznu štednju od 01. januara 1992. godine otpisuju se.

Član 10.

Kad se izvrši verifikovanje potraživanja za staru deviznu štednju, na način predviđen članom 12. ovog Zakona, Vlada Federacije će posebnim propisom utvrditi metod i visinu isplate u gotovini za staru deviznu štednju svakom fizičkom licu, nosiocu stare devizne štednje, do iznosa propisanog u članu 2. ovog Zakona.

Član 11.

Gotovinske isplate za staru deviznu štednju iz člana 10. ovog Zakona izvršit će se iz budžeta Federacije u periodu od četiri godine počevši od fiskalne godine kada se završi postupak verifikovanja stare devizne štednje.

Član 12.

Verifikovanje svih potraživanja za staru deviznu štednju vršit će se na osnovu baze podataka koja je ustanovljena Zakonom o utvrđivanju i ostvarivanju potraživanja građana u postupku privatizacije ("Službene novine Federacije BiH", br. 27/97, 8/99, 45/00, 54/00, 32/01, 57/03, 20/04) i drugim propisima donesenim na osnovu zakona i baza podataka koje posjeduju banke.

Proces verifikacije potraživanja za staru deviznu štednju završit će se u roku od devet mjeseci od dana stupanja na snagu ovog Zakona.

Federalni ministar finansija donijet će podzakonske akte o verifikaciji svih potraživanja za staru deviznu štednju u roku od 90 dana od dana stupanja na snagu ovog Zakona.

Član 13.

Za obaveze za staru deviznu štednju koje ne budu izmirene isplatom u gotovini, u skladu sa čl. 9. i 10. ovog Zakona, izdat će se obveznice do iznosa koji je potreban za izmirenje kumulativnih potraživanja.

Član 14.

Kad se izvrši verifikovanje potraživanja za staru deviznu štednju na način predviđen članom 12. ovog Zakona, Vlada Federacije će posebnim propisom utvrditi model izdavanja obveznica propisujući rok dospijeća obveznica, visinu kamate na obveznice i dužinu grace perioda, a do iznosa koji se utvrdi kao glavnica u procesu verifikovanja potraživanja na osnovu stare devizne štednje do iznosa propisanog u članu 2. ovog Zakona.

Kako bi osigurala dodatna finansijska sredstva nosiocima obveznica iz člana 13. ovog Zakona, Vlada Federacije, u svojstvu dioničara a prema važećim propisima, svojom Odlukom rasporedit će do 15% dividende iz privrednih društava sa državnim kapitalom kako bi otkupljivala javne obveznice putem ponude po tržišnoj cijeni, isplaćujući ih kako je predviđeno godišnjim budžetom, počevši od obveznica sa najnižom nominalnom vrijednosti i progresivno krenuvši ka obveznicama sa višom nominalnom vrijednosti.

Član 15.

Vlada Federacije će tri posto iznosa koji se ostvari od prodaje preduzeća JP „BH Telecom“, JP „Elektroprivrede BiH“ d.d., JP „Elektroprivrede HZHB'“ d.d. i „Hrvatske telekomunikacije” d.o.o. Mostar uplatiti na poseban račun.

Sredstva ostvarena na posebnom računu iz stava 1. ovog člana koristit će se u svrhu prijevremenog otkupa obveznica na osnovu stare devizne štednje po tržišnoj cijeni i to uključujući prioritet u isplati - otkupu obveznica vlasnika stare devizne štednje i to ponudom otkupljenja obveznica sa najnižom nominalnom vrijednosti, a potom obveznica sa višom nominalnom vrijednosti.

Federalni ministar finansija donijet će podzakonske akte o načinu raspolaganja sredstvima deponovanim na računu iz prethodnog stava, odnosno o modalitetima isplate vlasnika obveznica, shodno ostvarenju sredstava iz ovog člana.

Član 21.

Obveznice za izmirenje obaveza za staru deviznu štednju i ratnih potraživanja su vrijednosni papiri koje izdaje u cijelosti ili djelimično Bosna i Hercegovina (u daljnjem tekstu: vrijednosni papiri BiH) u ime Federacije, ili Federacija (u daljnjem tekstu: vrijednosni papiri Federacije) prema posebnom propisu.

Obveznice izdate za izmirenje obaveza za staru deviznu štednju i ratna potraživanja su utržive i prenosive i izdaju se i vode samo u elektronskoj formi.

Svi uvjeti vezani za obveznice utvrđuju se odlukom Vlade Federacije i posebnim propisom.

Za predračun obaveza na osnovu stare devizne štednje i ratnih potraživanja u KM koristi se srednji zvanični kurs Centralne banke Bosne i Hercegovine koji važi na dan donošenja odluke Vlade Federacije o emisiji obveznica u smislu ovog Zakona.

Obveznice izdate za izmirenje obaveza iz stava 2. ovog člana predstavljaju unutrašnji dug Federacije u skladu sa posebnim propisom.

Federalno ministarstvo finansija upravljat će računima sa kojih se sredstva koja su položena mogu podizati u svrhu isplate obveznice.

Član 22.

Obveznice Federacije ne podliježu propisima i odobrenju Komisije za vrijednosne papire Federacije Bosne i Hercegovine.

Član 24.

Federacija garantuje za obveznice izdate u skladu sa odredbama ovog Zakona za izmirenje unutrašnjeg duga.

Član 26.

Vlada Federacije će u roku od 30 dana od dana stupanja na snagu ovog Zakona donijeti podzakonske akte za utvrđivanje prioriteta među kategorijama obaveza za izmirenje potraživanja u skladu sa stavom 2. člana 7., članom 8. i članom 11. ovog Zakona.

E. Odluka Ustavnog suda Federacije Bosne i Hercegovine

390. Ustavni sud Federacije Bosne i Hercegovine je 8. januara 2001. godine utvrdio da članovi 3, 7, 11. i 18. Zakona o potraživanjima građana nisu u skladu sa Ustavom Federacije Bosne i Hercegovine. Ustanovio je da su ti članovi u suprotnosti sa članom 1. Protokola broj 1 uz Evropsku konvenciju i time u suprotnosti sa članom II.A.2(1)(k) Ustava Federacije Bosne i Hercegovine i Amandmanom 5. Navedeni Sud, u svojoj odluci, nije pomenuo prethodne izmjene i dopune zakona

od 2. novembra 2000. godine. Ustavni sud Federacije Bosne i Hercegovine nije naredio nikakve posebne izmjene i dopune ili na neki drugi način propisao prelazne odredbe po kojima bi relevantni članovi trebali biti primijenjeni.

391. Odluka Ustavnog suda Federacije Bosne i Hercegovine, u relevantnom dijelu, glasi:

> Ustavom Federacije Bosne i Hercegovine članom II A. 2. (1)(k) i Amandmanom V utvrđeno je da će Federacija osigurati primjenu najvišeg nivoa međunarodno priznatih prava i sloboda utvrđenih u dokumentima navedenim u Aneksu ovog ustava [...].
>
> Utvrđujući ustavnost članova 3., 7., 11. i 18. Zakona o utvrđivanju i realizaciji potraživanja građana u procesu privatizacije sa navedenim ustavnim odredbama i članom 1. stav 1. Protokola br. 1 uz Evropsku konvenciju o ljudskim pravima i osnovnim slobodama, Sud je utvrdio da odredbe članova 3., 7., 11. i 18. Zakona o utvrđivanju i realizaciji potraživanja građana u postupku privatizacije nisu u skladu sa Ustavom Federacije Bosne i Hercegovine.

392. Odluka Ustavnog suda Federacije objavljena je 9. marta 2001. godine u "Službenim novinama Federacije Bosne i Hercegovine", broj 7/01.

393. Članom 12(b) dijela IV(c) Ustava Federacije predviđa se da ako Ustavni sud Federacije "utvrdi da zakon, usvojeni ili predloženi zakon ili drugi propis Federacije ili bilo kojeg kantona ili općine nije u skladu sa ovim Ustavom, taj zakon ili drugi propis neće se primjenjivati, odnosno stupiti na snagu, osim ukoliko se izmijeni na način koji propiše Sud ili ukoliko Sud ne utvrdi prijelazna rješenja, koja ne mogu biti na snazi duže od šest mjeseci".

394. Federacija Bosne i Hercegovine je 14. maja 2001. godine podnijela apelaciju Ustavnom sudu Bosne i Hercegovine protiv presude Ustavnog suda Federacije, zavedenu kao *U 57/01*. Ustavni sud Bosne i Hercegovine je, na svojoj sjednici od 20. decembra 2003. godine, rješenjem odbacio apelaciju iz formalnih razloga.

F. Zakoni Republike Slovenije

395. Republika Slovenija je 25. juna 1991. godine donijela **Ustavni zakon za provođenje i izvršenje Osnovne ustavne Isprave o samostalnosti i neovisnosti Republike Slovenije** ("Službeni list Republike Slovenije", broj 1/91), koji u relevantnom dijelu glasi:

Član 19.

> Za devize na deviznim računima i deviznim štednim knjižicama uložene u bankama na teritoriji Republike Slovenije, za koje je do stupanja na snagu ovoga zakona, jamčila SFRJ, preuzima jamstvo Republika Slovenija, prema stanju na dan stupanja na snagu ovog zakona.

396. Navedeni Ustavni zakon je dopunjen 27. jula 1994. godine **Ustavnim zakonom o dopuni Ustavnog zakona za provođenje i izvršenje Osnovne ustavne Isprave o samostalnosti i neovisnosti Republike Slovenije** ("Službeni list Republike Slovenije", broj 45/94). Ovim zakonom osnovana je nova Ljubljanska banka. Na novu Ljubljansku banku prenose se potraživanja stare Ljubljanske banke, s tim da se staroj Ljubljanskoj banci ostavljaju dugovanja.

V. ŽALBENI NAVODI

397. Podnosioci prijava se generalno žale da je povrijeđeno njihovo pravo na mirno uživanje imovine, zagarantovano članom 1. Protokola broj 1 uz Evropsku konvenciju. Jedan dio podnosilaca prijava se, također, žali da je povrijeđeno njihovo pravo na pravičnu raspravu u

razumnom roku pred nezavisnim i nepristrasnim sudom, zagarantovano članom 6. Evropske konvencije. Nekoliko podnosilaca prijava navode povrede raznih članova Univerzalne deklaracije o ljudskim pravima.

398. Svi podnosioci prijava traže punu isplatu cjelokupne devizne štednje, a mnogi, pored toga, traže isplatu kamata. Također, traže kompenzaciju za duševne patnje, troškove postupka pred domaćim sudovima i Domom/Komisijom, te ostale troškove. Neki od podnosilaca prijava traže od Komisije da naredi donošenje zakona po kojem će stara devizna štednja biti proglašena neotuđivom privatnom imovinom bez ikakvih ograničenja.

VI. PODNESCI STRANA

A. Bosna i Hercegovina

1. U pogledu činjenica

399. Tužena strana navodi da je, nakon dobijanja samostalnosti, odmah počela sa pravnim regulisanjem u oblasti deviznog poslovanja. To je učinjeno iz razloga što su sva devizna sredstva, među kojima je bila i devizna štednja građana, činila ukupne rezerve bivše SFRJ. Zna se da je stanje deviznih rezervi bivše SFRJ na dan 31. decembra 1990. godine iznosilo 13 milijardi USD, a na dan 31. decembra 1991. godine oko 1,5 milijardi USD. Iz ovoga proizilazi da je bivša SFRJ putem Narodne banke Jugoslavije, gdje je vršeno deponovanje svih deviznih rezervi bivše SFRJ, svjesno sklonila sve devize i na taj način onemogućila bivše republike, među kojima je bila i Bosna i Hercegovina, da raspolažu deviznim rezervama koje su sa njenog područja bile deponovane kod Narodne banke Jugoslavije.

400. Također navodi da, u skladu sa gore navedenim, Bosna i Hercegovina do sada ni na koji način nije preuzela garanciju za deviznu štednju građana koja je deponovana kod bivše Narodne banke Jugoslavije, niti postoji njena obaveza da tu štednju isplaćuje građanima.

2. Prihvatljivost u odnosu na banke sa sjedištem u Bosni i Hercegovini

401. Tužena strana navodi da, s obzirom da podnosioci prijava nisu uopće koristili domaća pravna sredstva koja su im stajala na raspolaganju, nisu ispunjeni uslovi za prihvatljivost prijava i razmatranje merituma spora od strane Komisije do okončanja tih postupaka pred domaćim organima uprave i pravosuđa po raspoloživim pravnim lijekovima, saglasno odredbama člana 26. Evropske konvencije i člana 8. stav 2a. Aneksa 6. Općeg okvirnog sporazuma za mir u Bosni i Hercegovini.

402. Tužena strana ističe da iz prijava proizilazi da je ljudsko pravo podnosilaca prijava povrijeđeno u mjesecu junu 1992. godine i da je ta navodna povreda trajala čitav rat, a da su prijave podnesene više godina poslije rata. Naime, Dom/Komisija može razmatrati predmete, između ostalog, samo nakon što su iscrpljena domaća pravna sredstva i ako je zahtjev podnesen u roku od šest mjeseci od dana donošenja konačne odluke.

403. Tužena strana smatra da Komisija, u svim predmetima gdje građani potražuju isplatu stare devizne štednje, mora donijeti identičnu odluku (da imaju, ili nemaju pravo na naplatu stare devizne štednje). Po toj odluci bilo bi utvrđeno da li Bosna i Hercegovina preuzima garancije na staru deviznu štednju od bivše SFRJ.

404. Tužena strana predlaže Komisiji da, iz gore navedenih razloga, prijave odbaci kao neprihvatljive.

3. Prihvatljivost u odnosu na banke sa sjedištem izvan Bosne i Hercegovine

405. S obzirom da podnosioci prijava nisu uopće koristili domaća pravna sredstva koja su im stajala na raspolaganju, nisu ispunjeni uslovi za prihvatljivost prijava i razmatranje merituma spora od strane Doma/Komisije do okončanja tih postupaka pred domaćim organima uprave i pravosuđa po raspoloživim pravnim lijekovima saglasno odredbama člana 26. Evropske konvencije i člana 8. stav 2a. Aneksa 6 Općeg okvirnog sporazuma za mir u Bosni i Hercegovini.

406. Tužena strana ističe da iz prijava proizilazi da je ljudsko pravo podnosilaca prijava povrijeđeno u mjesecu junu 1992. godine i da je ta navodna povreda trajala čitav rat, a da su prijave podnesene više godina poslije rata. Naime, Dom može razmatrati predmete, između ostalog, samo nakon što su iscrpljena domaća pravna sredstva i ako je zahtjev podnesen u roku od šest mjeseci od dana donošenja konačne odluke.

407. Pored toga, tužena strana navodi da se povodom istog zahtjeva za isplatu stare devizne štednje već vodi postupak od strane štediša Ljubljanske banke d.d, Glavna filijala Sarajevo kod Evropskog suda za ljudska prava, te da o tome, također, raspravlja i Odbor za ljudska prava Evropskog parlamenta. Prema tome, tužena strana zaključuje da Komisija ne može voditi identičan postupak, jer postoji mogućnost donošenja različitih odluka.

408. Tužena strana zaključuje da, obzirom da su podnosioci prijava polagali svoja devizna sredstva u banke, čije se sjedište ne nalazi na teritoriji Bosne i Hercegovine, država Bosna i Hercegovina ne može odgovarati zbog navodnog kršenja ljudskih prava. Stoga, tužena strana predlaže Komisiji da, iz gore navedenih razloga, prijave odbaci kao neprihvatljive.

4. Meritum u odnosu na banke sa sjedištem u Bosni i Hercegovini

409. Tužena strana traži od Komisije, ukoliko ocijeni da za sada nisu ispunjeni uslovi za odbacivanje prijava, da se sačeka sa odlučivanjem o prihvatljivosti prijava do konačnog ishoda u navedenim postupcima koji se trebaju pokrenuti pred domaćim nadležnim sudovima.

410. Tužena strana navodi da je, prema njenim saznanjima, do kojih se došlo u konsultacijama sa Vijećem ministara Bosne i Hercegovine, Uredom visokog predstavnika za Bosnu i Hercegovinu i dr, trenutno našla najcjelishodnija rješenja ovog problema. U takvoj situaciji, a u punoj saradnji sa Uredom Visokog predstavnika za Bosnu i Hercegovinu, Država Bosna i Hercegovina je kao jedino moguće rješenje iznašla soluciju da kroz proces privatizacije državne imovine omogući deviznim štedišama obeštećenja kroz otkup te imovine. Ova mjera je preduzeta kako devizne štediše ne bi ostale bez ikakve naknade. U tom cilju, Država Bosna i Hercegovina - Vijeće ministara Bosne i Hercegovine, u saradnji sa Uredom visokog predstavnika za Bosnu i Hercegovinu – priprema paket zakona o privatizaciji državne imovine kako na nivou države, tako i na nivou entiteta Bosne i Hercegovine.

411. Tužena strana ističe da nisu povrijeđena ljudska prava podnosilaca prijava kroz soluciju koja im se nudi predviđenim zakonskim rješenjima kao načinom punog obeštećenja, a u smislu u kojem su im ona zagarantovana Evropskom konvencijom.

412. Tužena strana predlaže Komisiji, ukoliko ne odbaci prijave kao neprihvatljive, da odbije prijave u meritumu spora u odnosu na tuženu stranu, Bosnu i Hercegovinu, kao i da se odbiju zahtjevi podnosilaca prijava za kompenzaciju i naknadu troškova postupka.

5. Meritum u odnosu na banke sa sjedištem izvan Bosne i Hercegovine

413. U dijelu o meritumu prijava, tužena strana navodi da, obzirom da se sjedište Ljubljanske banke d.d. Ljubljana i Investbanke Beograd nalazi na teritoriji drugih država, nije povrijeđeno pravo podnosilaca prijava na mirno uživanje njihove imovine.

B. Federacija Bosne i Hercegovine

1. Činjenice u odnosu na banke sa sjedištem u Bosni i Hercegovini

414. Tužena strana ističe činjenicu, da je od dana podnošenja prijava Domu/Komisiji, preduzela regulativne mjere s ciljem da spriječi kolaps platnog sistema javnog duga i bankovnog sistema. Ove mjere imaju za svrhu zaštitu vlasnika sredstava na deviznim štednim knjižicama. Naime, nakon pravosnažne presude Ustavnog suda Federacije Bosne i Hercegovine, broj: U-10/00 od 8. januara 2001. godine, tužena strana je donijela Zakon o izmjenama i dopunama Zakona o utvrđivanju i realizaciji potraživanja građana u postupku privatizacije (u daljnjem tekstu: Zakon o realizaciji potraživanja), kojim su uređena pitanja utvrđivanja i ostvarivanja potraživanja u postupku privatizacije. Zakonom su definirane vrste potraživanja građana prema Federaciji Bosne i Hercegovine, načini evidentiranja i postupka ostvarivanja ovih potraživanja u postupku privatizacije. Zakonom su, također, definirane vrste potraživanja, te između ostalog i potraživanja na osnovu stare devizne štednje.

415. Naime, u međuvremenu, tužena strana, konkretno Vlada Federacije Bosne i Hercegovine, na svojoj sjednici od 15. decembra 2003. godine, donijela je Odluku o usvajanju strateškog plana za izmirenje unutrašnjih potraživanja prema Federaciji Bosne i Hercegovine. Odlukom je utvrđeno da unutrašnja potraživanja prema Federaciji Bosne i Hercegovine ukupno iznose 3.263,4 miliona KM, a obuhvataju između ostalog i obaveze za staru deviznu štednju u iznosu od 1.110 miliona KM. Regulisano je da će se način isplate i dinamika isplate i izvor finansiranja neisplaćenih potraživanja prema Federaciji Bosne i Hercegovine regulirati posebnim zakonima. Tako je članom 4. Odluke određen način izmirenja obaveza, prema kojem Vlada Federacije Bosne i Hercegovine planira gotovinsku isplatu vlasnicima stare devizne štednje u iznosu od 105 miliona KM, izdavanje obveznica sa nominalnom vrijednošću u iznosu od 1.005 miliona KM, sa rokom dospijeća od 20 godina, 10 godina, grace perioda i kamatom od 0,5%, koja će imati neto sadašnju vrijednost u iznosu od 452 miliona KM.

416. Nadalje, Parlament Federacije Bosne i Hercegovine je donio Zakon o utvrđivanju i načinu izmirenja unutarnjih obaveza Federacije Bosne i Hercegovine, koji je stupio na snagu narednog dana od dana objavljivanja. Ovim zakonom utvrđuje se sveobuhvatno izmirenje unutarnjeg duga na način koji osigurava i podržava makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine (član 2. Zakona o utvrđivanju). Unutarnji dug Federacije Bosne i Hercegovine prema članu 3. navedenog Zakona, između ostalog, čini i obaveza za staru deviznu štednju u iznosu koji će biti utvrđen po verificiranju obaveza. Obaveze po osnovu stare devizne štednje definisane članom 3. Zakona o utvrđivanju, Federacija Bosne i Hercegovine će izmiriti isplatom u gotovini i izdavanjem obveznica.

> Proces verificiranja tražbina za staru deviznu štednju okončat će se u roku od devet mjeseci od stupanja na snagu ovog Zakona.
>
> Federalni ministar finansija donijeće podzakonske akte o verificiranju svih tražbina za staru deviznu štednju u roku od 90 dana od dana stupanja na snagu ovog Zakona.
>
> Kako bi osigurala dodatna finansijska sredstva nositeljima obveznica iz članka 13. ovog Zakona, Vlada Federacije Bosne i Hercegovine u svojstvu dioničara, a sukladno važećim propisima, svojom će Odlukom rasporediti do 15% dividende iz gospodarskih društava s državnim kapitalom kako bi otkupljivala javne obveznice putem ponude po tržišnoj cijeni, isplaćujući ih kako je predviđeno godišnjim proračunom, počevši od obveznica s najnižom nominalnom vrijednošću i progresivno krenuši s obveznicama s višom nominalnom vrijednošću.

417. Dakle, slijedom navedenih činjenica, tužena strana ističe da je, primjenom odredbi Zakona o realizaciji potraživanja i Zakona o izmirenju obaveza, utvrđena unutarnja obaveza Federacije

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2. Činjenice u odnosu na banke sa sjedištem izvan Bosne i Hercegovine

418. Tužena strana ističe da je Parlament Federacije Bosne i Hercegovine, u novembru 2004. godine, donio Zakon o utvrđivanju i načinu izmirenja unutarnjih obaveza Federacije Bosne i Hercegovine. Ovim Zakonom je utvrđeno da će se obaveze po osnovu stare devizne štednje deponovane u Ljubljanskoj banci i Investbanci rješavati u procesu sukcesije. Sporazum o sukcesiji je zaključen između Bosne i Hercegovine, Republike Hrvatske, Savezne Republike Jugoslavije (sada Državna Zajednica Srbije i Crne Gore), Republike Makedonije i Republike Slovenije, kao država sljednica SFRJ. Stupio je na snagu 2. juna 2004. godine. Tužena strana podsjeća da je Sporazumom o sukcesiji utvrđeno da će se garancije bivše SFRJ ili njene Narodne banke, za štednju čvrste valute položenu kod komercijalne banke ili neke od njenih filijala, u bilo kojoj državi nasljednici, prije datuma kada je ta država proglasila nezavisnost, pregovarati bez odlaganja i da će se pregovori odvijati pod pokroviteljstvom Banke za međunarodna poravnanja.

3. Prihvatljivost u odnosu na banke sa sjedištem u Bosni i Hercegovini

419. Tužena strana smatra nespornim da je putem navedene legislative i propisa dat jasan okvir kojim su stare devizne štediše dobile konkretne pouzdane informacije u vezi sa budućim tretmanom njihove stare devizne štednje, na način koji uzima u obzir opće interese, i istovremeno ne predstavlja pretjeran pojedinačan teret na podnosioce prijava.

420. Naime, tužena strana opravdano sumnja, a imajući u vidu vremenski period od dana podnošenja prijave do danas, da su pojedini podnosioci prijava "uložili svoju deviznu štednju putem certifikata", tako što su ih prodali. S tim u vezi, tužena strana podsjeća Komisiju na njenu Odluku o brisanju u predmetu broj: CH/99/2211, *Olga Terpin* protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine od 9. februara 2004. godine.

421. U prilog naprijed navedenom, tužena strana ističe činjenicu da podnosioci prijava od dana podnošenja prijava Domu/Komisiji, odnosno od dana pravosnažnosti presude Ustavnog suda Federacije Bosne i Hercegovine, broj: *U-10/00*, nisu dostavili nove informacije, tj. dokumentaciju u pogledu toga: da li su pokušali da podignu svoju staru deviznu štednju i da li su zatražili pomoć kod domaćeg suda.

422. Dakle, u ovakvoj konstelaciji preduzetih radnji, odnosno radnji koje će preduzeti tužena strana, unutarnji dug Federacije Bosne i Hercegovine, kojim se obaveze za staru deviznu štednju u iznosu koji će biti utvrđen po verificiranju obaveza, na način propisan u članu 12. Zakona o izmirenju obaveza, a u vezi sa odredbom stava 1. tačka 3. člana 3. Zakona o izmirenju obaveza, izmirit će se isplatom u gotovini. Za obaveze za staru deviznu štednju, koje ne budu izmirene u gotovini i sukladno čl. 9. i 10. Zakona o izmirenju obaveza, izdat će se obveznice do iznosa koji je potreban za izmirenje kumulativnih tražbina (član 13. Zakona o izmirenju obaveza). Kad su u pitanju obveznice za izdavanje obaveza za staru deviznu štednju, tužena strana podsjeća Komisiju na poglavlje III – Obveznice – odredbe članova od 21. do 25. Zakona o izmirenju obaveza – kojim je, između ostalog, utvrđen način, metod i uvjeti izmirenja obaveza za staru deviznu štednju, u vidu obveznica, za koje Federacija Bosne i Hercegovine jamči sukladno odredbama ovog Zakona za izmirenje obaveza.

423. Slijedom izloženog, tužena strana smatra da su se stekli uslovi da Komisija, primjenom odredbi člana VIII Sporazuma, prijave u rubriciranim predmetima proglasi neprihvatljivim, prema članu 1. Protokola broj 1 uz Evropsku konvenciju u pogledu tužene strane Federacije Bosne i Hercegovine.

424. Slijedom navedenoga, tužena strana predlaže Komisiji da prijave podnosilaca odbaci, primjenom člana VIII(3)(b) Sporazuma, jer je predmetna stvar već riješena, na način i u skladu sa naredbama iz ranijih odluka Doma koje se tiču pitanja "stare" devizne štednje, kao i sa Odlukom Ustavnog suda Federacije Bosne i Hercegovine.

4. Prihvatljivost u odnosu na banke sa sjedištem izvan Bosne i Hercegovine

425. Tužena strana navodi da se ne može smatrati odgovornom za moguće povrede, jer je Bosna i Hercegovina uključena u pregovore o sukcesiji u vezi sa pitanjima, kao što su odgovornost banaka u inostranstvu, prava ekonomske sukcesije i druga pitanja koja utiču na imaoce deviznih štednih računa. Slijedom navedenoga, tužena strana predlaže Komisiji da prijave proglasi neprihvatljivim jer su *ratione personae* nespojive sa odredbama Sporazuma.

5. Meritum u odnosu na banke sa sjedištem u Bosni i Hercegovini

426. Nesporno je da potraživanja podnosilaca prijava po osnovu njihove devizne štednje predstavljaju imovinu u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju.

427. U skladu sa stavom 2. člana 1. Protokola broj 1 uz Evropsku konvenciju, s obzirom na ekonomske poteškoće Federacije i banaka, a da bi se spriječio kolaps bankovnog sistema, tužena strana je zakonom regulisala korištenje potraživanja građana po osnovu njihove devizne štednje. Prema ranijim zakonskim rješenjima, nije bila postignuta pravična ravnoteža između općeg interesa i imovinskih prava imalaca stare devizne štednje. To je utvrđeno odlukama Doma za ljudska prava.

428. Tužena strana ne osporava da potraživanja podnosilaca prijava prema bankama lociranim na području Federacije Bosne i Hercegovine po osnovu njihove devizne štednje predstavljaju "imovinu" u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju. Međutim tužena strana podsjeća Komisiju da član 1. Protokola broj 1 uz Evropsku konvenciju uključuje i tri posebna pravila, na osnovu kojih Država ima pravo da se miješa u pravo na imovinu u skladu sa javnim interesom.

429. Dakle, tužena strana je našla, u okviru svoje slobode odlučivanja, odgovarajući način i postigla traženu "pravičnu ravnotežu" interesa. Naime, u trenutnoj fazi, podnosioci prijava ili druge devizne štediše, imaju mogućnost da ostvare svoja imovinska prava u određenim iznosima za staru deviznu štednju na teritoriji Federacije Bosne i Hercegovine, s obzirom da su potraživanja po osnovu stare devizne štednje postala unutrašnji dug Federacije Bosne i Hercegovine, koji se izmiruje u skladu sa posebnim zakonom. Izuzetak čine lica – podnosioci prijava – koji imaju potraživanja na osnovu stare devizne štednje, a dali su izjavu da se ta potraživanja koriste za namjene iz člana 18. Zakona o izmjenama i dopunama Zakona o utvrđivanju i realizaciji potraživanja građana u procesu privatizacije. Tužena strana navodi da će, na osnovu utvrđenog metoda i visine, isplatiti u gotovini, odnosno ukoliko se obaveze za staru deviznu štednju, koje ne budu izmirene isplatom u gotovini, u skladu utvrđenim modelom, rokom, visinom, izdati obveznice do iznosa koji je potreban za izmirenje kumulativnih tražbina.

430. S obzirom na gore navedeno, tužena strana smatra da je u vezi stare devizne štednje podnosilaca prijava, Federacija Bosne i Hercegovine opravdala uplitanje u prava podnosilaca prijava, jer je kontrola korištenja imovine u skladu sa općim interesom i ima osnova u Zakonu. U prilog naprijed navedenom je i činjenica da će se konkretnim programom sukcesije i unutarnjeg duga, stara devizna štednja riješiti uspostavljanjem pravične ravnoteže između zahtjeva općeg interesa zajednice i zahtjeva zaštite osnovnih prava podnosilaca prijava. Zakonom je otklonjena neizvjesnost u pogledu statusa deviznih potraživanja koja nisu registrovana na Jedinstvenom računu građana i potraživanja koja su registrovana, ali nisu upotrijebljena u procesu privatizacije.

431. Pored naprijed navedenog, tužena strana obavještava Komisiju, da je Parlament Federacije Bosne i Hercegovine dana 31. decembra 2004. godine donio Zakon o izvršenju

proračuna Federacije Bosne i Hercegovine za 2005. godinu, kojim su uređeni: "način izvršenja Proračuna Federacije Bosne i Hercegovine za 2005. godinu (u daljem tekstu: Proračun), upravljanja prihodima i izdacima Proračuna, te pravo i obaveze korisnika proračunskih sredstava". Opći dio Proračuna sastoji se od bilance prihoda i izdataka te računa finansiranja, a posebni dio sadrži detaljan raspored izdataka po proračunu korisnika i vrsti izdataka.

432. Tako je Federalno ministarstvo finansija, u računu finansiranja, iskazalo zaduženja i otplate dugova "stare devizne štednje – isplate pojedincima", sve u cilju uravnoteženja salda bilance prihoda i rashoda Proračuna.

433. Tužena strana, konkretno Federalno ministarstvo finansija, kao budžetski korisnik, je utvrdilo sredstva u Razdijelu 16 Proračuna, pozicija – Tekući Transferi; za "staru deviznu štednju – isplata pojedincima 61420": proračuni za 2004. godinu u iznosu 6.050.000 KM – Proračuni za 2005. godinu u iznosu od 8.000.000 KM.

434. Dakle, odgovarajućim izmjenama i dopunama Zakona o izmjenama i dopunama Zakona o utvrđivanju i realizaciji potraživanja građana u procesu privatizacije i donošenjem Zakona o utvrđivanju, tužena strana je stvorila pravnu sigurnost u pogledu stare devizne štednje. Ovo tim više što je Zakonom o izvršenju proračuna Federacije Bosne i Hercegovine za 2005. godinu, planirala određena sredstva za "staru deviznu štednju – isplata pojedincima", što je Sporazum o sukcesiji stupio na snagu 2. juna 2004. godine, iz kojih neupitno proizilazi da se "stara devizna štednja" rješava putem unutrašnjeg duga Federacije Bosne i Hercegovine, odnosno sredstvima sukcesije.

435. Imajući u vidu naprijed navedeno, tužena strana smatra da nije prekršila prava podnosilaca prijava na mirno uživanje imovine po članu 1. Protokola broj 1 uz Evropsku konvenciju.

436. Izneseni argumenti potvrđuju stav tužene strane da ne postoje uvjeti za prihvatljivost prijava, te tužena strana predlaže Komisiji da prijave podnosilaca proglasi neprihvatljivim, iz razloga iznesenih u ovim pismenim zapažanjima o prihvatljivosti, odnosno da primjenom odredbi člana VIII Sporazuma donese odluke o odbijanju žalbi podnosilaca prijava kao očito neutemeljenih.

6. Meritum u odnosu na banke sa sjedištem izvan Bosne i Hercegovine

437. Tužena strana navodi da je nesporno da potraživanja podnosilaca prijava po osnovu njihove devizne štednje predstavljaju imovinu u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju. Međutim, tužena strana zaključuje da je, na osnovu ranije iznesenih argumenata, mišljenja da ne postoje uvjeti za prihvatljivost prijava.

C. Mišljenje *amicus curiae* - Udruženje za zaštitu deviznih štediša u Bosni i Hercegovini

1. U odnosu na banke sa sjedištem u Bosni i Hercegovini

438. Udruženje za zaštitu deviznih štediša u Bosni i Hercegovini stoji na stanovištu da su svi problemi i evidentna i flagrantna kršenja ljudskih prava u vezi sa "starom deviznom štednjom", položenom u bankama sa sjedištem u Bosni i Hercegovini ili filijalama banaka sa sjedištem u drugim republikama na teritoriji Bosne i Hercegovine prije 31. decembra 1990. godine, proistekla iz razloga što Bosna i Hercegovina, kao pravni sljednik Republike Bosne i Hercegovine i kao jedna od pravnih sljednica SFRJ, nije poduzela potrebne radnje kojima bi zaštitila prava građanskih lica – imaoce deviznih računa i deviznih štednih uloga. Štaviše, donošenjem relevantnih zakona stvorila je pravnu nesigurnost za devizne štediše u pogledu ostvarivanja prava na imovinu.

439. Republika Bosna i Hercegovina je činom izlaska iz SFRJ, prihvatanjem Ustava Socijalističke Republike Bosne i Hercegovine i zakona Socijalističke Republike Bosne i Hercegovine i donošenjem Uredbe sa zakonskom snagom o preuzimanju i primjenjivanju saveznih zakona, koji se u Bosni i Hercegovini primjenjuju kao republički zakoni, znala da preuzima i dio

obaveza i odgovornosti za deviznu štednju građana, za koju je garancije dala SFRJ. Shodno tome, ovom pitanju morala je posvetiti posebnu pažnju, jer su je ustavne odredbe iz člana 39. Ustava Republike Bosne i Hercegovine, kojim se građanima zajamčuje pravo svojine i člana 85, kojim se zajamčuje pravo građanina da bude obaviješten, na to obavezivale.

440. Republika Bosna i Hercegovina je donijela Uredbu sa zakonskom snagom o deviznom poslovanju, kojom je stavila van snage savezni Zakon o deviznom poslovanju. U članu 144. navedene Uredbe, Republika je utvrdila da će se pitanje dijela stare devizne štednje, u dijelu koji se odnosi na redeponovanu štednju kod Narodne banke Jugoslavije, urediti posebnim propisom. Članom 9. iste Uredbe, preuzela je jemstvo za devize građana koje su se nalazile u posjedu banaka i na računima u inostranstvu ovlaštene banke za poslove sa inostranstvom čije je sjedište bilo u Bosni i Hercegovini.

441. Ako Republika Bosna i Hercegovina nije mogla obezbijediti pravo raspolaganja deviznom štednjom redeponovanom kod Narodne banke Jugoslavije, propustila je donijeti zakon kojim utvrđuje deviznu štednju građana u posjedu banaka na cijeloj teritoriji Bosne i Hercegovine i način raspolaganja ovim deviznim sredstvima građana uz zaštitu prava građana sa teritorija koje nisu bile pod njenom kontrolom.

442. Propuštajući da donese ovakav zakon, Bosna i Hercegovina je ostavila na volju bankama da same odlučuju o ovoj imovini građana. Banke su samovoljno odbile isplaćivati štednju i kamatu po deviznoj štednji. Jedino su visoki političari i funkcioneri uspjeli dobiti svoja sredstva nazad.

443. Potpisivanjem Općeg okvirnog sporazuma za mir u Bosni i Hercegovini, Bosna i Hercegovina je preuzela ustavnu obavezu da osigura najviši standard ljudskih prava. Time je trebala da osigura i pravo raspolaganja deviznim štedišama deviznom štednjom (Ustav Bosne i Hercegovine, član II/3.k), kao i pravo na pravično suđenje II/3.e). Treba imati na umu da je Opći okvirni sporazum za mir u Bosni i Hercegovini, sa svojim aneksima, obezbijedio Bosni i Hercegovini pravni milje da ispuni ovu obavezu.

444. Odluka Bosne i Hercegovine o ciljevima i zadacima devizne politike u 1996. godini, u tačci 7, propisuje da Bosna i Hercegovina preuzima obavezu da će staru deviznu štednju deponovanu kod Narodne banke Jugoslavije, zajedno sa kamatom na štednju, rješavati donošenjem zakona o javnom dugu Bosne i Hercegovine ili na drugi način, u sklopu ukupne konsolidacije duga Bosne i Hercegovine zajedno sa međunarodnom zajednicom.

445. Odgovornost Bosne i Hercegovine sastoji se u tome što nakon donošenja ove odluke nije poduzela daljnje operativne korake u realizaciji odluke o zaštiti prava štediša i interesa države, a morala je to učiniti.

446. Bosna i Hercegovina je odgovorna i za donošenje Okvirnog zakona o privatizaciji preduzeća i banaka u Bosni i Hercegovini, kojim je dala izričito pravo entitetima da privatiziraju preduzeća i banke smještene na njihovom teritoriju koje nisu u privatnom vlasništvu.

447. Nadalje, Udruženje za zaštitu deviznih štediša u Bosni i Hercegovini smatra da su sudski organi propustili da zaštite građane tako što nisu donosili ili izvršavali pravomoćne presude u pogledu devizne štednje. Time je prekršen član 6. Evropske konvencije.

448. Odgovornost Bosne i Hercegovine je i u tome što se oglušila na stavove Doma za ljudska prava, koji je, svojom Odlukom u predmetima *Poropat i drugi,* od 10. maja 2000. godine, ukazao na ozbiljna kršenja ljudskih prava proistekla iz odbijanja odgovornosti Bosne i Hercegovine. Osim toga, Udruženje smatra da u pogledu devizne štednje, Država nije napravila niti jedan pozitivan pomak od donošenja relevantnih odluka Doma.

449. Činjenica je da je Bosna i Hercegovina ostala pasivna i po pitanju pregovora o preuzimanju obaveza po jemstvu SFRJ za staru deviznu štednju, koji se vode pod pokroviteljstvom Banke za

međunarodna poravnanja (Anex C Sporazuma o sukcesiji, član 7. stav 1). Bosna i Hercegovina je imala obavezu za pokretanje ovog pitanja putem Visokog predstavnika i Vijeća za implementaciju mira, čije su članice i 5 sljednica SFRJ.

450. Stupanjem na snagu Sporazuma po pitanju sukcesije, Bosna i Hercegovina i entiteti imaju obaveze po pitanju stare devizne štednje u iznosima u kojima banke, kao nosioci obaveza po deviznoj štednji, da utvrde da su Bosna i Hercegovina i entiteti koristili devizna sredstva za svoje potrebe.

451. Donešeni zakoni (Zakon o utvrđivanju i načinu izmirenja unutrašnjeg duga Bosne i Hercegovine; Zakon o utvrđivanju i načinu izmirenja unutrašnjeg duga Republike Srpske; Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine; Zakon o unutrašnjem dugu Brčko distrikta Bosne i Hercegovine) su prema Sporazumu o sukcesiji ništavni, a po Ustavu Bosne i Hercegovine su neustavni sa aspekta kršenja ljudskih prava. Obaveza po staroj deviznoj štednji svodi se isključivo na ugovoreni odnos banke, koja je pravni sljednik banke na dan 31. decembra 1991. godine, i štediše. Po Zakonu o obligacijama, ovaj odnos se ne može prenijeti na trećeg bez pristanka povjerioca – štediše u konkretnom slučaju.

452. Umjesto trošenja silnih novaca i sati u daljim zakonskim i podzakonskim manipulacijama deviznom štednjom, entiteti su dužni dati naloge bankama da aktiviraju stavke po deviznoj štednji isknjižene u pasivnu podbilancu, tj. da ih vrate u aktivu i počnu vraćati štedišama novac. Država i entiteti će vratiti onaj dio sredstava devizne štednje koji su povukli, ili koristili, za vlastite potrebe.

453. Za potraživanja devizne štednje položene kod Narodne banke Jugoslavije sa pravom reotkupa, banke moraju pokrenuti sudske postupke protiv 5 država sljednica, budući da nije postignut dogovor pred Bankom za međunarodna poravnanja.

454. Odgovornost Bosne i Hercegovine i entiteta postoji u odnosu na donošenje zakonskih mjera kojima će se stare devizne štediše zaštiti od eventualnih zloupotreba od strane banaka. Naime, politike i način isplate devizne štednje od strane banaka moraju biti jasne, transparentne i u funkciji nediskriminacije štediša.

455. Donešeni entitetski zakoni kojima se devizna štednja pretvara u javni dug, ne omogućavaju deviznim štedišama procesne garancije u smislu člana 6. Evropske konvencije.

456. U mišljenju je istaknut stav da Država nema javni interes u pogledu opravdanosti miješanja u pravo na imovinu vlasnika stare devizne štednje. U tom smislu, navodi se da Država ne raspolaže podacima o svojoj imovini, te da je miješanje u ovo pravo neopravdano pošto Država ne vodi savjesno proces privatizacije. Na taj način, Država gubi veliki dio sredstava, koja bi pomogla u rješavanju problema stare devizne štednje.

457. Budući da se radi o kršenju ljudskih prava građana Bosne i Hercegovine, a isključivo u interesu organiziranog kriminala koji dolazi iz redova međunarodne zajednice i domaćih političkih oligarhija, *amicus curiae* je mišljenja da bi Komisija trebala:

- obavijestiti i pozvati članove Predsjedništva Bosne i Hercegovine da podnesu Ustavnom sudu Bosne i Hercegovine zahtjev za preispitivanje ustavnosti zakona koji se odnose na privatizaciju banaka i preduzeća, zakona o javnom dugu i zakona o zabrani izvršenja sudskih presuda;

- zatražiti i izricanje mjere zabrane dalje privatizacije preduzeća i banaka dok se ne utvrdi i usvoji program konsolidacije i vraćanja *ino* duga, koji su preuzeli entiteti, uključujući isplatu stare devizne štednje građanima u Bosni i Hercegovini, zajedno sa izbjeglim licima;

- sugerisati Predsjedništvu Bosne i Hercegovine da traže hitno sazivanje sjednice Vijeća za implementaciju mira s ciljem dobivanja stručne i političke podrške u zaštiti prava građana Bosne i Hercegovine.

2. U odnosu na banke sa sjedištem izvan Bosne i Hercegovine

458. U odnosu na Ljubljansku d.d. Ljubljana i Investbanku Beograd, Udruženje štediša ističe da je u vrijeme izlaska Republike Slovenije i Bosne i Hercegovine iz SFRJ, Ljubljanska banka imala sjedište u Republici Sloveniji, a Investbanka u Beogradu. Obaveza po deviznoj štednji položenoj kod ovih banaka pada na teret Republike Slovenije i Državne Zajednice Srbije i Crne Gore, i nikako se ne može tretirati kao obaveza Bosne i Hercegovine.

D. Mišljenje *amicus curiae* - Ured Visokog predstavnika za Bosnu i Hercegovinu

1. U odnosu na banke sa sjedištem u Bosni i Hercegovini

459. Ured Visokog predstavnika za Bosnu i Hercegovinu, u svom mišljenju od 1. aprila 2005. godine, smatra da treba odustati od stavova Doma, izraženih u odlukama *Poropat i drugi* i *Đurković i drugi*, iz razloga što je Država prenijela tu nadležnost na entitete i Brčko Distrikt. Time je Država iskoristila svoju diskrecionu moć. Štaviše, Ured Visokog predstavnika za Bosnu i Hercegovinu smatra da je nerealno očekivati da poddržavne jedinice mogu imati iste standarde za isplatu stare devizne štednje, jer se, uključujući privatizaciju, nalaze u različitim pozicijama.

460. U pogledu obaveza entiteta i Brčko Distrikta, Ured Visokog predstavnika za Bosnu i Hercegovinu je, uz upućivanje na podatke Međunarodnog monetarnog fonda, dao statistički pregled obaveza Države po pitanju unutarnjeg duga i pojedinih njegovih elemenata. Time je Ured Visokog predstavnika za Bosnu i Hercegovinu ukazivao na ozbiljnost situacije.

461. U pogledu procesnih prava, naglašeno je da se "pravo pristupa sudu" u smislu člana 6. Evropske konvencije može ograničiti u javnom interesu, što bi bilo opravdano u slučajevima "stare devizne štednje". U tom smislu, ukazano je na određenu praksu Evropskog suda za ljudska prava (presuda *National & Privincial Building Society et al. protiv Velike Britanije*, od 23. oktobra 1997. godine, broj 117/1996/736/933-935, stav 105). Osim toga, naglašeno je da se podzakonski propisi tek trebaju donijeti, tako da je ocjena zakona preuranjena.

462. Na kraju je istaknuto da postojeći zakonski okvir predstavlja proporcionalan odnos između prava pojedinca i interesa Države, pri čemu Država uživa široko polje procjene.

2. U odnosu na banke sa sjedištem izvan Bosne i Hercegovine

463. Ured Visokog predstavnika za Bosnu i Hercegovinu, u svom mišljenju od 1. aprila 2005. godine, navodi da je, nakon stupanja na snagu Sporazuma o sukcesiji u junu 2004. godine, Republika Slovenija preuzela odgovornost za banke smještene na njenoj teritoriji prilikom ispunjavanja ugovornih obaveza prema vlasnicima stare devizne štednje. Iako Bosna i Hercegovina i Republika Slovenija nisu postigle nikakav bilateralni sporazum, a tek treba da se uspostavi mehanizam za rješavanje potraživanja prema tim bankama prema Sporazumu o sukcesiji, ova potraživanja po osnovu stare devizne štednje izričito su izuzeta iz zakona o izmirenju dugova kao obaveza stranih država.

VII. MIŠLJENJE KOMISIJE

A. Prihvatljivost

464. Komisija podsjeća da su prijave podnesene Domu u skladu sa Sporazumom. S obzirom da Dom o njima nije odlučio do 31. decembra 2003. godine, Komisija je, u skladu sa članom 2.

Sporazuma iz septembra 2003. godine i članom 3. Sporazuma iz 2005. godine, sada nadležna da odlučuje o ovim prijavama. Pri tome, Komisija će uzimati u obzir kriterije za prihvatljivost prijave sadržane u članu VIII(2) i (3) Sporazuma. Komisija, također, zapaža da se Pravila procedure kojima se uređuje njeno postupanje ne razlikuju, u dijelu koji je relevantan za predmete podnosilaca prijava, od Pravila procedure Doma, izuzev u pogledu sastava Komisije.

465. Komisija zapaža da su svi podnosioci prijava polagali devizna sredstva u jednoj ili više banaka sa sjedištem u Republici Bosni i Hercegovini i u jednoj, ili obje, strane banke, Ljubljanskoj banci d.d. Ljubljana i Investbanci Beograd, sa sjedištem van Republike Bosne i Hercegovine. S obzirom da je Zakonom o izmirenju unutrašnjih obaveza Federacija Bosne i Hercegovine u priznavanju stare devizne štednje kao dio svog unutrašnjeg duga različito tretirala deviznu štednju ostvarenu u domaćim bankama u odnosu na štednju ostvarenu u Ljubljanskoj banci d.d. Ljubljana i Investbanci Beograd, Komisija će predmetne prijave ispitati posebno u dijelu koji se odnosi na potraživanja prema domaćim bankama, a posebno u dijelu prihvatljivosti prema stranim bankama.

A.1. U odnosu na devizne uloge ostvarene u bankama sa sjedištem u bivšoj Republici Bosni i Hercegovini

A.1.I. Nadležnost *ratione personae*

466. Općenito, Komisija podsjeća da se njena nadležnost, prema članu II(2) Sporazuma, proteže na navodne ili očigledne povrede ljudskih prava gdje je takvu povredu navodno ili očigledno počinila jedna ili više strana u Sporazumu. Imajući na umu kompleksnost pravnih i ustavnih aranžmana Bosne i Hercegovine, Komisija smatra da bi bilo nerazumno očekivati od podnosilaca prijava da su u stanju u svim okolnostima tačno imenovati tuženu stranu. Iz ovog razloga, Dom je uvijek smatrao da nije ograničen izborom tužene strane podnosioca prijave. Dom je, u nekoliko prilika, ispitao prijave u vezi sa tuženom stranom onako kako je to odredio sam Dom (vidi, npr., *Poropat i drugi*, tačke, *loc. cit*, 132-33).

467. S obzirom na gore navedeno, Komisija će razmotriti sve ove prijave i protiv Bosne i Hercegovine i protiv Federacije Bosne i Hercegovine.

A.1.I.a. Odgovornost Bosne i Hercegovine

468. Komisija će razmotriti da li je i u kojoj mjeri rješavanje pitanja relevantnih za predmetne prijave odgovornost svake od tuženih strana.

469. Komisija podsjeća da, prema članu I Ustava, Bosna i Hercegovina nastavlja svoje pravno postojanje po međunarodnom pravu kao država i tako nasljeđuje status bivše Republike Bosne i Hercegovine. U tom svojstvu, Bosna i Hercegovina uzima učešće u pregovorima koji se tiču sukcesije imovine SFRJ. Međutim, ne može se smatrati da samo taj status stvara odgovornost za bivše unutrašnje obaveze SFRJ, uključujući i onu koja proizilazi iz deponovanja deviza u Narodnoj banci Jugoslavije i garancija koje je SFRJ dala u vezi sa štednjom. Ipak, Republika Bosna i Hercegovina je usvojila zakone i propise u vezi sa deviznom štednjom (vidi CH/97/48, *loc. cit,* tačke 88-91 gore). Član 9. Uredbe iz 1992. godine predviđao je da Republika daje garanciju za deviznu štednju, a član 12. Uredbe iz 1994. godine glasi da građani mogu koristiti svoju štednju slobodno. Imajući u vidu da je članom 144. Uredbe iz 1992. godine određeno da isplate devizne štednje građana uložene kod Narodne banke Jugoslavije treba odrediti posebnim propisom, Dom je zaključio da je ustanovljeno da se izričita garancija i obećanje da se štednja može slobodno koristiti nisu odnosili na staru deviznu štednju nego samo na nove štedne uloge koje su građani počeli ulagati u vrijeme kada je usvojena zakonska regulativa Republike. Ipak, ostavljajući rješavanje stare devizne štednje za poseban propis, Republika je implicitno priznala odgovornost za ovu štednju. Odluke iz 1995. i 1996. godine ne samo da su pojačale ovo implicitno priznanje, već je jasno navedeno da će se pitanje stare štednje rješavati usvajanjem državnog zakona o javnom dugu ili na neki drugi način u okviru ukupne konsolidacije javnog duga države (*Poropat i drugi*, tačka 142. ff, *Todorović i drugi*, tačka 96, *Đurković i drugi*, tačka 202. ff). Iz ovoga je jasno

vidljiv kontinuitet obaveze Države od perioda raspada bivše SFRJ, pa sve do 14. decembra 1995. godine, kada su Sporazum i Ustav Bosne i Hercegovine stupili na snagu.

470. Komisija, prije svega, napominje da je Aneksom II/2 Ustava Bosne i Hercegovine propisan kontinuitet pravnih propisa, prema kojem "[s]vi zakoni, propisi i sudski poslovnici, koji su na snazi na teritoriji Bosne i Hercegovine u trenutku kada Ustav stupi na snagu, ostaće na snazi u onoj mjeri u kojoj nisu u suprotnosti sa Ustavom dok drugačije ne odredi nadležni organ vlasti Bosne i Hercegovine". Na taj način su svi normativni akti, koji su navedeni u prethodnoj tački ove Odluke, ostali na snazi. Nakon toga datuma, Država je prema novom Ustavu dobila nove obaveze, koje su se primjenjivale/se primjenjuju na pitanje imovinskih prava u smislu člana 1. Protkola broj 1 uz Evropsku konvenciju. U alineji 4. Preambule Ustava, koja ima normativni karakter, u skladu sa III. djelimičnom odlukom Ustavnog suda Bosne i Hercegovine u predmetu 5/98 (od 30. juna i 1. jula 2000. godine, tač. 17. ff), propisano je da je država obavezna da "podstakn[e] opšte blagostanje i ekonomski razvoj kroz zaštitu privatnog vlasništva i unapređenje tržišne privrede". Članom I/4 Ustava Bosne i Hercegovine, stipulisana je, između ostalog, sloboda kretanja kapitala širom Bosne i Hercegovine, dok je članom II/1, "Bosna i Hercegovina i oba entiteta [obavezna] osigurati najviši nivo međunarodno priznatih ljudskih prava i osnovnih sloboda. U tu svrhu postoji Komisija za ljudska prava za Bosnu i Hercegovinu, kao što je predviđeno u Aneksu 6 Opšteg okvirnog sporazuma". Osim toga, članom II/6. Ustava Bosne i Hercegovine, "Bosna i Hercegovina, i svi sudovi, ustanove, organi vlasti, te organi kojima posredno rukovode entiteti ili koji djeluju unutar entiteta podvrgnuti su, odnosno primjenjuju ljudska prava i osnovne slobode na koje je ukazano u stavu 2. Konačno, [p]rava i slobode predviđeni u Evropskoj konvenciji za zaštitu ljudskih prava i osnovnih sloboda i u njenim protokolima se direktno primjenjuju u Bosni i Hercegovini. Ovi akti imaju prioritet nad svim ostalim zakonima". Na kraju, Komisija napominje da je Država, u skladu sa članom III/1(d) Ustava Bosne i Hercegovine, direktno odgovorna za monetarnu politiku. Štaviše, član VII. Ustava označava Centralnu banku Bosne i Hercegovine kao jedini nadležni organ za monetarnu politiku u cijeloj zemlji. Tačno je da Centralnoj banci nije dato ovlaštenje da reguliše rad banaka uopće, ili posebno deviznu štednju. Međutim, isplata štednje sa predmetnih bankovnih računa ima reperkusije na protok deviza i tako utiče na monetarnu politiku za koju je Centralna banka, kao državna institucija, odgovorna.

471. Iz ovih odredbi jasno proizilazi da je pravo na imovinu, kao jedno od fundamentalnih prava modernog demokratskog društva, obaveza Države. Država se ne može osloboditi garantovanja poštivanja ovog prava činjenicom da je, na primjer, prenijela regulisanje i implementaciju ovih oblasti na entitetske institucije. U tom smislu, Komisija napominje da je Dom, u svojoj Odluci CH/97/48 (*loc. cit*, tačka 93) zapazio da je Okvirni zakon o privatizaciji preduzeća i banaka, koji priznaje pravo entitetima da privatiziraju imovinu preduzeća i banaka na njihovoj teritoriji koja nije u privatnom vlasništvu i predviđa da će entiteti usvojiti zakone u tom smislu pokrivajući sredstva i obaveze tako ustanovljene, usvojila Parlamentarna skupština Bosne i Hercegovine 19. jula 1999. godine, nakon što je Visoki predstavnik, 22. jula 1998. godine, donio privremeni zakon. Po mišljenju Doma, činjenica da je Parlamentarna skupština usvojila ovaj Zakon - koji se indirektno tiče i stare devizne štednje – je indikacija o nadležnosti Države da reguliše ove stvari, bar u formulisanju općih principa koje treba primijeniti. Komisija smatra da, i danas, činjenica da je Federacija Bosne i Hercegovine usvojila Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine, ne može osloboditi Državu obaveze da se ovo pitanje ne riješi, barem principijelno, na državnom nivou i u skladu sa članom 1. Protokola broj 1 uz Evropsku konvenciju, za koji je Država direktno odgovorna.

472. Time Komisija odbija prigovore tužene strane, Bosne i Hercegovine, da Država nije "preuzela garanciju za deviznu štednju građana koja je deponovana kod bivše Narodne banke Jugoslavije, niti postoji njena obaveza da tu štednju isplaćuje građanima". Komisija napominje da je pitanje deponovanja novca kod bivše Narodne banke Jugoslavije faktičko pitanje, koje je Bosna i Hercegovina trebala uzeti u obzir kada je zakonski, znači, formalno preuzimala obaveze u pogledu devizne štednje. S druge strane, Država (ni Republika Bosna i Hercegovina, niti Bosna i Hercegovina) nije nikada garantovala štedne uloge imovinom i sredstvima Narodne banke Republike Bosne i Hercegovine (vidi dio Odluke vis á vis zakonodavstva Države). Iz tog razloga,

likvidacija Narodne banke Republike Bosne i Hercegovine (Odluka Narodne banke Republike Bosne i Hercegovine u likvidaciji, broj 01-111/03, od 26. juna 2003. godine), i javni poziv kreditorima po osnovu potraživanja (vidi, na primjer, Obavijest o likvidaciji Narodne banke Bosne i Hercegovine, "Službene novine Federacije Bosne i Hercegovine", broj 39/98), ne može uticati na poziciju vlasnika stare devizne štednje, bez obzira što se ova državna imovina mogla separatisati i likvidirati

473. Komisija zaključuje da Bosna i Hercegovina ostaje odgovorna za pronalaženje zajedičkog rješenja za problem starih bankovnih računa u bankama koje su imale sjedište na njenoj teritoriji, te smatra da su prijave prihvatljive *ratione personae* protiv Bosne i Hercegovine u vezi sa članom 1. Protokola broj 1 uz Evropsku konvenciju, u dijelu koji se odnosi na potraživanja podnosilaca prijava prema domaćim bankama.

474. Što se tiče sudskih postupaka koje su pokrenuli neki od podnosilaca prijava i navoda o nemogućnosti drugih da pristupe sudu, Komisija zapaža da se to isključivo tiče sudstva Federacije Bosne i Hercegovine. Komisija, zbog toga, nalazi da su prijave neprihvatljive protiv Bosne i Hercegovine u vezi sa članom 6. Evropske konvencije.

A.1.I.b. Odgovornost Federacije Bosne i Hercegovine

475. Federacija Bosne i Hercegovine tvrdi da se ne može smatrati odgovornom za moguće povrede u ovim predmetima.

476. Komisija podsjeća da je sve zakone primjenjive na teritoriji Federacije Bosne i Hercegovine, koji se bave bankarstvom, potraživanjima građana, privatizacijom i unutrašnjim dugom, donijela Federacija Bosne i Hercegovine i da su svi organi određeni za implementaciju zakona institucije Federacije Bosne i Hercegovine. Nadalje, žalbe podnosilaca prijava i drugih tužilaca u vezi sa deviznom štednjom su ispitali sudovi koji su nadležni samo na teritoriji Federacije. Federacija Bosne i Hercegovine je odgovorna u ovim predmetima za regulatorne mjere, odluku Ustavnog suda Federacije i druge postupke koje je preduzela u dijelu u kome su oni uticali na položaj podnosilaca prijava u odnosu na banke, a posebno, u odnosu na štedne uloge u bankama.

477. Komisija zaključuje da je nadležna *ratione personae* da razmatra predmetne prijave u odnosu na Federaciju Bosne i Hercegovine u dijelu predmetnih prijava koje se odnose na potraživanja prema bankama sa sjedištem u Republici Bosni i Hercegovini.

A.1.II. Stvar već riješena

478. Federacija Bosne i Hercegovine također tvrdi da predmetne prijave treba odbaciti na osnovu toga što je Dom već riješio stvar u odluci *Poropat i drugi*, *Todorović i drugi* i *Đurković i drugi* naknadnim izvršenjem tih odluka od strane Federacije putem postojećih izmjena i dopuna zakona, te mogućih budućih radnji.

479. Međutim, podnosioci prijava ne misle da je stvar riješena. Komisija smatra da usvajanje novog Zakona o unutrašnjim obavezama i dalje ostavlja otvorenim mnoga pitanja, propisujući da će se model i visina isplata regulisati naknadno posebnim propisom. Naročito, Komisija zapaža da su novim zakonskim rješenjima propisana određena ograničenja koja se tiču iznosa u kome će se vršiti gotovinske isplate, a koji bi trebao da podrži fiskalnu održivost Federacije Bosne i Hercegovine. Prema tome, podnosioci prijava i dalje ne mogu da dobiju isplatu sa svojih računa, niti je trenutno u potpunosti izvjesno na koji način i do koje visine će to biti moguće. Dakle, uplitanje se nastavlja, a stvar nije riješena.

480. Ukratko, Komisija dalje smatra da trenutni status zakona koji utiče na staru deviznu štednju ostvarenu u domaćim bankama pokreće pitanja koja još nisu riješena. Komisija, zbog toga, neće odbiti predmetne prijave po članu VIII(3)(b) Sporazuma.

A.1.III. *Res iudicata*

481. Federacija Bosne i Hercegovine tvrdi da je Komisija, u skladu sa članom VIII(2)(b), spriječena da ispita ove predmete zbog toga što su oni u suštini isti kao stvar koju je Dom već ispitao. Federacija posebno tvrdi da odluke Doma po istom pitanju u predmetu *Poropat i drugi*, *Todorović i drugi i Đurković i drugi* sprječavaju razmatranje ovih prijava.

482. Komisija podsjeća da princip *res iudicata* predviđa da je konačna presuda koju donese nadležni sud o meritumu predmeta konačna u odnosu na prava uključenih strana i predstavlja apsolutnu zabranu kasnijih postupaka koji se tiču istog potraživanja. Taj princip je izražen u članu VIII(2)(b) Sporazuma kojim je propisano da Dom "neće razmatrati prijavu koja je u suštini ista kao i stvar koju je Dom već ispitao, ili je već podnesena na drugi postupak međunarodne istrage ili rješavanja". Međutim, nijedan od ovih podnosilaca prijava nije uključen u odluke Doma u predmetima *Poropat i drugi*, *Todorović i drugi* i *Đurković i drugi*; dakle, princip *res iudicata* se ne može odnositi na njih.

483. Član VIII(2)(b) Sporazuma nije primjenjiv u ovom slučaju kako bi se Komisiji uskratila ovlaštenja da razmatra prijave bez obzira na slične ranije prijave pred Domom.

A.1.IV. Očigledno neosnovane

484. Federacija Bosne i Hercegovine smatra da ove prijave treba odbaciti kao očigledno neosnovane.

485. Komisija zapaža da Federacija Bosne i Hercegovine ne navodi nikakve dokaze za ovaj argument, te stoga, smatra da ove prijave pokreću legitimna pitanja spojiva sa Sporazumom i u okviru njene nadležnosti. Prema tome, Komisija odbacuje prijedlog da se prijave moraju odbaciti kao očigledno neosnovane prema članu VIII(2)(c) u dijelu koji se odnosi na povrat devizne štednje ostvarene kod domaćih banaka.

A.1.V. Iscrpljivanje domaćih pravnih lijekova i pravilo 6 mjeseci

486. U skladu sa članom VIII(2)(a), Komisija će razmotriti da li postoje efikasni pravni lijekovi i, ako je tako, da li su podnosioci prijava dokazali da su ih iscrpili, te da li su podnosioci prijava dokazali da su prijave podnesene u roku od šest mjeseci od dana kada je donesena konačna odluka. Komisija podsjeća da pravilo iscrpljivanja pravnih lijekova zahtijeva da podnosioci prijava dođu do konačne odluke. Konačna odluka predstavlja odgovor na zadnji pravni lijek, koji je djelotvoran i adekvatan da ispita nižestepenu odluku kako u činjeničnom tako i u pravnom pogledu. Odluka kojom je djelotvoran pravni lijek odbačen zato što apelanti nisu ispoštovali formalne zahtjeve pravnog lijeka (rok, plaćanje taksi, forma ili ispunjenje zakonskih uvjeta i sl), ne može se smatrati konačnom. S druge strane, korištenje nedjelotvornog pravnog lijeka ne prekida rok od 6 mjeseci za podnošenje prijave Komisiji.

487. Bosna i Hercegovina tvrdi da podnosioci prijava nisu iscrpili domaće pravne lijekove, jer nisu iskoristili sva raspoloživa pravna sredstva pred domaćim sudovima. Takva sredstva uključuju određene redovne i vanredne pravne lijekove predviđene Zakonom o parničnom postupku. Bosna i Hercegovina je, nadalje, navela da je "u svojoj dosadašnjoj praksi Evropska komisija prihvatila predmete u kojima nisu bila iskorištena sva raspoloživa efikasna sredstva, samo u dva slučaja, smatrajući time da je ovakav pristup izrazito rijedak. Navodi da samo sumnja u uspjeh u domaćem postupku podnosice prijava ne oslobađa obaveze da iscrpe domaća pravna sredstva".

488. Komisija, na prvom mjestu, napominje da pri primjeni principa iscrpljivanja pravnih lijekova nije potrebno uzimati u obzir kvantitet odluka Evropske komisije za ljudska prava u pogledu određene problematike (čak i da nema niti jednog predmeta u relevantnom smislu), već je potrebno ispitivati u svakom pojedinom slučaju da li je pravni lijek djelotvoran, ili ne prema relevantnim zakonima države.

489. Na pojedinca se ne može staviti pretjeran teret u otkrivanju koji je najefikasniji put kojim bi se došlo do ostvarivanja svojih prava (Odluka Ustavnog suda Bosne i Hercegovine, *U 18/00,* od 10. maja 2002. godine, tačka 40, "Službeni glasnik Bosne i Hercegovine", broj 30/02). Djelotvornost pravnog lijeka se ne ogleda samo u činjenici da je on pravno i formalno predviđen, već i da je u praksi djelotvoran. Osnovna ljudska prava, koja štiti Evropska konvencija i Ustav Bosne i Hercegovine, moraju biti stvarna i djelotvorna kako u zakonu tako i u praksi, a ne iluzorna i teoretska. Pravni lijekovi koji su predviđeni za zaštitu prava moraju biti fizički dostupni, ne smiju biti ometani aktima, propustima, odlaganjima ili nemarom vlasti, te moraju biti u stanju štititi predmetna prava (Odluka Ustavnog suda Bosne i Hercegovine, *U 36/02*, od 30. januara 2004. godine, tačka 25, "Službeni glasnik Bosne i Hercegovine", broj 9/04).

490. U vezi s tim, Komisija podsjeća da je u Bosni i Hercegovini već etablirana praksa da se podnosioci prijava mogu obratiti direktno Ustavnom sudu Bosne i Hercegovine ili Domu, danas Komisiji, u slučaju kada nema djelotvornih pravnih lijekova u vezi sa određenim ustavnim pravom, odnosno pravom iz Sporazuma. Tako je u svim slučajevima nerazumnog trajanja postupka zaključeno da u Bosni i Hercegovini ne postoji pravni lijek protiv tvrdnje da je u određenom slučaju povrijeđeno pravo na odlučivanje u razumnom roku. Iz toga razloga, apelanti, tj. podnosioci prijava nisu se morali obratiti niti jednom domaćem organu, već direktno Ustavnom sudu Bosne i Hercegovine ili Domu, tj. Komisiji, i tvrditi povredu citiranog prava (vidi, nedavno usvojene predmete Ustavnog suda Bosne i Hercegovine, *AP 769/04*, od 30. novembra 2004. godine, tačka 23, sa uputom na daljnju praksu Evropskog suda za ljudska prava). Nadalje, Dom je jasno naveo da činjenica da postupak još traje neće spriječiti Dom da ispita žalbene navode podnosioca prijave u vezi sa dužinom postupka (vidi Odluka o prihvatljivosti i meritumu, CH/99/1972, *M.T. protiv Republike Srpske*, od 3. jula 2003. godine, tačka 27). Isti slučaj je bio sa pravom pristupa sudu, gdje je zaključeno da Bosna i Hercegovina i njene poddržavne teritorijalne cjeline nisu predvidjeli pravni lijek protiv povrede prava pristupa sudu (vidi, na primjer, Odluku o prihvatljivosti i meritumu Komisije, *Dmitar Arula protiv Federacije Bosne i Hercegovine*, od od 8. i 9. marta 2005. godine, tačka 55; Odluka Ustavnog suda Bosne i Hercegovine, *U 19/00*, od 4. maja 2001. godine, tačka 12. ff, "Službeni glasnik Bosne i Hercegovine", broj 27/01).

491. Komisija navodi da je prva indicija nedjelotvornog pravnog sistema u pogledu isplate stare devizne štednje činjenica da Federacije Bosne i Hercegovine ni dan danas nije počela da isplaćuje deviznu štednju. Osim toga, podsjeća da su neki od podnosilaca prijava pokrenuli domaće sudske postupke kako bi im se isplatila gotovina sa njihovih računa. Nijedan od podnosilaca prijava nije do sada u tome uspio. Komisija uzima u obzir da su brojni postupci u toku, odnosno da je u nekim određeno mirovanje postupka ili su prekinuti zbog proglašenja ratnog stanja u Republici Bosni i Hercegovini i nikada nisu nastavljeni, tako da i oni podnosioci prijava koji su pokrenuli postupke pred sudovima nisu uspjeli izdejstvovati pravosnažne presude domaćih sudova (CH/99/2026, *E.D. i Dž.D. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*; CH/99/3162, *Vasilije Bjelica protiv Bosne i Hercegovine*). Konačno, sama zakonska rješenja ne dozvoljavaju trenutno da se pravomoćne presude iz oblasti ove problematike izvršavaju, jer su predviđeni drugi modaliteti isplate stare devizne štednje.

492. S obzirom na gore navedeno, Komisija smatra da ne postoje efikasni pravni lijekovi koji su dostupni podnosiocima prijava, a koje bi trebali iscrpiti. U ovim okolnostima, Komisija nije spriječena da razmatra prijave.

493. Federacija Bosne i Hercegovine tvrdi da su prijave neprihvatljive prema članu VIII(2)(a) Sporazuma, jer nisu podnesene u roku od šest mjeseci od dana donošenja bilo koje konačne odluke u predmetima podnosilaca prijava. Međutim, sadržaj svake od navedenih povreda je nastavljena situacija, a rok od šest mjeseci se ne može primijeniti sve dok se situacija ne okonča, a što ovdje nije slučaj. Treba napomenuti da je zahtjev za isplatom pravni zahtjev koji se formalno, ali i faktički, proteže od samog početka nemogućnosti isplate štedišama njihove devizne štednje. Prema tome, iako je situacija nastala prije 14. decembra 1995. godine, pravna situacija je nepromijenjena i do danas, kada je Sporazum, bez daljnjeg, na snazi. Radi se, znači, o klasičnom slučaju tvrdnje kontinuirane povrede (vidi, između ostalih, odluke o prihvatljivosti i meritumu Doma,

CH/99/1900 i 1901, *D.S. i N.S. protiv Federacije Bosne i Hercegovine*, od 6. marta 2002. godine, tačka 49; Odluku Ustavnog suda Bosne i Hercegovine, *U 23/00,* "Službeni glasnik Bosne i Hercegovine", broj 10/01).

494. Komisija, zbog toga, zaključuje da prijave u ovom dijelu nisu neprihvatljive prema članu VIII(2)(a).

A.1.VI. Ostalo

495. Komisija zapaža da su podnosioci prijava, u svojim prijavama, označili Republiku Sloveniju kao tuženu stranu: CH/98/505, *Nimeta Kulenović protiv Bosne i Hercegovine, Federacije Bosne i Hercegovine i* Republike *Slovenije i* CH/99/3301, *Nadežda Šehovac-Pavičević protiv Bosne i Hercegovine, Federacije Bosne i Hercegovine i Republike Slovenije*. Komisija smatra da se navodi podnosilaca prijava, u dijelu u kom su upućeni protiv Republike Slovenije, ne odnose na uplitanja u njihova prava zagarantovana Sporazumom od strane jedne od potpisnica Sporazuma (Bosna i Hercegovina, Federacija Bosne i Hercegovine i Republika Srpska). Slijedi da je prijava nespojiva *ratione personae* sa odredbama Sporazuma, u smislu člana VIII(2)(c). Komisija, zbog toga, odlučuje da prijave u ovom dijelu proglasi neprihvatljivim.

496. U skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, Komisija briše dio slijedećih prijava: CH/98/430, *Ekrem Ulak protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u odnosu na sredstva položena kod Jugobanke; CH/98/499, *Suada Saradžić protiv Bosne i Hercegovine*, u odnosu na sredstva položena kod Privredne banke; CH/98/589, *Vjekoslava Bošnjak protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u odnosu na sredstva položena kod Privredne banke; CH/98/599, *Šimo Bošnjak protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na deviznu štednju položenu kod Jugobanke i na drugoj knjižici kod Privredne banke u iznosu od 1.048,14 KM; CH/98/674, *Ana Mrdović protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine,* u odnosu na njena devizna sredstva položena kod Jugobanke; CH/99/2145, *Ivka Livaja protiv Federacije Bosne i Hercegovine,* u odnosu na sredstva položena kod Jugobanke i CH/99/2784, *Fuad Aganović protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na deviznu štednju položenu kod Jugobanke. Naime, uprkos izričitom traženju, podnosioci prijave nisu dostavili kopije deviznih štednih knjižica, čime bi potkrijepili svoje navode.

497. U skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, Komisija briše dio prijava CH/98/537, *Fatima Arapović protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na sredstva položena kod Jugobanke na njeno ime, u iznosu od 332,38 CHF; CH/98/609, *H.A. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na potraživanja u iznosu od 84.192,7 KM polagana "u raznim bankama" i CH/98/684, *M.S. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na sredstva polagana kod Jugobanke u iznosu od 10.225,8 ATS, 22.780,8 FRF, 26.930,54 DEM, 11.226,97 ITL, 5,33 GBP i 72,85 USD. Naime, uprkos izričitom traženju, podnosioci prijava nisu dostavili kopije štednih knjižica, čime bi potkrijepili svoje navode o postojanju ovih potraživanja. Osim toga, podnosioci prijava nisu naveli razloge nedostavljanja štednih knjižica u odnosu na ova potraživanja.

498. U skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, Komisija briše dio prijava, CH/98/527, *Dimšo Đurić protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na štedne pologe supruge i kćerki podnosioca prijave; CH/98/1070*, Ljiljana Vuković protiv Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na sredstva polagana na ime njenog supruga kod Jugobanke Sarajevo u iznosu od 1.086,14 DEM, 611,56 USD i 1.311,25 CHF i kod Privredne banke Sarajevo u iznosu od 457,82 DEM i CH/99/3230, *A.H. protiv Federacije Bosne i Hercegovine*, u odnosu na štedne pologe supruge i djece podnosioca prijave. Komisija zapaža da podnosioci prijava nisu dostavili kopije punomoći kojom ih članovi porodice ovlašćuju na zastupanje pred Komisijom.

499. U skladu sa pravilom 50. stavom 2e. Pravila procedure Komisije, Komisija u cijelosti briše prijave, CH/99/3303, *Tomo Golac protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine* i CH/99/3317, *Ivan Ivica Božić protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine,* jer su podnosioci prijava umrli, a njihovu deviznu štednju su naslijedili podnosioci prijava CH/99/3301, *Nadežda Šehovac – Pavičević protiv Bosne i Hercegovine, Federacije Bosne i Hercegovine i Republike Slovenije,* odnosno CH/99/3317, *Ruža Božić protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, zbog čega više nije opravdano da se nastavi postupak pred Komisijom u odnosu na umrle podnosioce prijava. Naslijeđena devizna štednja razmatrat će se kao dio prijava podnosilaca koji su je naslijedili. U skladu sa pravilom 50. stavom 2e. Pravila procedure Komisije, Komisija u cijelosti briše prijavu CH/98/538, *Zejnil Brković protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, jer je podnosilac prijave obavijestio Komisiju da je cjelokupnu deviznu štednju, u iznosu od 13.814,21 KM, uložio u PIF "Bonus" d.d. Sarajevo.

A.2. U odnosu na devizne uloge ostvarene u Ljubljanskoj banci d.d. Ljubljana, Glavna filijala Sarajevo i Investbanci Beograd

A.2.a Odgovornost Bosne i Hercegovine

464. Komisija podsjeća da je, prije nego što je došlo do raspada SFRJ, za devize na deviznim računima i deviznim štednim ulozima građana kod banaka na njenoj teritoriji, jemčila isključivo tadašnja SFRJ. Nakon što su neke od bivših republika SFRJ, među kojima i Bosna i Hercegovina, sredinom 1991. i početkom 1992. godine postale samostalne države, odgovornost za deviznu štednju je, u skladu sa tada važećim zakonima, prešla na novoformirane države. Međutim, ove novoformirane države su jemčile samo za devizne pologe kod osnovnih banaka koje su imale sjedište i bile registrirane kao samostalno pravno lice na njihovoj teritoriji.

465. Uzimajući u obzir veoma značajno obrazloženje iz prethodne tačke ove Odluke, postavlja se pitanje zašto je, uopšte, došlo do toga da nosioci prava na staroj deviznoj štednji u Ljubljanskoj banci d.d. Ljubljana, Glavna filijala Sarajevo i Investbanci Beograd tvrde da su povrijeđena njihova ljudska prava. Komisija napominje da je osnovni razlog za to zakonodavna aktivnost Republike Bosne i Hercegovine i Bosne i Hercegovine, koje su u periodu od 1992. godine donijele niz akata o priznavanju odgovornosti za staru deviznu štednju. Pri tome, nije postojala diferencijacija između građana koji su imali svoje devize u bankama sa sjedištem u Bosni i Hercegovini i onih u bankama sa sjedištem izvan nje (vidi tač. 368-374. Odluke).

466. Komisija podsjeća da su u ranijim meritornim odlukama, koji se tiču stare devizne štednje (vidi tač. 5-10. Odluke), obuhvaćeni i podnosioci prijava koji su imali deviznu štednju u Ljubljanskoj banci d.d. Ljubljana, Glavna filijala Sarajevo i Investbanci Beograd, što je bila direktna posljedica događanja navedenih u prethodoj tački. U navedenim odlukama Dom je utvrdio odgovornost Bosne i Hercegovine na osnovu toga što je Republika Bosna i Hercegovina usvojila zakone i druge propise koji se bave pitanjem devizne štednje i "samim tim priznala odgovornost za tu štednju". Odgovornosti Bosne i Hercegovine doprinijela je i činjenica da je Država bila uključena u državne pregovore o sukcesiji imovine bivše SFRJ. Međutim, treba naglasiti da se ove odluke nisu bavile pitanjem postojanja ili nepostojanja prava deviznih štediša na isplatu. Štaviše, isti zaključak se može usvojiti i u slučaju ostalih banaka, čije sjedište je bilo u Bosni i Hercegovini. Komisija je zaključila da je povreda ležala u činjenici da Država nije jasno definisala pitanje pravne pozicije deviznih štediša. Ona se samo deklarativno i paušalno izjašnjavala o deviznoj štednji, a nije decidno uspostavila procesno- i materijalno-pravnu osnovu, te institucionalni okvir, koji bi, u skladu sa odgovarajućim zakonima, članom 6. Evropske konvencije i članom 1. Protokola broj 1 uz Evropsku konvenciju, dao odgovor na pitanje da li podnosioci prijava imaju pravo na isplatu devizne štednje u Ljubljanskoj banci i Investbanci, i ako imaju, na koji način je mogu ostvariti. Na izvjestan način, Država je stvorila haotičnu situaciju, protivnu principu pravne sigurnosti, u smislu člana I/2. Ustava Bosne i Hercegovine.

467. Da je stav Doma u vezi sa pravnom nesigurnošću bio ispravan, govore i činjenice u vezi sa statusom Ljubljanske banke d.d. Sarajevo, kojeg je imala u vrijeme donošenja relevantnih odluka

Doma, odnosno u vrijeme do donošenja presude Općinskog suda, broj: Ps-595/03-III od 11. novembra 2004. godine. Naime, kao što je ranije u ovoj Odluci pomenuto, rješenjem Višeg suda, broj: UF/I-748/93 od 2. jula 1993. godine, u sudski registar Kantonalnog suda izvršen je upis Ljubljanske banke d.d. Sarajevo, kao pravnog lica koje je nastalo statusnom promjenom Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo. Prema navedenom rješenju Ljubljanska banka d.d. Sarajevo je, kao pravni sljednik, preuzela prava i obaveze stare Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo, kao pravnog prednika. Sve dok ovakva registracija nije utvrđena kao protivzakonita i promijenjena, postojala je obaveza da se poštuje formalno-pravna situacija, što nalaže princip pravne države, tj. vladavine prava.

468. Međutim, od vremena podnošenja predmetnih prijava i donošenja citiranih odluka Doma, do današnjeg dana, desile su se relevantne zakonodavne, sudske i međunarodno-pravne aktivnosti, koje Komisija mora uzeti u razmatranje, jer se direktno ili indirektno tiču predmetne kategorije stare devizne štednje.

a) Prije svega, 2. juna 2004. godine stupio je na snagu Sporazum o sukcesiji, kojim je, između ostalog, regulisano i pitanje odgovornosti za staru deviznu štednju deponovanu u Narodnoj banci Jugoslavije. Ovim Sporazumom, kao što je ranije pomenuto, Republika Slovenija preuzela je odgovornost za banke smještene na njenoj teritoriji. U vezi sa Sporazumom o sukcesiji, Komisija je, u svojoj odluci u predmetu *CH/98/375 i dr.* (vidi Odluku o prihvatljivosti i meritumu Komisije za ljudska prava, *Besarović i dr. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, od 6. aprila 2005. godine, tačka 1152) zaključila da sama činjenica da je Bosna i Hercegovina učestvovala u pregovorima o sukcesiji ne stvara odgovornost Bosne i Hercegovine za bivše unutrašenje obaveze SFRJ, uključujući i staru deviznu štednju.

b) Pored toga, Federacija Bosne i Hercegovine je donijela Zakon o izmirenju obaveza. Članom 9. navedenog Zakona propisano je da Federacija preuzima obaveze na osnovu stare devizne štednje ostvarene u najnižim poslovnim jedinicama banaka (ekspozitura i/ili agencija) na teritoriji Federacije, a da obaveze Federacije Bosne i Hercegovine ne obuhvataju obaveze na osnovu stare devizne štednje deponovane u Ljubljanskoj banci d.d. Ljubljana i Investbanci Beograd, s obzirom na to da će se one rješavati u procesu sukcesije imovine bivše SFRJ.

c) Konačno, domaći sudovi su, rješavajući status Ljubljanske banke d.d. Sarajevo, utvrdili da je ova banka po svojoj zakonskoj regulativi osnovana kao nezavisna, nova banka koja nema nikakvih prava i obaveza u okviru Ljubljanske banke d.d. Ljubljana. Naime, Komisija podsjeća da je članom 14. Zakona o bankama i drugim finansijskim organizacijama SFRJ (vidi tačku 364. Odluke) predviđeno da je banka samostalno pravno lice, a da njene poslovne jedinice u odnosu sa trećim licima djeluju isključivo u ime i za račun banke. S obzirom da je sjedište Ljubljanske banke d.d. bilo u Ljubljani, Komisija ističe, a što je također utvrđeno i od strane domaćih sudova, da Glavna filijala Sarajevo nije bila pravno lice, već je poslovala u ime i za račun Ljubljanske banke d.d. Ljubljana i nikada nije bila odgovorna za deviznu štednju deponovanu kod navedene banke. Stoga se, Ljubljanske banka d.d. Sarajevo koja je nastala statusnom promjenom Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo, ne može smatrati odgovornom, jer nije mogla preuzeti veća prava i obaveze nego što je imala filijala u Sarajevu. Ovakvo mišljenje podržalo je i Udruženje štediša, koje je, kao zaštitnik interesa svih štediša u Bosni i Hercegovini, aktivno učestvovalo u postupcima pred domaćim sudovima i Komisijom. Udruženje štediša je u postupku pred Općinskim sudom istaklo da ima pravni interes da se utvrdi da Ljubljanska banka d.d. Sarajevo nije odgovorna za staru deviznu štednju, jer, zbog činjenice da ta banka nema sredstava za izmirenje obaveza po osnovu devizne štednje, sve štediše bi ostale bez mogućnosti da ostvare pravo na povrat svojih sredstava. Također, u svom mišljenju dostavljenom Komisiji, Udruženje štediša ističe da se isplata stare devizne štednje ne može smatrati obavezom Bosne i Hercegovine, s obzirom da je sjedište Ljubljanske banke d.d. Ljubljana bilo u Republici Sloveniji, a Investbanke u Beogradu.

469. Postavlja se pitanje kakav uticaj imaju ove promjene (navedene u tač. 468(a)-(c)) na konkretne predmete. Da bi riješila ovo pitanje, Komisija će prvo objasniti zašto Komisija ove

promjene mora uzeti u obzir da bi došla do konačnog stava u vezi predmetne problematike. U svom predmetu CH/99/2624 (*I.D. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, od 9. marta 2005. godine, tačka 85), Komisija je objasnila principe na osnovu kojih se odlučuje da li se određeni pravni akti, koji su doneseni u toku postupka ili postupaka u jednom predmetu, moraju uzeti u obzir. Tom prilikom je navedeno:

> Pitanje, koje pravo treba primjeniti u nekom slučaju, zavisi, prije svega, od tumačenja odredbi o vremenskom važenju normi koje predstavljaju pravnu osnovu odlučenja. Iz toga proizilazi da organ mora primijeniti normu, koja je važeća u trenutku donošenja odluke. Isti pristup se primjenjuje i u žalbenim postupcima. Ovo jasno proizilazi iz principa zakonitosti [...], koji nalaže da [...] organi rješavaju stvari na osnovu zakona, u granicama ovlaštenja i u skladu s ciljem s kojim je ovlaštenje dato. Drugačiji pristup neophodan je samo u slučajevima u kojima zakonodavac ili drugi donosilac općeg akta predvidi u samom zakonu, tj. aktu, prelazne odredbe, koje nalažu da se u postupcima koji nisu okonačni primijene ranije važeće norme, ili u slučajevima u kojima nadležni organ mora odlučiti šta je bilo po zakonu na određeni dan, tj. u određenom vremenskom periodu u prošlosti. Konačno, Komisija naglašava da član I/2. Ustava Bosne i Hercegovine propisuje princip vladavine prava, iz kojega proizilazi princip pravne sigurnosti. To, nadalje, znači da donosilac općeg akta mora voditi računa da se pravna osnova, koja reguliše određene odnose, ne mijenja tako često, što izaziva nesigurnost kod građana.

470. S obzirom da Sporazum o sukcesiji i novi Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine nemaju prelazne odredbe o svom vremenskom važenju, jasno proizilazi da ih Komisija mora uzeti u obzir. Isti slučaj je i sa presudom Općinskog suda, broj: Ps-595/03-III od 11. novembra 2004. godine, kojom je “nova“ Ljubljanska banka oslobođena od obaveza stare Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo. U protivnom, bio bi narušen princip vladavine prava. Uzimajući u obzir novonastalu pravnu situaciju, Komisija zaključuje da Bosna i Hercegovina nema obavezu isplate stare devizne štednje u Ljubljanskoj banci d.d. Ljubljana, Glavna filijala Sarajevo i Investbanci Beograd. Time su podnosioci prijava lišeni u Bosni i Hercegovini svoje imovine.

471. Sljedeće pitanje, na koje Komisija mora odgovoriti jeste da li je ovakav postupak nadležnih organa u Bosni i Hercegovini opravdan. Prema jurisprudenciji Evropskog suda, član 1. Protokola broj 1 uz Evropsku konvenciju obuhvata tri različita pravila. Prvo, koje je izraženo u prvoj rečenici prvog stava i koje je opće prirode, izražava princip mirnog uživanja u imovini. Drugo pravilo, u drugoj rečenici istog stava, pokriva lišavanje imovine i podvrgava ga izvjesnim uvjetima. Treće, sadržano u drugom stavu, dozvoljava da države potpisnice imaju pravo, između ostalog, da kontrolišu korištenje imovine u skladu sa općim interesom, sprovođenjem onih zakona koje smatraju potrebnim za tu svrhu (vidi Odluku Ustavnog suda Bosne i Hercegovine, *U 3/99*, od 17. marta 2000. godine, "Službeni glasnik Bosne i Hercegovine", broj 21/00).

472. Svako miješanje u pravo prema drugom ili trećem pravilu iz člana 1. Protokola broj 1 uz Evropsku konvenciju mora biti predviđeno zakonom, mora služiti legitimnom cilju, mora uspostavljati pravičnu ravnotežu između prava nosioca prava i javnog i općeg interesa. Miješanje je zakonito samo ako je zakon koji je osnova miješanja (a) dostupan građanima, (b) toliko precizan da omogućava građanima da odrede svoje postupke, (c) u skladu sa principom pravne države, što znači da sloboda odlučivanja koja je zakonom data izvršnoj vlasti ne smije biti neograničena, tj. zakon mora obezbijediti građanima adekvatnu zaštitu protiv proizvoljnog miješanja (vidi presudu Evropskog suda za ljudska prava, *Sunday Times protiv Velike Britanije,* od 26. aprila 1979. godine, Serija A, broj 30, stav 49; vidi, također, presudu Evropskog suda za ljudska prava, *Malone protiv, Velike Britanije,* od 2. augusta 1984. godine, Serija A, broj 82, st. 67. i 68). Komisija zaključuje da Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine ispunjava standarde u smislu Evropske konvencije, jer je objavljen u “Službenim novinama Federacije Bosne i Hercegovine“, tj. dostupan je, i precizno određuje da će se obaveze prema

imaocima stare devizne štednje deponovane kod Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo i kod Investbanke Beograd, rješavati u procesu sukcesije imovine bivše SFRJ.

473. Sljedeće pitanje koje se nameće jeste da li miješanje služi legitimnom cilju i da li uspostavlja pravičnu ravnotežu između prava nosioca prava i javnog i općeg interesa. Komisija smatra da je ovakvo zakonsko rješenje predviđeno u cilju zaštite međunarodno-pravnih interesa Bosne i Hercegovine, tj. prava da ne snosi obaveze drugih država. Osim toga, Država na ovaj način štiti fiskalni i bankarski sistem, tj. fiskalni i bankarski sistem njenih administrativnih jedinica, kao i svoju makroekonomsku stabilnost.

474. Nadalje, Komisija zaključuje da je novi Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine u potpunosti na liniji bankarskog sistema iz vremena kada je postojala bivša SFRJ. Šta to znači? Donošenjem ovog Zakona, Bosna i Hercegovina nije stavila nosioce prava na staroj deviznoj štednji u nepovoljniji položaj od onog koji je bio u vrijeme ulaganja deviznih sredstava u sporne banke, tj. u Ljubljanskoj banci d.d. Ljubljana, Glavna filijala Sarajevo i Investbanci Beograd. Naime, ulaganje u te banke je predstavljalo čin slobodne volje podnosilaca prijava, u smislu člana 11. Zakona o obligacionim odnosima. Kao takav, a primjenom principa slobodnog tržišta, svaki ulagač je snosio posljedice svojih poslovnih poteza. U trenutku ulaganja, svaki ulagač je bio svjestan da se sjedište banke ne nalazi na teritoriji Bosne i Hercegovine, što jasno proizilazi iz naziva ovih banaka. Nadalje, podnosioci prijava, za vrijeme bivše SFRJ, nisu mogli pokrenuti postupak protiv "filijala" navedenih banaka, jer oni nisu imali svojstvo pravnog lica. Oni su mogli da to urade samo protiv banke, koja je imala svojstvo pravnog lica, čije je sjedište u konkretnim slučajevima bilo van teritorije Bosne i Hercegovine. Komisija napominje da ovakvo objašnjenje ne treba da se miješa sa činjenicom da su podnosioci prijava imali mogućnost pokretanja postupka protiv banaka u mjestu sjedišta filijale. Naime, članom 59. Zakona o parničnom postupku SFRJ, propisano je da je u sporovima protiv pravnog lica koje ima poslovnu jedinicu van svog sjedišta, ako spor proizilazi iz pravnog odnosa te jedinice, pored suda opće mjesne nadležnosti, nadležan i sud na čijem području se nalazi ta poslovna jedinica (vidi tačku 367. Odluke). To je omogućavao sudski sistem za vrijeme bivše SFRJ, kao samostalne i zajedničke države, a koji je bio uvezan sistem. Međutim, raspadom te Države, ova prednost je otpala, za što Bosna i Hercegovina ne može da snosi krivicu.

475. Konačno, Komisija mora da dâ odgovor na pitanje, da li je Država povrijedila pravo podnosilaca prijava na imovinu zbog činjenice da je jedan entitet, kao državna administrativna jedinica, donošenjem zakonskog akta, oslobodila Državu svoje obaveze, koju je ova deklarativno imala do donošenja ovog Zakona (uporedi odluke Doma *Đurković i dr, Todorović i dr).* Komisija ponavlja da je sva aktivnost u pogledu "stare devizne štednje" građana prenesena na entitete i Distrikt Brčko, koji su pitanje stare devizne štednje regulisali kroz relevantne zakone o unutrašnjem dugu. U tom smislu, kao što je već navedeno, Federacija Bosne i Hercegovine je donijela Zakon o izmirenju unutrašnjih obaveza Federacije Bosne i Hercegovine. Ovaj Zakon oslobađa Federaciju Bosne i Hercegovine, a samim tim i Državu, obaveze da se isplati stara devizna štednja, polagana kod Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo i kod Investbanke, Beograd. U Odluci *Besarović i dr*, Komisija je zaključila da se Država može osloboditi garantovanja poštivanja prava na imovinu njegovim prenosom, u smislu regulisanja i implementacije, na entitetske institucije, ako obezbijedi dovoljno garanta za adekvatno rješavanje ovog pitanja na nižem nivou u skladu sa, između ostalog, standardima Evropske konvencije (*op. cit*, *CH/98/375 i dr*, tač. 1196-1201). U citiranoj Odluci *Besarović i dr.* utvrđeno je da je Država, iako je imala mogućnost derogacije konkretne odgovornosti na niže administrativne jedinice, odgovorna za isplatu stare devizne štednje, jer je prenijela ovu obavezu na Federaciju Bosne i Hercegovine, a da pri tome nije dala dovoljno garanta za njeno ispunjenje. Ovakav zaljučak se odnosio isključivo na banke, čije sjedište je bilo na teritoriji Bosne i Hercegovine. U konkretnom slučaju, Komisija prihvata mišljenje Entiteta, izraženo u relevantnom zakonu, da Federacija Bosne i Hercegovine, a samim tim ni Država, nije obavezna da isplaćuje staru deviznu štednju, uloženu kod Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo i kod Investbanke Beograd. Shodno tome, Komisija neće slijediti mišljenje izraženo u Odluci *Besarović i dr,* da je Država obavezna donijeti zakonski akt i principijelno

regulisati ovo pitanje na teritoriji cijele Države, jer, u ovom slučaju, nije obavezna ispuniti obaveze, za koje nije nikada ni garantovala.

476. Na kraju, Komisija ističe da problem sa bivšom Ljubljanskom bankom d.d. Ljubljana nije prisutan samo na tlu Bosne i Hercegovine. Naime, devizne štediše iz Republike Hrvatske pokrenule su postupak protiv Republike Slovenije pred Evropskim sudom. Taj Sud je donio odluku, kojom je prijave proglasio prihvatljivim protiv Republike Slovenije (vidi odluku Evropskog suda za ljudska prava, *Kovačić i drugi protiv Republike Slovenije*, od 1. aprila 2004. godine). Evropski sud za ljudska prava je pri odlučivanju uzeo u obzir Ustavni zakon za provođenje i izvršenje Osnovne ustavne Isprave o samostalnosti i neovisnosti Republike Slovenije. Kako je već ranije pomenuto, navedeni Ustavni zakon je dopunjen Ustavnim zakonom o dopuni Ustavnog zakona za provođenje i izvršenje Osnovne ustavne Isprave o samostalnosti i neovisnosti Republike Slovenije, kojim je osnovana nova Ljubljanska banka d.d. Ljubljana. Ova banka je preuzela sva potraživanja, ali ne i obaveze ranije Ljubljanske banke d.d. Ljubljana. Komisija zapaža da ova izmjena Ustavnog zakona nije uticala na donošenje Odluke o prihvatljivosti prijava hrvatskih državljana protiv Republike Slovenije od strane Evropskog suda. Evropski sud je, uzimajući u obzir kriterije prihvatljivosti prijava i ne prejudicirajući odluku u meritumu, utvrdio da su prijave, *inter alia*, prihvatljive *ratione personae* protiv Republike Slovenije. Evropski sud je zaključio da su vlasti Republike Slovenije svojim zakonima uticale na prava imalaca stare devizne štednje izvan njene teritorije i time prouzrokovale odgovornost Republike Slovenije prema Evropskoj konvenciji (*ibid*).

477. U odnosu na Investbanku Beograd, Komisija zapaža da navedena banka nije registrovana u Bosni i Hercegovini kao samostalna banka (vidi tačku 360. Odluke). Komisija podsjeća da je u vrijeme kada su podnosioci prijava polagali svoja sredstva na devizne račune kod ove banke, tj. prije oružanog sukoba u Bosni i Hercegovini, njeno sjedište bilo u Beogradu, na teritoriji sadašnje Državne Zajednice Srbije i Crne Gore. U skladu sa ranije citiranim članom 14. Zakona o bankama i drugim finansijskim organizacijama SFRJ (vidi tačku 364. Odluke), banka je bila isključivi nosilac prava i obaveza nastalih u poslovanju sa trećim licima, odnosno podnosiocima prijava. Slijedom navedenog, stav Komisije u pogledu Ljubljanske banke d.d. Sarajevo se može primijeniti i na Investbanku. Štaviše, problem Investbanke Beograd je jasniji i jednostavniji, jer nikada nije postojao problem sa preuzimanjem prava i obaveza ove banke od strane neke domaće banke.

478. Na osnovu gore navedenog, Komisija zaključuje da je Bosna i Hercegovina, do donošenja Zakona o utvrđivanju i načinu izmirenja unutrašnjeg duga Bosne i Hercegovine (vidi tačku 374. Odluke), bila odgovorna za pravnu nesigurnost, koju su nosioci prava stare devizne štednje imali, uključujući one kod Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo i kod Investbanke Beograd. Novim Zakonom, Bosna i Hercegovina je isključila svoju odgovornost *ratione personae* u vezi sa deviznom štednjom u odnosu na Ljubljansku banku d.d. Ljubljana, Glavna filijala Sarajevo i Investbanku Beograd. Komisija podržava ovo zakonsko rješenje, kojim se Bosna i Hercegovina ne može smatrati odgovornom za obaveze prema podnosiocima prijava, jer su iste nastale na teritoriji drugih država. Slijedi da su prijave nespojive *ratione personae* sa odredbama Sporazuma, u smislu člana VIII(2)(c). Komisija, zbog toga, odlučuje da prijave proglasi neprihvatljivim.

A.2.b. Odgovornost Federacije Bosne i Hercegovine

479. U pogledu odgovornosti Federacije Bosne i Hercegovine, Komisija podsjeća da se Bosna i Hercegovina ne može smatrati odgovornom za obaveze prema podnosiocima prijava, jer iste nisu nastale na njenoj teritoriji. S obzirom na primjenu teritorijalnog principa odgovornosti, slijedi da se Federacija Bosne i Hercegovine, kao njena administrativna jednica, također ne može smatrati odgovornom za navodna kršenja prava podnosilaca prijava u odnosu na potraživanja prema Ljubljanskoj banci i Investbanci.

480. Slijedom navedenog, Komisija zaključuje da su u pogledu odgovornosti Federacije Bosne i Hercegovine prijave nespojive *ratione personae* sa odredbama Sporazuma, u smislu člana VIII(2)(c). Komisija, zbog toga, odlučuje da prijave proglasi neprihvatljivim u ovom dijelu.

A.3. Zaključak u pogledu prihvatljivosti

481. Komisija proglašava sve prijave prihvatljivim prema članu 1. Protokola broj 1 uz Evropsku konvenciju u pogledu Bosne i Hercegovine, i u cijelosti prihvatljivim u pogledu Federacije Bosne i Hercegovine u odnosu na nemogućnost podnosilaca prijava da ostvare povrat stare devizne štednje polagane kod banaka sa sjedištem na teritoriji bivše Republike Bosne i Hercegovine.

482. Komisija proglašava sve prijave neprihvatljivim prema Bosni i Hercegovini i Federaciji Bosne i Hercegovine *ratione personae* sa odredbama Sporazuma, u smislu člana VIII(2)(c), u dijelu koji se odnosi na potraživanja prema Ljubljanskoj banci d.d. Ljubljana i Investbanci Beograd.

483. Komisija proglašava neprihvatljivim dio prijava CH/98/505, *Nimeta Kulenović protiv Bosne i Hercegovine, Federacije Bosne i Hercegovine i* Republike *Slovenije* i CH/99/3301, *Nadežda Šehovac-Pavičević protiv Bosne i Hercegovine, Federacije Bosne i Hercegovine i Republike Slovenije*, u odnosu na Republiku Sloveniju, kao *ratione personae* nespojive sa odredbama Sporazuma, u smislu člana VIII(2)(c).

484. Komisija, u skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, briše dio sljedećih prijava, CH/98/430, *Ekrem Ulak protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*; CH/98/499, *Suada Saradžić protiv Bosne i Hercegovine*; CH/98/589, *Vjekoslava Bošnjak protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*; CH/98/599, *Šimo Bošnjak protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*; CH/98/674, *Ana Mrdović protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*; CH/99/2145, *Ivka Livaja protiv Federacije Bosne i Hercegovine* i CH/99/2784, *Fuad Aganović protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*. Komisija, u skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, briše dio prijava CH/98/537, *Fatima Arapović protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, CH/98/609, *H.A. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine* i CH/98/684, *M.S. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine.*

485. U skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, Komisija briše dio prijava, CH/98/527, *Dimšo Đurić protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, CH/98/1070*, Ljiljana Vuković protiv Federacije Bosne i Hercegovine* i CH/99/3230, *A.H. protiv Federacije Bosne i Hercegovine*.

486. U skladu sa pravilom 50. stavom 2e. Pravila procedure Komisije, Komisija briše u cijelosti prijave CH/98/538, *Zejnil Brković protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*; CH/99/3303, *Tomo Golac protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine* i CH/99/3317, *Ivan Ivica Božić protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine,* jer nije opravdano nastaviti sa razmatranjem prijava.

B. Meritum

487. Po članu XI Sporazuma Komisija će razmotriti pitanje da li gore utvrđene činjenice otkrivaju da su tužene strane prekršile svoje obaveze prema Sporazumu. Prema članu I Sporazuma, strane su obavezne da *obezbijede* "svim licima pod svojom nadležnošću najviši stepen međunarodno priznatih ljudskih prava i osnovnih sloboda", uključujući prava i slobode predviđene Evropskom konvencijom i njenim Protokolima.

B.1. Član 1. Protokola broj 1 uz Evropsku konvenciju

488. Podnosioci prijava se žale da je povrijeđeno njihovo pravo na imovinu prema članu 1. Protokola broj 1 uz Evropsku konvenciju. Ova odredba glasi:

> Svako fizičko i pravno lice ima pravo uživati u svojoj imovini. Niko ne može biti lišen imovine, osim u javnom interesu i pod uvjetima predviđenim zakonom i općim načelima međunarodnog prava.
>
> Prethodne odredbe, međutim, ne utiču ni na koji način na pravo države da primjenjuje zakone koje smatra potrebnim da bi se regulisalo korištenje imovine u skladu sa općim interesima ili da bi se obezbijedila naplata poreza ili drugih dadžbina i kazni.

489. Podnosioci prijava se žale da su njihova prava povrijeđena odbijanjem banaka, tj. tuženih strana, da im isplate deviznu štednju, i konverzijom te štednje u certifikate za privatizaciju, bez njihovog znanja i saglasnosti. Dalje, podnosioci prijava tvrde da radnjama koje je preduzela Federacija nije uspostavljena pravična ravnoteža između javnog i privatnog interesa, a rezultat toga je nastavljena povreda njihovih prava na imovinu.

490. Tužene strane navode da su postupci u pogledu stare devizne štednje bili opravdani i da nije došlo do povrede ljudskih prava. Bosna i Hercegovina se pozvala na saradnju sa Uredom Visokog predstavnika za Bosnu i Hercegovinu, te navela da Država priprema paket zakona o privatizaciji državne imovine, čija je vrijednost znatno veća od duga po staroj deviznoj štednji građana. Bosna i Hercegovina je navela da trenutna zakonska rješenja ne vrijeđaju pravo podnosilaca prijava na imovinu. Federacija Bosne i Hercegovine navodi da je nesporno da se radi o imovini podnosilaca prijava, ali da je ovo pitanje zakonski regulisano u skladu sa pravom na imovinu. Ističe, da je postignuta pravična ravnoteža između interesa Države i podnosilaca prijava, te da je otklonjena buduća nesigurnost u pogledu devizne štednje.

491. Prema jurisprudenciji Evropskog suda za ljudska prava, član 1. Protokola broj 1 uz Evropsku konvenciju obuhvata tri različita pravila. Prvo, koje je izraženo u prvoj rečenici prvog stava i koje je opće prirode, izražava princip mirnog uživanja u imovini. Drugo pravilo, u drugoj rečenici istog stava, pokriva lišavanje imovine i podvrgava ga izvjesnim uvjetima. Treće, sadržano u drugom stavu, dozvoljava da države potpisnice imaju pravo, između ostalog, da kontrolišu korištenje imovine u skladu sa općim interesom, sprovođenjem onih zakona koje smatraju potrebnim za tu svrhu (vidi Odluku Ustavnog suda Bosne i Hercegovine, *U 3/99*, od 17. marta 2000. godine, "Službeni glasnik Bosne i Hercegovine", broj 21/00).

492. Uzimajući u obzir gornju tačku ove Odluke, slijedi da Komisija mora odgovoriti na tri pitanja. Prvo, da li se prava u vezi sa starom deviznom štednjom mogu smatrati “imovinom“ u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju? Drugo, ako se smatraju imovinom, da li se postojećom zakonskom regulativom ili nedostatkom regulative Bosna i Hercegovina, tj. Federacija Bosne i Hercegovine miješa u ta prava tako da uključuje zaštitu člana 1. Protokola broj 1 uz Evropsku konvenciju? Treće, ako je član 1. Protokola broj 1 uz Evropsku konvenciju uključen, da li je miješanje opravdano prema tom članu?

B.1.a. Da li se radi o imovini podnosilaca prijava?

493. Prema ustanovljenoj praksi riječ imovina uključuje širok obim imovinskih interesa koje treba štititi (vidi presudu bivše Evropske komisije za ljudska prava, *Wiggins protiv Ujedinjenog Kraljevstva*, aplikacija broj 7456/76, Odluke i izvještaji (OI) 13, st. 40-46 (1978)), a koji predstavljaju ekonomsku vrijednost. Koncept imovine ima autonomno značenje, a dokazivanje utvrđenog ekonomskog interesa može biti dovoljno ako se ustanovi pravo zaštićeno Evropskom konvencijom, pri čemu pitanje da li su imovinski interesi priznati kao zakonsko pravo u domaćem pravnom sistemu nije od značaja (vidi presudu Evropskog suda za ljudska prava, *Tre Traktörer Aktibolag protiv Švedske*, iz 1984. godine, serija A, broj 159, stav 53).

494. Dom je u svojoj ranijoj praksi, u nekoliko prilika, ustanovio da stara devizna štednja predstavlja imovinu u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju. Dom je utvrdio da, bez obzira na finansijsku situaciju banaka i opću ekonomsku situaciju u Državi i Federaciji Bosne i Hercegovine, te ograničenja u podizanju stare devizne štednje ili *de facto* blokiranje te štednje, novac koji je deponovan na računima podnosilaca prijava predstavlja ekonomsku vrijednost. Potraživanja podnosilaca prijava kod banaka po osnovu njihove devizne štednje tako predstavljaju "vlasništvo" u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju (vidi odluku *Poropat i drugi*, *loc. cit,* tačka 161). Konačno, tužene strane u postupku nisu negirale ovu činjenicu. Štaviše, Federacije Bosne i Hercegovine je afirmativno potvrdila ovaj navod podnosilaca prijava.

B.1.b. Navodne povrede od strane Bosne i Hercegovine

B.1.b.1. Da li se Bosna i Hercegovina nastavila miješati u pravo na imovinu podnosilaca prijava?

495. Komisija, prije svega, napominje da je u predmetu *Poropat i dr.* (loc. cit, tač. 164. ff), Dom jasno utvrdio da se Bosna i Hercegovina miješala u pravo na imovinu podnosilaca prijava zbog činjenice da je propustila da "osigura štedišama stare devizne štednje njihovo pravo na mirno uživanje njihovog vlasništva. Ovo znači uplitanje u to pravo". Više od tri godine kasnije, u odluci *Đurković i dr.* (*loc. cit*, tačka 269. ff), Dom je potvrdio miješanje Bosne i Hercegovine u isto pravo podnosilaca prijava.

496. Od ove odluke, koja je uručena 7. novembra 2003. godine, Država nije donijela niti jedan pravni akt kojim bi regulisala ovo pitanje. S druge strane, isplata stare devizne štednje nije izvršena u bilo kojem smislu. Iz ovog razloga, Komisija smatra da je Bosna i Hercegovina nastavila da se miješa u pravo podnosilaca prijava, zbog čega je neophodno da se ispita opravdanje ovakvog "propuštanja" Države da reguliše pitanje stare devizne štednje.

B.1.b.2. Da li je miješanje opravdano?

497. Prije stupanja na snagu Općeg okvirnog sporazuma za mir u Bosni i Hercegovini, Država je bila zakonodavno aktivna u pogledu stare devizne štednje. Naime, Republika Bosna i Hercegovina je usvojila zakone i propise u vezi sa deviznom štednjom (vidi CH/97/48, *loc. cit,* tač. 88-91; tačka 368. et sequ. ove Odluke). Član 9. stav 3. Uredbe iz 1992. godine predviđao je da Republika daje garanciju za deviznu štednju, a član 12. Uredbe iz 1994. godine stipulisao je da građani mogu koristiti svoju štednju slobodno. Imajući u vidu da je članom 144. Uredbe iz 1992. godine određeno da isplate devizne štednje građana uložene kod Narodne banke Jugoslavije treba odrediti posebnim propisom, Komisija smatra da je ustanovljeno da se izričita garancija i obećanje da se štednja može slobodno koristiti nisu odnosili na staru deviznu štednju nego samo na nove štedne uloge koje su građani počeli ulagati u vrijeme kada je usvojena zakonska regulativa Republike. Ipak, ostavljajući rješavanje stare devizne štednje za poseban propis, Republika je implicitno priznala odgovornost za ovu štednju. Odlukom od 9. aprila 1995. godine, ne samo da je pojačano ovo implicitno priznanje, već je jasno navedeno da će se pitanje stare štednje rješavati usvajanjem državnog zakona o javnom dugu Republike.

498. Iako je Opći okvirni sporazum za mir u Bosni i Hercegovini stupio na snagu nakon datuma koji su navedeni u prethodnoj tački, Komisija ponavlja da, prema članu I Ustava Bosne i Hercegovine, Bosna i Hercegovina nastavlja svoje pravno postojanje po međunarodnom pravu kao država i tako nasljeđuje status bivše Republike Bosne i Hercegovine. Komisija se, nadalje, poziva na Aneks II/2 Ustava Bosne i Hercegovine, kojim je propisan kontinuitet pravnih propisa, prema kojem "[s]vi zakoni, propisi i sudski poslovnici, koji su na snazi na teritoriji Bosne i Hercegovine u trenutku kada Ustav stupi na snagu, ostaće na snazi u onoj mjeri u kojoj nisu u suprotnosti sa Ustavom dok drugačije ne odredi nadležni organ vlasti Bosne i Hercegovine". *In conclusio*, svi opći akti, koji su usvojeni do stupanja na snagu Ustava Bosne i Hercegovine, ostaju na snazi u punom kapacitetu, sve dok drugačije ne odredi nadležni organ vlasti Bosne i Hercegovine. Time su i obaveze, koje je imala Republika Bosna i Hercegovina, a koje su opisane u prehodnoj tački, prešle

na Državu, bez ikakvih ograničenja. Drugim riječima, jasno je vidljiv kontinuitet obaveze Države od perioda raspada bivše SFRJ pa sve do 14. decembra 1995. godine, kada je Sporazum i Ustav Bosne i Hercegovine stupio na snagu. U tom svojstvu, Bosna i Hercegovina uzima učešće u pregovorima koji se tiču sukcesije imovine SFRJ.

499. Nakon stupanja na snagu Ustava Bosne i Hercegovine, Država je dobila nove obaveze koje se odnose na pitanja imovinskih prava u smislu člana 1. Protkola broj 1 uz Evropsku konvenciju. Prije svega, Komisija napominje da tumačenje nadležnosti Države i njenih teritorijalnih cjelina treba biti, prije svega, u okviru jezičkog značenja ustavnih odredbi, a na način da se najdjelotvornije ostvari cilj koji je propisan – u konkretnom slučaju, pravo na imovinu. U alineji 4. Preambule Ustava, koja ima normativni karakter, u skladu sa III. djelimičnom odlukom Ustavnog suda Bosne i Hercegovine u predmetu 5/98 (od 30. juna i 1. jula 2000. godine, tač. 17. ff), propisano je da je država obavezna da “podstakn[e] opšte blagostanje i ekonomski razvoj kroz zaštitu privatnog vlasništva i unapređenje tržišne privrede“. Članom I/4 Ustava Bosne i Hercegovine, stipulisana je, između ostalog, sloboda kretanja kapitala širom Bosne i Hercegovine i garantovanje jedinstvenog tržišta, dok je članom II/1 "Bosna i Hercegovina i oba entiteta [obavezna] osigurati najviši nivo međunarodno priznatih ljudskih prava i osnovnih sloboda". Osim toga, članom II/6. Ustava Bosne i Hercegovine, "Bosna i Hercegovina, i svi sudovi, ustanove, organi vlasti, te organi kojima posredno rukovode entiteti ili koji djeluju unutar entiteta podvrgnuti su, odnosno primjenjuju ljudska prava i osnovne slobode na koje je ukazano u stavu 2". Konačno, "[p]rava i slobode predviđeni u Evropskoj konvenciji za zaštitu ljudskih prava i osnovnih sloboda i u njenim protokolima se direktno primjenjuju u Bosni i Hercegovini. Ovi akti imaju prioritet nad svim ostalim zakonima". Na kraju, Komisija napominje da je Država, u skladu sa članom III/1(d) Ustava Bosne i Hercegovine, direktno odgovorna za monetarnu politiku. Štaviše, član VII. Ustava označava Centralnu banku Bosne i Hercegovine kao jedini nadležni organ za monetarnu politiku u cijeloj zemlji. Tačno je da Centralnoj banci nije dato ovlaštenje da reguliše rad banaka uopšte ili posebno deviznu štednju. Međutim, isplata štednje sa predmetnih bankovnih računa ima reperkusije na protok deviza i tako utiče na monetarnu politiku za koju je Centralna banka, kao državna institucija, odgovorna.

500. S druge strane, u pogledu problema devizne štednje, Država je nastavila sa zakonodavnim aktivnostima nakon stupanja na snagu Sporazuma i Ustava Bosne i Hercegovine. Tako je Odlukom od 10. aprila 1996. godine potvrđena Odluka od 9. aprila 1995. godine, a kojom je propisano da "[d]evizna štednja građana deponovana kod bivše Narodne banke Jugoslavije zajedno sa kamatama na ovu štednju, rješavaće se donošenjem zakona o javnom dugu Bosne i Hercegovine ili na drugi način u sklopu ukupne konsolidacije duga Bosne i Hercegovine zajedno sa međunarodnom zajednicom". Država je 22. jula 1998. godine, odnosno 19. jula 1999. godine, usvojila Okvirni zakon o privatizaciji banaka i preduzeća, koji je samo formulisao određene opće principe u privatiziciji. Uprkos ovoj zakonodavnoj aktivnosti, a u skladu sa ustavnim obavezama Države, Dom je, u svojoj odluci o deviznoj štednji građana, *CH/97/48* (*loc. cit,* tač. 164. ff), zaključio da je Država odgovorna za povredu člana 1. Protokola broj 1 uz Evropsku konvenciju, jer je propustila da preduzme određenu radnju i tako ostavila "štediše u situaciji u kojoj nije bilo pravne osnove po kojoj su oni mogli tražiti isplatu svoje štednje, bilo direktno od banaka ili indirektno od Države kroz plaćanje javnog duga". Ovakva situacija je nastavljena sve do oktobra 2003. godine, kada je Dom, u svojoj zadnjoj odluci CH/98/377 i dr. (*loc. cit*, tačka 204) u vezi sa štednim ulozima građana, zaključio:

> [...] da Bosna i Hercegovina ostaje odgovorna za nalaz zajedničkog rješenja za problem starih bankovih računa. Bosna i Hercegovina je uključena u državne pregovore u vezi sa pitanjima kao što su odgovornosti banaka iz inostranstva (kao što su Ljubljanska banka i Unionbanka, bivša Jugobanka), prava ekonomske sukcesije, i druga pitanja koja utiču na imaoce deviznih štednih računa, uključujući i podnosioce ovih prijava. Dom, radi toga, nalazi da su te prijave prihvatljive protiv Bosne i Hercegovine u vezi sa članom 1 Protokola br. 1 uz Konvenciju.

501. Od 22. jula 1998. godine, odnosno 19. jula 1999. godine, zakonodavno stanje na terenu se nije mijenjalo. Država nije donosila nikakve zakone u vezi sa unutarnjim dugom ili štednjom građana. Jedini zakon, koji je regulisao pitanje "državnog" duga, je Zakon o utvrđivanju i načinu izmirenja unutarnjeg duga Bosne i Hercegovine ("Službeni glasnik Bosne i Hercegovine", broj 44/04), iz kojeg očigledno proizilazi da Bosna i Hercegovina, tj. Država, ne podrazumijeva štednju građana kao svoj dug, već dug entiteta. Drugim riječima, sva aktivnost u pogledu "stare devizne štednje" građana prenesena je na entitete i Distrikt Brčko, koji su pitanje stare devizne štednje regulisali kroz relevantne zakone o unutarnjem dugu. Na ovaj način, jasno je da se Država *de facto* i *de jure* odrekla obaveza koje su proizilazile iz legislative donesene od 1992-1999. godine, uključujući i obaveze iz Ustava Bosne i Hercegovine i Sporazuma.

502. Što se tiče samih obaveza Države, koje proizilaze iz legislative donesene od 1992-1999. godine, Država nije donijela niti jedan akt, kojim bi stavila van snage postojeću legislativu, a kojom je, u to vrijeme, direktno preuzela obaveze po osnovu stare devizne štednje. Problem bi mogao biti riješen primjenom principa *lex posterior derogat lex priori*, čime bi entiteti i Distrikt Brčko mogli preuzeti obavezu samostalnog garantovanja imovinskih prava po osnovu stare devizne štednje. Međutim, u ovom slučaju ne radi se samo o obavezi koja proizilazi iz "državnih" pozitivno-pravnih propisa, koji su derogirani donošenjem novih zakona, a koji regulišu istu materiju. Stara devizna štednja, nakon 14. decembra 1995. godine, predstavlja konstituisano imovinsko pravo u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju, člana II/2/k) Ustava Bosne i Hercegovine, tj. člana 1. tačka 11. Sporazuma. Znači, radi se o pravima, koja su, s jedne strane, jasno definisana obaveza Države, a s druge strane, o pravima koja ne mogu biti derogirana i na niži teritorijalni nivo, na način na koji je to učinjeno. Iz navedenih razloga, potpuna derogacija bi mogla biti moguća da pravna pozicija podnosilaca prijava nije zaštićena Sporazumom i Ustavom Bosne i Hercegovine. Drugim riječima, Država se ne može osloboditi garantovanja poštivanja ovog prava njegovim prenosom, u smislu regulisanja i implementacije, na entitetske institucije, bez da obezbijedi dovoljno garanta za adekvatno rješavanje ovog pitanja na nižem nivou u skladu sa, između ostalog, standardima iz člana 1. Protokola broj 1 uz Evropsku konvenciju.

503. Zašto je bitno da Država načelno reguliše pitanje stare devizne štednje? Komisija primjećuje da je Federacija Bosne i Hercegovine regulisala pitanje stare devizne štednje Zakonom o utvđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine. Tim Zakonom, članom 2, "utvrđuje se sveobuhvatno izmirenje unutrašnjeg duga na način koji osigurava i podržava makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine". Republika Srpska je pitanje devizne štednje regulisala u Zakonu o utvrđivanju i načinu izmirenja unutrašnjeg duga Republike Srpske ("Službeni glasnik Republike Srpske", broj 63/04). U članu 2. je navedeno da "[i]zmirenje unutrašnjeg duga vrši se u skladu sa odredbama ovog zakona na način koji obezbjeđuje i podržava makroekonomsku stabilnost i fiskalnu održivost Republike Srpske". Konačno, Distrikt Brčko je sopstvenim Zakonom o podmirenju obaveza po osnovu stare devizne štednje ("Službeni glasnik Brčko Distrikta BiH", broj 27/04) regulisao pitanje isplate devizne štednje u gotovom novcu i obavezama, vodeći računa o makroekonomskoj stabilnosti Distrikta. Prema procjenama poddržavnih zakonodavaca, ukupan dug na ime stare devizne štednje u Distriktu Brčko iznosi 94 miliona konvertibilnih maraka, u Republici Srpskoj 774 miliona konvertibilnih maraka, dok se u Federaciji ukupan unutarnji dug procjenjuje na 1.858,9 miliona konvertibilnih maraka, od čega sigurno veliki dio otpada na staru deviznu štednju. Komisija je svjesna da je pitanje unutarnjeg duga veliko opterećenje za entitete. Njihova solventnost je interes Države, jer od toga direktno zavisi i moć Države, njena makroekonomska stabilnost. Država, s druge strane, ima obavezu da poštuje i brani princip državnog suvereniteta, što podrazumijeva i finansijsku samostalnost prema vani, ali i prema unutra. Odbrana suvereniteta Države (od čega zavisi i faktička moć prava na imovinu u konkretnim slučajevima) je takva obaveza, da Ustav Bosne i Hercegovine predviđa ne samo preduzimanje mjera u okviru datih joj nadležnosti, nego i sve ostale mjere, bez obzira čija je to konkretno nadležnost u Državi (član III/5.a) Ustava Bosne i Hercegovine). Drugim riječima, Država, u cilju odbrane forme i vrste svog političkog postojanja, može i mora preduzeti sve potrebne mjere. Prema tome, Država mora obezbijediti bezbjedno funkcionisanje svih nadležnih teritorijalnih cjelina u smislu budućih, uređenih dijelova finansijske privrede, koji će biti izloženi i u budućnosti velikim problemima i

rizicima (na primjer, najava rješavanja problema restitucije). To se može postići samo na način da Država, zakonskim aktom, utvrdi principe za sve poddržavne teritorijalne cjeline, a koji bi bili rezultat ekonomske analize makroekonomske stabilnosti Države u konktekstu postojećeg problema.

504. U vezi s tim, član III/1(d) Ustava Bosne i Hercegovine nadležno obavezuje Državu na polju monetarne politike. Štaviše, član VII. Ustava označava Centralnu banku Bosne i Hercegovine kao jedini nadležni organ za monetarnu politiku u cijeloj zemlji. Tačno je da Centralnoj banci nije dato ovlaštenje da reguliše rad banaka uopšte ili posebno deviznu štednju. Međutim, isplata štednje sa predmetnih bankovnih računa ide danas ne preko banaka, već direktno iz entitetskih budžeta, što ima reperkusije na protok novca i deviza i tako utiče na monetarnu politiku za koju je Centralna banka, kao državna institucija, odgovorna. Prema tome, bankovni sistem, osim Centralne banke Bosne i Hercegovine, nema ulogu u pitanju stare devizne štednje.

505. Član I/4. Ustava Bosne i Hercegovine obavezuje Državu da reguliše pitanje jedinstvenog tržišta u Bosni i Hercegovini, u koje spada, između ostalog, promet kapitala. Jedinstveno tržište i liberaliziacija tržišta kapitala obuhvata isključenje svakog ograničenja, tj. ne samo diskriminirajućih mjera, nego i svih drugih mjera, koje bez obzira što nemaju diskriminirajući karakter opterećuju određene grupe više nego druge. Za Komisiju je neprihvatljivo da isto pitanje, za koje je Država odgovorna, i koje je bilo na isti način tretirano sve do donošenja entitetskih zakona o regulisanju ovog problema, uključujući Distrikt Brčko, postane regulisano na sasvim nejednak način. Tako, na primjer, Federacija Bosne i Hercegovine predviđa isplaćivanje, *inter alia*, u novcu u periodu od četiri godine (član 11. Zakona), dok dospjeće obveznica još nije regulisano. Republika Srpska je predvidjela druge modalitete novčane isplate (član 15. Zakona), dok obveznice imaju rok dospjeća 30 godina (član 16. stav 1. tačka 1). Distrikt Brčko predvidio je rok od tri godine za novčanu isplatu (član 2. stav 1. Zakona), dok obveznice imaju rok dospjeća 25 godina (člana 2. stav 2a. Zakona). Nejednako tretiranje je posljedica derogacije problema sa Države na poddržavne teritorijalne cjeline. Na taj način, različito zakonsko tretiranje će, pored zakona slobodnog tržišta, bitno i direktno uticati na tržište obveznicama u Bosni i Hercegovini, kao jedinstvenom tržišnom prostoru. S druge strane, stara devizna štednja je bila, i principijelno ostala, državni problem. U vezi s tim, Komisija napominje da je država obavezna poštovati opći princip jednakosti u pravima, kako to propisuje Ustav Bosne i Hercegovine, i to ne samo naspram ustavnih prava, već svih prava koja su propisana zakonom. Pravo na jednakost je ustavno pravo i odnosi se na sva zakonska prava. Nijedan zakonodavac ne može biti oslobođen te obaveze. Komisija uvažava stav Države da je rješavanje ovog problema na poddržavnom nivou optimalno riješenje. Međutim, Država mora dati garancije da su različita zakonska rješenja na poddržavnim nivoima neophodne mjere radi zaštite funkcionisanja financijske privrede, monetarnog sistema, itd. Drugim riječima, Komisija uvažava stav Države da je opća ravnoteža u privredi veoma važan cilj Države. Međutim, različite mjere i različito tretiranje, koji utiču na jedinstveno tržište kapitala, su dozvoljeni ukoliko ispunjavaju pretpostavke principa proporcionalnosti (vidi presudu Suda za pravdu, predmet C-423/98, *Alfredo Albore*, Zbirka 2000, str. I-5965).

506. Država, dozvolivši da poddržavne cjeline preuzmu operacionalizaciju i odgovornost za isplatu stare devizne štednje, nije dala niti jednu garanciju da će isplata, kako u novcu tako i u formi obveznica, biti realizovana. Komisija smatra da je neophodno da Država da određene garancije u tom smislu. Naime, po teoriji identiteta strana, Republike Bosne i Hercegovine i Bosne i Hercegovine, a koja jasno proizilazi iz člana I Ustava Bosne i Hercegovine, prema kojem Bosna i Hercegovina nastavlja svoje pravno postojanje po međunarodnom pravu kao država i tako nasljeđuje status bivše Republike Bosne i Hercegovine, Bosna i Hercegovina ima poziciju dužnika. Ne bi bilo u skladu sa principom pravne države, da se Država, kao dužnik, oslobodi u potpunosti svoje obaveze tako što bi se, preko svoje moći nadležnosti derogacije, oslobodila davanja garancija za ispunjenje obaveza u koje je ušla. Iz toga razloga, Komisija ne može prihvatiti garanciju koju daju entiteti, a pogotovo ne garanciju obezbjeđenja novca putem privatizacije javnih preduzeća, uzimajući u obzir dosadašnje rezultate iste. Konačno, davanje garancije bi omogućilo da se jača osjećaj postojanja principa kontinuiteta u smislu člana I Ustava Bosne i Hercegovine i dobre vjere u njega. Naime, podnosioci prijava, kao vjerovnici, u trenutku sklapanja pravnog posla

sa državnim bankama, nisu bili opterećeni rizikom da će isplata njihove devizne štednje kad-tad propasti ili postati neutuživa. Stoga, Komisija smatra da je Država odgovorna da se ojača taj osjećaj dobre vjere u kontinuitet pravnog sistema postojanja.

507. Zbog svega navedenog, Komisija smatra da Država mora na određeni način regulisati navedenu problematiku, od čega će direktno zavisiti i uspjeh predviđenog modaliteta isplate stare devizne štednje. Komisija smatra da Država nije obavezna u potpunosti regulisati ova pitanja. Ipak, načelno regulisanje ovih pitanja, a prije svega, pitanje davanja garancije za isplatu od strane određene relevantne međunarodne institucije kapitala, ujednačavanje standarda na teritoriji cijele Države, vodeći računa o ostvarivanju jedinstvenog tržišta u Bosni i Hercegovini i makroekonomskoj stabilnosti Države, će voditi ka tome da pravo na imovinu ne bude ugroženo u budućem periodu, tj. da zakonska regulativa ispuni standarde koji su nametnuti pozitivnom obavezom za Državu, a koja proizilazi iz člana 1. Protokola broj 1 uz Evropsku konvenciju. Komisija napominje da je zakonodavac najkompetentniji, uzimajući u obzir praktična stanovišta, da odluči koja su to pitanja na terenu, koja se načelno moraju uzeti u obzir.

508. S obzirom da Država, Bosna i Hercegovina, nije donijela određeni okvirni zakon, kojim bi načelno regulisala ova pitanja, Komisija smatra da je Bosna i Hercegovina propustila da djelotvorno zaštiti pravo na imovinu podnosilaca prijava, čime je povrijedila svoje pozitivne obaveze koje proizilaze iz člana 1. Protokola broj 1 uz Evropsku konvenciju.

B.1.c. Navodne povrede od strane Federacije Bosne i Hercegovine

509. Pri razmatranju merituma ovih predmeta u odnosu na Federaciju Bosne i Hercegovine, Komisija mora odlučiti da li, u svjetlu najnovijih zakonskih promjena, koje su nastupile nakon odluke *Đurković i drugi,* pravna situacija u Federaciji u vezi sa starom deviznom štednjom nastavlja kršiti član 1. Protokola broj 1 uz Evropsku konvenciju.

510. Komisija, prije svega, ponavlja da se u predmetnim slučajevima radi o imovini podosilaca prijava. Prema tome, Komisija mora utvrditi da li se postojećom zakonskom regulativom Federacija Bosne i Hercegovine miješa u ta prava tako da uključuje zaštitu člana 1. Protokola broj 1 uz Evropsku konvenciju? Osim toga, Komisija mora ispitati, ako se radi o miješanju u to pravo, da li je miješanje opravdano prema tom članu?

B.1.c.1. Da li se radi o miješanju Federacije Bosne i Hercegovine u pravo na imovinu podnosilaca prijava i, ako je odgovor afirmativan, da li se ono sastoji u "kontroli" ili "lišenju" prava na imovinu?

511. Prema stanju spisa, a uzimajući u obzir postojeću zakonsku regulativu, zahtjev podnosilaca prijava odnosi se na isplatu iznosa stare devizne štednje, uključujući pripadajuće kamate. Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine predviđa poseban modalitet isplate stare devizne štednje, dok je članom 9. stavom 4. predviđeno da se kamate od 1. januara 1992. godine otpisuju.

512. U odluci *Đurković i drugi* (*loc. cit*, tačka 244. et sequ.), Dom je naveo:

> U odlukama Poropat i drugi i Todorović i drugi, Dom je utvrdio da je došlo do uplitanja u prava podnosilaca prijava po članu 1 Protokola br. 1 uz Konvenciju na osnovu zakona koji su oslobodili banke njihovih ugovornih obaveza prema podnosiocima prijava i da je podnosiocima prijava onemogućeno da podignu svoj novac. (Poropat i drugi, tačke 170-77; Todorović i drugi, tačke 130-33). Praktično, ista situacija je ostala do danas. Dom zapaža da, u skladu sa izmjenama i dopunama, ne postoje odredbe u Zakonu o potraživanjima građana po osnovu kojih je građanin slobodan da raspolaže svojom štednjom na bilo koji drugi način osim da je pretvori u privatizacijske certifikate. Zakoni, kako su izmijenjeni i dopunjeni, nastavljaju da propisuju obavezni prenos devizne štednje iz banaka na Jedinstveni

račun građana. Podnosioci prijava, a vjerovatno i druge štediše, nisu mogli i još uvijek ne mogu podignuti novac sa svojih računa. Dakle, uplitanje ustanovljeno u odluci Poropat i drugi se nastavlja barem de facto, iako de jure relevantni zakoni nisu više na snazi.

246. Uplitanje je pogoršano nemogućnošću podnosilaca prijava da dobiju obeštećenje na sudovima (vidi tačku 27 gore).

513. Komisija navodi da se od vremena donošenja ovih zaključaka situacija utoliko promijenila što je na snazi novi zakonski okvir, koji reguliše pitanje stare devizne štednje. Međutim, vlasnici stare devizne štednje još uvijek nisu dobili isplatu svoje stare devizne štednje. Novi Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine ne predviđa isplatu stare devizne štednje, iako bi "normalna" situacija kod štednih uloga bila, ispunjenje ugovornih obaveza po ugovoru o štednji u skladu sa pojedinačnim ugovorima ili važećim zakonskim normama. Umjesto toga, novi Zakon je otpisao kamatu od 1. januara 1992. godine, a isplatu stare devizne štednje predvidio u sasvim drugom modalitetu – kao dio unutarnjeg duga Federacije Bosne i Hercegovine. Konačno, Komisija uviđa da izvršenje pravosnažnih presuda, donesenih u vezi stare devizne štednje još nije počelo.

514. Na osnovu izloženog, Komisija zaključuje da je Federacija Bosne i Hercegovine nastavila sa uplitanjem u imovinska prava pojedinih štediša, uključujući i konkretne podnosioce prijava.

515. Za Komisiju ostaje da preispita kakva je priroda ovog miješanja u pravo na imovinu. S jedne strane, Komisija primjećuje da nikada nije bilo *de iure* lišenja ovog imovinskog prava (vidi, na primjer, CH/97/48 i dr, *loc. cit*, tačka 78 – mišljenje OHR-a, kao *amicus curiae*; zakonsku regulativu Republike Bosne i Hercegovine i Bosne i Hercegovine, tačku 88. ff iste Odluke). Međutim, Evropski sud za ljudska prava je u svojoj dugogodišnjoj praksi naglasio da *de facto* lišenje imovine ne pretpostavlja, tj. ne uslovljava bilo koji formalni akt lišenja imovine. Ono obuhvata državne mjere, koje zbog svojih teških reperkusija na pravo na imovinu, imaju istu posljedicu kao i formalni akt lišenja imovine (na primjer, eksproprijacija). Jurisprudencija, pri tome, stavlja akcent na pitanje da li postoji bilo kakva korist od *preostalog* prava na imovinu nakon takvih državnih mjera. U razgraničenju prema "kontroli korištenja prava na imovinu" (stav 2. člana 1. Protokola broj 1 uz Evropsku konvenciju), postavlja se pitanje da li postoji opravdana vjera u mogućnost daljnjeg korištenja prava na imovinu, bez miješanja države u bilo kojoj formi (vidi, na primjer, presude Evropskog suda za ljudska prava, *Sporrong i Lönnroth protiv Švedske*, od 23. septembra 1982. godine, Serija A, broj 52, st. 70-73; *Allan Jacobson protiv Švedske,* od 25. oktobra 1989. godine, Serija A, broj 163, stav 54; *Fredin protiv Švedske*, od 18. februara 1991. godine, Serija A, broj 192, stav 46. i 52. ff, itd).

516. Gledajući retrospektivno konkretnu situaciju oko stare devizne štednje, Komisija bi mogla zaključiti da se radi o *de facto* lišenju imovine. Naime, dugogodišnja nemogućnost da vlasnici stare devizne štednje dođu do realizacije svoga prava na imovinu, s jedne strane, a propali pokušaji Države da donese i implementira određene zakone, s druge strane, vode ka ovakvom zaključku (uporedi presudu Evropskog suda za ljudska prava, *Papmichalopoulus protiv Grčke*, od 24. juna 1993. godine, Serija A, broj 260-B, tač. 43-45). Ipak, u svjetlu novih zakonskih riješenja, Komisija smatra da se može opravdano očekivati da Federacija Bosne i Hercegovine isplati deviznu štednju u okvirima predviđenog modaliteta. Iz toga razloga, Komisija smatra da ovaj slučaj, nakon donošenja novog Zakona, pokreće pitanje "kontrole" prava na imovinu u smislu stava 2. člana 1. Protokola broj 1 uz Evropsku konvenciju.

517. Na ovaj zaključak ne utiče ni činjenica da Zakon različito tretira pitanje kamata od pitanja glavnice. Naime, Zakon ne lišava podnosioce prijava glavnice, već predviđa određene modalitete njene isplate. Komisija zaključuje da zakonski *modus operandi* u vezi glavnice jasno pokreće pitanje kontrole prava na imovinu. Kamate, s druge strane, iako mogu biti predmet pojedinačnog utuženja, te uprkos činjenici da kamate dospijevaju i zastarjevaju sa posebnim rokovima, one se moraju principijelno posmatrati kao sporedni zahtjev u odnosu na zahtjev za isplatu glavnice, te

zajedno čine cjelinu (čl. 372, 399. ff, 1045. Zakona o obligacionim odnosima). Komisija je svjesna da se radi o periodu od 1. januara 1992. godine. Prema tome, lišavanje prava na kamatu, za period duži od 12 godina, sigurno predstavlja značajno ograničenje navedenog prava. Ipak, u svjetlu rečenog, Komisija će tretirati ovo pitanje zajedno sa pravom na glavnicu kao pitanje miješanja u pravo na imovinu od strane Federacije Bosne i Hercegovine u smislu njegove kontrole – član 1. stav 2. Protokola broj 1 uz Evropsku konvenciju. Komisija napominje da ovaj zaključak nema suštinskog uticaja na konačni ishod predmeta.

B.1.c.2. Da li je miješanje opravdano?

518. Kao što je navedeno, prema jurisprudenciji Evropskog suda za ljudska prava, član 1. Protokola broj 1 uz Evropsku konvenciju obuhvata tri različita pravila. Prvo, koje je izraženo u prvoj rečenici prvog stava i koje je generalne prirode, izražava princip mirnog uživanja u imovini. Drugo pravilo, u drugoj rečenici istog stava, pokriva lišavanje imovine i podvrgava ga izvjesnim uslovima. Treće, sadržano u drugom stavu, dozvoljava da države potpisnice imaju pravo, među ostalim, da kontrolišu korištenje imovine u skladu sa općim interesom, sprovođenjem takvih zakona koje smatraju potrebnim u tu svrhu (vidi, *inter alia,* presude Evropskog suda za ljudska prava, *Sporrong i Lönnroth protiv Švedske*, od 23. septembra 1982. godine, Serija A, broj 52, stav 61 i *Scollo protiv Italije*, od 28. septembra 1995. godine, Serija A, broj 315-C, stav 26. sa daljnjim uputama). Svako miješanje u pravo prema drugom ili trećem pravilu mora biti predviđeno zakonom, mora služiti legitimnom cilju, mora uspostavljati pravičnu ravnotežu između prava nosioca prava i javnog i općeg interesa. Drugim riječima, opravdano miješanje se ne može nametnuti samo zakonskom odredbom koja ispunjava uslove vladavine prava i služi legitimnom cilju u javnom interesu, nego mora, također, održati razuman odnos proporcionalnosti između upotrijebljenih sredstava i cilja koji se želi ostvariti. Miješanje u pravo ne smije ići dalje od potrebnog da bi se postigao legitiman cilj, a nosioci imovinskih prava se ne smiju podvrgavati proizvoljnom tretmanu i od njih se ne smije tražiti da snose prevelik teret u ostvarivanju legitimnog cilja (vidi Odluku Ustavnog suda Bosne i Hercegovine, *U 83/03*, od 22. septembra 2004. godine, "Službeni glasnik Bosne i Hercegovine", broj 60/04, tačka 49).

<u>B.1.c.2.a. Miješanje predviđeno zakonom?</u>

519. Miješanje je zakonito samo ako je zakon koji je osnova miješanja (a) dostupan građanima, (b) toliko precizan da omogućava građanima da odrede svoje postupke, (c) u skladu sa principom pravne države, što znači da sloboda odlučivanja koja je zakonom data izvršnoj vlasti ne smije biti neograničena, tj. zakon mora obezbijediti građanima adekvatnu zaštitu protiv proizvoljnog miješanja (vidi presudu Evropskog suda za ljudska prava, *Sunday Times,* od 26. aprila 1979. godine, Serija A, broj 30, stav 49; vidi, također, presudu Evropskog suda za ljudska prava, *Malone,* od 2. augusta 1984. godine, Serija A, broj 82, st. 67. i 68). Sud je istakao da su u mnogim zakonima neizbježno upotrijebljeni termini koji su, u većem ili manjem opsegu, dvosmisleni ili neodređeni i čija je interpretacija i primjena pitanje prakse (vidi presudu Evropskog suda za ljudska prava, *Silver i drugi protiv Ujedinjenog Kraljevstva*, od 25. marta 1983, serija A, broj 18, stav 89).

520. Komisija ne sumnja da Zakon vezan za ovaj predmet ispunjava standarde u smislu Evropske konvencije (vidi Odluku o prihvatljivosti i meritumu Doma, *M.P. i ostali,* CH/02/8202, stavovi 144 i dalje).

<u>B.1.c.2.b. Miješanje u javnom interesu</u>

521. Podnosioci prijava, iako nisu *explicite* naveli, smatraju da je miješanje, tj. kontrola njihovog prava na imovinu, neproporcionalno. Udruženje za zaštitu deviznih štediša u Bosni i Hercegovini, u svojstvu *amicus curiae*, smatra da Država nema interes, niti ga je navela u svojim aktima. Osim toga, ovo Udruženje smatra da se Federacija Bosne i Hercegovine, nesavjesnim ponašanjem prema vlastitoj imovini, ne može pozivati na javni interes. Federacija Bosne i Hercegovine, u svom odgovoru, navodi da je donošenje ovakvih zakonskih rješenja neophodno da se spriječi kolaps

bankovnog sistema, te da je Entitet morao voditi računa o makroekonomskoj stabilnosti i fiskalnoj održivosti Entiteta.

522. Komisija smatra da su ciljevi postojećih zakonskih rješenja opravdani – sprječavanje kolapsa bankovnog sistema, makroekonomska stabilnost i fiskalna održivost Entiteta. Komisija smatra da su ovi interesi postojali i bili opravdani i ranije, kada je Dom dao, u tom smislu, afirmativno mišljenje (vidi CH/97/48, *loc. cit*, tačka 180, CH/98/377, *loc. cit*, tačka 249). Komisija zaključuje da je ovaj interes ostao aktuelan i danas.

B.1.c.2.c. Uspostavljanje pravične ravnoteže između prava nosioca prava i javnog interesa (proporcionalnost)

523. U odlukama *Poropat i drugi, Todorović i drugi* i *Đurković i drugi,* Dom je utvrdio da je došlo do uplitanja u prava podnosilaca prijava po članu 1. Protokola br. 1 uz Evropsku konvenciju na osnovu zakona koji su oslobodili banke njihovih ugovornih obaveza prema podnosiocima prijava i da je podnosiocima prijava onemogućeno da podignu svoj novac (*Poropat i drugi*, *loc. cit*, tač. 170-77; *Todorović i drugi*, *loc. cit*, tač. 130-133). Dom je, nadalje, našao da propisanim zakonskim mjerama nije uspostavljena "pravična ravnoteža" između općeg interesa i zaštite prava na imovinu podnosilaca prijava i da one tako spadaju van slobode odlučivanja Federacije (*Poropat i drugi*, *loc. cit,* tačka 192). Dom je u svojim odlukama istakao nekoliko nedostataka procesa privatizacije, koji su se odnosili na ograničeno važenje certifikata, jednak tretman gotovine i certifikata i sl. Dom je ustanovio da su ovo pitanja koja je Federacija morala riješiti izmjenom i dopunom programa privatizacije. Dom je smatrao da je Federacija trebala da nađe, u okviru svoje slobode odlučivanja, odgovarajuće načine da postigne traženu "pravičnu ravnotežu" interesa (*Poropat i drugi*, *loc. cit,* tačka 204).

524. Komisija priznaje da je od 2000. godine do 2003. godine Federacija izmijenila i dopunila različite odredbe Zakona o potraživanjima građana pokušavajući da nađe rješenje za pitanje nedostataka procesa privatizacije i da izvrši odluku Doma u predmetu *Poropat i drugi*. Međutim, odlukom Ustavnog suda Federacije dalja efikasnost ovih zakona dovedena je u pitanje, s obzirom da je ovom odlukom utvrđeno da ključne odredbe Zakona o potraživanjima građana nisu u skladu sa Ustavom Federacije Bosne i Hercegovine.

525. Tužena strana, Federacija Bosne i Hercegovine, istakla je da prijašnja zakonska regulativa nije uspostavljala pravičnu ravnotežu. Međutim, Komisija zapaža da je Federacija Bosne i Hercegovine usvojila novi Zakon o unutrašnjem dugu, kojim je preuzela obaveze po osnovu stare devizne štednje ostvarene u najnižim poslovnim jedinicama banaka na teritoriji Federacije Bosne i Hercegovine, kao dio svog unutrašnjeg duga. Zakonom je izričito propisano da će se metod i visina isplata u gotovini vršiti na način koji osigurava i podržava makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine. Tužena strana je navela da nova zakonska rješenja uspostavljaju u potpunosti princip proporcionalnosti kontrole prava na imovinu.

526. Komisija priznaje napore Federacije Bosne i Hercegovine da, u pokušajima da izvrši ranije naredbe Doma, nastoji da Zakonom o unutrašnjem dugu iznađu rješenja prihvatljiva za podnosioce prijava, odnosno, da nastoji postići pravičnu ravnotežu između općeg interesa i pojedinačnog tereta podnosilaca prijava. Međutim, Komisija zapaža da nova zakonska rješenja predstavljaju samo okvir na osnovu kojeg treba utvrditi jasan model isplata devizne štednje podnosilaca prijava. Prema tome, u svjetlu novih zakonskih promjena, koje su nastupile nakon odluke *Đurković i drugi,* postojeći zakonski okvir još uvijek ne daje jasnu i dovoljno izvjesnu pravnu situaciju u pogledu konačnog rješenja problema, što dovodi do miješanja u prava podnosilaca prijava od strane Federacije Bosne i Hercegovine.

527. Komisija je došla do ovog zaključaka iz sljedećih razloga:

528. Prvo pitanje, koje se nameće u ovom kontekstu, jeste pitanje verifikacije iznosa stare devizne štednje. Drugim riječima, radi se o verifikaciji "građanskog prava". Zakon je predvidio da

"[v]erifikovanje svih potraživanja za staru deviznu štednju vršit će se na osnovu baze podataka koja je ustanovljena Zakonom o utvrđivanju i ostvarivanju potraživanja građana u postupku privatizacije ("Službene novine Federacije BiH", br. 27/97, 8/99, 45/00, 54/00, 32/01, 57/03, 20/04) i drugim propisima donesenim na osnovu zakona i baza podataka koje posjeduju banke". Komisija napominje da od postupka verifikacije direktno zavisi postojanje ili nepostojanje prava na imovinu.

529. Svaki vlasnik stare devizne štednje mora imati obezbijeđeno pravo da aktivno učestvuje u tom postupku. U tom smislu, Zakon mora jasno predvidjeti koje tijelo će vršiti verifikaciju. Ono ne mora biti sudsko tijelo. Verifikacija se može vršti i od strane upravnih organa. Međutim, u tom slučaju, postupak verifikacije mora, barem u jednoj instanci, imati karakter sudskog postupka pred "tribunalom", u smislu člana 6. Evropske konvencije. To, dalje, znači da verifikacija mora biti okončana, u slučaju spora oko faktičkih ili pravnih pitanja, pred nezavisnim i nepristranim tijelom, koje bi dalo konačno mišljenje u smislu postojanja ili nepostojanja, visine i drugih važnih pitanja oko stare devizne štednje. Tu spada i pitanje konverzije deviza. Pored toga, "tribunal" ne smije biti vezan utvrđenim činjenicama upravnog organa, već mora imati mogućnost da sam preispita činjenice relevantne za svaki pojedini slučaju (u pogledu obaveze sudske zaštite u vezi sa starom deviznom štednjom i nadležnostima takvog tijela vidi *mutatis mutandis* Odluku Ustavnog suda Bosne i Hercegovine, *U 19/00* od 4. maja 2001. godine, tačka 23, "Službeni glasnik Bosne i Hercegovine", broj 27/01; predmete Evropskog suda za ljudska prava, *Iatridis protiv Grčke*, od 25. marta 1999. godine, stav 58, Izvještaji o presudama i odlukama 1999-II; *Hentrich protiv Francuske*, od 22. septembra 1994. godine, Serija A, broj 296-A, stav 42; u pogledu karaktera "tribunala", pojmu nezavisnosti i nepristrasnosti, vidi Odluku Ustavnog suda Bosne i Hercegovine, *U 47/03*, od 15. juna 2004. godine, tačka 23, sa daljnjim uputama na praksu Evropskog suda za ljudska prava). U vezi sa institucionalnom zaštitom u postupku verifikacije, Komisija preporučuje, u cilju zaštite djelotvornog sudskog sistema, da se formira posebno tijelo na nivou Entiteta, koje bi ispunjavalo kriterije navedene u ovoj tački Odluke, a kako se redovni sudovi ne bi opterećivali eventualnim problemima mnogobrojnih imaoca stare devizne štednje.

530. Drugo pitanje se odnosi na procesna prava u postupku verifikacije. Komisija je, prije svega, zabrinuta, a što je u svom mišljenju *amicus curiae*, Udruženje za zaštitu štediša u Bosni i Hercegovini, također, istaklo, za eventualne probleme oko utvrđivanja stare devizne štednje. Kao što je već istaknuto u prethodnim odlukama Doma (vidi, na primjer, CH/97/48, *loc. cit*, tač. 171. ff), ali i primijećeno u radu na aktuelnim predmetima, mnogi imaoci stare devizne štednje nemaju evidenciju iste na Jedinstvenom računu građana. S druge strane, turbulentnim promjenama u bankovnom sistemu, podaci o imaocima stare devizne štednje mogu biti nedostupni. Ovo, štaviše, zbog činjenice da su komercijalne banke, u principu, oslobođene izmirenja duga po osnovu stare devizne štednje, čime se kod njih gubi osjećaj odgovornosti prema obavezi čuvanja podataka. Konačno, ne smije se zanemariti činjenica da su mnogim vlasnicima stare devizne štednje nestale, izgorile ili na drugi način uništene štedne knjižice, kao osnovni dokument i "ugovor" u obligaciono-pravnom smislu. Zbog toga, Entitet, s jedne strane, mora jasno predvidjeti pozitivnu obavezu banaka u tom smislu, a pravo pristupa informacijama imalaca stare devizne štednje, s druge strane. Komisija napominje da se radi o posebno osjetljivoj grupi građana, u velikom broju, penzionerima lošeg imovnog stanja, koji se u postupku verifikacije ne smiju dodatno opteretiti administrativnim troškovima. Osim toga, ratna događanja u Bosni i Hercegovini dovela su do toga da je veliki broj građana napustio domicilni entitet ili, štaviše, Državu. Iz tog razloga, veoma je važan medijski istup nadležnih u Entitetu, transparentnost i reduciranje troškova na minimum kod postupka verifikacije. Što se tiče samih procesnih prava, za Komisiju nije sporno da "verifikaciono tijelo" predvidi *ex offo* postupak verifikacije, čak i bez procesnog učešća imaoca devizne štednje. Međutim, ono mora promptno obavijestiti vlasnika devizne štednje o rezultatu verifikacije, kako bi se vlasnik stare devizne štednje mogao aktivno uključiti u odbranu svojih imovinskih prava pred "tribunalom" u smislu ranijih tačaka ove Odluke. Samo na taj način, neće doći do povrede prava na djelotvoran pristup sudu u smislu člana 6. Evropske konvencije (u tom smislu vidi presudu Evropskog suda u predmetu *Airey protiv Irske* od 9. oktobra 1979. godine, serija A, broj 32, stav 25; Odluku o prihvatljivosti i meritumu Komisije, CH/98/240, od 8. februara 2005. godine, tačka 113. ff).

531. Komisija smatra da je institucionalna i procesno-pravna pitanja u smislu prethodnih tačaka ove Odluke, moguće riješiti podzakonskim aktima iz člana 12. stav 3. Zakona. Međutim, Komisija smatra da je Federacija Bosne i Hercegovine, prekoračivanjem roka iz člana 12. stava 3. Zakona, već prekršila princip zakonitosti, kao element inherentan članu 1. Protokola broj 1 uz Evropsku konvenciju. Na taj način, opravdano se stvara osjećaj pravne nesigurnosti kod podnosilaca prijava, jer on ima svoju pozadinu u dugogodišnjem nerješavanju ovog problema.

532. Komisija pozdravlja zakonsku obavezu tužene strane da verifikaciju izvrši u roku od 9 mjeseci od dana donošenja Zakona, što je, u svjetlu cjelokupne situacije, a posebno broja imalaca stare devizne štednje, opravdan rok.

533. Na kraju, a u vezi sa pravima nosilaca prava na staroj deviznoj štednji, kojima su nadležni sudovi utvrdili pravosnažno njihova prava, Komisija napominje da je Entitet u obavezi da izvrši sve takve presude. Ovo je imperativ vladavine prava, u smislu člana I/2 Ustava Bosne i Hercegovine. Ovaj princip ima prednost nad činjenicom da su pojedini sudovi odbili da procesuiraju određene zahtjeve imalaca prava na staroj deviznoj štednji, čime se stvorio različit tretman kod iste grupe nosilaca prava. U tom smislu, Komisija podržava stav Ustavnog suda Bosne i Hercegovine u svom predmetu (odluke Ustavnog suda Bosne i Hercegovine, *U 21/02*, od 26. marta 2004. godine, tač. 40, "Službeni glasnik Bosne i Hercegovine", broj 18/04; *AP 288/04*, od 17. decembra 2004. godine, tačka 27. ff).

534. Treće pitanje se odnosi na otpis kamata od 1. januara 1992. godine (člana 9. stav 4. Zakona) i na modalitet isplate stare devizne štednje. Komisija je već navela da je dio unutrašnjeg duga, koji se odnosi na staru deviznu štednju, veliko opterećenje za Državu i njene teritorijalne cjeline. Komisija ponavlja da je u tom smislu opravdan javni interes Države.

535. Evropski sud za ljudska prava je ustanovio da domaće vlasti uživaju široko polje procjene prilikom donošenja odluka koje su vezane za lišavanje imovinskih prava pojedinaca zbog neposrednog poznavanja društva i njegovih potreba. Odluka da se oduzme imovina često uključuje razmatranje političkih, ekonomskih i socijalnih pitanja o kojima će se mišljenja u okviru demokratskog društva bitno razlikovati. Stoga će se presuda domaćih vlasti poštivati, osim ako je očigledno bez opravdanog osnova (vidi Odluku o prihvatljivosti i meritumu Doma, CH/98/1311 i CH/01/8542, *Kurtišaj i M.K. protiv Federacije Bosne i Hercegovine*, od 2. septembra 2002. godine, tačka 87; vidi presudu Evropskog suda za ljudska prava, *James i drugi*, od 21. februara 1986. godine, Serija A, broj 98, stav 46). U predmetu *Lithgow i drugi protiv Ujedinjenog Kraljevstva* (presuda od 8. jula 1986. godine, Serija A, broj 102, stav 122), koja se tiče nacionalizovanja imovine, Sud je izjavio:

> Odluka da se usvoji zakon o nacionalizaciji će obično uključiti razmatranje raznih pitanja o kojima se mišljenja u demokratskom društvu mogu, što je i razumljivo, široko razlikovati. Zbog toga, što one direktno poznaju svoje društvo i njegove potrebe i resurse, domaće vlasti su u principu u boljem položaju od međunarodnog sudije da procijene koje mjere su odgovarajuće u toj oblasti i prema tome sloboda procjene koju oni imaju treba biti široka.

536. Pri tome će pomoći i stav Evropskog suda za ljudska prava, u njegovoj odluci *Lithgow i dr. protiv Velike Britanije* (od 8. jula 1986. godine, Serija A, broj 102, st. 121. f), u kojoj je naglasio da oduzimanje imovine uz naknadu, koja ne predstavlja tržišnu vrijednost, u principu, ne predstavlja proporcionalno miješanje u pravo na imovinu nosioca prava. Međutim, pravo na imovinu iz člana 1. Protokola broj 1 uz Evropsku konvenciju ne garantuje pravo na punu kompenzaciju u svim okolnostima, s obzirom da legitimni ciljevi javnog interesa, koji služe da se izvrši određena ekonomska reforma ili ostvari veća socijalna pravda, mogu imati takav značaj da opravdavaju davanje manjeg iznosa od tržišne vrijednosti. Štaviše, Evropski sud za ljudska prava je naglasio da nije nedozvoljeno, pri lišavanju imovine nosilaca prava, da se ne naknadi izgubljena dobit ili nerealizirana mogućnost upotrebe – *ususfructus* (vidi Odluku o dopustivosti bivše Evropske komisije za ljudska prava, *X. protiv Austrije*, od 13. decembra 1979. godine, aplikacija broj 7978/7,

Odluke i izvještaji (OI), broj 18, tačka 3, str. 47). U citiranoj odluci je nadalje navedeno da se izgubljena korist ili dobit može naknaditi samo ako je, "lišenje" imovine direktan uzrok tome. Konačno, Komisija smatra da se ne može primijeniti isti pristup u rješavanju problema "kontrole i lišenja" prava na imovinu, koji pogađa jednu veliku skupinu ljudi, a zakonodavac predviđa globalnu soluciju, od situacije kada se država miješa u individualni slučaj. Komisija, zbog toga, smatra da je na Državi mnogo veća obaveza naknade pune vrijednosti lišenog prava na imovinu ili naknade zbog miješanja u imovinu u individualnim slučajevima, nego kada se radi o generalnom rješavanju slučajeva. Ovakve stavove Komisija podržava iz razloga što je imovina socijalna kategorija i ne može se, u pravno-filozofskom smislu, separatno, apstraktno posmatrati, već ona mora podlijegati društvenim zakonima, koji će, s jedne strane, odražavati interese pojedinca, a s druge strane, interese društvene zajednice. Upravo zbog veze društva i imovine, od pojedinca, kao vlasnika imovinskog prava, očekuje se, već od trenutka sticanja imovinskog prava, da prihvati određenu mjeru "žrtvovanja", ako je potrebno. Samo preko ove granice, postoji obaveza za državu da se naknadi vrijednost lišene imovine, tj. "kontrole" imovine. Gdje leži ova granica, zavisi od obrazloženja iz prethodnih tačaka ove Odluke.

537. Polazeći od gore navedenog, Komisija uvažava ekspertne napore Države, da riješi problem stare devizne štednje na najdjelotvorniji način. Komisija napominje da su pravo na imovinu, pravna sigurnost i pravna jasnoća principi na kojima se mora temeljiti pravni sistem Bosne i Hercegovine u rješavanju postojećeg problema unutarnjeg duga, tj. stare devizne štednje. Samo na taj način se može postići pravni mir u budućnosti Države. Komisija je svjesna da se problem stare devizne štednje mora rješavati u svjetlu cjelokupne situacije u kojoj se Država nalazi. Država ne može apstraktno posmatrati ovaj problem, ne uzimajući u obzir sistem i hijerarhiju vrijednosti koje je stvorio Ustav Bosne i Hercegovine. Pri tome, Komisija posebnu pažnju polaže na princip socijalne države (Preambula Ustava Bosne i Hercegovine).

538. Bosna i Hercegovina je doživjela katastrofu i razaranja, politički i privredni krah. Jedna od posljedica ovih događaja je, sigurno, neriješeno pitanje unutarnjih obaveza Države. Bivša Republika Bosna i Hercegovina, uprkos svome kontinuitetu prema Ustavu Bosne i Hercegovine, doživjela je određenu vrstu privrednog i financijskog sloma. Obzirom da država, kao pravno lice, ne može doživjeti formalni bankrot i nesolventnost, niti je moguće na nju primijeniti opće stečajno pravo, država mora predvidjeti druge mjere, kako bi gradila budući, siguran privredni i financijski sistem. Pri tome je zakonodavac "prirodni" organ za zakonodavstvo, koji ima zadatak da zakonski obradi pitanje aktive i pasive države, vodeći računa o budućnosti.

539. Pri stvaranju buduće države, zakonodavac mora voditi računa o cjelokupnoj budućoj državnoj politici i financijskoj privredi, što je velika razlika u poređenju sa stečajnim postupkom privatnog pravnog lica. Prema tome, u tom postupku ne radi se o "obračunu" sa prošlošću, već o stvaranju osnova za budućnost. Sanacija države i stvaranje zdravog sistema je osnova uređenog razvoja socijalnog i političkog života.

540. Pri tome, zakonodavac nije obavezan niti ima zadatak da uspostavi određeni odnos između ispunjenja starih obaveza i ispunjenja tekućih obaveza, niti da suprostavi ove vrijednosti. Prema tome, pri "sanaciji" države, ne postoji obaveza zakonodavca da uspostavi pravno-obavezujuću skalu obaveza. Ona ne postoji uprkos činjenici da su određene obaveze nastale ranije, a druge obaveze tek nastaju. Isto tako, država, pri stvaranju novog poretka, ne mora da ima obavezu ispunjavanja "novonastalih" obaveza u onoj mjeri u kojoj to dozvoljavaju stare obaveze. Ovo važi posebno u situaciji kada se država, zbog kolateralne štete, obnavlja u svakom svom aspektu.

541. Komisija napominje da "šteta", koju su imaoci stare devizne štednje pretrpili, nije jedina koja postoji. Od početka 1990-tih, a zbog ukupnih događanja u Bosni i Hercegovini, stradali su mnogi životi, zdravlje i sloboda ljudi, druga materijalna dobra, radna mjesta, profesionalni napredak ljudi, itd. U tom smislu govore i statistički podaci koje je prezentirao Ured Visokog predstavnika za Bosnu i Hercegovinu, a koji su odraz ukupnih događanja u Državi. Prema njima, Bosna i Hercegovina ima zajednički procijenjeni dug koji premašuje sumu od 9,2 milijardi konvertibilnih maraka, od čega 4,8 milijardi otpada na obaveze nastale prije 31. decembra 2005. godine.

Procijenjeno je da spoljni i unutrašnji dug iznosi u decembru 2003. godine 75% bruto godišnjeg proizvoda, što je razlog za tešku ekonomsku krizu Države (str. 2. mišljenja). Prema tome, zakonodavac, pri pomirenju svih interesa, mora voditi računa da država ima zadatak stvarati prosperitetnu državu, a ne samo popravljati uništeno i ispravljati nepravdu. Drugim riječima, u vanrednim okolnostima, država mora pomiriti prošlost i budućnost u granicama mogućeg. Prema tome, država se odgovarajućim mjerama ne nastavlja miješati u pravo, jer to nije dozvoljeno, nego preduzima mjere, kojima se usmjerava razvoj već učinjenog miješanja u pravo (uporedi odluke Saveznog ustavnog suda Savezne Republike Njemačke nakon raspada nacionalsocijalističkog sistema *Državni bankrot* (Staatsbankrott), (BVerGE 15, 126, od 23. maja 1962. godine) i spajanja Savezne Republike i Demokratske Republike Njemačke, *Zemaljska reforma* (Bodenreform), (BVerfGE 84, 90, od 23. aprila 1991. godine; vidi i presudu Evropskog suda za ljudska prava, *Wittek protiv Savezne Republike Njemačke*, od 12. decembra 2002. godine, stav 50. ff).

542. Naravno, država se mora pridržavati principa zabrane proizvoljnosti i prava na jednakost. Pri tome, moraju se forsirati određene vrijednosti, kao što je vjera u bankarski sistem. Bankarski sistem je toliko važan da je čak i Savezna Republika Njemačka priznala sve štedne uloge koji su bili ulagani u banke za vrijeme *Njemačkog Rajha*, uprkos činjenici da je ovaj nacionalsocijalistički sistem u potpunosti propao (čl. 10-30 Zakona o općim ratnim štetama, "Službeni glasnik" I, str. 1747, od 1. januara 1958. godine). Osim toga, Komisija smatra da isplata stare devizne štednje ima svoju socijalnu ulogu u podizanju općeg blagostanja građanstva. Konačno, realizacija isplate stare devizne štednje jačala bi vjeru u slovo zakona, pravnu državu i jednakost pred zakonom. Pravna sigurnost, koja proizilazi iz principa vladavine prava, nadopunjuje princip proporcionalnosti u vezi sa miješanjem države u pravo na imovinu. Komisija upućuje na jedan primjer Ustavnog suda Češke Republike (Odluka broj IV.US 215/94, od 8. juna 1995. godine), u pogledu zahtjeva za restitucijom slovačkog državljanina u Češkoj. Naime, pravno valjan zahtjev za restitucijom za vrijeme postojanja jedne države, postao je zakonski irelevantan disolucijom Čehoslovačke i tumačenjem istih zakona na novi način u novoj državi. Ustavni sud Češke Republike je, u svojoj odluci, pozivajući se na navedene principe pravne države i vjere u jednakost, naveo:

> [...] Ustavni sud polazi od činjenice da je svrha kompletne restitucije da se olakšaju posljedice određenih imovinskih nepravdi, koje su se desile za vrijeme relevantnog perioda. Iako je zakonodavac bio svjestan da je nerealno pokušati da se izliječe sve nepravde, tako da je neophodno biti zadovoljan samo sa ispravljanjem nekih od njih, ovi akti [restitucije] ne mogu biti tumačeni dogmatski i neustavno, tako da u pogledu određenih ljudi stvaraju nove nepravde.

543. U konkretnim slučajevima, Komisija zapaža da je, u skladu sa novim Zakonom, Federacija Bosne i Hercegovine preuzela obaveze na osnovu stare devizne štednje, te da je predvidjela da ove obaveze izmiri isplatom u gotovini i izdavanjem obveznica nakon verifikacije potraživanja. Komisija, prije svega, uočava da je kamata otpisana za period od 1. januara 1992. godine. U odnosu na gotovinske isplate propisano je da će Vlada Federacije posebnim propisom utvrditi metod i visinu isplate i to do iznosa koji bi trebao osigurati i podržati makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine, što znači da ni u kom slučaju, još uvijek, nije izvjestan ni način, ni visina budućih gotovinskih isplata (član 10, u vezi sa članom 2. Zakona). Također, u odnosu na gotovinske isplate predviđeno je da će se isplate izvršiti iz budžeta Federacije Bosne i Hercegovine u periodu od četiri godine počevši od fiskalne godine kada se završi postupak verifikovanja stare devizne štednje (član 11). S druge strane, u pogledu obaveza koje ne budu izmirene isplatom u gotovini, predviđeno je da će se izdavati obveznice do iznosa koji je potreban za izmirenje kumulativnih potraživanja. Svi uvjeti za obveznice, također, tek treba da se utvrde posebnim propisom Vlade Federacije (član 21. stav 3), a naročito u vezi roka dospijeća obveznica, visine kamate na obveznice i dužine *grace* perioda.

544. Što se tiče kamata, novi Zakon ih je otpisao, i to za period od 1. januara 1992. godine. Komisija smatra da je ovakav pristup razuman, objektivan i opravdan. Naime, kamata se mora shvatiti i razmatrati u predmetnim slučajevima, upravo, u duhu ovog instituta. Kamata je vrsta naknade onome koji je dao kapital na raspolaganje – naknada za upotrebu. Uzimajući u obzir da

nije u potpunosti jasno u kojoj mjeri i na koji način je Država raspolagala deviznim sredstvima (Poropat i dr, *loc. cit*, stav 58, *amici curiae* mišljenje Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini, strana 25, stav 2), a zbog činjenice da postoji snažan javni interes i potreba da se Država ne optereti u budućnosti, Komisija smatra da je otpis kamata opravdan. Ovaj otpis je opravdan čak i pod pretpostavkom da su komercijalne banke raspolagale sa jednim dijelom deviznih sredstava, jer bi, u današnjim okolnostima, reaktiviranje pasive kod banaka sigurno vodilo ka narušavanju bankarskog sistema, što nije interes Bosne i Hercegovine. Konačno, Evropski sud za ljudska prava naglasio je da Država ima šire polje procjene da li je naknada za izgubljenu dobit potrebna i opravdana, nego je to slučaj sa osnovnim imovinskim zahtjevom – u konkretnim slučajevima, glavnicom (presuda *X. protiv Austrije*, *loc. cit*). Ovo iz razloga što se izgubljena dobit mora naknaditi samo ako je miješanje u pravo na imovinu direktan uzrok gubitku te dobiti, prema tome, podliježe mnogo strožim kriterijima. Prevedeno na konkretne slučajeve, Komisija zaključuje da razlog gubitku kamate nije neopravdano neisplaćivanje stare devizne štednje, već događaji koji su se desili u Bosni i Hercegovini nakon 1992. godine. Nadležnost Komisije u ovakvim slučajevima bila bi da ocijeni da li je došlo do proizvoljnosti Države u lišenju ovoga prava, što u konkretnim slučajevima Komisija ne može da potvrdi (uporedi presudu Evropskog suda za ljudska prava, *James i drugi protiv Velike Britanije*, od 21. februara 1986. godine, Serija A, broj 98, st. 46. i 54).

545. Što se tiče modaliteta isplate, Komisija smatra da novo zakonsko rješenje, nije opravdano iz više razloga. Naime, novi Zakon nije još uvijek sasvim izvjesno propisao model i obim izmirenja obaveza prema podnosiocima prijava, i to na način, na koji bi podnosioci prijava mogli, s jedne strane, ostvariti svoja imovinska prava, a s druge strane, izdefinisati svoju imovinsko-pravnu poziciju za budućnost. To se odnosi, prije svega, na obveznice. Zakon mora sadržavati osnovna načela u vezi sa uvjetima, pod kojima će obveznica biti izdata. Naime, ovi uvjeti, a prije svega, vrijeme dospjeća, su okosnica miješanja u pravo na imovinu. Iz toga razloga, neopravdano je derogirati definisanje ovog prava izvršnoj vlasti. Izvršna vlast nema taj demokratski supstrat, niti nadležnost donositi demokratske zakone, kao što ima zakonodavac. Komisija ponavlja da je miješanje u pravo na imovinu, u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju, moguće samo na osnovu zakona. Zato svaki zakon, koji iskorištava pravo, dato, *inter alia*, u stavu 2. člana 1. Protokola broj 1 uz Evropsku konvenciju, mora sadržavati barem načelna i okvirna rješenja, koja upravni organi mogu, podzakonskim aktima, razrađivati unutar jasno definisanih granica zakona. U protivnom, rješenja nisu donesena u smislu vladavine prava, jer se upravnim organima dozvoljava da predviđaju granice miješanja u imovinska prava, umjesto da izaberu najbezbolniju varijantu unutar datih zakonskih granica. Takvi zakoni ne ispunjavaju standard i kriterij "predvidivosti", zbog čega nisu u skladu sa pravom na imovinu. Čak i kada bi se pretpostavljalo da je ta granica "makroekonomska stabilnost" Federacije Bosne i Hercegovine (član 2. stav 1. Zakona), ovaj pojam, sa tačke gledišta jednog prosječnog građanina, je pravno nedefinisan pojam i otvara mogućnost zloupotrebe od strane izvršne vlasti. S druge strane, upotreba ovako nejasnih pojmova je dozvoljena pod uslovom da je omogućena sudska kontrola, koja bi dala konačnu riječ u pogledu toga da li je u individualnom slučaju izvršni organ pravilno subsumirao činjenično stanje pod pravno nejasan pojam. U konkretnim slučajevima, postojeći Zakon daje mogućnost ne da se takav pojam primjenjuje na individualne slučajeve, već da se na osnovu njega rješava globalna situacija, što je van kontrole suda u pojedinčanim slučajevima (u tom smislu vidi presudu Evropskog suda za ljudska prava, *Kruslin protiv Francusk*e, od 24. aprila 1990. godine, Serija A, broj 176-A, stav 24. f).

546. S druge strane, Komisija preventivno ukazuje da bi rok za dospjeće obveznica preko 15 godina bio neopravdan iz sljedećih razloga. Prije svega, Komisija naglašava da je do donošenja citiranog Zakona u 2004. godini, već prošao znatan broj godina. Prema tome, iako će Zakon formalno propisati rok do 15 godina, imaoci stare devizne štednje moraju *de facto* čekati za dospjeće obveznica preko 25 godina, uzimajući u obzir protekli, zakonski neregulisan period. Ovu činenicu zakonodavac mora uzeti u obzir pri regulisanju pitanja dospjeća obveznica. Drugo, cilj isplate stare devizne štednje je omogućavanje njihovim vlasnicima, u opravdanim granicama moći Države, da raspolažu svojom imovinom po ovom osnovu. Vlasnici devizne štednje su, po podacima iz podnesenih prijava, ali i po navodima *amicus curiae*, Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini (str. 30), većinom starija populacija, slabe ekonomske moći i socijalno ugrožena kategorija stanovništva. Iz ovih razloga, vlasnici stare devizne štednje će biti,

većinom, iz socio-ekonomskih razloga i starosne dobi, prisiljeni trgovati sa obveznicama. Velika ponuda, a predug rok dospijeća, uticati će da njihova realna vrijednost bude znatno manja od nominalne vrijednosti. Na taj način, ne bi se postigao cilj izdavanja obveznica – isplata uložene vrijednosti, dok bi puna vrijednost, po dospijeću obveznica, prešla na ekonomski jaču populaciju, što nije cilj Zakona. Komisija smatra da je maksimalan rok do 15 godina opravdan, te da čuva, s jedne strane, interes države da se ne optereti budžet u prevelikom iznosu, a s druge strane, da omogući vlasnicima obveznica po osnovu stare devizne štednje da im vrijednost ne padne ispod razumne granice. Komisija napominje da će 4-godišnja isplata stare devizne štednje u gotovom novcu, u granicama predviđenim članom 2. Zakona, pomoći da se prebrode socio-ekonomske poteškoće u kriznom i inicijalnom periodu. Ovo štaviše zbog činjenice da je 70% deviznih štediša u posjedu knjižice koja glasi na iznos ispod 1000 konvertibilnih maraka, tj. 470.000 štediša čiji su pojedinačni devizni ulozi 200 konvertibilnih maraka ili manje (mišljenje Ureda Visokog predstavnika za Bosnu i Hercegovinu, str. 9, tačka 13; mišljenje eksperta, prof. dr. Dragoljuba Stojanova u Odluci *Poropat i drugi*).

547. Na kraju Komisija upozorava da Zakon mora predvidjeti pravičnu kamatu na obveznice. U trenutku dospijeća istih, obveznice moraju imati vrijednost koja bi oslikavala realnu vrijednost uloženih deviza, uključujući prosječnu inflacionu stopu (član 14. stav 1. Zakona). Komisija, u tom smislu, ukazuje na praksu Evropskog suda za ljudska prava, koji je u predmetu *Küçük protiv Turske* (od 10. jula 2001. godine, stav 25) naglasio da država-članica vrijeđa član 1. Protokola broj 1 uz Evropsku konvenciju u slučaju da duži period ne ispunjava svoje imovinske obaveze, dok vrijednost istih, zbog uticaja inflacije, opada.

548. Zbog svega nevedenog, Komisija smatra da je Federacija Bosne i Hercegovine, neproporcionalnim, nepotpunim zakononskim rješenjima nastavila da se miješa u pravo podnosilaca prijava na njihovu imovinu. Time je tužena strana, Federacija Bosne i Hercegovine, propustila pozitivne obaveze koje proističu iz principa zakonitosti, kao elementa inherentnog članu 1. Protokola broj 1 uz Evropsku konvenciju.

B.2. Član 6. Evropske konvencije

549. Komisiji ostaje još da ispita da li je podnosiocima prijava povrijeđeno pravo na pravično suđenje u smislu člana 6. Evropske konvencije. Član 6. stav 1. Evropske konvencije glasi:

> Prilikom utvrđivanja građanskih prava i obaveza ili osnovanosti bilo kakve krivične optužbe protiv njega, svako ima pravo na pravično suđenje i javnu raspravu u razumnom roku pred nezavisnim i nepristrasnim, zakonom ustanovljenim sudom.

550. Komisija smatra da predmetne prijave pokreću pitanje prava na pravično suđenje u smislu prava na pristup sudu iz člana 6. Evropske konvencije. Naime, podnosioci prijava se žale da se ne mogu obratiti niti jednoj instituciji, koja bi zaštitila njihova prava na imovinu. Komisija zapaža da su mnogi podnosioci prijava pokrenuli parnične postupke protiv banaka u kojima su polagali devizna sredstva, međutim, njihove tužbe su odbijene, ili su postupci prekinuti prije više od 14 godina, ili su stavljeni u mirovanje i nikada se nisu nastavili, tako da podnosioci prijava nisu uspjeli doći do pravomoćne i izvršne odluke kojom se utvrđuje postojanje njihovog potraživanja. Međutim, Komisija je utvrdila da i u slučaju kada su podnosioci prijava izdejstvovali pravomoćnu odluku kojom je utvrđeno potraživanje po osnovu stare devizne štednje, nikada je nisu uspjeli izvršiti u postupku pred nadležnim sudom (vidi Odluku o prihvatljivosti i meritumu Komisije, CH/98/375 i dr., *Đorđe BESAROVIĆ i drugi protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, od 6. aprila 2005. godine, stav 1249). Prema tome, Komisija zaključuje da postoje dvije vrste problema – s jedne strane nemogućnost institucionalne zaštite usljed uskraćivanja prava na "pristup sudu", a, s druge strane, generalni problem nemogućnosti izvršenja pravosnažnih presuda u vezi sa starom deviznom štednjom. Ipak, s obzirom da u konkretnim slučajevima nema podnosilaca prijava sa izvršnim naslovima, Komisija smatra dovoljnim ako uputi na ovaj problem razmatran u drugim odlukama, a bez daljnjeg elaboriranja u ovoj Odluci.

551. Komisija je u svojoj nedavno usvojenoj praksi još jednom ukazala na značaj prava pristupa sudu (vidi Odluku o prihvatljivosti i meritumu, CH/99/1888, od 8. i 9. marta 2005. godine, tačka 77). U tom smislu, Komisija je navela:

> Nema sumnje, što je potvrđeno dugogodišnjom praksom sudskih organa u BiH, da je pravo pristupa sudu elemenat inherentan pravu iskazanom u članu 6. stavu 1. Evropske konvencije (vidi odluku Ustavnog suda Bosne i Hercegovine, U 3/99, od 17. marta 2000. godine, "Službeni glasnik Bosne i Hercegovine", broj 21/00). Pravo na pristup sudu iz člana 6. stava 1. Evropske konvencije podrazumijeva, prije svega, široke proceduralne garancije i zahtjev za hitni i javni postupak (neobjavljena odluka Ustavnog suda Bosne i Hercegovine, U 107/03, od 19. novembra 2004. godine, tač. 7. i 21). Pravo pristupa sudu ne znači samo formalni pristup sudu, već efikasan pristup sudu. Da bi nadležni organ bio efikasan, on mora obavljati svoju funkciju na zakonit i djelotvoran način. Obaveza obezbjeđivanja efikasnog prava na pristup nadležnim organima spada u kategoriju dužnosti, tj. pozitivne obaveze države (vidi presudu Evropskog suda za ljudska prava, Airey protiv Irske, od 9. oktobra 1979. godine, Serija A, broj 32, stav 25).

552. U dijelu o prihvatljivosti prijava (vidi tačku 1169. ff), Komisija je zaključila da podnosioci prijava, većinom, nisu iscrpljivali pravne lijekove, što nije ni potrebno jer Entitet, kao nadležan u tom smislu, nije predvidio djelotvoran pravni sistem. Samim tim, Komisija smatra da podnosioci prijava, uprkos činjenici da stara devizna štednja nije isplaćivana, kao ugovorna obaveza, nisu imali nikakvu institucionalnu zaštitu niti mogućnost da se obrate bilo kojem sudu ili drugom organu. Ovakvo stanje traje još od samog početka problema, znatno ranije nego je Sporazum stupio na snagu. Situacija se nije promijenila do danas, uprkos odlukama Doma (prije svega, *Poropat i dr*, *loc. cit.* tač 152-156; *Đurković i dr*, *loc. cit.* tač. 220-222), u kojima je *explizite* navedeno da u pravnom sistemu Bosne i Hercegovine ne postoje djelotvorni pravni lijekovi, te je nađeno flagrantno kršenje prava na imovinu vlasnika stare devizne štednje. Tužena strana nije nikada ispoštovala oduke Doma u vezi s tim. Konačno, Komisija primjećuje da tek donošenjem najnovijeg zakona o regulisanju problema unutrašnjeg duga, vlasnici stare devizne štednje imaju formalno-pravno (tj. zakonsko) ograničenje prava "pristupa sudu". Do tada, niti jedan akt nije ograničavao ovo pravo, što je Ured Visokog predstavnika, štaviše, izričito naveo u svom mišljenju, izraženom kao *amicus curiae,* u Odluci *Poropat i drugi* (tačka 79). Međutim, Komisija napominje da su prijave podnijete u toku 1998. i 1999. godine, znači, 6-7 godina prije stupanja na snagu navedenog Zakona, te da cijelo vrijeme postoji *de facto* frustracija podnosilaca prijava oko prava "pristupa sudu". Ova činjenica se ne može zanemariti. Konačno, uzimajući u obzir zaključke ove Odluke u vezi prava na imovinu, gdje je nađena povreda, Komisija smatra da pravo pristupa sudu još uvijek nije opravdano i izbalansirano. Iz ovih razloga, Komisija ne može prihvatiti uputu Ureda Visokog predstavnika na presudu Evropskog suda za ljudska prava u predmetu *National & Privincial Building Society et al. protiv Velike Britanije*, od 23. oktobra 1997. godine. Naime, u ovom predmetu se radilo o "izbalansiranom" ograničenju prava "pristupa sudu" u vezi prava povrata poreza. S druge strane, Komisija naglašava da država ima veće diskreciono pravo u pogledu javnih obaveza (bez obzira što se one u konkretnom slučaju definišu kao imovina u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju), nego je to slučaj sa čistim privatno-pravnim imovinskim pozicijama, kao što je pravo na uložena devizna sredstva. U oblasti javnog prava, kontrola se svodi na zabranu arbitrarnosti, te je dovoljno da javna obaveza bude zasnovana na zakonu i da ne bude proizvoljna (vidi, na primjer, Odluku Ustavnog suda Bosne i Hercegovine, *U 27/01* od 28. septembra 2001. godine, "Službeni glasnik Bosne i Hercegovine", broj 8/02). Samim tim, u oblasti javnog prava je mogućnost ograničenja prava na "pristup sudu" veća nego u čistim obligaciono-pravnim odnosima (ugovor o štednji).

553. Na ovakav zaključak ne može uticati ni činjenica da određena lica (što se ne odnosi na konkretne podnosioce prijava) imaju pravosnažne presude, jer se, s jedne strane, radi o izuzecima, a, s druge strane, o činjenici da niti jedna odluka nikada nije izvršena (vidi *Poropat i dr, loc. cit,* tač. 155, 156, 195). Komisija je, u svojoj nedavnoj jurisprudenciji (vidi Odluku o prihvatljivosti i meritumu, CH/03/14913, od 8. i 9. marta 2005. godine, tač. 38. i 39), navela:

Izvršenje presude, koju donese bilo koji sud, mora biti posmatrano kao integralni dio "suđenja“ u smislu člana 6. Evropske konvencije (vidi presudu Evropskog suda za ljudska prava, *Golder protiv Ujedinjenog Kraljevstva*, od 7. maja 1974. godine, Serija A, broj 18, st. 34-36). To će biti slučaj ako ne postoji izvršenje u razumnom zakonskom roku ili ako neopravdanost neizvršenja povlači ponovnu povredu tog građanskog prava. Komisija podržava i stav Ustavnog suda Bosne i Hercegovine u vezi sa ovim problemom, koji je naveo da u slučaju neizvršenja bilo kojeg pravosnažno utvrđenog građanskog prava, to pravo ima karakter iluzornog prava (op.cit, *AP-288/03*, tačka 27). Naime, ako se pravosnažno utvrdi građansko pravo, a nadležni organ neće da ga izvrši, pravo na pravičan postupak u postupku utvrđivanja građanskog prava bi postalo bespredmetno i bez adekvatnog dejstva. Na taj način, negira se pravo na pristup sudu. Nema sumnje, što je potvrđeno dugogodišnjom praksom sudskih organa u Bosni i Hercegovini, da je pravo pristupa sudu elemenat inherentan pravu iskazanom u članu 6. stavu 1. Evropske konvencije (vidi odluku Ustavnog suda Bosne i Hercegovine, *U 3/99*, od 17. marta 2000. godine, "Službeni glasnik Bosne i Hercegovine", broj 21/00). Pravo na pristup sudu iz člana 6. stava 1. Evropske konvencije podrazumijeva, prije svega, široke proceduralne garancije i zahtjev za hitni i javni postupak (neobjavljena odluka Ustavnog suda Bosne i Hercegovine, *U 107/03*, od 19. novembra 2004. godine, tač. 7. i 21). Pravo pristupa sudu ne znači samo formalni pristup sudu, već efikasan pristup sudu. Da bi nadležni organ bio efikasan, on mora obavljati svoju funkciju na zakonit i djelotvoran način. Obaveza obezbjeđivanja efikasnog prava na pristup nadležnim organima spada u kategoriju dužnosti, tj. pozitivne obaveze države (vidi presudu Evropskog suda za ljudska prava, *Airey protiv Irske*, od 9. oktobra 1979. godine, Serija A, broj 32, stav 25). Ipak, pravo pristupa sudu traje sve dok se ne realizira utvrđeno građansko pravo. U protivnom, djelotvoran postupak prilikom utvrđivanja građanskih prava i obaveza bi bio iluzoran, ako u naknadnom, izvršnom postupku, to građansko pravo ne može zaživjeti.

Komisija, također, podsjeća i na niz odluka Doma, koje se tiču nepoštivanja odluka sudova u Bosni i Hercegovini. Na primjer, u odluci CH/96/17, *Blentić protiv Republike Srpske* (vidi Odluku o prihvatljivosti i meritumu Doma za ljudska prava, od 5. novembra 1997. godine, tačka 35) Dom je našao povredu prava na pravično suđenje zato "što je policija bila pasivna usprkos svojoj obavezi da pomogne u izvršenju sudske odluke“. Također, Komisija podsjeća i na praksu Ombudsmana za ljudska prava za Bosnu i Hercegovinu (u daljnjem tekstu: Ombudsman za ljudska prava), u sličnim predmetima. Tako, u predmetu *B. D. protiv Federacije Bosne i Hercegovine* (vidi predmet (B) 746/97, Izvještaji od 24. marta 1999. godine) Omudsman za ljudska prava našao je povredu člana 6. Evropske konvencije zbog činjenice da "vlasti nisu, više od dvije godine, izvršile presudu i nalog za izvršenje koje je izdao Osnovni sud u Tuzli u korist podnosioca prijave“. Također, u predmetu *A. O. protiv Republike Srpske* (vidi predmet broj (B) 60/96, Izvještaji od 13. aprila 1999. godine) Ombudsman za ljudska prava našao je povredu člana 6. stav 1. Evropske konvencije u "propustu Osnovnog suda iz Banja Luke da izvrši konačnu i obavezujuću odluku, koju je donijela Komisija osnovana prema Aneksu 7 u korist podnosioca žalbe“. Iz navedenog je vidljivo da postoji izgrađena praksa u pogledu toga da neizvršavanje pravosnažnih sudskih odluka predstavlja povredu prava na pravično suđenje.

554. Iz svega navedenog, Komisija zaključuje da je došlo do povrede prava podnosilaca prijava prema članu 6. stavu 1. Evropske konvencije, za što je odgovorna tužena strana, Federacija Bosne i Hercegovine. Tužena strana nije obezbijedila podnosiocima prijava pravo pristupa sudu.

B.3. Zaključak o meritumu

555. Komisija zaključuje da su Bosna i Hercegovina i Federacija Bosne i Hercegovine povrijedile pravo podnosilaca prijava na imovinu koje štiti član 1. Protokola broj 1 uz Evropsku konvenciju.

556. Komisija zaključuje da je Federacija Bosne i Hercegovine povrijedila prava podnosilaca prijava na pravično suđenje, u smislu prava pristupa sudu, koje štiti član 6. Evropske konvencije.

VIII. PRAVNI LIJEKOVI

557. Prema članu XI(1)(b) Sporazuma, a u vezi sa pravilom 58. stavom 1(b) Pravila procedure Komisije, Komisija mora razmotriti pitanje o koracima koje Bosna i Hercegovina i Federacija Bosne i Hercegovine mora preduzeti da ispravi kršenja Sporazuma koja je Komisija utvrdila, uključujući naredbe da sa kršenjima prestane i od njih odustane.

558. Pri utvrđivanju pravnih lijekova, Komisija će uzeti u obzir pravne lijekove koje je izrekla u svojoj sličnoj odluci, CH/98/375 i dr., *Đorđe BESAROVIĆ i drugi protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, od 6. aprila 2005. godine. Naime, ova Odluka mora biti u skladu sa prethodno donesenim pravnim lijekovima, kako bi Komisija ispoštovala princip vladavine prava, iz kojeg proizilazi princip pravne sigurnosti. U pogledu Bosne i Hercegovine, neophodno je da Država, po hitnom postupku, a najkasnije u roku od 5 mjeseci od dana prijema ove Odluke, donese okvirni zakon ili drugi zakonski okvir, koji bi, u skladu sa obrazloženjem i zaključcima ove Odluke, principijelno riješio postojeći problem u vezi sa starom deviznom štednjom na teritoriji cijele Bosne i Hercegovine. U vezi s tim, Komisija nalaže Bosni i Hercegovini da odmah, a najkasnije u roku od mjesec dana, od dana prijema ove Odluke, formira ekspertni tim, u saradnji sa entitetima i Distriktom Brčko, koji će, najkasnije u roku 2 mjeseca od dana formiranja tima, u skladu sa parlamentarnom procedurom, predložiti nacrt okvirnog zakona ili drugog zakonskog okvira.

559. U pogledu Federacije Bosne i Hercegovine, Komisija smatra da je neophodno da naredi tuženoj strani da u roku od 5 mjeseci od dana prijema ove Odluke izmijeni i dopuni postojeći Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine u skladu sa obrazloženjem i zaključcima ove Odluke i Odluke u predmetu CH/98/375 i dr., *Đorđe BESAROVIĆ i drugi protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, od 6. aprila 2005. godine. Izmjene i dopune odnose se, prije svega, na propisivanje pozitivnih obaveza banaka u vezi sa podacima, pristupom informacijama vlasnika stare devizne štednje, institucionalnom i procesno-pravnom zaštitom vlasnika stare devizne štednje, i drugim pitanjima u vezi sa modalitetom isplate devizne štednje, a u vezi sa obrazloženjem iz ove odluke.

560. Federaciji Bosne i Hercegovine se nalaže da po hitnom postupku, u roku od 2 mjeseca od dana prijema ove Odluke, donese podzakonske akte o verifikaciji, vodeći računa o budućim zakonskim rješenjima.

561. Federaciji Bosne i Hercegovine se nalaže da javno istupi u medijima i na odgovarajući način, transparentno i jasno, ukaže na prava i obaveze vlasnika stare devizne štednje.

562. Federaciji Bosne i Hercegovine se nalaže da izvrši verifikaciju potraživanja podnosilaca prijava u zakonom predviđenom roku, poštujući institucionalnu i procesno-pravnu zaštitu u postupku verifikacije potraživanja.

563. Federaciji Bosne i Hercegovine se nalaže da ispoštuje zakonske rokove u vezi sa čl. 10. i 11. Zakona o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine, vodeći računa o datom roku iz prethodne tačke ove Odluke.

564. U slučaju nepoštivanja rokova, datih u prethodnim tačkama ove Odluke, Federaciji Bosne i Hercegovine se nalaže da od 1. marta 2006. godine, podnosiocima prijava isplaćuje iznos od 100

(sto) konvertibilnih maraka mjesečno, ili puni iznos njene/njegove stare devizne štednje (za iznose ispod 100 konvertibilnih maraka), sve do ispunjenja obaveza iz zaključaka ove Odluke.

565. Komisija smatra da bi bilo opravdano da naloži Federaciji Bosne i Hercegovine da svakom podnosiocu prijave, u odnosu na kojeg je utvrđena povreda, na ime nematerijalne štete i eventualnih procesnih troškova, isplati paušalni iznos od po 500 (petstotina) konvertibilnih maraka u roku od tri mjeseca od dana prijema ove Odluke.

IX. ZAKLJUČAK

566. Iz ovih razloga, Komisija odlučuje,

1. jednoglasno, da prijave proglasi prihvatljivim protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine u dijelu koji se odnosi na navodne povrede ljudskih prava nakon 14. decembra 1995. godine u vezi sa pravom na imovinu iz člana 1. Protokola broj 1 uz Evropsku konvenciju, a u vezi sa starom deviznom štednjom u bankama sa sjedištem na teritoriji Bosne i Hercegovine;

2. jednoglasno, da prijave proglasi prihvatljivim protiv Federacije Bosne i Hercegovine u dijelu koji se odnosi na navodne povrede ljudskih prava nakon 14. decembra 1995. godine u vezi sa pravom na pravično suđenje iz člana 6. Evropske konvencije, a u vezi sa starom deviznom štednjom u bankama sa sjedištem na teritoriji Bosne i Hercegovine;

3. jednoglasno, da prijave proglasi neprihvatljivim protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine u dijelu koji se odnosi na navodne povrede ljudskih prava nakon 14. decembra 1995. godine, a u vezi sa starom deviznom štednjom u bankama sa sjedištem van teritorije Bosne i Hercegovine;

4. jednoglasno, da proglasi neprihvatljivim prijave CH/98/505, *Nimeta Kulenović protiv Bosne i Hercegovine, Federacije Bosne i Hercegovine i* Republike *Slovenije* i CH/99/3301, *Nadežda Šehovac-Pavičević protiv Bosne i Hercegovine, Federacije Bosne i Hercegovine i Republike Slovenije*, u dijelu u kojem su upućene protiv Republike Slovenije, kao *ratione personae* nespojive sa odredbama Sporazuma;

5. jednoglasno, da briše dio prijava, CH/98/430, *Ekrem Ulak protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u odnosu na sredstva položena kod Jugobanke; CH/98/499, *Suada Saradžić protiv Bosne i Hercegovine*, u odnosu na sredstva položena kod Privredne banke; CH/98/589, *Vjekoslava Bošnjak protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u odnosu na sredstva položena kod Privredne banke; CH/98/599, *Šimo Bošnjak protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na deviznu štednju položenu kod Jugobanke i na drugoj knjižici kod Privredne banke u iznosu od 1.048,14 KM; CH/98/674, *Ana Mrdović protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine,* u odnosu na njena devizna sredstva položena kod Jugobanke; CH/99/2145, *Ivka Livaja protiv Federacije Bosne i Hercegovine,* u odnosu na sredstva položena kod Jugobanke i CH/99/2784, *Fuad Aganović protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na deviznu štednju položenu kod Jugobanke, jer podnosioci prijava nisu dostavili kopije deviznih štednih knjižica;

6. jednoglasno, da briše dio prijava, CH/98/537, *Fatima Arapović protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na njena sredstva položena kod Jugobanke, u iznosu od 332,38 CHF; CH/98/609, *H.A. protiv Bosne i Hercegovine i Federacije Bosne i* Hercegovine, u dijelu koji se odnosi na potraživanja u iznosu od 84.192,7 KM polagana "u raznim bankama" i CH/98/684, *M.S. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na sredstva polagana kod Jugobanke u iznosu od 10.225,8 ATS, 22.780,8 FRF, 26.930,54 DEM, 11.226,97 ITL, 5,33 GBP i 72,85 USD, jer podnosioci prijava nisu dostavili kopije štednih knjižica kojima bi potkrijepili navode o postojanju ovih potraživanja;

7. jednoglasno, da briše dio prijava, CH/98/527, *Dimšo Đurić protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na štedne pologe njegove supruge i kćerki; CH/98/1070*, Ljiljana Vuković protiv Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na sredstva polagana na ime njenog supruga kod Jugobanke Sarajevo u iznosu od 1.086,14 DEM, 611,56 USD i 1.311,25 CHF i kod Privredne banke Sarajevo u iznosu od 457,82 DEM i CH/99/3230, *A.H. protiv Federacije Bosne i Hercegovine*, u odnosu na štedne pologe njegove supruge i djece, jer podnosioci prijava nisu dostavili kopije punomoći kojom ih članovi porodice ovlašćuju za zastupanje pred Komisijom;

8. jednoglasno, da u cijelosti briše prijave CH/98/538, *Zejnil Brković protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, CH/99/3303, *Tomo Golac protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine* i CH/99/3317, *Ivan Ivica Božić protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine,* jer su podnosioci prijava umrli;

9. jednoglasno, da je Bosna i Hercegovina prekršila prava podnosilaca prijava na mirno uživanje imovine po članu 1. Protokola broj 1 uz Evropsku konvenciju, ne preduzevši odgovarajuće radnje u vezi sa njihovom starom deviznom štednjom kako bi osigurala prava podnosilaca prijava zagarantovana tom odredbom, čime je Bosna i Hercegovina prekršila član I Sporazuma;

10. jednoglasno, da je Federacija Bosne i Hercegovine prekršila prava podnosilaca prijava na mirno uživanje imovine po članu 1. Protokola broj 1 uz Evropsku konvenciju, ne preduzevši odgovarajuće radnje u vezi sa njihovom starom deviznom štednjom, čime je stavila pojedinačan i prevelik teret na podnosioce prijava, čime je Federacija Bosne i Hercegovine prekršila član I Sporazuma;

11. jednoglasno, da je Federacija Bosne i Hercegovine prekršila pravo podnosilaca prijava na pravično suđenje iz člana 6. Evropske konvencije, čime je prekršila član I Sporazuma;

12. jednoglasno, da naredi Bosni i Hercegovini da odmah, a najkasnije u roku od jednog mjeseca, od dana prijema ove Odluke, formira ekspertni tim, u saradnji sa entitetima i Distriktom Brčko, koji će, najkasnije u roku 2 mjeseca od dana formiranja tima, u skladu sa parlamentarnom procedurom, predložiti nacrt okvirnog zakona ili drugog zakonskog okvira;

13. jednoglasno, da naredi Bosni i Hercegovini da po hitnom postupku, a najkasnije u roku od 5 mjeseci od dana prijema ove Odluke, donese okvirni zakon ili drugi zakonski okvir, koji bi, u skladu sa obrazloženjem i zaključcima ove Odluke, principijelno riješio postojeći problem u vezi sa starom deviznom štednjom na teritoriji cijele Bosne i Hercegovine;

14. jednoglasno, da naredi Federaciji Bosne i Hercegovine da po hitnom postupku, u roku od 2 mjeseca od dana prijema ove Odluke, donese podzakonske akte o verifikaciji iznosa stare devizne štednje, vodeći računa o budućim zakonskim rješenjima;

15. jednoglasno, da naredi Federaciji Bosne i Hercegovine da izvrši verifikaciju potraživanja podnosilaca prijava u zakonom predviđenom roku, poštujući institucionalnu i procesno-pravnu zaštitu u postupku verifikacije potraživanja;

16. jednoglasno, da naredi Federaciji Bosne i Hercegovine da ispoštuje zakonske rokove u vezi sa čl. 10. i 11. Zakona o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine, vodeći računa o datom roku iz zaključka broj 13. ove Odluke;

17. jednoglasno, da naredi Federaciji Bosne i Hercegovine, u slučaju nepoštivanja rokova, datih u prethodnim zaključcima ove Odluke, da od 1. marta 2006. godine, podnosiocima prijava isplaćuje iznos od 100 (sto) konvertibilnih maraka mjesečno, ili puni iznos njene ili njegove stare devizne štednje (za iznose ispod 100 konvertibilnih maraka), sve do ispunjenja obaveza iz zaključaka ove Odluke;

18. jednoglasno, da naredi Federaciji Bosne i Hercegovine da javno istupi u medijima i na odgovarajući način, transparentno i jasno, ukaže na prava i obaveze vlasnika stare devizne štednje;

19. jednoglasno, da naredi Federaciji Bosne i Hercegovine da isplati podnosiocima prijava paušalni iznos od po 500 (petstotina) konvertibilnih maraka na ime nematerijalne štete i eventualnih troškova postupka pred nadležnim institucijama, uključujući Dom/Komisiju, zbog povrede prava na pravično suđenje i prava na imovinu, najkasnije u roku od tri mjeseca od dana prijema ove Odluke;

20. jednoglasno, da naredi Federaciji Bosne i Hercegovine da podnosiocima prijava isplati zateznu godišnju kamatu od 10 (deset) posto na iznose koji su im dosuđeni u zaključcima br. 17. i 19, ili svaki njihov neisplaćeni dio od dana isteka roka određenog za takvu isplatu do dana pune isplate svih iznosa podnosiocima prijava u skladu sa tim zaključcima;

21. jednoglasno, da naredi Federaciji Bosne i Hercegovine i Bosni i Hercegovini da izvijeste Komisiju, svaka tri mjeseca od dana prijema ove Odluke, pa sve do izvršenja zaključaka ove Odluke, o koracima preduzetim u sprovođenju gore spomenutih naredbi; i

22. jednoglasno, da Komisija zadržava pravo da donese odluku o daljnjim pravnim lijekovima.

(potpisao)
Nedim Ademović
Arhivar Komisije

(potpisao)
Miodrag Pajić
Predsjednik Komisije

HUMAN RIGHTS COMMISSION
WITHIN THE CONSTITUTIONAL COURT
OF BOSNIA AND HERZEGOVINA

KOMISIJA ZA LJUDSKA PRAVA
PRI USTAVNOM SUDU
BOSNE I HERCEGOVINE

ODLUKA O PRIHVATLJIVOSTI I MERITUMU

Predmet broj CH/98/366 i dr.

Rabija HALILOVIĆ i drugi

protiv

BOSNE I HERCEGOVINE

I

FEDERACIJE BOSNE I HERCEGOVINE

Komisija za ljudska prava pri Ustavnom sudu Bosne i Hercegovine, na zasjedanju Velikog vijeća od 12. maja 2005. godine, sa sljedećim prisutnim članovima:

Gosp. Miodrag PAJIĆ, predsjednik
Gosp. Mehmed DEKOVIĆ, potpredsjednik
Gosp. Želimir JUKA, član
Gosp. Miodrag SIMOVIĆ, član
Gđa Valerija Galić, član

Gosp. Nedim ADEMOVIĆ, arhivar

Razmotrivši gore spomenute prijave podnesene Domu za ljudska prava za Bosnu i Hercegovinu (u daljnjem tekstu: Dom) u skladu sa članom VIII(1) Sporazuma o ljudskim pravima (u daljnjem tekstu: Sporazum) sadržanom u Aneksu 6 uz Opći okvirni sporazum za mir u Bosni i Hercegovini;

Konstatujući da je Dom prestao postojati 31. decembra 2003. godine i da je Komisija za ljudska prava pri Ustavnom sudu Bosne i Hercegovine (u daljnjem tekstu: Komisija) dobila mandat prema sporazumima u skladu sa članom XIV Aneksa 6 uz Opći okvirni sporazum za mir u Bosni i Hercegovini koji su zaključeni u septembru 2003. i januaru 2005. godijne (u daljnjem tekstu: Sporazum iz 2005. godine) da odlučuje o predmetima podnesenim Domu do 31. decembra 2003. godine;

Usvaja sljedeću odluku u skladu sa članom VIII(2)(d) Sporazuma, čl. 3. i 8. Sporazuma iz 2005. godine, kao i pravilom 21. stavom 1(a) u vezi sa pravilom 53. Pravila procedure Komisije:

I. UVOD

1. Podnosioci prijava su prije raspada Socijalističke Federativne Republike Jugoslavije (u daljnjem tekstu: SFRJ), polagali devizna sredstva kod komercijalnih banaka sa sjedištem u Republici Bosni i Hercegovini i kod jedne, ili obje, "strane" banke tj. Osnovne privredno investicione banke u Beogradu-Investbanke (u daljnjem tekstu: Investbanka Beograd), sa sjedištem u bivšoj Republici Srbiji i Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo, sa sjedištem u bivšoj Republici Sloveniji. Zbog rastuće nestašice deviza i drugih ekonomskih problema isplata sredstava sa ovih "starih" deviznih štednih računa progresivno je organičavana po zakonima koji su stupili na snagu tokom 1980-tih i početkom 1990-tih.

2. Neposredno pred početak, kao i u toku oružanih sukoba u Bosni i Hercegovini, podnosioci prijava uglavnom nisu bili u mogućnosti da podižu novac sa svojih štednih računa. Također, svi njihovi pokušaji da podignu novac u poslijeratnom periodu bili su odbijeni bez obrazloženja ili uz pozivanje na zakone koje su usvojile SFRJ, Republika Bosna i Hercegovina i kasnije Federacija Bosne i Hercegovine.

3. Neki od podnosilaca prijava pokrenuli su sudske postupke, kako bi ostvarili svoja potraživanja po osnovu stare devizne štednje, međutim, niti jedan sudski postupak nije rezultirao ostvarenjem potraživanja, tako da su ti postupci do danas ostali bez rezultata.

4. U skladu sa zakonima, koje je Federacija Bosne i Hercegovine usvojila u toku 1997. i 1998. godine, a posebno Zakonom o utvrđivanju i realizaciji potraživanja građana u procesu privatizacije (u daljnjem tekstu: Zakon o potraživanjima građana), potraživanja po osnovu stare devizne štednje trebala su biti riješena u procesu privatizacije imovine u društvenom i državnom vlasništvu. Prema Zakonu o potraživanjima građana, stanja devizne štednje su trebala biti evidentirana na "Jedinstvenom računu građana", koji je vodio Federalni zavod za platni promet. Umjesto isplate štednje, Zavod je izdavao certifikate u odgovarajućem iznosu. Prema relevantnim zakonskim odredbama, ovi certifikati su se mogli koristiti u procesu privatizacije za kupovinu stanova, poslovnih prostora u državnom vlasništvu, dionica preduzeća ili drugih sredstava. Ova procedura je sačinjena kako bi se riješila potraživanja građana i na taj način zaštitio sistem isplate javnog duga i spriječio kolaps bankovnog sistema.

5. Dom je 9. juna 2000. godine uručio svoju Odluku o prihvatljivosti i meritumu u predmetu *CH/97/48 i dr.*, *Poropat i drugi protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine,* koja se tiče zahtjeva podnosilaca prijava za ostvarenje potraživanja po osnovu stare devizne štednje. Dom je odlučio da su Bosna i Hercegovina i Federacija Bosne i Hercegovine prekršile prava podnosilaca prijava na mirno uživanje imovine prema članu 1. Protokola broj 1 uz Evropsku konvenciju za zaštitu ljudskih prava i temeljnih sloboda (u daljnjem tekstu: Evropska konvencija). Dom je naredio, *inter alia*, da Federacija Bosne i Hercegovine treba "izmijeniti i dopuniti program privatizacije tako da postigne pravičnu ravnotežu između općeg interesa i zaštite imovinskih prava podnosilaca prijava kao imalaca stare devizne štednje".

6. Od 2. novembra 2000. do 8. februara 2002. godine, Federacija je dopunila razne odredbe Zakona o potraživanjima građana u pokušaju da izvrši naredbu Doma iz odluke *Poropat i drugi*.

7. Međutim, Ustavni sud Federacije Bosne i Hercegovine je 8. januara 2001. godine donio odluku kojom se utvrđuje da ključne odredbe Zakona o potraživanjima građana nisu u skladu sa Ustavom Federacije Bosne i Hercegovine. Na taj način, efikasnost i daljnja primjena ovog Zakona su dovedeni u pitanje.

8. Dom je 11. oktobra 2002. godine uručio odluku o prihvatljivosti i meritumu u predmetu broj *CH/97/104 i dr.*, *Todorović i drugi protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine* (u daljnjem tekstu: odluka *Todorović i drugi)*. U ovoj odluci, Dom je odlučio, *inter alia*, da stanje pravne nesigurnosti koje proističe iz odluke Ustavnog suda Federacije Bosne i Hercegovine, te

činjenica da Federacija Bosne i Hercegovine nastavlja da primjenjuje zakone koji su proglašeni neustavnima, nepostojanja odgovarajućih izmjena tih zakona, te nedostupnosti obeštećenja na domaćim sudovima, sve zajedno, predstavlja nesrazmjerno uplitanje u imovinska prava podnosilaca prijava. Time Federacija Bosne i Hercegovine krši prava podnosilaca prijava na mirno uživanje imovine u skladu s članom 1. Protokola broj 1 uz Evropsku konvenciju. Dom je utvrdio da je i Bosna i Hercegovina prekršila član 1. Protokola broj 1 uz Evropsku konvenciju po osnovu opće angažovanosti i odgovornosti Države za staru deviznu štednju, te njenog nepreduzimanja odgovarajućih radnji s tim u vezi. Dom je naredio, *inter alia*, da Federacija Bosne i Hercegovine, u roku od šest mjeseci od dana donošenja odluke, donese relevantne i obavezujuće zakone i propise kojima se jasno reguliše problem stare devizne štednje na način koji je u skladu sa članom 1. Protokola broj 1 uz Evropsku konvenciju.

9. Dom je 4. jula 2003. godine uručio Odluku o daljnjim pravnim lijekovima u predmetu broj CH/97/48 i dr, *Poropat i drugi*, uključujući sve podnosioce prijava iz prethodnih odluka *Poropat i drugi* i *Todorović i drugi*. Dom je zaključio da ni Bosna i Hercegovina, niti Federacija Bosne i Hercegovine, nisu preduzele nikakve relevantne korake za izvršenje odluka Doma. Time su nastavile s kršenjem prava podnosilaca prijava prema članu 1. Protokola broj 1 uz Evropsku konvenciju. Dom je, zbog toga, smatrao odgovarajućim da naredi daljnje pravne lijekove, uključujući, *inter alia*, isplatu novca svakom od podnosilaca prijava. Dom je, između ostalog, naredio da se u roku jednog mjeseca od datuma uručenja odluke, svakom konkretnom podnosiocu prijave isplati iznos od 2.000 konvertibilnih maraka (u daljnjem tekstu: KM), ili puni iznos njene/njegove stare devizne štednje, u zavisnosti od toga koji je iznos manji, te da će teret ovih isplata snositi tužene strane podjednako.

10. Dom je 7. novembra 2003. godine uručio Odluku u prihvatljivosti i meritumu u predmetu broj *CH/98/377 i dr, Đurković i drugi protiv Bosne i Hercegovine, Federacije Bosne i Hercegovine i Republike Srpske.* U ovoj Odluci, Dom je zaključio, *inter alia*, da situacija u Federaciji Bosne i Hercegovine u pogledu stare devizne štednje, uzeta u cjelini, stavlja pojedinačan i pretjeran teret na mnoge štediše, uključujući i podnosioce prijava. Dom je priznao napore Federacije Bosne i Hercegovine da uspostavi "pravičnu ravnotežu" raznim izmjenama i dopunama važećih zakona koje su uslijedile nakon usvojenih odluka Doma. Međutim, zaključuje se da kakav god da je bio mogući uticaj tih izmjena, odlukom Ustavnog suda Federacije Bosne i Hercegovine, njihova efikasnost je dovedena u pitanje. Dom je utvrdio da stvoreno stanje pravne neizvjesnosti – nastavljena primjena zakona u svjetlu odluke Ustavnog suda Federacije, nedostatak blagovremenih odgovarajućih izmjena tih zakona i očigledna nemogućnost obraćanja domaćim sudovima – stvara neproporcionalno uplitanje u imovinska prava podnosilaca prijava. U pogledu odgovornosti Bosne i Hercegovine, Dom je ostao na stanovištu da je Država generalno odgovorna za pitanja u vezi sa starom deviznom štednjom.

11. Na tragu novih rješenja, Parlament Federacije Bosne i Hercegovine je 20. novembra 2004. godine usvojio Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine ("Službene novine Federacije Bosne i Hercegovine", broj 64/04), (u daljnjem tekstu: Zakon o izmirenju obaveza). Ovim Zakonom, Federacija Bosne i Hercegovine je utvrdila da će se sveobuhvatno izmirenje unutrašnjeg duga prema fizičkim i pravnim licima izvršiti na način koji osigurava i podržava makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine. Utvrđeno je da se unutrašnji dug, između ostalog, odnosi i na obaveze po osnovu stare devizne štednje ostvarene kod najnižih poslovnih jedinica banaka na teritoriji Federacije Bosne i Hercegovine, u iznosu koji se utvrđuje u postupku verifikacije obaveza na način propisan ovim Zakonom. Međutim, u odnosu na obaveze po osnovu stare devizne štednje deponovane u Ljubljanskoj banci i Invest banci, Zakon o izmirenju obaveza je izričito propisao da će se iste rješavati u procesu sukcesije imovine bivše SFRJ.

12. Predmetne prijave se odnose na zahtjeve podnosilaca prijava da ostvare svoja potraživanja po osnovu stare devizne štednje, deponovane kod banaka sa sjedištem u bivšoj Republici Bosni i Hercegovini i kod banaka koje su imale sjedište u drugim republikama bivše SFRJ, sa najnižim poslovnim jedinicama na teritoriji današnje Federacije Bosne i Hercegovine. Čini se da su, na

podlozi zakonske regulative iz 1997. i 1998. godine, banke prebacile staru deviznu štednju ovih podnosilaca prijava na Jedinstvene račune građana u Federalnom zavodu za platni promet (u daljnjem tekstu: Zavod). Izuzetak čine određeni predmeti, gdje podnosioci prijave izričito navode da njihova devizna štednja nije evidentirana na Jedinstvenom računu građana kod Zavoda.

13. Prijave pokreću pitanja u vezi sa pravom podnosilaca prijava na mirno uživanje imovine po članu 1. Protokola broj 1 uz Evropsku konvenciju i pravom na pravičnu raspravu u razumnom roku u smislu člana u 6. Evropske konvencije.

II. POSTUPAK PRED DOMOM/KOMISIJOM

14. S obzirom na sličnost između činjenica u predmetima i žalbenih navoda podnosilaca prijava, Komisija je odlučila da prijave br. CH/98/366, CH/98/426, CH/98/430, CH/98/459, CH/98/462, CH/98/466, CH/98/469, CH/98/485, CH/98/486, CH/98/499, CH/98/505, CH/98/512, CH/98/513, CH/98/518, CH/98/527, CH/98/537, CH/98/538, CH/98/557, CH/98/568, CH/98/587, CH/98/589, CH/98/591, CH/98/593, CH/98/599, CH/98/600, CH/98/609, CH/98/621, CH/98/629, CH/98/630, CH/98/633, CH/98/639, CH/98/650, CH/98/674, CH/98/683, CH/98/684, CH/98/805, CH/98/1070, CH/98/1089, CH/99/1759, CH/99/1768, CH/99/2026, CH/99/2053, CH/99/2060, CH/99/2138, CH/99/2145, CH/99/2287, CH/99/2292, CH/99/2513, CH/99/2549, CH/99/2560, CH/99/2566, CH/99/2651, CH/99/2652, CH/99/2657, CH/99/2677, CH/99/2709, CH/99/2784, CH/99/2856, CH/99/2907, CH/99/2909, CH/99/2924, CH/99/2925, CH/99/2952, CH/99/2953, CH/99/2958, CH/99/2959, CH/99/2968, CH/99/2970, CH/99/2975, CH/99/2977, CH/99/2984, CH/99/3017, CH/99/3095, CH/99/3120, CH/99/3134, CH/99/3143, CH/99/3162, CH/99/3198, CH/99/3222, CH/99/3224, CH/99/3225, CH/99/3230, CH/99/3241, CH/99/3246, CH/99/3270, CH/99/3283, CH/99/3288, CH/99/3289, CH/99/3301, CH/99/3302, CH/99/3303, CH/99/3314, CH/99/3316, CH/99/3317, CH/99/3346, CH/99/3361, CH/99/3362 i CH/99/3384 spoji u skladu s pravilom 33. Pravila procedure Komisije istoga dana kada je usvojila ovu odluku.

15. Prijave su podnesene Domu u periodu od 18. februara 1998. do 22. decembra 1999. godine.

16. Dom je 30. maja 2003. godine proslijedio tuženim stranama, Bosni i Hercegovini i Federaciji Bosne i Hercegovine, jednu grupu predmeta, radi dostavljanja pismenih zapažanja o prihvatljivosti i meritumu prema članu 1. Protokola broj 1 uz Evropsku konvenciju. Tužena strana, Bosna i Hercegovina, je 10. juna 2003. godine dostavila Domu svoja pismena zapažanja. Federacija Bosne i Hercegovine je svoja pismena zapažanja dostavila 30. jula 2003. godine i dodatne informacije 12. decembra 2003. godine. Dom je podnosiocima prijava proslijedio pismena zapažanja tuženih strana i dodatne informacije tužene strane Federacije Bosne i Hercegovine.

17. Dom je 12. decembra 2003. godine proslijedio tuženim stranama, Bosni i Hercegovini i Federaciji Bosne i Hercegovine, grupu predmetnih prijava, radi dostavljanja pismenih zapažanja o prihvatljivosti i meritumu prema članu 6. Evropske konvencije i članu 1. Protokola broj 1 uz Evropsku konvenciju. Federacija Bosne i Hercegovine je svoja pismena zapažanja dostavila Komisiji 13. februara 2004. godine. Komisija je podnosiocima prijava proslijedila zapažanja o prihvatljivosti i meritumu tužene strane, Federacije Bosne i Hercegovine.

18. Tužena strana, Federacija Bosne i Hercegovine, je 8. decembra 2004. godine dostavila Komisiji dodatne informacije. Komisija je podnosiocima prijava proslijedila dodatne informacije tužene strane Federacije Bosne i Hercegovine.

19. Komisija je 27. januara 2005. godine proslijedila tuženim stranama, Bosni i Hercegovini i Federaciji Bosne i Hercegovine, preostali dio predmetnih prijava, radi dostavljanja pismenih zapažanja o prihvatljivosti i meritumu prema članu 1. Protokola broj 1 uz Evropsku konvenciju.

20. Komisija je 24. februara 2005. godine zaprimila pismena zapažanja tužene strane, Bosne i Hercegovine, a 25. februara 2005. godine je zaprimila pismena zapažanja Federacije Bosne i Hercegovine.

21. Komisija je podnosiocima prijava proslijedila zapažanja o prihvatljivosti i meritumu tuženih strana do dana donošenja ove Odluke.

22. Komisija je 31. januara 2005. godine zatražila od Kantonalnog suda u Sarajevu (u daljnjem tekstu: Kantonalni sud) Izvod iz sudskog registra za Ljubljansku banku d.d. Ljubljana i Investbanku Beograd, za period od 1990. godine do 6. aprila 1992. godine. Kantonalni sud je 10. februara 2005. godine dostavio Komisiji tražene informacije.

23. Komisija je pismenim dopisom od 18. februara 2005. godine pozvala Ured visokog predstavnika za Bosnu i Hercegovinu (u daljnjem tekstu: Ured Visokog predstavnika) da u postupku rješavanja predmeta devizne štednje pred Komisijom učestvuje u svojstvu *amicus curiae*. Ured Visokog predstavnika je 1. aprila 2005. godine dostavio svoje mišljenje.

24. Komisija je pismenim dopisom od 24. februara 2005. godine pozvala zastupnika Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini (u daljnjem tekstu: Udruženje štediša), da u postupku rješavanja predmeta devizne štednje pred Komisijom, učestvuje u svojstvu *amicus curiae*. Udruženje štediša je 14. marta 2005. godine dostavilo svoje mišljenje.

25. Mišljenje Udruženja štediša je proslijeđeno tuženim stranama 23. i 25. marta 2005. godine.

III. ČINJENICE

A. Činjenice u pojedinačnim predmetima

1. Predmet broj CH/98/366, Rabija HALILOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

26. Prijava je podnesena Domu 18. februara i registrovana je 10. aprila 1998. godine.

27. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 23.668,48 DEM, 1.609,14 USD i 4.957,85 LIT, a kod Ljubljanske banke 23.159,76 DEM, 1.258 LIT i 2.400,64 USD.

28. Podnosilac prijave je 11. februara 2005. godine obavijestila Komisiju da je opunomoćila gđu Amilu Omersoftić da zastupa njena prava preko Udruženja štediša kod Suda Bosne i Hercegovine i Evropskog suda za ljudska prava u Strazburu.

2. Predmet broj CH/98/426, Hašmeta ALIKADIĆ protiv Federacije Bosne i Hercegovine

29. Prijava je podnesena Domu 10. marta, a registrovana je 10. aprila 1998. godine.

30. Podnosilac prijave je polagala sredstva na devizne štedne knjižice Jugobanke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 98.503,73 DEM, a kod Ljubljanske banke 72.757,74 DEM.

31. Podnosilac prijave je 13. februara 2005. godine dostavila Komisiji informacije da je potpisala punomoć gđi Amili Omersoftić kao član Udruženja štediša, koje je pokrenulo postupke pred Sudom Bosne i Hercegovine i Evropskog suda za ljudska prava u Strazburu.

3. Predmet broj CH/98/430, Ekrem ULAK protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

32. Prijava je podnesena Domu 10. marta, a registrovana je 10. aprila 1998. godine.

33. Podnosilac prijave navodi da je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Podnosilac prijave navodi u prijavi da je iznos njegovog pologa kod Jugobanke 15.500 DEM, ali svoje navode nije potkrijepio relevantnom dokumentacijom. Čini se da je iznos njegovih pologa kod Ljubljanske banke 50.293,97 DEM i 2.732 ITL.

34. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

4. Predmet broj CH/98/459, Atija SABRIHAFIZOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

35. Prijava je podnesena Domu 19. marta, a registrovana je 13. aprila 1998. godine.

36. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 4.421,79 CHF, 1.628,87 USD i 4.517,64 DEM, kod Privredne banke 263,44 DEM, 395,6 USD, 119,55 CHF i kod Ljubljanske banke 67,24 SEK, 845,18 FRF, 4.288 ITL, 39,16 DEM, 584,32 CHF i 527,84 USD.

37. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

5. Predmet broj CH/98/462, M.Ć. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

38. Prijava je podnesena Domu 20. marta, a registrovana je 13. aprila 1998. godine.

39. Podnosilac prijave je bila ovlaštena da raspolaže sredstvima na deviznim štednim knjižicama svoga supruga M.Ć. kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih kod Jugobanke 24.287,45 DEM, 333,1 GBP i 7.457,31 CHF, a kod Ljubljanske banke 6.268,45 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 15. septembra 1999. godine, ukupano potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 31.370,02 KM.

40. Podnosilac prijave je 18. februara 2005. godine obavijestila Komisiju da je dio stare devizne štednje, koja je pretvorena u certifikate, u procesu privatizacije iskoristila za otkup stana. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 12. januara 2001. godine, preostali iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 7.876,26 KM.

41. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

6. Predmet broj CH/98/466, Ragib JASIKA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

42. Prijava je podnesena Domu 24. marta, a registrovana je 13. aprila 1998. godine.

43. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke 69.393,71 DEM, a kod Ljubljanske banke 67.720,53 DEM. Prema izvodu sa Jedinstvenog računa građana

Zavoda, od 10. februara 2005. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 69.905,63 KM.

44. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

7. Predmet broj CH/98/469, Dragoljub JANKOVIĆ protiv Federacije Bosne i Hercegovine

45. Prijava je podnesena Domu 24. marta, a registrovana je 13. aprila 1998. godine.

46. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Investbanke Beograd. Čini se da je iznos njegovih pologa kod Jugobanke 29.243,45 DEM i 9.854,67 USD, a kod Investbanke 8.380 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 72.750,42 KM.

47. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

8. Predmet broj CH/98/485, Maksim JOVANOVIĆ protiv Federacije Bosne i Hercegovine

48. Prijava je podnesena Domu 30. marta, a registrovana je 11. aprila 1998. godine.

49. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo, Ljubljanske banke d.d. Ljubljana i Investbanke Beograd. Čini se da je iznos pologa kod Jugobanke 8.199,74 DEM, kod Privredne banke 9.477,04 DEM, kod Ljubljanske banke na jednoj knjižici 2.126,79 DEM, a na drugoj 1.142,72 DEM i kod Investbanke 6.335,89 DEM. Podnosilac prijave navodi da je dio svoje stare devizne štednje pretvorio u certifikate i da preostali dio stare devizne štednje iznosi 17.805,14 DEM i 5.772,01 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 10. jula 2002. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 17.903,48 KM.

50. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

9. Predmet broj CH/98/486, Hankija HAJDARPAŠIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

51. Prijava je podnesena Domu 30. marta, a registrovana je 11. aprila 1998. godine.

52. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Privredne banke 874,07 DEM i 82,26 USD, kod Jugobanke 3.480,56 DEM i kod Ljubljanske banke 918,89 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 16. septembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 8.247,71 KM.

53. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

10. Predmet broj CH/98/499, Suada SARADŽIĆ protiv Bosne i Hercegovine

54. Prijava je podnesena Domu 3. aprila, a registrovana je 12. maja 1998. godine.

55. Podnosilac prijave navodi da je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Navodi da je iznos njene štednje kod Privredne banke 37.026,49 DEM, međutim ona nije dostavila kopiju štedne knjižice. Na osnovu kopije

devizne knjižice Ljubljanske banke, čini se da je iznos njenih pologa na jednoj štednoj knjižici 29.931,66 DEM, na drugoj 4.200,91 DEM, te na trećoj 1.524,68 DEM.

56. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

11. Predmet broj CH/98/505, Nimeta KULENOVIĆ protiv Federacije Bosne i Hercegovine i Rebublike Slovenije

57. Prijava je podnesena Domu 6. aprila 1998. godine i registrovana istog dana.

58. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, kod Ljubljanske banke d.d. Ljubljana i kod Investbanke Beograd. Čini se da je ukupan iznos njenih pologa kod Jugobanke 5,35 USD, kod Ljubljanske banke na jednoj štednoj knjižici 891,01 DEM, 647,17 USD, 1.110 FRF, a na drugoj 581,41 USD i na trećoj 464,95 DEM, 1.094,55 USD, 2.060,99 ATS i 92.111 ITL i kod Investbanke 234,98 DEM.

59. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

12. Predmet broj CH/98/512, Milan STANIĆ protiv Federacije Bosne i Hercegovine

60. Prijava je podnesena Domu 9. aprila 1998. godine i registrovana istog dana.

61. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je ukupan iznos njegovih pologa kod Jugobanke na jednoj knjižici 300 DEM, 5.003,25 ATS, a na drugoj knjižici 5.800 DEM i 110,36 CHF, te kod Ljubljanske banke 2.258,74 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 23. decembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 9.380,75 KM.

62. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

13. Predmet broj CH/98/513, Bosa RODIĆ protiv Federacije Bosne i Hercegovine

63. Prijava je podnesena Domu 9. aprila 1998. godine i registrovana istog dana.

64. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Privredne banke na jednoj knjižici 1.685,07 DEM i na drugoj knjižici 292,8 DEM i 67,73 USD, a kod Ljubljanske banke 6 CAD, 408,07 DEM i 1.430,87 USD.

65. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

14. Predmet broj CH/98/518, Ale LIZALOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

66. Prijava je podnesena Domu 10. aprila, a registrovana je 12. aprila 1998. godine.

67. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo, Ljubljanske banke d.d. Ljubljana i Investbanke Beograd. Čini se da je iznos njegovih pologa kod Jugobanke 18.835,34 USD, kod Privredne banke 8.499,82 DEM, kod Ljubljanske banke 1.795,63 CHF, 3.265,8 DEM, 1.150,83 USD i 4.846,26 ATS i kod Investbanke 186,87 USD i 5.132,91 FRF.

68. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

15. Predmet broj CH/98/527, Dimšo ĐURIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

69. Prijava je podnesena Domu 13. aprila, a registrovana je 12. maja 1998. godine.

70. Podnosilac prijave postavlja zahtjev za povrat stare devizne štednje koju su on, njegova supruga M.Đ. i njihove kćerka O.Đ. i S.Đ. polagali kod Privredne banke Sarajevo, Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana.

71. Čini se da je iznos njihovih pologa kod Privredne banke 8.762,6 DEM (knjižica glasi na ime podnosioca prijave), 1.530,45 DEM (na ime O.Đ) i 4.752,41 DEM (na ime S.Đ). Iznos pologa kod Jugobanke je 1.687,66 DEM i glasi na ime podnosioca prijave, te 1.004,89 DEM na ime kćerke O.Đ. Iznos pologa kod Ljubljanske banke je 2.608,77 DEM na ime supruge M. Đ.

72. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 6. marta 2001. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 17.013,89 KM (čini se da su u ovaj iznos uračunata i devizna sredstva ostvarena na štednim knjižicama kćerki podnosioca prijave). Također, podnosilac prijave je dostavio kopiju izvoda sa Jedinstvenog računa građana Zavoda, od 19. maja 2000. godine, na ime njegove supruge M.Đ, kojim se utvrđuje da njeno potraživanje po osnovu stare devizne štednje iznosi 2.628,34 KM.

73. Međutim, Komisija zapaža da podnosilac prijave nije dostavio ovjerene punomoći kojima ga supruga i kćerke ovlašćuju za zastupanje pred Komisijom u postupku povrata stare devizne štednje.

74. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

16. Predmet broj CH/98/537, Fatima ARAPOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

75. Prijava je podnesena Domu 15. aprila, a registrovana je 13. maja 1998. godine.

76. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Također, ovlaštena je da raspolaže sredstvima stare devizne štednje svoje kćerke, S.A. Čini se da je ukupan iznos pologa kod Jugobanke 3.906,69 USD i 4.347,94 DEM, a kod Ljubljanske banke 7.305,65 DEM. Čini se da je iznos koji je polagan kod Ljubljanske banke, na ime S.A, 11.393,87 DEM.

77. Podnosilac prijave je 5. februara 2004. godine dostavila Komisiji pismo u kojem navodi da je pored gore navedenog iznosa stare devizne štednje polagala i 332,38 CHF kod Jugobanke, ali svoje navode nije potkrijepila relevantom dokumentacijom.

78. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

17. Predmet broj CH/98/538, Zejnil BRKOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

79. Prijava je podnesena Domu 16. aprila, a registrovana je 13. maja 1998. godine.

80. Podnosioca prijave je ovlastio njegov sin, M.B, da raspolaže sredstvima na deviznim štednim knjižicama kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je

ukupan iznos pologa na ime M.B. kod Jugobanke 3.944,43 DEM i 236,19 CHF, a kod Ljubljanske banke 9.600,01 DEM i 21,19, USD.

81. Podnosilac prijave je 13. februara 2005. godine dostavio pismo Komisiji u kojem navodi da je sredstva stare devizne štednje u iznosu od 13.814,21 KM uložio u PIF "Bonus" d.d. Sarajevo.

82. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

18. Predmet broj CH/98/557, Ljubica PJANIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

83. Prijava je podnesena Domu 21. aprila, a registrovana je 14. maja 1998. godine.

84. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 5.523,72 DEM, a kod Ljubljanske banke na jednoj knjižici 19.858,8 DEM, a na drugoj 6.693,06 DEM.

85. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

19. Predmet broj CH/98/568, V.S. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

86. Prijava je podnesena Domu 22. aprila, a registrovana je 15. maja 1998. godine.

87. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, kod Investbanke Beograd i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke na jednoj štednoj knjižici 1.112,91 DEM, na drugoj 7.839,39 DEM i na trećoj 10.433,63 DEM, kod Investbanke 19.703,48 DEM i 77,01 USD, a kod Ljubljanske banke 15.776,7 DEM i 4.679,71 CHF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 26. septembra 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 29.018,79 KM.

88. Podnosilac prijave je 19. maja 2004. godine podnio zahtjev Agenciji za privatizaciju Federacije Bosne i Hercegovine radi ostvarenja potraživanja stare devizne štednje.

20. Predmet broj CH/98/587, Krešimir FILIPOVIĆ protiv Federacije Bosne i Hercegovine

89. Prijava je podnesena Domu 24. aprila, a registrovana je 15. maja 1998. godine.

90. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Investbanke Beograd i kod Jugoslovenske izvozne i kreditne banke. Čini se da je iznos njegovih pologa kod Investbanke 630 USD, a kod Jugoslovenske izvozno kreditne banke 1.003,51 DEM, 405,89 CHF i 34 USD.

91. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

21. Predmet broj CH/98/589, Vjekoslava BOŠNJAK protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

92. Prijava je podnesena Domu 24. aprila, a registrovana je 15. maja 1998. godine.

93. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Prema izvodu sa Jedinstvenog

računa građana Zavoda, od 8. maja 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje iznosi 3.870,37 KM. Podnosilac prijave nije dostavila kopiju knjižice kojom bi potvrdila svoje navode.

94. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

22. Predmet broj CH/98/591, Štefica MIJIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

95. Prijava je podnesena Domu 24. aprila, a registrovana je 15. maja 1998. godine.

96. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Privredne banke 46.586,59 DEM, a kod Ljubljanske banke 3.191,8 DEM i 440 CHF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 20. januara 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 50.147,87 KM.

97. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

23. Predmet broj CH/98/593, Lejla OSMANKOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

98. Prijava je podnesena Domu 24. aprila, a registrovana je 15. maja 1998. godine.

99. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Privredne banke 12.260,61 DEM i 2.564,96 CHF, kod Ljubljanske banke na jednoj štednoj knjižici 562,66 DEM, a na drugoj 2.027,07 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 2. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 15.201,57 KM.

100. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

24. Predmet broj CH/98/599, Šimo BOŠNJAK protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

101. Prijava je podnesena Domu 24. aprila, a registrovana je 15. maja 1998. godine.

102. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Privredne banke na jednoj knjižici 12.130,08 DEM, 244,5 USD, 50,04 FRF, 9,63 ATS (što potvrđuje kopija devizne knjižice) i na drugoj knjižici 1.048,14 DEM (nije dostavio kopiju devizne knjižice).

103. Podnosilac prijave navodi da su iznosi pologa kod Ljubljanske banke 96,3 DEM i kod Jugobanke 1.497,49 DEM, međutim, nije dostavio kopije deviznih knjižica.

104. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 14. maja 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 2.556,67 KM. Podnosilac prijave navodi da ovaj iznos obuhvata devizna sredstva polagana kod Ljubljanske banke, Jugobanke i sredstva polagana na drugoj knjižici kod Privredne banke.

105. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

25. Predmet broj CH/98/600, S.A. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

106. Prijava je podnesena Domu 24. aprila, a registrovana je 15. maja 1998. godine.

107. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini da je iznos njenih pologa kod Jugobanke 15.804,65 DEM, a kod Ljubljanske banke 6.197,92 DEM.

108. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

26. Predmet broj CH/98/609, H.A. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

109. Prijava je podnesena Domu 27. aprila, a registrovana je 15. maja 1998. godine.

110. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo, Ljubljanske banke d.d. Ljubljana, te Investbanke Beograd. Čini se da je iznos njegovih pologa kod Jugobanke 3.232,97 DEM, kod Privredne banke 8.569,04 DEM, kod Ljubljanske banke 1.821 DEM i kod Investbanke 3.320,88 USD.

111. Podnosilac prijave je 13. februara 2005. godine dostavio pismo Komisiji sa dodatnim informacijama u kojima navodi da, pored gore navedenih iznosa potraživanja stare devizne štednje, potražuje i 84.192,70 KM u "raznim bankama", međutim svoje navode nije potkrijepio relevantnom dokumentacijom. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 16. oktobra 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 103.476,41 KM.

112. Podnosilac prijave navodi da je kao član Udruženja štediša podnio tužbu pred Evropskim sudom za ljudska prava u Strazburu i Sudom Bosne i Hercegovine.

113. Podnosilac prijave je 26. oktobra 2004. godine podnio zahtjev Agenciji za privatizaciju u Federaciji Bosne i Hercegovine, radi ostvarenja potraživanja po osnovu stare devizne štednje.

27. Predmet broj CH/98/621, Mirjana VUKOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

114. Prijava je podnesena Domu 30. aprila, a registrovana je 15. maja 1998. godine.

115. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 14.536,32 DEM, 17.646,66 ATS 78,65 USD i 6,93 GBP, a kod Ljubljanske banke 1.169,31 DEM, 3.287,02 ATS, 78,18 USD i 1,35 AUD.

116. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

28. Predmet broj CH/98/629, Danko BRNJIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

117. Prijava je podnesena Domu 6. maja, a registrovana je 15. maja 1998. godine.

118. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke na jednoj štednoj knjižici 2.604,43 DEM i na drugoj 7.203,36 DEM, kod Privredne banke 7.187,57 DEM, te kod Ljubljanske banke 12.079,49 DEM. Prema izvodu sa

Jedinstvenog računa građana Zavoda, od 30. decembra 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 29.440,07 KM.

119. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

29. Predmet broj CH/98/630, Fikreta MULAOMEROVIĆ protiv Federacije Bosne i Hercegovine

120. Prijava je podnesena Domu 6. maja, a registrovana je 15. maja 1998. godine.

121. Podnosilac prijave je polagala sredstva na devizne štedne knjižice Jugobanke Sarajevo i Investbanke Beograd. Čini se da je iznos pologa kod Jugobanke 42.738,28 DEM, 241,38 GBP, 564,36 USS, 805,80 ASCH, 4.767,60 FF i 31.491,15 DEM, a kod Investbanke 10.240,05 USD.

122. Podnosilac prijave je 15. februara 2005. godine dostavio pismo Komisiji u kojem navodi da je dio svoje stare devizne štednje u iznosu od 16.936,13 KM uložila u PIF "Profi Plus" d.d. Sarajevo. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 30. januara 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje iznosi 0,00 KM, s obzirom da je 16.936,13 KM uložila u PIF "Profi Plus" d.d. Sarajevo. S obzirom da je iznos stare devizne štednje uložen u PIF "Profi Plus" d.d. Sarajevo bitno manji od ukupnog iznosa gore navedene stare devizne štednje, visina iznosa potraživanja prema bankama će se utvrditi u postupku verifikacije.

123. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

30. Predmet broj CH/98/633, Karmena DUDAK protiv Federacije Bosne i Hercegovine

124. Prijava je podnesena Domu 8. maja, a registrovana je 15. maja 1998. godine.

125. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 5.818,48 DEM, a kod Ljubljanske banke 3.654.64 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 1. oktobra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 4.305,20 KM.

126. Podnosilac prijave je 21. februara 2005. godine dostavila pismo Komisiji u kojem navodi da je jedan dio devizne štednje, položene kod Jugobanke, iskoristila u procesu privatizacije za otkup svog prijeratnog stana. Podnosilac prijave također navodi da je preostali iznos pologa kod Jugobanke 608,2 DEM, a kod Ljubljanske banke 3.697 DEM.

127. Podnosilac prijave je 15. maja 1991. godine podnijela tužbu Osnovnom sudu I u Sarajevu protiv Ljubljanske banke radi isplate devizne štednje. Osnovni sud I u Sarajevu je 24. septembra 1991. godine donio rješenje, broj P. 1487/91, kojim se određuje mirovanje postupka.

128. Osnovni sud I u Sarajevu je 23. januara 1992. godine donio rješenje, broj: P-1487/9, kojim se tužba u navedenoj pravnoj stvari smatra povučenom, jer stranke (podnosilac prijave i zastupnik Ljubljanske banke), iako uredno obaviještene, nisu pristupile ročištu zakazanom 23. januara 1992. godine.

31. Predmet broj CH/98/639, Momir ĆEĆEZ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

129. Prijava je podnesena Domu 11. maja, a registrovana je 25. maja 1998. godine.

130. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke na jednoj štednoj knjižici 20.885,15 DEM, na drugoj 21.210,13 DEM i na trećoj 48.581,99 DEM, kod Privredne banke 20.125,29 DEM i kod Ljubljanske banke 23.021,08 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 5. decembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 145.107,38 KM.

131. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

32. Predmet broj CH/98/650, Uzeir BAŠIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

132. Prijava je podnesena Domu 19. marta, a registrovana je 9. juna 1998. godine.

133. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke 391,26 DEM i kod Ljubljanske banke 3.390,14 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 12. maja 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 3.810,03 KM.

134. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

33. Predmet broj CH/98/674, Ana MRDOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

135. Prijava je podnesena Domu 4. juna, a registrovana je 9. juna 1998. godine.

136. Suprug podnosioca prijave je polagao sredstva na deviznu štednu knjižicu kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Ljubljanske banke 37.342,44 USD, 1.167,75 DEM, 764,81 CHF, 708,21 ATS i 18.647 ITL. Na kopiji štedne knjižice stoji naznaka banke da je podnosilac prijave rješenjem o nasljeđivanju br.0-675/96 od 3. juna 1996. godine naslijedila deviznu štednju nakon smrti svoga supruga. Podnosilac prijave nije dostavila Komisiji rješenje o nasljeđivanju.

137. Podnosilac prijave je 15. februara 2005. godine dostavila pismo Komisiji u kojem navodi da je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo, međutim nije dostavila kopiju štedne knjižice kojom bi potkrijepila svoje navode. Prema Izvodu sa Jedinstvenog računa građana Zavoda, od 30. augusta 2002. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 643,15 KM.

138. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

34. Predmet broj CH/98/683, J.S. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

139. Prijava je podnesena Domu 11. juna 1998. godine i registrovana istog dana.

140. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke na jednoj štednoj knjižici 21.250,75 DEM, 475,97 GBP, 3.270,69 USD, na drugoj 2.413,72 DEM 16,05 LSTG i 9,91 GBP, te na trećoj 974,79 DEM i 46,64 GBP, kod Privredne banke na jednoj štednoj knjižici 21.862,44 DEM i na drugoj 9.508,85 DEM i kod

Ljubljanske banke na jednoj štednoj knjižici 8,67 DEM i 245,89 USD, te na drugoj 17.388,37 DEM, 13.167,02 FRF, 6.635,00 ITL, 490,28 USD.

141. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

35. Predmet broj CH/98/684, M.S. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

142. Prijava je podnesena Domu 11. juna 1998. godine i registrovana istog dana.

143. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke 32.818,68 DEM, 3762,06 FRF, 3.729,26 ITL, 69,01 GBP, 66,28 CHF i 324,81 ATS, a kod Ljubljanske banke 10.389,56 DEM, 74,62 USD i 1.109 ITL.

144. Podnosilac prijave navodi da je imao još jednu štednu knjižicu kod Jugobanke gdje je iznos njegovih pologa bio 10.225,80 ATS, 22.780,80 FRF, 26.930,54 DEM, 11.226,97 ITL, 5,33 GBP i 72,85 USD. Međutim, nije dostavio relevantnu dokumentaciju kojom bi potkrijepio svoje navode.

145. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

36. Predmet broj CH/98/805, Husnija FETAHAGIĆ protiv Federacije Bosne i Hercegovine

146. Prijava je podnesena Domu 28. juna 1998. godine i registrovana istog dana.

147. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Privredne banke 6.170,67 DEM, a kod Ljubljanske banke 8.161,04 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 6. aprila 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 14.290, 35 KM.

148. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

37. Predmet broj CH/98/1070, Ljiljana VUKOVIĆ protiv Federacije Bosne i Hercegovine

149. Prijava je podnesena Domu 17. novembra, a registrovana je 18. novembra 1998. godine.

150. Podnosilac prijave je polagala sredstva na devizne štedne knjižice Privredne banke Sarajevo, Jugobanke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Privredne banke 511,83 DEM, a kod Ljubljanske banke 4.188,42 DM, 268.936,00 LIT i 1.817,96 DEM.

151. Podnosilac prijave je dostavila štedne knjižice svoga supruga Jugobanke i Privredne banke, na kojima nije ovlašteno lice. Čini se da je iznos pologa kod Jugobanke 1.086,14 DEM, 611,56 USD i 1.311,25 CHF, a kod Privredne banke 457,82 DEM.

152. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

38. Predmet broj CH/98/1089, A.S. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

153. Prijava je podnesena Domu 19. novembra, a registrovana je 24. novembra 1998. godine.

154. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Privredne banke 26.471,4 DEM, a kod Ljubljanske banke na jednoj štednoj knjižici 659,18 USD i 7.931,33 DEM, na drugoj 7.891,43 DEM, na trećoj 2.939,56 DEM i na četvrtoj knjižici 3.380,79 DEM.

155. Podnosilac prijave je 27. marta 1991. godine podnio tužbu Osnovnom sudu II u Sarajevu (u daljnjem tekstu: Osnovni sud) protiv Ljubljanske banke radi isplate devizne štednje. Osnovni sud je donio presudu, broj P-1443/91 od 23. septembra 1991. godine, kojom je naloženo Ljubljanskoj banci da podnosiocu prijave isplati cjelokupan iznos devizne štednje.

156. Ljubljanska banka je podnijela žalbu na navedenu presudu. Viši sud u Sarajevu je donio presudu, broj Gž:784/92, od 23. marta 1994. godine, kojom je uvažio žalbu i preinačio pobijanu presudu, tako da je odbio tužbeni zahtjev tužitelja. Podnosilac prijave je 10. juna 1997. godine izjavio reviziju protiv presude Višeg suda. Međutim, podnosilac prijave nije obavijestio Komisiju o daljnjem toku ovog postupka.

157. Podnosilac prijave je podnio tužbu Općinskom sudu u Konjicu (u daljnjem tekstu: Općinski sud) protiv Privredne banke Sarajevo, radi isplate devizne štednje. Općinski sud je donio presudu, broj P:72/92, od 20. novembra 2002. godine, kojom je odbijen tužbeni zahtjev podnosioca prijave. Odlučujući po žalbi podnosioca prijave, Kantonalni sud u Mostaru je donio presudu, broj Gž:149/03, od 4. septembra 2003. godine, kojom je žalba odbijena i potvrđena prvostepena presuda.

158. Podnosilac prijave je 11. februara 2005. godine obavijestio Komisiju da je jedan dio svoje devizne štednje iskoristio u procesu privatizacije za otkup stana, a drugi dio je uložio u PIF BIG-Investiciona grupa d.d. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 13. septembra 2000. godine, preostalo potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 63,46 KM.

39. Predmet broj CH/99/1759, Vahid BAHTIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

159. Prijava je podnesena Domu 23. marta, a registrovana je 25. marta 1999. godine.

160. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Privredne banke na jednoj štednoj knjižici 768,12 USD i 174,29 DEM, te na drugoj 51.219,49 DEM, a kod Ljubljanske banke 5.516,97 DEM i 272,89 CHF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, čini se da je podnosilac prijave dio svoje stare devizne štednje iskoristio u procesu privatizacije za kupovinu dionica PIF BIG Investiciona grupa d.d, tako da je preostali iznos njegovog potraživanja po osnovu stare devizne štednje 51.219,49 KM.

161. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

40. Predmet broj CH/99/1768, Fajik ČELJO protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

162. Prijava je podnesena Domu 25. marta 1999. godine i registrovana istog dana.

163. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Privredne banke 2,776.51 DEM, a kod Ljubljanske banke na jednoj štednoj knjižici 945,66 DEM i na drugoj 12.360 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 2.815.98 KM.

164. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

41. Predmet broj CH/99/2026, E.D. i Dž.D. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

165. Prijava je podnesena Domu 7. aprila 1999. godine i registrovana istog dana.

166. Podnosioci prijave su polagali sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana.

167. Čini se da je iznos pologa podnosioca prijave E.D. kod Privredne banke na jednoj štednoj knjižici 47.040,15 DEM, 11.719,23 USD i 7.169,95 CHF i na drugoj 13.415,74 DEM, 4.778,61 USD, 4.516,44 ITL i 1.581,84 FRF, a kod Ljubljanske banke 2.053,23 USD.

168. Čini se da je iznos pologa podnosioca prijave Dž.D. kod Ljubljanske banke 3.608,63 USD.

169. Podnosioci prijave su 31. marta 1992. godine podnijeli tužbu Osnovnom sudu I Sarajevo protiv Ljubljanske banke, radi naplate duga, povrata dinarskog depozita i isplate kamate. Općinski sud I Sarajevo je dopisom, broj P.1366/92, od 7. jula 1998. godine, pozvao podnosioce prijave da se izjasne da li ostaju kod tužbe. Podnosioci prijave su odgovorili da ostaju kod svog tužbenog zahtjeva. Ročišta po tužbi podnosilaca prijave su održana 24. novembra 1998. godine, 23. marta i 6. maja 1999. godine. Općinski sud I Sarajevo je 3. decembra 2002. godine donio rješenje, broj: P-1366/92, kojim se postupak u ovoj pravnoj stvari prekida. Podnosioci prijave su 31. januara 2003. godine Kantonalnom sudu Sarajevo izjavili žalbu protiv prvostepenog rješenja.

170. U vezi sa rješavanjem potraživanja stare devizne štednje ostvarene u Privrednoj banci Sarajevo, čini se da se podnosioci prijave nisu obraćali ni domaćim ni međunarodnim institucijama.

42. Predmet broj CH/99/2053, Radivoje ĐORDAN protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

171. Prijava je podnesena Domu 15. aprila 1999. godine i registrovana istog dana.

172. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke na jednoj štednoj knjižici 270,81 DEM i na drugoj 5.078,31 DEM, kod Privredne banke 127,54 DEM i kod Ljubljanske banke 5.206,39 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 10.768,82 KM.

173. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

43. Predmet broj CH/99/2060, Miralem i Zifa DAUTBEGOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

174. Prijava je podnesena Domu 19. aprila 1999. godine i registrovana istog dana.

175. Podnosioci prijave su polagali sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo, Ljubljanske banke d.d. Ljubljana i kod Investbanke Beograd. Čini se da je iznos pologa kod Jugobanke podnosioca prijave M.D. na jednoj štednoj knjižici 8.879,73 DEM i na drugoj 193,80 DEM, kod Privredne banke 6.348,37 DEM, kod Ljubljanske banke na jednoj štednoj knjižici 2.518,25 USD i 169,87 DEM i na drugoj 2.154,59 USD i kod Investbanke 82,09 DEM i 65,69 USD.

176. Čini se da je iznos pologa kod Privredne banke podnosioca prijave Z.D. na jednoj štednoj knjižici 827,46 DEM i na drugoj 123 DEM, 552,47 USD i 192.635,45 ITL, kod Ljubljanske banke 733,64 USD i 929,43 DEM.

177. Podnosioci prijava se nisu obraćali ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

44. Predmet broj CH/99/2138, Olivera NASTIĆ protiv Bosne i Hercegovine

178. Prijava je podnesena Domu 7. maja, a registrovana je 10. maja 1999. godine.

179. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 20.710,19 DEM, a kod Ljubljanske banke 2.342,38 DEM i 926,91 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 19. oktobra 1999. godine, čini se da je podnosilac prijave iskoristila dio svoje devizne štednje u iznosu od 3.325,92 DEM, tako da je preostali iznos njenog potraživanja po osnovu stare devizne štednje 17.587,7 KM.

180. Podnosilac prijave se obraćala Federalnoj agenciji za privatizaciju sa zahtjevom za rješavanje potraživanja stare devizne štednje.

45. Predmet broj CH/99/2145, Ivka LIVAJA protiv Federacije Bosne i Hercegovine

181. Prijava je podnesena Domu 10. maja, a registrovana je 11. maja 1999. godine.

182. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Također, navodi da je polagala devizna sredstva na štednoj knjižici kod Jugobanke, međutim, nije dostavila kopiju devizne štedne knjižice jer, kako navodi, štedne knižice su izgorjele u njenoj kući u toku ratnih dejstava. Na osnovu izvoda Central profit banke od 21. aprila 1998. godine, čini se da je iznos pologa ostvaren kod Privredne banke 16.157,15 DEM. Također, Ljubljanska banka je 27. maja 1998. godine izdala potvrdu o evidenciji deviznog štednog uloga podnosioca prijave u kojem se potvrđuje da je iznos njenog pologa kod Ljubljanske banke 5.405,8 DEM

183. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

46. Predmet broj CH/99/2287, Ž.K. protiv Federacije Bosne i Hercegovine

184. Prijava je podnesena Domu 4. juna, a registrovana je 9. juna 1999. godine.

185. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, kod Privredne banke Sarajevo, kod Investbanke Beograd i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke 1.961,52 CHF, kod Privredne banke 22.219,61 DEM, kod Investbanke 16.642,30 ATS i kod Ljubljanske banke 5.234,69 CHF.

186. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

47. Predmet broj CH/99/2292, Jela BALABAN protiv Federacije Bosne i Hercegovine

187. Prijava je podnesena Domu 7. juna, a registrovana je 14. juna 1999. godine.

188. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 11.324,89 DEM, kod Privredne banke 33.239,97 DEM i kod Ljubljanske banke 5.110,53 DEM i 7.945,98 DEM. Prema izvodu sa Jedinstvenog računa građana

Zavoda, od 20. juna 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 58.617,14 KM.

189. Podnosilac prijave navodi da je član Udruženja štediša, te da se pridružila kolektivnoj tužbi Udruženja pred Sudom za ljudska prava u Strazburu.

48. Predmet broj CH/99/2513, Dragan VUKŠA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

190. Prijava je podnesena Domu 9. juna, a registrovana je 15. juna 1999. godine.

191. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke 2.130,55 DEM i 13.822,98 USD, kod Privredne banke 426,89 DEM i kod Ljubljanske banke 14.823,15 DEM, 2.346,30 CHF i 125,32 DEM.

192. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

49. Predmet broj CH/99/2549, Ivan ĆUBEL protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

193. Prijava je podnesena Domu 17. juna, a registrovana je 21. juna 1999. godine.

194. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Investbanke Beograd. Čini se da je iznos njegovih pologa kod Privredne banke 5.270,98 CHF, 58.257,27 CHF, 206,75 DEM, 7.273,70 ATS i 1.830 DEM, a kod Investbanke 60.178,79 CHF i 582,32 CHF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 5. maja 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 256.166,51 KM.

195. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

50. Predmet broj CH/99/2560, Marko ANDRIJANIĆ protiv Bosne i Hercegovine

196. Prijava je podnesena Domu 18. juna, a registrovana je 22. juna 1999. godine.

197. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Investbanke Beograd. Čini se da je iznos njegovih pologa kod Privredne banke 13.887,09 DEM i 14.166,57 CHF, a kod Investbanke 4.035,49 DEM.

198. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

51. Predmet broj CH/99/2566, Mirjana PETROVIĆ protiv Federacije Bosne i Hercegovine

199. Prijava je podnesena Domu 21. juna, a registrovana je 23. juna 1999. godine.

200. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 1.181,12 AUD, a kod Ljubljanske banke 4.523,64 USD,71,27 CHF i 19,98 USD.

201. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

52. Predmet broj CH/99/2651, Miroslav BUKVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

202. Prijava je podnesena Domu 5. jula, a registrovana je 6. jula 1999. godine.

203. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, Jugobanke i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Privredne banke 2.170,72 DEM, kod Jugobanke 49,47 CAN, 1.305,35 USD, 4.221,67 DEM na jednom računu, 1.397,35 CHF, 21.193,89 USD, 209,30 DEM na drugom računu, 1.514,99 CHF, 9.641,49 DEM, 464,92 FRF, 29.027,29 USD,123,51 CAD, te kod Ljubljanske banke na jednoj štednoj knjižici 17.537,04 USD, 2.918,97 DEM, 366,06 CAD, 89,37 GBP i 141,49 CHF, na drugoj 3.131,90 DEM, 103,44 CHF, 4.769,96 USD, 340,63 GBP, 172,90 CAD i 4,55 ATS, na trećoj 6.535 USD, 1.387,74 CHF, 6.893,98 DEM i 1.400 CAD i na četvrtoj 298,18 USD.

204. Prema stanju spisa, čini se da je podnosilac prijave jedan dio deviznih sredstava uložio u Privatizacijski investicioni fond "MI-GROUP" d.d. Sarajevo. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 12. jula 2004. godine, ukupan preostali iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 45.956,18 KM.

205. Podnosilac prijave navodi da je član Udruženja štediša, te da se pridružio kolektivnoj tužbi Udruženja pred Evropskim sudom za ljudska prava u Strazburu i Sudom Bosne i Hercegovine.

53. Predmet broj CH/99/2652, Nenad BUKVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

206. Prijava je podnesena Domu 5. jula, a registrovana je 6. jula 1999. godine.

207. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke na jednoj knjižici 830 USD, na drugoj 5,41 DEM, 2.200 ASCH, 213,61 USD, na trećoj 14,87 USD i na četvrtoj knjižici 7.275,03 DEM i 1.077,3 USD, te kod Ljubljanske banke na jednoj štednoj knjižici 389,22 DEM, na drugoj 5.530,82 DEM i na trećoj 124,25 LSTG i 37,87 DEM.

208. Prema stanju spisa, čini se da je podnosilac prijave jedan dio deviznih sredstava uložio u Privatizacijski investicioni fond "MI-GROUP" d.d. Sarajevo. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 12. jula 2004. godine, ukupan preostali iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 10.691,45 KM.

209. Podnosilac prijave navodi da je član Udruženja štediša, te da se pridružio kolektivnoj tužbi Udruženja pred Evropskim sudom za ljudska prava u Strazburu i Sudom Bosne i Hercegovine.

54. Predmet broj CH/99/2657, Danica TUCAK protiv Federacije Bosne i Hercegovine

210. Prijava je podnesena Domu 5. jula, a registrovana je 9. jula 1999. godine.

211. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 5.456,29 DEM, a iznos njenih pologa kod Ljubljanske banke 3.434,36 DEM.

212. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

55. Predmet broj CH/99/2677, Abdulah MEZILDŽIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

213. Prijava je podnesena Domu 12. jula, a registrovana je 14. jula 1999. godine.

214. Podnosilac prijave je tražio od Doma da izda privremenu mjeru zabrane privatizacije banaka do isplate duga. Predsjednica Doma je 15. jula 1999. godine donijela odluku da ne izda naredbu za privremenu mjeru.

215. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Privredne banke 1.380,71 DEM i 160,19 USD, kod Jugobanke, na jednoj knjižici 1.746,63 DEM, 218,74 CHF i 1.302,76 USD, a na drugoj, 6.200,76 DEM, te kod Ljubljanske banke 1.764,79 DEM.

216. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

56. Predmet broj CH/99/2709, Đorđo SULAVER protiv Federacije Bosne i Hercegovine

217. Prijava je podnesena Domu 19. jula, a registrovana je 26. jula 1999. godine.

218. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke na jednoj knjižici 46.166,21 DEM, 3.108,94 USD, a na drugoj 29.528,62 DEM i kod Ljubljanske banke 6.130,81 DEM.

219. Podnosilac prijave navodi da je član Udruženja štediša, te da se pridružio kolektivnoj tužbi Udruženja pred Evropskim sudom za ljudska prava u Strazburu i Sudom Bosne i Hercegovine.

57. Predmet broj CH/99/2784, Fuad AGANOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

220. Prijava je podnesena Domu 17. augusta, a registrovana je 20. augusta 1999. godine.

221. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Ljubljanske banke d.d. Ljubljana i kod Investbanke Beograd. Čini se da je iznos njegovih pologa kod Ljubljanske banke 752,44 CHF, 586 SCH, a kod Investbanke 146.387,61 LIT, 16,44 DEM, 1.212,32 USD, 3.197,45 ATS, 85,1 HFL.

222. Podnosilac prijave navodi da je polagao devizna sredstva na štednu knjižicu kod Jugobanke, te da je ostvario ukupan iznos štednje 2.865,43 DEM i 1.110,41 USA, međutim, nije dostavio kopiju devizne knjižice kojom bi potkrijepio svoje navode.

223. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

58. Predmet broj CH/99/2856, Milan MILJANOVIĆ protiv Federacije Bosne i Hercegovine

224. Prijava je podnesena Domu 10. septembra, a registrovana je 13. septembra 1999. godine.

225. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke na jednoj štednoj knjižici 1.152,77 ATS, 3.060,07 FRF, 4.106,31 DEM, 485.992,99 ITL, 0,67 NLG, 2.582,45 CHF, 74,96 GBP, 6.426,98 USD, a na drugoj 1.012,69 USD, 3.448,56 DEM, a kod Ljubljanske banke 590,99 USD.

226. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 24.802,01 KM.

227. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

59. Predmet broj CH/99/2907, Milivoj STAJIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

228. Prijava je podnesena Domu 23. septembra, a registrovana je 27. septembra 1999. godine.

229. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Investbanke Beograd i Ljubljanske banke d.d. Ljubljana. Čini se da je ukupan iznos njegovih pologa kod Jugobanke 3.394,71 DEM i 229,62 DEM, kod Investbanke 16.903,65 DEM, a kod Ljubljanske banke 5.568,43 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 23. septembra 2002. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 20.910,84 KM.

230. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

60. Predmet broj CH/99/2909, Kristina POPOVIĆ protiv Federacije Bosne i Hercegovine

231. Prijava je podnesena Domu 23. septembra, a registrovana je 27. septembra 1999. godine.

232. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 45.930,23 DEM, a kod Ljubljanske banke 2.287,27 CHF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 8. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 46.287,37 KM.

233. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

61. Predmet broj CH/99/2924, Milenka TOLEVSKI protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

234. Prijava je podnesena Domu 27. septembra, a registrovana je 28. septembra 1999. godine.

235. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Privredne banke 71,75 FRF, 987,98 DEM, 777,57 CHF i 1.147,74 LIT, a kod Ljubljanske banke 5.612,63 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 31. januara 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 5.690,60 KM.

236. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

62. Predmet broj CH/99/2925, Pavle TOLEVSKI protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

237. Prijava je podnesena Domu 27. septembra, a registrovana je 28. septembra 1999. godine.

238. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, Jugobanke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je ukupan iznos njegovih pologa kod Privredne banke 1.453,78 DEM, kod Jugobanke 3.429,91 DEM i 2.933,15 DEM, a kod Ljubljanske banke 355,79 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 31. januara 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 8.175,55 KM.

239. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

63. Predmet broj CH/99/2952, Ante SPAJIĆ protiv Bosne i Hercegovine

240. Prijava je podnesena Domu 1. oktobra, a registrovana je 4. oktobra 1999. godine.

241. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Privredne banke 17.681,94 DEM, kod Jugobanke 15.565,65 DEM i kod Ljubljanske banke 10.188,31 USD i 18.623,23 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. decembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 33.426,7 KM.

242. Podnosilac prijave navodi da je 21. septembra 2004. godine Kantonalnoj agenciji za privatizaciju podnio zahtjev za vraćanje devizne štednje u matične banke.

64. Predmet broj CH/99/2953, Ambrozije STANIĆ protiv Bosne i Hercegovine

243. Prijava je podnesena 1. oktobra, a registrovana je 4. oktobra 1999. godine.

244. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Privredne banke 2.170,48 DEM i 13.612,66 DEM, a kod Ljubljanske banke 11.646,25 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 27.878,35 KM.

245. Podnosilac prijave navodi da je 11. oktobra 2004. godine Kantonalnoj agenciji za privatizaciju podnio zahtjev za vraćanje devizne štednje u matične banke.

65. Predmet broj CH/99/2958, Mara HOFMAN protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

246. Prijava je podnesena 4. oktobra 1999. godine i registrovana istog dana.

247. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Investbanke Beograd i Ljubljanske banke d.d. Ljubljana. Čini se da je ukupan iznos njenih pologa kod Jugobanke 908,34 DEM, kod Investbanke 2.580,42 DEM, a kod Ljubljanske banke 3.108,44 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 6.649,24 KM.

248. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

66. Predmet broj CH/99/2959, Teodor HOFMAN protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

249. Prijava je podnesena Domu 4. oktobra 1999. godine i registrovana istoga dana.

250. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke 4.178,08 DEM, a kod Ljubljanske banke 765,90 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 4.998,05 KM.

251. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

67. Predmet broj CH/99/2968, D.Đ. protiv Federacije Bosne i Hercegovine

252. Prijava je podnesena Domu 5. oktobra 1999. godine i registrovana istog dana.

253. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo, Ljubljanske banke d.d. Ljubljana i Investbanke Beograd. Čini se da je iznos njegovih pologa kod Jugobanke 21,80 USD i 33,21 USD, kod Privredne banke 676,05 DEM i 7.146,91 DEM, kod Ljubljanske banke 421,43 USD, a kod Investbanke 2.493,71 USD, 544,71 USD, i 147,13 ASCH. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 9. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 13.046,94 KM. Podnosilac prijave je naveo da devizna štednja kod Ljubljanske banke nije evidentirana na jedinstvenom računu građana.

254. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

68. Predmet broj CH/99/2970, Smajil HADŽIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

255. Prijava je podnesena Domu 5. oktobra 1999. godine i registrovana istog dana.

256. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke 28.353,44 DEM, a kod Ljubljanske banke 10.458,73 DEM.

257. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

69. Predmet broj CH/99/2975, Branka TADIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

258. Prijava je podnesena Domu 6. oktobra 1999. godine i registrovana istog dana.

259. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenog pologa kod Privredne banke 2.682,68 DEM, a kod Ljubljanske banke 1.859,20 DEM.

260. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

70. Predmet broj CH/99/2977, Ranka VIDOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

261. Prijava je podnesena Domu 6. oktobra 1999. godine i registrovana istog dana.

262. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 7.422,07 USD, 36,25 CHF, 8.088,2 DEM, 3.826,76 USD i 3.245,78 DEM, a iznos njenih pologa kod Ljubljanske banke 21,42 NLG, 556,25 USD, 1.080,35 CHF, 103.699 ITL, 30,10 ATS, 2.053,69 DEM i 2.644,07 USD.

263. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

71. Predmet broj CH/99/2984, Darinka PLAVŠIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

264. Prijava je podnesena Domu 7. oktobra, a registrovana je 8. oktobra 1999. godine.

265. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Ljubljanske banke d.d. Ljubljana i Investbanke Beograd. Čini se da je iznos njenih pologa kod Jugobanke 3.499,76 DEM, kod Ljubljanske banke 3.780,51 DEM i kod Investbanke 1.229,22 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 8.652,72 KM.

266. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

72. Predmet broj CH/99/3017, Olga ALFIREVIĆ protiv Bosne i Hercegovine

267. Prijava je podnesena Domu 18. oktobra, a registrovana je 19. oktobra 1999. godine.

268. Suprug podnosioca prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke 2.369,21 DEM, a kod Ljubljanske banke 14.249,46 DEM.

269. Podnosilac prijave je 10. februara 2005. godine dostavila Komisiji rješenje o nasljeđivanju, broj 0:4942/96 od 12. decembra 1996. godine, kojim se ona iza smrti svog supruga P.A. proglašava nasljednikom prvog reda sa nasljednim dijelom 1/1.

270. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 21. aprila 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 16.753,8 KM.

271. Podnosilac prijave je član Udruženja štediša, te se pridružila kolektivnoj tužbi pred Evropskim sudom za ljudska prava u Strazburu i pred Sudom Bosne i Hercegovine.

73. Predmet broj CH/99/3095, Sulejman ŠEHOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

272. Prijava je podnesena Domu 2. novembra, a registrovana je 3. novembra 1999. godine.

273. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo, Ljubljanske banke d.d. Ljubljana i Investbanke Beograd. Čini se da je iznos njegovih pologa kod Jugobanke 1.326,92 DEM, kod Privredne banke 18.104,91 DEM, kod Ljubljanske banke 4.150,37 DEM i kod Investbanke 703,61 DEM.

274. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 2. maja 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 25.673,8 KM.

275. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

74. Predmet broj CH/99/3120, Đevdet DELALIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

276. Prijava je podnesena Domu 5. novembra, a registrovana je 8. novembra 1999. godine.

277. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, Jugobanke Sarajevo, Ljubljanske banke d.d. Ljubljana, Investbanke Beograd i Jugoslovenske izvozne i kreditne banke. Čini se da je iznos njegovih pologa kod Privredne banke

2.493,72 DEM, 18,53 USD i 27.997,29 LIT, kod Jugobanke banke 11.746,71 DEM i 404,17 USD, kod Ljubljanske banke 15.414,71 DEM, 13.922,45 DEM i 475,71 USD, kod Investbanke 13.177,47 DEM i 590,56 USD i kod Jugoslovenske izvozno kreditne banke 8.358,19 DEM, 300 USD i 581,15 CHF.

278. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

75. Predmet broj CH/99/3134, Atifa RAŠIDAGIĆ – FINCI protiv Bosne i Hercegovine

279. Prijava je podnesena Domu 8. novembra, a registrovana je 9. novembra 1999. godine.

280. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Ljubljanske banke d.d. Ljubljana i Privredne banke Sarajevo. Čini se da je iznos njenih pologa kod Jugobanke 2.886,08 DEM, kod Ljubljanske banke 4.195,52 DEM, 196,26 DEM i 7,08 CHF i kod Privredne banke 13,36 DEM, 73,57 USD i 510,53 CHF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 8.093,45 KM.

281. Podnosilac prijave navodi da je član Udruženja štediša, te da se pridružila kolektivnoj tužbi Udruženja pred Evropskim sudom za ljudska prava u Strazburu i Sudom Bosne i Hercegovine.

76. Predmet broj CH/99/3143, Mukerema SARAČEVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

282. Prijava je podnesena Domu 10. novembra, a registrovana je 11. novembra 1999. godine.

283. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 19.087,27 DEM, a kod Ljubljanske banke 22.170,41 DEM, 119,52 USD i 17.990,05 ATS.

284. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 44.344,90 KM.

285. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

77. Predmet broj CH/99/3162, Vasilije BJELICA protiv Bosne i Hercegovine

286. Prijava je podnesena Domu 11. novembra, a registrovana je 12. novembra 1999. godine.

287. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo i Investbanke Beograd. Čini se da je iznos njegovih pologa kod Jugobanke 235.654,50 DEM i 9.058,55 DEM, kod Privredne banke 56.727,46 DEM i kod Investbanke 22.171,3 USD i 4.096,67 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 5. februara 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 350.013,35 KM.

288. Podnosilac prijave je 18. februara 1992. godine podnio tužbu protiv Jugobanke Sarajevo pred Osnovnim sudom I Sarajevo, radi isplate devizne štednje. Osnovni sud je donio rješenje, broj P: 626/92 od 15. juna 1992. godine, kojim je određeno da se postupak u pravnoj stvari podnosioca prijave prekida sa danom 15. juni 1992. godine zbog proglašenja ratnog stanja u Republici Bosni i Hercegovini.

289. Podnosilac prijave navodi da je član Udruženja štediša, te da se pridružio kolektivnoj tužbi Udruženja pred Evropskim sudom za ljudska prava u Strazburu i Sudom Bosne i Hercegovine.

78. Predmet broj CH/99/3198, Mirko JARANOVIĆ protiv Bosne i Hercegovine

290. Prijava je podnesena Domu 19. novembra, a registrovana je 20. novembra 1999. godine.

291. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Privredne banke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke 2.331,20 DEM, kod Privredne banke 4.655,56 DEM i kod Ljubljanske banke 8.942,98 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 20. oktobra 2000. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 27.320,56 KM.

292. Podnosilac prijave navodi da je kao član Udruženja štediša, pokrenuo postupke pred relevantnim domaćim i međunarodnim institucijama radi ostvarenja potraživanja po osnovu stare devizne štednje.

79. Predmet broj CH/99/3222, Čedomir KANDIĆ protiv Federacije Bosne i Hercegovine

293. Prijava je podnesena Domu 24. novembra i registrovana je istog dana.

294. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Privredne banke 2.184,53 DEM, a kod Ljubljanske banke na jednoj štednoj knjižici 15.529,21 DEM i na drugoj 3.691,16 DEM, 746,01 ATS i 124,06 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 20.795,71 KM.

295. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

80. Predmet broj CH/99/3224, Mirko ILIĆ protiv Bosne i Hercegovine

296. Prijava je podnesena Domu 24. novembra i registrovana je istog dana.

297. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovih pologa kod Jugobanke 11.591,23 DEM, a kod Ljubljanske banke 616,98 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 14. decembra 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 12.543,03 KM.

298. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

81. Predmet broj CH/99/3225, Kornelija ILIĆ protiv Bosne i Hercegovine

299. Prijava je podnesena Domu 24. novembra i registrovana je istog dana.

300. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 4.377,54 DEM, a kod Ljubljanske banke 345,54 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 14. decembra 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 4.767,56 KM.

301. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

82. Predmet broj CH/99/3230, A. H. protiv Federacije Bosne i Hercegovine

302. Prijava je podnesena Domu 24. novembra 1999. godine i registrovana je istog dana.

303. Podnosilac prijave je zajedno sa suprugom i djecom polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, Jugobanke Sarajevo i Investbanke Beograd. Čini se da su iznosi pologa kod Privredne banke na ime A.H. 1.125,28 DEM, 7.389,39 USD, 3.261,50 CHF i 1.087,73 DEM, 1.980,89 DEM, 2.813,59 DEM, 45.274,25 DEM, 90,71 USD i 568,8 USD, a na ime N.H. 338,48 DEM, na ime M.H. 761,31 DEM i 447 (oznaka valute nije čitljiva iz priložene kopije štedne knjižice), na ime H. A. 1.108,1 DEM. Čini se da su iznosi pologa kod Jugobanke na ime A.H. 4.293,06 DEM, 1,84 DEM i 2.007,17 BFRS, te kod Investbanke na ime H.A. 259,64 LIT. Podnosilac prijave nije dostavio punomoć kojom ga članovi obitelji ovlašćuju na zastupanje u postupku pred Komsiijom.

304. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

83. Predmet broj CH/99/3241, Miroslava VIDIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

305. Prijava je podnesena Domu 29. novembra, a registrovana je 30. novembra 1999. godine.

306. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 5.835,20 DEM, a kod Ljubljanske banke 3.317,91 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 5. februara 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 9.221,05 KM.

307. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

84. Predmet broj CH/99/3246, Miodrag SAVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

308. Prijava je podnesena Domu 29. novembra, a registrovana je 30. novembra 1999. godine.

309. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Ljubljanske banke d.d. Ljubljana i Investbanke Beograd. Čini se da je iznos njegovih pologa kod Jugobanke je 1.505,60 DEM, 1.002,9 USD, 382,52 ATS, 729,46 BEF, 55,58 FRF i 77,49 ITL, kod Ljubljanske banke na jednoj štednoj knjižici 6.818,86 DEM, 572,69 FRF i na drugoj 0,42 USD, 62.082 LIT, 27,79 DEM, 8,4 CHF, 15,96 SCH, 1.127,18 FRF i 6,14 ATS i kod Investbanke 1.111,87 ASCH, 171,212,90 LIT, 128,96 DEM i 475,18 FRF.

310. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

85. Predmet broj CH/99/3270, Nedica BOGIĆEVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

311. Prijava je podnesena Domu 2. decembra, a registrovana je 6. decembra 1999. godine.

312. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Privredne banke 52.250 DEM, a kod Ljubljanske banke 14.375,88 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 26. decembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 54.277,54 KM.

313. Podnosilac prijave navodi da je dio devizne štednje iskoristila u procesu privatizacije za otkup stana. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 30. augusta 2002. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 54.277,54 KM.

314. Podnosilac prijave navodi da je član Udruženja štediša, te da se pridružila kolektivnoj tužbi Udruženja pred Evropskim sudom za ljudska prava u Strazburu i Sudom Bosne i Hercegovine.

86. Predmet broj CH/99/3283, Sehija ŠAHOVIĆ - ALIREJSOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

315. Prijava je podnesena 3. decembra, a registrovana je 6. decembra 1999. godine.

316. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 19.637,23 DEM i 2.617,59 DEM, a kod Ljubljanske banke 16.387,56 DEM.

317. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 39.759,84 KM.

318. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

87. Predmeti broj CH/99/3288 i CH/99/3289, Nusreta GORO i Ismeta PLOČO protiv Federacije Bosne i Hercegovine

319. Prijave su podnesene 3. decembra, a registrovane su 6. decembra 1999. godine.

320. Podnosioci prijava postavljaju zahtjev za povrat devizne štednje koju su ulagale kod Investbanke Beograd. Čini se da je iznos pologa podnosioca prijave N.G. 3.438,88 ŠKR, a iznos pologa podnosioca prijave I.P. je 580,65 USD.

321. Također, podnosioci prijava postavljaju zahtjev za povrat devizne štednje koju su zajedno sa svojim umrlim bratom I.G. polagale kod Privredne banke Sarajevo i kod Investbanke Beograd. Na temelju zabilježbe koja je sačinjena na deviznoj knjižici Privredne banke 25. marta 1998. godine i 6. aprila 1998. godine saznaje se da su podnosioci prijava u ostavinskom postupku iza smrti I.G. stekle po ½ potraživanja njegove devizne ušteđevine kod Privredne banke što iznosi po 42.306,69 DEM. Također, u kopiji devizne knjižice Investbanke stoji zabilježba da podnosioci prijava stiču polovinu položenih deviznih sredstava iza svoga umrlog brata I.G. u iznosu od po 519,17 DEM i po 63.948,44 ŠKR.

322. Prema izvodu sa Jedinstvenog računa građana Zavoda na ime N.G, od 16. septembra 1999. godine, ukupan iznos njenog potraživanja po osnovu stare devizne štednje je 62.669,97 KM.

323. Prema izvodu sa Jedinstvenog računa građana Zavoda na ime I.P, od 4. maja 1999. godine, ukupan iznos njenog potraživanja po osnovu stare devizne štednje je 68.851,43 KM.

324. Podnosioci prijava se nisu obraćale ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

88. Predmeti broj CH/99/3301 Nadežda ŠEHOVAC-PAVIČEVIĆ protiv Bosne i Hercegovine, Federacije Bosne i Hercegovine i Republike Slovenije i CH/99/3303 Tomo GOLAC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

325. Prijave su podnesene 7. decembra, a registrovane su 10. decembra 1999. godine.

326. Podnosilac prijave N.Š.P. postavlja zahtjev za povrat devizne štednje koju je polagala kod Jugobanke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod

Jugobanke 89.316,21 DEM, 16.518,69 DEM i 1.227,15 DEM, a kod Ljubljanske banke na jednoj knjižici 6.797,24 USD, 10.975,39 DEM i 7.976,30 CHF, te na drugoj 428,89 USD. Također, ona postavlja zahtjev za povrat devizne štednje koju je naslijedila iza smrti podnosioca prijave T.G, polagane kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa na jednoj knjižici 15.936,24 DEM i na drugoj 1.905,11 DEM.

327. Općinski sud II Sarajevo je u ostavinskom postupku iza smrti T.G. donio rješenje o nasljeđivanju, broj:O-2118/02, od 26. marta 2003. godine, kojim se proglašava da je podnosilac prijave N.Š.P. testamentarna nasljednica sa dijelom 1/1.

328. Na osnovu rješenja o nasljeđivanju od 26. marta 2003. godine Zavod je potraživanje podnosioca prijave T.G. po osnovu stare devizne štednje prebacio na Jedinstveni račun građana na ime podnosioca prijave N.Š.P. Ukupan iznos potraživanja po osnovu stare devizne štednje koji je evidentiran na Jedinstvenom računu građana na ime N.Š.P, a koji uključuje njenu deviznu štednju, kao i deviznu štednju naslijeđenu iza podnosioca prijave, je 126.464,08 KM.

329. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

89. Predmet broj CH/99/3302, Nina SCIPIONI protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

330. Prijava je podnesena 7. decembra, a registrovana je 10. decembra 1999. godine.

331. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, Ljubljanske banke d.d. Ljubljana i Privredne banke Sarajevo. Čini se da je iznos njenih pologa kod Jugobanke na jednoj štednoj knjižici 4.519,76 DEM i na drugoj 1.322,15 DEM i 1.759,20 dinara, te kod Ljubljanske banke 7.370,80 dinara i kod Privredne banke 7.226,50 dinara.

332. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

90. Predmet broj CH/99/3303, Tomo GOLAC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine (vidi redni broj predmeta 88)

91. Predmet broj CH/99/3314, Samija ZLATANIĆ protiv Bosne i Hercegovine

333. Prijava je podnesena 8. decembra, a registrovana je 10. decembra 1999. godine.

334. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i kod Investbanke Beograd. Čini se da je iznos njenih pologa kod Privredne banke 13.454,19 DEM, a kod Investbanke 4.362,16 DEM.

335. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 21. oktobra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 8.016,35 KM.

336. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

92. Predmet broj CH/99/3316 i CH/99/3317, Ruža BOŽIĆ i Ivan-Ivica BOŽIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

337. Prijave su podnesene 8. decembra, a registrovane su 10. decembra 1999. godine.

338. Podnosioci prijava su bili supružnici. Podnosilac prijave I.I.B. je preminuo.

339. Općinski sud II Sarajevo je 18. maja 1999. godine u ostavinskom postupku iza smrti podnosioca prijave Ivana-Ivice Božić donio rješenje o nasljeđivanju, broj O-37/99, kojim se supruga podnosioca prijave Ruža Božić proglašava nasljednicom novačanih potraživanja po osnovu stare devizne štednje, sa dijelom 1/1.

340. Podnosilac prijave R.B. je polagala devizna sredstva na štednoj knjižici kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 7.385,72 DEM.

341. Podnosilac prijave I.I.B. je polagao sredstva na deviznim štednim knjižicama kod Privredne banke Sarajevo, Jugobanke Sarajevo i Investbanke Beograd. Čini se da je iznos njegovih pologa kod Privredne banke 35.922,69 DEM, kod Jugobanke na jednoj knjižici 19.711,35 DEM i na drugoj 11.583,43 DEM, a kod Investbanke 4.934,79 DEM.

342. Podnosioci prijava se nisu obraćali ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

93. Predmet broj CH/99/3346 Samija ANDRIJIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

343. Prijava je podnesena 14. decembra, a registrovana je 15. decembra 1999. godine.

344. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo, kod Privredne banke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njenih pologa kod Jugobanke 2.789,08 DEM, kod Privredne banke 2.861,86 DEM i kod Ljubljanske banke 2.143,97 DEM.

345. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 9. maja 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 7.838,09 KM.

346. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

94. Predmet broj CH/99/3361, Zoran BILBIJA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

347. Prijava je podnesena Domu 16. decembra, a registrovana je 17. decembra 1999. godine.

348. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Investbanke Beograd. Čini se da je iznos njegovog pologa kod Jugobanke 28.568,69 DEM, a kod Investbanke 2.778,92 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 33.991,54 KM.

349. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

95. Predmet broj CH/99/3362, Majo ŠOTRA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

350. Prijava je podnesena Domu 16. decembra, a registrovana je 17. decembra 1999. godine.

351. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Ljubljanske banke d.d. Ljubljana. Čini se da je iznos njegovog pologa kod Jugobanke na jednoj štednoj knjižici 275,36 DEM, na drugoj 1.678,87 DEM i na trećoj 1.515,73 DEM, a kod Ljubljanske banke na jednoj štednoj knjižici 14.320,63 DEM, na drugoj 4.534,27 DEM i na trećoj 15.926,79 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine,

ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje kod Jugobanke je 3.531,14 KM.

352. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

96. Predmet broj CH/99/3384, Dane REBIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

353. Prijava je podnesena Domu 22. decembra 1999. godine i registrovana istog dana.

354. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Investbanke Beograd. Čini se da je ukupan iznos njegovog pologa kod Jugobanke 2.262,3 DEM, a kod Investbanke 8.799,1 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 17. jula 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 11.142,46 KM.

355. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

B. Činjenice u odnosu na Ljubljansku banku d.d. Ljubljana

356. Prema podacima iz sudskog registra Kantonalnog suda, rješenjem Višeg suda u Sarajevu (u daljnjem tekstu: Viši sud), broj: UF/I-748/93, od 2. jula 1993. godine, izvršen je upis Ljubljanske banke d.d. Sarajevo nastale statusnom promjenom Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo. Iz rješenja je vidljivo da sredstva, prava i obaveze Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo, kao pravnog prednika, prelaze na Ljubljansku banku d.d. Sarajevo, kao pravnog sljednika. Osim toga, rješenjem Kantonalnog suda, broj: UF/I-1550/03, od 5. marta 2004. godine, izvršen je prenos vlasničkih prava na Federaciju Bosne i Hercegovine, odnosno Ministarstvo finansija Federacije Bosne i Hercegovine (u daljnjem tekstu: Ministarstvo finansija) kao osnivača banke sa temeljnim kapitalom od 300.000 KM.

357. Ljubljanska banka d.d Sarajevo je 18. februara 2002. godine podnijela tužbu Općinskom sudu u Sarajevu (u daljnjem tekstu: Općinski sud) protiv Ministarstva finansija, radi utvrđenja. Općinski sud je donio presudu, broj: Ps-595/03-III od 11. novembra 2004. godine, koja je postala pravosnažna 11. decembra 2004. godine. Navedenom presudom je utvrđeno da tužitelj, Ljubljanska banka d.d. Sarajevo, nije odgovorna za obaveze iz osnova "stare devizne štednje" deponovane kod Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo. Pored toga, ovom presudom je utvrđeno da tužitelj nije pravni sljednik Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo. Također je utvrđeno da je Ministarstvo finansija dužno trpiti da se na osnovu ove presude u registru Kantonalnog suda, u rješenju broj: UF/I-748/93, od 2. jula 1993. godine, izvrši brisanje dijela izvršenog upisa, koji glasi: "[...] nastalo statusnom promjenom Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo", te upis koji glasi:"[...] sredstva, prava i obaveze Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo kao pravnog prednika prelaze na Ljubljansku banku d.d. Sarajevo kao pravnog sljednika".

358. U presudi je navedeno da je Ljubljanska banka d.d. Sarajevo po svojoj zakonskoj regulativi osnovana kao nezavisna, nova banka koja je obavljala promet u svoje ime i za svoj račun i nije imala nikakvih prava i obaveza u okviru Ljubljanske banke d.d. Ljubljana, kao posebnom pravnom subjektu registrovanom u Republici Sloveniji. S obzirom da Glavna filijala Sarajevo nije bila pravno lice i da je u pravnom prometu sa trećim licima nastupala u ime i za račun Ljubljanske banke d.d. Ljubljana, te da nije nikada odgovarala za staru deviznu štednju, Općinski sud je zaključio da Ljubljanska banka d.d. Sarajevo, statusnom promjenom i registracijom, nije mogla preuzeti veća prava i obaveze nego što je imala ranija filijala u Sarajevu. Stoga, sasvim je osnovano da se iz sudskog registra ukloni obaveza tužitelja u pogledu stare devizne štednje.

359. U navedenom postupku je u svojstvu umješača učestvovalo Udruženje štediša. Udruženje štediša je istaklo da ima pravni interes da tužitelj uspije sa postavljenim tužbenim zahtjevom, jer ukoliko bi se utvrdilo da Ljubljanska banka d.d. Sarajevo odgovara za staru deviznu štednju, štediše bi ostale bez mogućnosti da ostvare pravo na povrat svojih sredstava, imajući u vidu činjenicu da ta banka nema sredstava za izmirenje obaveza po osnovu devizne štednje.

C. Činjenice u odnosu na Investbanku Beograd

360. Rješenjem Višeg suda, broj: UF/I-5368/92, od 9. marta 1993. godine, izvršen je upis osnivanja Depozitne banke d.d. Sarajevo, čiji je jedan od osnivača i Investbanka, poslovna jedinica Sarajevo sa svim svojim sredstvima. Iz rješenja Kantonalnog suda, broj: UF/I-188/01, od 16. aprila 2001. godine, kojim je izvršen upis promjene osnivača navedene banke, vidljivo je da Investbanka, poslovna jedinica Sarajevo, više nije među osnivačima Depozitne banke d.d. Sarajevo. Kantonalni sud je naveo da u svom registru nema podataka u vezi sa Osnovnom privredno investicionom bankom u Beogradu-Investbankom.

IV. RELEVANTNE ZAKONSKE ODREDBE

361. Zbog rastuće nestašice deviznih sredstava i drugih ekonomskih problema u bivšoj SFRJ, podizanje novca sa starih deviznih štednih računa je bilo strogo ograničeno zakonima koji su doneseni tokom 1980-tih i početkom 1990-tih godina. Poslije oružanog sukoba u Bosni i Hercegovini, bilo je pokušaja da se kroz legislativu privatizacije riješi nedostupnost stare devizne štednje. Međutim, nakon što su pokušaji ostvarenja potraživanja po osnovu stare devizne štednje u procesu privatizacije ostali uglavnom bezuspješni, Federacija Bosne i Hercegovine je usvojila novi zakon na osnovu kojeg stara devizna štednja postaje dio unutrašnjeg duga Federacije Bosne i Hercegovine. Međutim, u odnosu na obaveze po osnovu stare devizne štednje, deponovane u Ljubljanskoj banci d.d. Ljubljana, Glavna filijala Sarajevo i Investbanci Beograd, novi Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine ("Službene novine Federacije Bosne i Hercegovine", broj 64/04) je izričito propisao da će se iste rješavati u procesu sukcesije imovine bivše SFRJ.

A. Zakoni SFRJ

362. **Zakon o deviznom poslovanju** ("Službeni list Socijalističke Federativne Republike Jugoslavije", br. 66/85 i 71/86)

Član 14.

> Građani i građanska pravna lica mogu devize držati na deviznom računu ili deviznom štednom ulogu kod ovlaštene banke i koristiti za plaćanje u inostranstvu, u skladu sa odredbama ovog zakona.
>
> […]
>
> Za devize na deviznim računima i deviznim štednim ulozima jemči Federacija.

363. **Zakon o osnovama bankarskog i kreditnog sistema** ("Službeni list Socijalističke Federativne Republike Jugoslavije", br. 70/85, 9/86, 34/86, 72/86 i 65/87)

Član 183.

> […]
>
> Za štedne uloge u stranoj valuti i depozite na deviznim štednim računima građana i stranih fizičkih lica jemči Federacija.

364. **Zakon o bankama i drugim finansijskim organizacijama** ("Službeni list Socijalističke Federativne Republike Jugoslavije", br. 10/89, 40/89, 87/89, 18/90, 72/90 i 79/90)

Član 14.

> Banka je pravno lice [...].
>
> Statutom banke može se prenijeti u nadležnost dijelovima banke da u pravnom prometu sa trećim licima obavljaju određene poslove.

365. **Odluka o načinu na koji ovlaštene banke izvršavaju naloge za plaćanje domaćih fizičkih lica devizama s njihovih deviznih računa i deviznih štednih uloga** ("Službeni list Socijalističke Federativne Republike Jugoslavije", broj 28/91)

Tačka 2.

> Ovlaštene banke koje od dana stupanja na snagu ove odluke odobre devize deviznom štednom ulogu građana, dužne su da građanima obezbjede podizanje tih deviza s njihovih štednih uloga ili izvršavaju njihove naloge za plaćanje uvoza najkasnije u roku od sedam dana od dana kada su devize odobrene njihovom deviznom štednom ulogu, ako je građanin podnio uredan nalog za plaćanje, odnosno nalog za podizanje deviza sa njihovog deviznog štednog uloga.

366. **Odluka o načinu vođenja deviznog računa i deviznog štednog uloga domaćeg i stranog fizičkog lica** ("Službeni list Socijalističke Federativne Republike Jugoslavije", br. 6/91, 28/91, 34/91 i 36/91). Ovom odlukom je određeno da ovlaštene banke izvršavaju naloge za plaćanje domaćih fizičkih lica na teret deviza koje su položene na njihove devizne račune. Iznosi naloga i rokovi za isplatu su nekoliko puta mijenjani Odlukama o izmjenama i dopunama Odluke o načinu vođenja deviznog računa i deviznog štednog uloga domaćeg i stranog fizičkog lica. U posljednjim izmjenama, koje su stupile na snagu 18. maja 1991. godine, tačkom 2. utvrđeni su sljedeći rokovi i iznosi:

> do 500 njemačkih maraka-u roku od 15 dana za prvo plaćanje sa deviznog računa, a u roku od 30 dana za svako naredno plaćanje;
>
> do 1.000 njemačkih maraka-u roku od 30 dana za prvo plaćanje sa deviznog računa, a u roku od 45 dana za svako naredno plaćanje;
>
> do 3.000 njemačkih maraka-u roku od 90 dana;
>
> do 8.000 njemačkih maraka-u roku od 180 dana.

367. **Zakon o parničnom postupku SFRJ** ("Službeni list Socijalističke Federativne Republike Jugoslavije", br. 4/77, 36/77, 36/80, 69/82, 58/84, 74/87, 57/89, 20/90, 27/90 i 35/91)

Član 59.

> Za suđenje u sporovima protiv pravnog lica koje ima poslovnu jedinicu van svog sjedišta, ako spor proizilazi iz pravnog odnosa te jedinice, pored suda opšte mjesne nadležnosti, nadležan je i sud na čijem području se nalazi ta poslovna jedinica.

B. Zakoni Republike Bosne i Hercegovine i Bosne i Hercegovine

368. Dana 11. aprila 1992. godine, nakon sticanja nezavisnosti Republike Bosne i Hercegovine, usvojena je **Uredba sa zakonskom snagom o deviznom poslovanju** iz 1992. godine ("Službeni list Republike Bosne i Hercegovine", broj 2/92). Relevantnim odredbama ove Uredbe predviđeno je sljedeće:

Član 9, u relevantnom dijelu, glasi:

> Za devize na deviznim računima i deviznim štednim ulozima jamči Republika.

369. Uredba iz 1992. godine je kasnije zamijenjena **Uredbom sa zakonskom snagom o deviznom poslovanju** iz 1994. godine ("Službeni list Republike Bosne i Hercegovine", broj 10/94; kasnije usvojena kao zakon, "Službeni list Republike Bosne i Hercegovine", broj 13/94).

Slijedeće odredbe Uredbe iz 1994. godine su relevantne:

Član 3.

> Devize se mogu koristiti samo za plaćanje prema inozemstvu osim ako ovom uredbom nije drugačije određeno.

Član 12.

> Domaća i strana fizička lica mogu devize držati na računu kod banke i slobodno ih koristiti.

Član 44.

> Devizne rezerve čine potraživanja na računima u inostranstvu, efektivni strani novac i vrijednosni papiri izdati u inozemstvu [deponovani] kod Narodne banke [Bosne i Hercegovine] i [ovlaštenih] banaka.

370. **Odluka o ciljevima i zadacima monetarno kreditne politike**, objavljena je 9. aprila 1995. godine ("Službeni list Republike Bosne i Hercegovine", broj 11/95). Tačka 12. Odluke glasi:

> Deponovana devizna štednja građana trajno će se riješiti donošenjem zakona o javnom dugu Republike do kraja prvog polugodišta 1995. godine.

371. Ova Odluka je kasnije izmijenjena i dopunjena sa stupanjem na snagu 2. juna 1995. godine ("Službeni list Republike Bosne i Hercegovine", broj 19/95). Izmijenjena i dopunjena tačka 12. predviđa da treba donijeti zakon o javnom dugu prije kraja septembra 1995. godine. Dalje se dodaje da, do donošenja tog zakona, Narodna banka Bosne i Hercegovine može, uz saglasnost Ministarstva finansija, isplaćivati deviznu štednju u odgovarajućem iznosu u dinarima pripadnicima Armije Republike Bosne i Hercegovine za pokrivanje troškova njihovog liječenja i liječenja članova njihovih porodica.

372. **Odluka o ciljevima i zadacima devizne politike** donijeta je 10. aprila 1996. godine ("Službeni list Republike Bosne i Hercegovine", broj 13/96). Potvrđujući uglavnom Odluku iz 1995. godine, tačka 7. Odluke iz 1996. godine predviđala je bez posebnog određivanja datuma slijedeće:

> Devizna štednja građana deponovana kod bivše Narodne banke Jugoslavije zajedno sa kamatama na ovu štednju, rješavaće se donošenjem zakona o javnom dugu Bosne i Hercegovine, ili na drugi način u sklopu ukupne konsolidacije duga Bosne i Hercegovine zajedno sa međunarodnom zajednicom.

373. Visoki predstavnik u Bosni i Hercegovini donio je 22. jula 1998. godine **Okvirni zakon o privatizaciji preduzeća i banaka u Bosni i Hercegovini**, koji je stupio na snagu sljedećeg dana kao privremeni zakon ("Službeni glasnik Bosne i Hercegovine", broj 14/98). Konačno, Parlamentarna skupština Bosne i Hercegovine ga je usvojila 19. jula 1999. godine ("Službeni glasnik Bosne i Hercegovine", broj 12/99).

374. **Zakon o utvrđivanju i načinu izmirenja unutrašnjeg duga Bosne i Hercegovine** ("Službeni glasnik Bosne i Hercegovine", broj 44/04)

Član 1.

Ovim se zakonom uređuje način i postupak utvrđivanja i izmirivanja neizmirenog unutrašnjeg duga Bosne i Hercegovine prema budžetskim korisnicima do 31. decembra 2002. godine, isključujući obveze na temelju izvršnih odluka (u daljnjem tekstu: unutrašnji dug).

C. Odluka o ratifikaciji sporazuma o pitanjima sukcesije Socijalističke Federativne Republike Jugoslavije ("Službeni glasnik Bosne i Hercegovine", broj 10/01)

375. U sporazumu o sukcesiji SFRJ, Aneks C, u relevantnom dijelu, predviđa se sljedeće:

Član 2, stav 3.

[…]

Ostala finansijska dugovanja (SFRJ) uključuju:

(a) jamstva SFRJ ili njene narodne banke Jugoslavije za štednju u čvrstoj valuti položenu kod komercijalnih banaka ili njihovih filijala u bilo kojoj državi sljednici prije datuma kojeg je ona proglasila neovisnost;

[…].

Član 7.

Jamstva bivše SFRJ ili njene NBJ za štednju čvrste valute položenu kod komercijalne banke ili neke od njenih filijala u bilo kojoj državi sljednici prije datuma kada je ta država proglasila neovisnost predmet se pregovara bez odlaganja, vodeći naročito računa o potrebi zaštite štednje čvrste valute pojedinaca. Ovi pregovori će se odvijati pod pokroviteljstvom Banke za međunarodna poravnanja.

D. Zakoni Federacije Bosne i Hercegovine o privatizaciji i izmjene i dopune

376. Osnovne pravne odredbe kojima se omogućava prenos stare devizne štednje na Jedinstveni račun građana radi korištenja u procesu privatizacije sadržane su u članovima 3, 7, 11. i 18. **Zakona o utvrđivanju i realizaciji potraživanja građana u postupku privatizacije** (u daljnjem tekstu: Zakon o potraživanjima građana), koji je stupio na snagu 28. novembra 1997. godine, a počeo se primjenjivati 27. februara 1998. godine, sa izmjenama i dopunama od 5. marta 1999. godine ("Službene novine Federacije Bosne i Hercegovine", br. 27/97 i 8/99). Ti članovi su propisivali:

Član 3:

Lice koje ima deviznu štednju u bankama ili poslovnim jedinicama sa sjedištem na teritoriji Federacije Bosne i Hercegovine iznad 100 KM, a bilo je državljanin bivše Socijalističke Republike Bosne i Hercegovine i na dan 31. marta 1991. godine imalo prebivalište na teritoriji koja sada pripada Federaciji Bosne i Hercegovine stiče potraživanja prema Federaciji sa stanjem na dan 31. marta 1992. godine.

Realizacija potraživanja građana koji su na dan 31. marta 1991. godine imali državljanstvo bivše Socijalističke Republike Bosne i Hercegovine, a koji nemaju prebivalište na teritoriji Federacije, kao i drugih lica, koja imaju devizna potraživanja u bankama na teritoriji Federacije, u smislu ovog zakona, uredit će se posebnim propisom.

> Licima iz stava 1. ovog člana s deviznom štednjom do 100 DEM banke će na njihov zahtjev isplatiti iznos štednje.
>
> Potraživanja iz stava 3. ovog člana su isplativa nakon isteka perioda od tri mjeseca od dana primjene ovog Zakona.

Član 7:

> Potraživanja iz člana 3. ovog zakona banka prenosi na Jedinstveni račun štediše.
>
> Način prenosa potraživanja građana … čiji se računi vode u bankama kod kojih su organizacione jedinice na teritoriji Federacije prestale s radom, uredit će se posebnim propisom Federalnog ministarstva finansija.

Član 11:

> Otvaranje Jedinstvenih računa vrši se po službenoj dužnosti na osnovu Jedinstvenog matičnog broja građana-nosilaca potraživanja iz ovog zakona.
>
> Jedinstveni račun predstavlja certifikat građanina.

Član 18:

> Potraživanja sa Jedinstvenog računa mogu se koristiti u postupku privatizacije u roku od dvije godine od dana izdavanja izvoda sa Jedinstvenog računa, a nakon upisa potraživanja po pojedinim vrstama.
>
> Istekom roka iz stava 1. ovog člana, potraživanja na Jedinstvenom računu se gase.

377. Nakon odluke Doma u predmetu *Poropat i drugi* u junu 2000. godine, Federacija je donijela razne izmjene i dopune ovih odredbi.

378. **Zakon o izmjenama i dopunama Zakona o utvrđivanju i realizaciji potraživanja građana u procesu privatizacije** ("Službene novine Federacije Bosne i Hercegovine", broj 45/00) stupio je na snagu 2. novembra 2000. godine. Ovim Zakonom član 18. je izmijenjen i dopunjen na taj način da je nosiocu stanarskog prava iz člana 8a.[1] Zakona o prodaji stanova na kojima postoji stanarsko pravo omogućeno da može koristiti svoja potraživanja sa Jedinstvenog računa građana u roku od tri mjeseca od dana ovjere potpisa na ugovoru o kupovini pred nadležnim sudom. Izmjenama i dopunama je dodat treći stav u članu 18, koji predviđa:

> Izuzetno od odredbe st. 1. i 2. ovog člana nosioci stanarskog prava iz člana 8a. Zakona o prodaji stanova na kojima postoji stanarsko pravo ("Službene novine Federacije BiH", br. 27/97, 11/98, 22/99 i 7/00) mogu koristiti potraživanja sa Jedinstvenog računa u roku od tri mjeseca od dana ovjere potpisa na kupoprodajnom ugovoru kod nadležnog suda.

379. Dodatne izmjene i dopune stava 1. člana 18. su stupile na snagu 8. februara 2002. godine. Tim izmjenama i dopunama opći rok za korištenje certifikata izmijenjen je sa dvije godine na četiri godine, tako da cijeli član, sa izmjenama i dopunama, glasi:

Član 18.

> Potraživanja sa Jedinstvenih računa građana mogu se upotrijebiti u procesu privatizacije u roku od četiri godine od dana izdavanja izvoda sa Jedinstvenog računa građana, nakon registracije svakog pojedinog potraživanja.

[1] Navedenim članom 8a. je regulisana kupovina napuštenih stanova od strane nosilaca stanarskih prava.

Po isteku roka navedenog u stavu 1. ovog člana, potraživanja sa Jedinstvenih računa se gase.

Izuzetno od odredbi stavova 1. i 2. ovog člana, nosioci stanarskog prava iz člana 8a. Zakona o prodaji stanova na kojima postoji stanarsko pravo ("Službene novine Federacije Bosne i Hercegovine", br. 27/97, 11/98, 22/99 i 7/00) mogu koristiti potraživanja sa Jedinstvenog računa u roku od tri mjeseca od dana ovjere potpisa sa kupoprodajnim ugovorom kod nadležnog suda.

380. Pored ovih izmjena Zakona o potraživanjima građana, Federacija je donijela dodatne izmjene i dopune procesa privatizacije kako bi ublažila položaj vlasnika stare devizne štednje. **Zakon o izmjenama i dopunama Zakona o privatizaciji preduzeća** ("Službene novine Federacije Bosne i Hercegovine", br. 45/00) je stupio na snagu 2. novembra 2000. godine. Ovim Zakonom je izmijenjen i dopunjen član 28. kako bi se certifikati po osnovu stare devizne štednje izjednačili sa gotovinom. Starom verzijom je propisano:

Prodaja iz člana 26.[2] ovog zakona vrši se uz obavezno plaćanje u novcu najmanje 35 posto ugovorene prodajne cijene.

Za svaki iznos plaćen u novcu preko 35% može se odobriti popust od 8%.

Novom verzijom je propisano:

Prodaja iz člana 26. ovog zakona vrši se uz obavezno plaćanje u novcu ili certifikatima iz temelja stare devizne štednje najmanje 35 posto ugovorene prodajne cijene.

Za svaki iznos plaćen u novcu ili ceritifikatom po osnovu stare devizne štednje preko 35% može se odobriti popust od 8%.

381. **Zakonom o izmjenama i dopunama Zakona o privatizaciji preduzeća** ("Službene novine Federacije Bosne i Hercegovine", broj 61/01) izmijenjen je član 27. stav 1. Starom verzijom je propisano:

Mala privatizacija u smislu člana 26. ovog zakona provodi se javnom prodajom, koju je preduzeće dužno pripremiti i prijaviti nadležnoj agenciji (za privatizaciju) u roku od 12 mjeseci od dana početka primjene ovog zakona.

Novom verzijom je propisano:

Mala privatizacija u smislu člana 26. ovog zakona provodi se javnom prodajom, koju je preduzeće dužno pripremiti i prijaviti nadležnoj agenciji (za privatizaciju) u roku koji odredi Agencija Federacije, i u roku važenja potraživanja građana iz Zakona o utvrđivanju i realizaciji potraživanja građana u postupku privatizacije (certifikati itd).

382. **Zakon o izmjenama i dopunama Zakona o prodaji stanova na kojima postoji stanarsko pravo** stupio je na snagu 8. januara 2002. godine (nakon datuma odluke Ustavnog suda Federacije). Novi član 24. tog zakona je izjednačio certifikate iz osnova stare devizne štednje sa novcem. Starom verzijom je propisano:

Plaćanje otkupne cijene stana vrši se jednim od platežnih sredstava i to:

a) gotovinom

b) certifikatima na temelju tražbine građana, a koji su utvrđeni posebnim propisima

Kada se plaćanje vrši novcem cijena stana se umanjuje za 20% utvrđene otkupne cijene.

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[2] Navedenim članom 26. regulisana je prodaja preduzeća u procesu male privatizacije.

Novom verzijom je propisano*:*

> Plaćanje otkupne cijene stana vrši se jednim od platežnih sredstava i to:
>
> a) novcem
>
> b) certifikatima na temelju tražbine građana, a koji su utvrđeni posebnim propisima.
>
> Kada se plaćanje vrši novcem ili certifikatom iz osnova stare devizne štednje cijena stana se umanjuje za 20% utvrđene otkupne cijene.

383. U pismu Domu za ljudska prava od 8. decembra 2000. godine, u vezi sa implementacijom odluke *Poropat i drugi*, Federacija navodi da ona, "preko nadležnih Ministarstava i agencija, vodi aktivnosti informisanja građana o važnosti posjeta bankama kako bi dali Jedinstveni matični broj s ciljem da omoguće prenos svoje stare devizne štednje na Jedinstveni račun građana i izdavanje certifikata kojim bi im omogućila da učestvuju u procesu privatizacije koji je u postupku jer nema drugog načina na koji bi građani Bosne i Hercegovine – imaoci stare devizne štednje, realizovali svoja potraživanja po tom osnovu na bilo koji drugi način osim putem procesa privatizacije“.

384. Federacija Bosne i Hercegovine je **Zakonom o izmjenama i dopunama Zakona o potraživanju građana** (“Službene novine Federacije Bosne i Hercegovine”, broj 57/03) izmijenila član 7. koji je glasio:

> Potraživanja iz člana 3. ovog zakona banka prenosi na Jedinstveni račun štediše.

Novom verzijom je propisano:

> Potraživanja iz člana 3. ovog zakona banka, na zahtjev štediše koji se podnosi u roku do šest mjeseci od dana usvajanja ovog zakona, prenosi na Jedinstveni račun štediše.

Također, izmijenjen je i član 11. koji je glasio:

> Otvaranje Jedinstvenih računa vrši se po službenoj dužnosti na osnovu matičnog broja građana-nosilaca potraživanja iz ovog zakona.

Novom verzijom je propisano:

> Otvaranje Jedinstvenih računa vrši se po službenoj dužnosti na osnovu matičnog broja građana-nosilaca potraživanja iz ovog zakona, a otvaranje Jedinstvenog računa po osnovu stare devizne štednje vrši se na zahtjev štediše.

385. Također, došlo je i do izmjene člana 18. koji se odnosio na rok upotrebe certifikata u procesu privatizacije, u smislu da je rok od 4 godine produžen na 6 godina, tako da član 18. sa izmjenama sada glasi:

> Potraživanja sa Jedinstvenog računa mogu se koristiti u postupku privatizacije u roku od šest godina od dana izdavanja izvoda sa Jedinstvenog računa, a nakon upisa potraživanja po pojedinim vrstama.

386. Član 20. Zakona o potraživanju građana je dopunjen sa dva nova stava 20a. i 20b. koji regulišu neiskorištena potraživanja podnosilaca prijava po osnovu stare devizne štednje koja su prenijeta na Jedinstveni račun, kao i sredstva koja su štediše utrošili u privatizacijske investicione fondove. Član 20. je glasio:

> Direktor Agencije za privatizaciju u Federaciji Bosne i Hercegovine će u roku od 30 dana od stupanja na snagu ovog zakona donijeti Uputstvo o evidenciji i realizaciji potraživanja sa Jedinstvenog računa.

Novi stavovi su:

> 20a. Agencija za privatizaciju u Federaciji BiH će neiskorištena potraživanja po osnovu stare devizne štednje koja su prenijeta na Jedinstveni račun vratiti na račun imaoca u roku od 30 dana od dana podnošenja zahtjeva štediše.
>
> 20b. Štediše koje su izvršile prijenos potraživanja iz osnova stare devizne štednje u privatizacijske investicione fondove, koja žele povratiti na svoje Jedinstvene račune, mogu podnijeti zahtjev privatizacijskim investicionim fondovima za povrat potraživanja u roku do šest mjeseci od dana stupanja na snagu ovog zakona.

387. Federacija Bosne i Hercegovine je usvojila nove izmjene i dopune Zakona o potraživanju objavljene u "Službenim novinama Federacije Bosne i Hercegovine", broj 20/04, tako da je član 5. dopunjen sa novim članom 5a. koji glasi:

> Član 5a. Izuzetno od člana 5. ovog Zakona potraživanje po osnovu stare devizne štednje postaje unutrašnji dug Federacije Bosne i Hercegovine koji se izmiruje u skladu sa posebnim zakonom, osim ako lice koje ima potraživanje na osnovu stare devizne štednje ne da izjavu da se ta potraživanja koriste za namjene iz člana 18. ovog Zakona.
>
> Izjava iz stava 1. ovog člana je neopoziva i podnosi se Federalnom ministarstvu finansija u roku od tri mjeseca od dana stupanja na snagu ovog Zakona.

31. Također, izmijenjen je i član 18. koji je regulisao način korištenja certifikata, i sada glasi:

> Potraživanja sa Jedinstvenog računa mogu se koristiti u procesu privatizacije:
>
> - za kupovinu dionica preduzeća, imovine preduzeća i druge imovine koja se bude prodavala u procesu privatizacije do 30. juna 2006. godine, pod uvjetom da učešće pojedinačne ponude ne prelazi 10% od ukupne kupovne cijene;
>
> - za kupovinu stanova na kojima postoji stanarsko pravo do 30. juna 2007. godine u visini do 100% od ukupne cijene.
>
> Istekom rokova iz stava 1. ovog člana potraživanja na Jedinstvenom računu se gase.
>
> Izuzetno od odredbe stava 2. ovog člana rok za kupovinu stanova na kojima postoji stanarsko pravo može se mijenjati zavisno od donošenja i promjena propisa o restituciji.

388. Posljednjim izmjenama i dopunama Zakona o potraživanju obuhvaćen je i član 20. koji sada glasi:

> Agencija za privatizaciju u Federaciji Bosne i Hercegovine dostavit će Federalnom ministarstvu finansija bazu podataka o stanju neiskorištenih potraživanja po osnovu stare devizne štednje na Jedinstvenom računu u roku od 30 dana od dana stupanja na snagu ovog Zakona.
>
> Član 20b. koji je davao štedišama koji su uložili svoja sredstva u PIF-ove mogućnost da traže povrat uloženih sredstava se novim zakonom briše.

389. Parlament Federacije Bosne i Hercegovine je 20. novembra 2004. godine usvojio **Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine** ("Službene novine Federacije Bosne i Hercegovine", broj 64/04), koji u relevantnom dijelu glasi:

Član 1.

Ovim Zakonom utvrđuju se unutrašnje obaveze Federacije Bosne i Hercegovine prema fizičkim i pravnim licima, nastale na osnovu: neisplaćenih invalidnina, neisplaćenih penzija, neisplaćenih naknada prema dobavljačima za robe, materijale i usluge, obaveze nastale na osnovu neisplaćenih plaća i dodataka, te ostale obaveze (u daljnjem tekstu: unutrašnji dug), odnosno način pojedinačne verifikacije utvrđenih potraživanja, kao i način njihovog izmirenja.

Član 2.

Ovim Zakonom utvrđuje se sveobuhvatno izmirenje unutrašnjeg duga na način koji osigurava i podržava makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine (u daljnjem tekstu: Federacija).

Unutrašnji dug Federacije procjenjuje se u iznosu od 1.858,9 miliona KM. Ova procjena isključuje iznos obaveza za staru deviznu štednju, s obzirom na to da će se oni utvrditi u postupku verifikacije.

Obaveze unutrašnjeg duga iz stava 1. ovog člana izmiruju se isplatom u gotovini, putem izdavanja obveznica (u daljnjem tekstu: obveznice) i otpisivanjem, prema odredbama ovog Zakona.

Izmirenje svih kategorija unutrašnjeg duga, uključujući i staru deviznu štednju, neće prelaziti iznos od 10% GDP za 2003. godinu i to u neto sadašnjoj vrijednosti za sve planirane isplate svih kategorija unutrašnjeg duga.

Član 3.

Unutrašnji dug Federacije iznosi 1.858,9 miliona KM, isključujući iznos obaveze za staru deviznu štednju koji će se utvrditi u postupku verifikacije, a čine ga:

- opće obaveze u iznosu od 947,9 miliona KM,
- obaveze na osnovu kredita komercijalnih banaka u iznosu od 11 miliona KM,
- obaveze za staru deviznu štednju u iznosu koji će se utvrditi prema verifikaciji obaveza na način propisan u članu 12. ovog Zakona.

Član 9.

Federacija preuzima obaveze na osnovu stare devizne štednje ostvarene u najnižim poslovnim jedinicama banaka (ekspozitura i/ili agencija) na teritoriji Federacije. Ukoliko banka nema poslovnih jedinica onda se smatra da je sjedište banke najniža poslovna jedinica.

Obaveze na osnovu stare devizne štednje, definirane stavom 1. ovog člana, ne obuhvataju obaveze na osnovu stare devizne štednje deponovane u Ljubljanskoj banci i Invest banci, s obzirom na to da će se one rješavati u procesu sukcesije imovine bivše SFRJ.

Obaveze na osnovu stare devizne štednje iz člana 3. ovog Zakona Federacija će izmiriti isplatom u gotovini i izdavanjem obveznica.

Kamate na staru deviznu štednju od 01. januara 1992. godine otpisuju se.

Član 10.

Kad se izvrši verifikovanje potraživanja za staru deviznu štednju, na način predviđen članom 12. ovog Zakona, Vlada Federacije će posebnim propisom utvrditi metod i visinu isplate u gotovini za staru deviznu štednju svakom fizičkom licu, nosiocu stare devizne štednje, do iznosa propisanog u članu 2. ovog Zakona.

Član 11.

Gotovinske isplate za staru deviznu štednju iz člana 10. ovog Zakona izvršit će se iz budžeta Federacije u periodu od četiri godine počevši od fiskalne godine kada se završi postupak verifikovanja stare devizne štednje.

Član 12.

Verifikovanje svih potraživanja za staru deviznu štednju vršit će se na osnovu baze podataka koja je ustanovljena Zakonom o utvrđivanju i ostvarivanju potraživanja građana u postupku privatizacije ("Službene novine Federacije BiH", br. 27/97, 8/99, 45/00, 54/00, 32/01, 57/03, 20/04) i drugim propisima donesenim na osnovu zakona i baza podataka koje posjeduju banke.

Proces verifikacije potraživanja za staru deviznu štednju završit će se u roku od devet mjeseci od dana stupanja na snagu ovog Zakona.

Federalni ministar finansija donijet će podzakonske akte o verifikaciji svih potraživanja za staru deviznu štednju u roku od 90 dana od dana stupanja na snagu ovog Zakona.

Član 13.

Za obaveze za staru deviznu štednju koje ne budu izmirene isplatom u gotovini, u skladu sa čl. 9. i 10. ovog Zakona, izdat će se obveznice do iznosa koji je potreban za izmirenje kumulativnih potraživanja.

Član 14.

Kad se izvrši verifikovanje potraživanja za staru deviznu štednju na način predviđen članom 12. ovog Zakona, Vlada Federacije će posebnim propisom utvrditi model izdavanja obveznica propisujući rok dospijeća obveznica, visinu kamate na obveznice i dužinu grace perioda, a do iznosa koji se utvrdi kao glavnica u procesu verifikovanja potraživanja na osnovu stare devizne štednje do iznosa propisanog u članu 2. ovog Zakona.

Kako bi osigurala dodatna finansijska sredstva nosiocima obveznica iz člana 13. ovog Zakona, Vlada Federacije, u svojstvu dioničara a prema važećim propisima, svojom Odlukom rasporedit će do 15% dividende iz privrednih društava sa državnim kapitalom kako bi otkupljivala javne obveznice putem ponude po tržišnoj cijeni, isplaćujući ih kako je predviđeno godišnjim budžetom, počevši od obveznica sa najnižom nominalnom vrijednosti i progresivno krenuvši ka obveznicama sa višom nominalnom vrijednosti.

Član 15.

Vlada Federacije će tri posto iznosa koji se ostvari od prodaje preduzeća JP „BH Telecom“, JP „Elektroprivrede BiH“ d.d., JP „Elektroprivrede HZHB'“ d.d. i „Hrvatske telekomunikacije” d.o.o. Mostar uplatiti na poseban račun.

Sredstva ostvarena na posebnom računu iz stava 1. ovog člana koristit će se u svrhu prijevremenog otkupa obveznica na osnovu stare devizne štednje po tržišnoj cijeni i to uključujući prioritet u isplati - otkupu obveznica vlasnika stare devizne štednje i to ponudom otkupljenja obveznica sa najnižom nominalnom vrijednosti, a potom obveznica sa višom nominalnom vrijednosti.

Federalni ministar finansija donijet će podzakonske akte o načinu raspolaganja sredstvima deponovanim na računu iz prethodnog stava, odnosno o modalitetima isplate vlasnika obveznica, shodno ostvarenju sredstava iz ovog člana.

Član 21.

Obveznice za izmirenje obaveza za staru deviznu štednju i ratnih potraživanja su vrijednosni papiri koje izdaje u cijelosti ili djelimično Bosna i Hercegovina (u daljnjem tekstu: vrijednosni papiri BiH) u ime Federacije, ili Federacija (u daljnjem tekstu: vrijednosni papiri Federacije) prema posebnom propisu.

Obveznice izdate za izmirenje obaveza za staru deviznu štednju i ratna potraživanja su utržive i prenosive i izdaju se i vode samo u elektronskoj formi.

Svi uvjeti vezani za obveznice utvrđuju se odlukom Vlade Federacije i posebnim propisom.

Za predračun obaveza na osnovu stare devizne štednje i ratnih potraživanja u KM koristi se srednji zvanični kurs Centralne banke Bosne i Hercegovine koji važi na dan donošenja odluke Vlade Federacije o emisiji obveznica u smislu ovog Zakona.

Obveznice izdate za izmirenje obaveza iz stava 2. ovog člana predstavljaju unutrašnji dug Federacije u skladu sa posebnim propisom.

Federalno ministarstvo finansija upravljat će računima sa kojih se sredstva koja su položena mogu podizati u svrhu isplate obveznice.

Član 22.

Obveznice Federacije ne podliježu propisima i odobrenju Komisije za vrijednosne papire Federacije Bosne i Hercegovine.

Član 24.

Federacija garantuje za obveznice izdate u skladu sa odredbama ovog Zakona za izmirenje unutrašnjeg duga.

Član 26.

Vlada Federacije će u roku od 30 dana od dana stupanja na snagu ovog Zakona donijeti podzakonske akte za utvrđivanje prioriteta među kategorijama obaveza za izmirenje potraživanja u skladu sa stavom 2. člana 7., članom 8. i članom 11. ovog Zakona.

E. Odluka Ustavnog suda Federacije Bosne i Hercegovine

390. Ustavni sud Federacije Bosne i Hercegovine je 8. januara 2001. godine utvrdio da članovi 3, 7, 11. i 18. Zakona o potraživanjima građana nisu u skladu sa Ustavom Federacije Bosne i Hercegovine. Ustanovio je da su ti članovi u suprotnosti sa članom 1. Protokola broj 1 uz Evropsku konvenciju i time u suprotnosti sa članom II.A.2(1)(k) Ustava Federacije Bosne i Hercegovine i Amandmanom 5. Navedeni Sud, u svojoj odluci, nije pomenuo prethodne izmjene i dopune zakona

od 2. novembra 2000. godine. Ustavni sud Federacije Bosne i Hercegovine nije naredio nikakve posebne izmjene i dopune ili na neki drugi način propisao prelazne odredbe po kojima bi relevantni članovi trebali biti primijenjeni.

391. Odluka Ustavnog suda Federacije Bosne i Hercegovine, u relevantnom dijelu, glasi:

> Ustavom Federacije Bosne i Hercegovine članom II A. 2. (1)(k) i Amandmanom V utvrđeno je da će Federacija osigurati primjenu najvišeg nivoa međunarodno priznatih prava i sloboda utvrđenih u dokumentima navedenim u Aneksu ovog ustava [...].
>
> Utvrđujući ustavnost članova 3., 7., 11. i 18. Zakona o utvrđivanju i realizaciji potraživanja građana u procesu privatizacije sa navedenim ustavnim odredbama i članom 1. stav 1. Protokola br. 1 uz Evropsku konvenciju o ljudskim pravima i osnovnim slobodama, Sud je utvrdio da odredbe članova 3., 7., 11. i 18. Zakona o utvrđivanju i realizaciji potraživanja građana u postupku privatizacije nisu u skladu sa Ustavom Federacije Bosne i Hercegovine.

392. Odluka Ustavnog suda Federacije objavljena je 9. marta 2001. godine u “Službenim novinama Federacije Bosne i Hercegovine”, broj 7/01.

393. Članom 12(b) dijela IV(c) Ustava Federacije predviđa se da ako Ustavni sud Federacije "utvrdi da zakon, usvojeni ili predloženi zakon ili drugi propis Federacije ili bilo kojeg kantona ili općine nije u skladu sa ovim Ustavom, taj zakon ili drugi propis neće se primjenjivati, odnosno stupiti na snagu, osim ukoliko se izmijeni na način koji propiše Sud ili ukoliko Sud ne utvrdi prijelazna rješenja, koja ne mogu biti na snazi duže od šest mjeseci".

394. Federacija Bosne i Hercegovine je 14. maja 2001. godine podnijela apelaciju Ustavnom sudu Bosne i Hercegovine protiv presude Ustavnog suda Federacije, zavedenu kao *U 57/01*. Ustavni sud Bosne i Hercegovine je, na svojoj sjednici od 20. decembra 2003. godine, rješenjem odbacio apelaciju iz formalnih razloga.

F. Zakoni Republike Slovenije

395. Republika Slovenija je 25. juna 1991. godine donijela **Ustavni zakon za provođenje i izvršenje Osnovne ustavne Isprave o samostalnosti i neovisnosti Republike Slovenije** ("Službeni list Republike Slovenije", broj 1/91), koji u relevantnom dijelu glasi:

Član 19.

> Za devize na deviznim računima i deviznim štednim knjižicama uložene u bankama na teritoriji Republike Slovenije, za koje je do stupanja na snagu ovoga zakona, jamčila SFRJ, preuzima jamstvo Republika Slovenija, prema stanju na dan stupanja na snagu ovog zakona.

396. Navedeni Ustavni zakon je dopunjen 27. jula 1994. godine **Ustavnim zakonom o dopuni Ustavnog zakona za provođenje i izvršenje Osnovne ustavne Isprave o samostalnosti i neovisnosti Republike Slovenije** ("Službeni list Republike Slovenije", broj 45/94). Ovim zakonom osnovana je nova Ljubljanska banka. Na novu Ljubljansku banku prenose se potraživanja stare Ljubljanske banke, s tim da se staroj Ljubljanskoj banci ostavljaju dugovanja.

V. ŽALBENI NAVODI

397. Podnosioci prijava se generalno žale da je povrijeđeno njihovo pravo na mirno uživanje imovine, zagarantovano članom 1. Protokola broj 1 uz Evropsku konvenciju. Jedan dio podnosilaca prijava se, također, žali da je povrijeđeno njihovo pravo na pravičnu raspravu u

razumnom roku pred nezavisnim i nepristrasnim sudom, zagarantovano članom 6. Evropske konvencije. Nekoliko podnosilaca prijava navode povrede raznih članova Univerzalne deklaracije o ljudskim pravima.

398. Svi podnosioci prijava traže punu isplatu cjelokupne devizne štednje, a mnogi, pored toga, traže isplatu kamata. Također, traže kompenzaciju za duševne patnje, troškove postupka pred domaćim sudovima i Domom/Komisijom, te ostale troškove. Neki od podnosilaca prijava traže od Komisije da naredi donošenje zakona po kojem će stara devizna štednja biti proglašena neotuđivom privatnom imovinom bez ikakvih ograničenja.

VI. PODNESCI STRANA

A. Bosna i Hercegovina

1. U pogledu činjenica

399. Tužena strana navodi da je, nakon dobijanja samostalnosti, odmah počela sa pravnim regulisanjem u oblasti deviznog poslovanja. To je učinjeno iz razloga što su sva devizna sredstva, među kojima je bila i devizna štednja građana, činila ukupne rezerve bivše SFRJ. Zna se da je stanje deviznih rezervi bivše SFRJ na dan 31. decembra 1990. godine iznosilo 13 milijardi USD, a na dan 31. decembra 1991. godine oko 1,5 milijardi USD. Iz ovoga proizilazi da je bivša SFRJ putem Narodne banke Jugoslavije, gdje je vršeno deponovanje svih deviznih rezervi bivše SFRJ, svjesno sklonila sve devize i na taj način onemogućila bivše republike, među kojima je bila i Bosna i Hercegovina, da raspolažu deviznim rezervama koje su sa njenog područja bile deponovane kod Narodne banke Jugoslavije.

400. Također navodi da, u skladu sa gore navedenim, Bosna i Hercegovina do sada ni na koji način nije preuzela garanciju za deviznu štednju građana koja je deponovana kod bivše Narodne banke Jugoslavije, niti postoji njena obaveza da tu štednju isplaćuje građanima.

2. Prihvatljivost u odnosu na banke sa sjedištem u Bosni i Hercegovini

401. Tužena strana navodi da, s obzirom da podnosioci prijava nisu uopće koristili domaća pravna sredstva koja su im stajala na raspolaganju, nisu ispunjeni uslovi za prihvatljivost prijava i razmatranje merituma spora od strane Komisije do okončanja tih postupaka pred domaćim organima uprave i pravosuđa po raspoloživim pravnim lijekovima, saglasno odredbama člana 26. Evropske konvencije i člana 8. stav 2a. Aneksa 6. Općeg okvirnog sporazuma za mir u Bosni i Hercegovini.

402. Tužena strana ističe da iz prijava proizilazi da je ljudsko pravo podnosilaca prijava povrijeđeno u mjesecu junu 1992. godine i da je ta navodna povreda trajala čitav rat, a da su prijave podnesene više godina poslije rata. Naime, Dom/Komisija može razmatrati predmete, između ostalog, samo nakon što su iscrpljena domaća pravna sredstva i ako je zahtjev podnesen u roku od šest mjeseci od dana donošenja konačne odluke.

403. Tužena strana smatra da Komisija, u svim predmetima gdje građani potražuju isplatu stare devizne štednje, mora donijeti identičnu odluku (da imaju, ili nemaju pravo na naplatu stare devizne štednje). Po toj odluci bilo bi utvrđeno da li Bosna i Hercegovina preuzima garancije na staru deviznu štednju od bivše SFRJ.

404. Tužena strana predlaže Komisiji da, iz gore navedenih razloga, prijave odbaci kao neprihvatljive.

3. Prihvatljivost u odnosu na banke sa sjedištem izvan Bosne i Hercegovine

405. S obzirom da podnosioci prijava nisu uopće koristili domaća pravna sredstva koja su im stajala na raspolaganju, nisu ispunjeni uslovi za prihvatljivost prijava i razmatranje merituma spora od strane Doma/Komisije do okončanja tih postupaka pred domaćim organima uprave i pravosuđa po raspoloživim pravnim lijekovima saglasno odredbama člana 26. Evropske konvencije i člana 8. stav 2a. Aneksa 6 Općeg okvirnog sporazuma za mir u Bosni i Hercegovini.

406. Tužena strana ističe da iz prijava proizilazi da je ljudsko pravo podnosilaca prijava povrijeđeno u mjesecu junu 1992. godine i da je ta navodna povreda trajala čitav rat, a da su prijave podnesene više godina poslije rata. Naime, Dom može razmatrati predmete, između ostalog, samo nakon što su iscrpljena domaća pravna sredstva i ako je zahtjev podnesen u roku od šest mjeseci od dana donošenja konačne odluke.

407. Pored toga, tužena strana navodi da se povodom istog zahtjeva za isplatu stare devizne štednje već vodi postupak od strane štediša Ljubljanske banke d.d, Glavna filijala Sarajevo kod Evropskog suda za ljudska prava, te da o tome, također, raspravlja i Odbor za ljudska prava Evropskog parlamenta. Prema tome, tužena strana zaključuje da Komisija ne može voditi identičan postupak, jer postoji mogućnost donošenja različitih odluka.

408. Tužena strana zaključuje da, obzirom da su podnosioci prijava polagali svoja devizna sredstva u banke, čije se sjedište ne nalazi na teritoriji Bosne i Hercegovine, država Bosna i Hercegovina ne može odgovarati zbog navodnog kršenja ljudskih prava. Stoga, tužena strana predlaže Komisiji da, iz gore navedenih razloga, prijave odbaci kao neprihvatljive.

4. Meritum u odnosu na banke sa sjedištem u Bosni i Hercegovini

409. Tužena strana traži od Komisije, ukoliko ocijeni da za sada nisu ispunjeni uslovi za odbacivanje prijava, da se sačeka sa odlučivanjem o prihvatljivosti prijava do konačnog ishoda u navedenim postupcima koji se trebaju pokrenuti pred domaćim nadležnim sudovima.

410. Tužena strana navodi da je, prema njenim saznanjima, do kojih se došlo u konsultacijama sa Vijećem ministara Bosne i Hercegovine, Uredom visokog predstavnika za Bosnu i Hercegovinu i dr, trenutno našla najcjelishodnija rješenja ovog problema. U takvoj situaciji, a u punoj saradnji sa Uredom Visokog predstavnika za Bosnu i Hercegovinu, Država Bosna i Hercegovina je kao jedino moguće rješenje iznašla soluciju da kroz proces privatizacije državne imovine omogući deviznim štedišama obeštećenja kroz otkup te imovine. Ova mjera je preduzeta kako devizne štediše ne bi ostale bez ikakve naknade. U tom cilju, Država Bosna i Hercegovina - Vijeće ministara Bosne i Hercegovine, u saradnji sa Uredom visokog predstavnika za Bosnu i Hercegovinu – priprema paket zakona o privatizaciji državne imovine kako na nivou države, tako i na nivou entiteta Bosne i Hercegovine.

411. Tužena strana ističe da nisu povrijeđena ljudska prava podnosilaca prijava kroz soluciju koja im se nudi predviđenim zakonskim rješenjima kao načinom punog obeštećenja, a u smislu u kojem su im ona zagarantovana Evropskom konvencijom.

412. Tužena strana predlaže Komisiji, ukoliko ne odbaci prijave kao neprihvatljive, da odbije prijave u meritumu spora u odnosu na tuženu stranu, Bosnu i Hercegovinu, kao i da se odbiju zahtjevi podnosilaca prijava za kompenzaciju i naknadu troškova postupka.

5. Meritum u odnosu na banke sa sjedištem izvan Bosne i Hercegovine

413. U dijelu o meritumu prijava, tužena strana navodi da, obzirom da se sjedište Ljubljanske banke d.d. Ljubljana i Investbanke Beograd nalazi na teritoriji drugih država, nije povrijeđeno pravo podnosilaca prijava na mirno uživanje njihove imovine.

B. Federacija Bosne i Hercegovine

1. Činjenice u odnosu na banke sa sjedištem u Bosni i Hercegovini

414. Tužena strana ističe činjenicu, da je od dana podnošenja prijava Domu/Komisiji, preduzela regulativne mjere s ciljem da spriječi kolaps platnog sistema javnog duga i bankovnog sistema. Ove mjere imaju za svrhu zaštitu vlasnika sredstava na deviznim štednim knjižicama. Naime, nakon pravosnažne presude Ustavnog suda Federacije Bosne i Hercegovine, broj: U-10/00 od 8. januara 2001. godine, tužena strana je donijela Zakon o izmjenama i dopunama Zakona o utvrđivanju i realizaciji potraživanja građana u postupku privatizacije (u daljnjem tekstu: Zakon o realizaciji potraživanja), kojim su uređena pitanja utvrđivanja i ostvarivanja potraživanja u postupku privatizacije. Zakonom su definirane vrste potraživanja građana prema Federaciji Bosne i Hercegovine, načini evidentiranja i postupka ostvarivanja ovih potraživanja u postupku privatizacije. Zakonom su, također, definirane vrste potraživanja, te između ostalog i potraživanja na osnovu stare devizne štednje.

415. Naime, u međuvremenu, tužena strana, konkretno Vlada Federacije Bosne i Hercegovine, na svojoj sjednici od 15. decembra 2003. godine, donijela je Odluku o usvajanju strateškog plana za izmirenje unutrašnjih potraživanja prema Federaciji Bosne i Hercegovine. Odlukom je utvrđeno da unutrašnja potraživanja prema Federaciji Bosne i Hercegovine ukupno iznose 3.263,4 miliona KM, a obuhvataju između ostalog i obaveze za staru deviznu štednju u iznosu od 1.110 miliona KM. Regulisano je da će se način isplate i dinamika isplate i izvor finansiranja neisplaćenih potraživanja prema Federaciji Bosne i Hercegovine regulirati posebnim zakonima. Tako je članom 4. Odluke određen način izmirenja obaveza, prema kojem Vlada Federacije Bosne i Hercegovine planira gotovinsku isplatu vlasnicima stare devizne štednje u iznosu od 105 miliona KM, izdavanje obveznica sa nominalnom vrijednošću u iznosu od 1.005 miliona KM, sa rokom dospijeća od 20 godina, 10 godina, grace perioda i kamatom od 0,5%, koja će imati neto sadašnju vrijednost u iznosu od 452 miliona KM.

416. Nadalje, Parlament Federacije Bosne i Hercegovine je donio Zakon o utvrđivanju i načinu izmirenja unutarnjih obaveza Federacije Bosne i Hercegovine, koji je stupio na snagu narednog dana od dana objavljivanja. Ovim zakonom utvrđuje se sveobuhvatno izmirenje unutarnjeg duga na način koji osigurava i podržava makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine (član 2. Zakona o utvrđivanju). Unutarnji dug Federacije Bosne i Hercegovine prema članu 3. navedenog Zakona, između ostalog, čini i obaveza za staru deviznu štednju u iznosu koji će biti utvrđen po verificiranju obaveza. Obaveze po osnovu stare devizne štednje definisane članom 3. Zakona o utvrđivanju, Federacija Bosne i Hercegovine će izmiriti isplatom u gotovini i izdavanjem obveznica.

> Proces verificiranja tražbina za staru deviznu štednju okončat će se u roku od devet mjeseci od stupanja na snagu ovog Zakona.
>
> Federalni ministar finansija donijeće podzakonske akte o verificiranju svih tražbina za staru deviznu štednju u roku od 90 dana od dana stupanja na snagu ovog Zakona.
>
> Kako bi osigurala dodatna finansijska sredstva nositeljima obveznica iz članka 13. ovog Zakona, Vlada Federacije Bosne i Hercegovine u svojstvu dioničara, a sukladno važećim propisima, svojom će Odlukom rasporediti do 15% dividende iz gospodarskih društava s državnim kapitalom kako bi otkupljivala javne obveznice putem ponude po tržišnoj cijeni, isplaćujući ih kako je predviđeno godišnjim proračunom, počevši od obveznica s najnižom nominalnom vrijednošću i progresivno krenuši s obveznicama s višom nominalnom vrijednošću.

417. Dakle, slijedom navedenih činjenica, tužena strana ističe da je, primjenom odredbi Zakona o realizaciji potraživanja i Zakona o izmirenju obaveza, utvrđena unutarnja obaveza Federacije

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2. Činjenice u odnosu na banke sa sjedištem izvan Bosne i Hercegovine

418. Tužena strana ističe da je Parlament Federacije Bosne i Hercegovine, u novembru 2004. godine, donio Zakon o utvrđivanju i načinu izmirenja unutarnjih obaveza Federacije Bosne i Hercegovine. Ovim Zakonom je utvrđeno da će se obaveze po osnovu stare devizne štednje deponovane u Ljubljanskoj banci i Investbanci rješavati u procesu sukcesije. Sporazum o sukcesiji je zaključen između Bosne i Hercegovine, Republike Hrvatske, Savezne Republike Jugoslavije (sada Državna Zajednica Srbije i Crne Gore), Republike Makedonije i Republike Slovenije, kao država sljednica SFRJ. Stupio je na snagu 2. juna 2004. godine. Tužena strana podsjeća da je Sporazumom o sukcesiji utvrđeno da će se garancije bivše SFRJ ili njene Narodne banke, za štednju čvrste valute položenu kod komercijalne banke ili neke od njenih filijala, u bilo kojoj državi nasljednici, prije datuma kada je ta država proglasila nezavisnost, pregovarati bez odlaganja i da će se pregovori odvijati pod pokroviteljstvom Banke za međunarodna poravnanja.

3. Prihvatljivost u odnosu na banke sa sjedištem u Bosni i Hercegovini

419. Tužena strana smatra nespornim da je putem navedene legislative i propisa dat jasan okvir kojim su stare devizne štediše dobile konkretne pouzdane informacije u vezi sa budućim tretmanom njihove stare devizne štednje, na način koji uzima u obzir opće interese, i istovremeno ne predstavlja pretjeran pojedinačan teret na podnosioce prijava.

420. Naime, tužena strana opravdano sumnja, a imajući u vidu vremenski period od dana podnošenja prijave do danas, da su pojedini podnosioci prijava "uložili svoju deviznu štednju putem certifikata", tako što su ih prodali. S tim u vezi, tužena strana podsjeća Komisiju na njenu Odluku o brisanju u predmetu broj: CH/99/2211, *Olga Terpin* protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine od 9. februara 2004. godine.

421. U prilog naprijed navedenom, tužena strana ističe činjenicu da podnosioci prijava od dana podnošenja prijava Domu/Komisiji, odnosno od dana pravosnažnosti presude Ustavnog suda Federacije Bosne i Hercegovine, broj: *U-10/00*, nisu dostavili nove informacije, tj. dokumentaciju u pogledu toga: da li su pokušali da podignu svoju staru deviznu štednju i da li su zatražili pomoć kod domaćeg suda.

422. Dakle, u ovakvoj konstelaciji preduzetih radnji, odnosno radnji koje će preduzeti tužena strana, unutarnji dug Federacije Bosne i Hercegovine, kojim se obaveze za staru deviznu štednju u iznosu koji će biti utvrđen po verificiranju obaveza, na način propisan u članu 12. Zakona o izmirenju obaveza, a u vezi sa odredbom stava 1. tačka 3. člana 3. Zakona o izmirenju obaveza, izmirit će se isplatom u gotovini. Za obaveze za staru deviznu štednju, koje ne budu izmirene u gotovini i sukladno čl. 9. i 10. Zakona o izmirenju obaveza, izdat će se obveznice do iznosa koji je potreban za izmirenje kumulativnih tražbina (član 13. Zakona o izmirenju obaveza). Kad su u pitanju obveznice za izdavanje obaveza za staru deviznu štednju, tužena strana podsjeća Komisiju na poglavlje III – Obveznice – odredbe članova od 21. do 25. Zakona o izmirenju obaveza – kojim je, između ostalog, utvrđen način, metod i uvjeti izmirenja obaveza za staru deviznu štednju, u vidu obveznica, za koje Federacija Bosne i Hercegovine jamči sukladno odredbama ovog Zakona za izmirenje obaveza.

423. Slijedom izloženog, tužena strana smatra da su se stekli uslovi da Komisija, primjenom odredbi člana VIII Sporazuma, prijave u rubriciranim predmetima proglasi neprihvatljivim, prema članu 1. Protokola broj 1 uz Evropsku konvenciju u pogledu tužene strane Federacije Bosne i Hercegovine.

424. Slijedom navedenoga, tužena strana predlaže Komisiji da prijave podnosilaca odbaci, primjenom člana VIII(3)(b) Sporazuma, jer je predmetna stvar već riješena, na način i u skladu sa naredbama iz ranijih odluka Doma koje se tiču pitanja "stare" devizne štednje, kao i sa Odlukom Ustavnog suda Federacije Bosne i Hercegovine.

4. Prihvatljivost u odnosu na banke sa sjedištem izvan Bosne i Hercegovine

425. Tužena strana navodi da se ne može smatrati odgovornom za moguće povrede, jer je Bosna i Hercegovina uključena u pregovore o sukcesiji u vezi sa pitanjima, kao što su odgovornost banaka u inostranstvu, prava ekonomske sukcesije i druga pitanja koja utiču na imaoce deviznih štednih računa. Slijedom navedenoga, tužena strana predlaže Komisiji da prijave proglasi neprihvatljivim jer su *ratione personae* nespojive sa odredbama Sporazuma.

5. Meritum u odnosu na banke sa sjedištem u Bosni i Hercegovini

426. Nesporno je da potraživanja podnosilaca prijava po osnovu njihove devizne štednje predstavljaju imovinu u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju.

427. U skladu sa stavom 2. člana 1. Protokola broj 1 uz Evropsku konvenciju, s obzirom na ekonomske poteškoće Federacije i banaka, a da bi se spriječio kolaps bankovnog sistema, tužena strana je zakonom regulisala korištenje potraživanja građana po osnovu njihove devizne štednje. Prema ranijim zakonskim rješenjima, nije bila postignuta pravična ravnoteža između općeg interesa i imovinskih prava imalaca stare devizne štednje. To je utvrđeno odlukama Doma za ljudska prava.

428. Tužena strana ne osporava da potraživanja podnosilaca prijava prema bankama lociranim na području Federacije Bosne i Hercegovine po osnovu njihove devizne štednje predstavljaju "imovinu" u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju. Međutim tužena strana podsjeća Komisiju da član 1. Protokola broj 1 uz Evropsku konvenciju uključuje i tri posebna pravila, na osnovu kojih Država ima pravo da se miješa u pravo na imovinu u skladu sa javnim interesom.

429. Dakle, tužena strana je našla, u okviru svoje slobode odlučivanja, odgovarajući način i postigla traženu "pravičnu ravnotežu" interesa. Naime, u trenutnoj fazi, podnosioci prijava ili druge devizne štediše, imaju mogućnost da ostvare svoja imovinska prava u određenim iznosima za staru deviznu štednju na teritoriji Federacije Bosne i Hercegovine, s obzirom da su potraživanja po osnovu stare devizne štednje postala unutrašnji dug Federacije Bosne i Hercegovine, koji se izmiruje u skladu sa posebnim zakonom. Izuzetak čine lica – podnosioci prijava – koji imaju potraživanja na osnovu stare devizne štednje, a dali su izjavu da se ta potraživanja koriste za namjene iz člana 18. Zakona o izmjenama i dopunama Zakona o utvrđivanju i realizaciji potraživanja građana u procesu privatizacije. Tužena strana navodi da će, na osnovu utvrđenog metoda i visine, isplatiti u gotovini, odnosno ukoliko se obaveze za staru deviznu štednju, koje ne budu izmirene isplatom u gotovini, u skladu utvrđenim modelom, rokom, visinom, izdati obveznice do iznosa koji je potreban za izmirenje kumulativnih tražbina.

430. S obzirom na gore navedeno, tužena strana smatra da je u vezi stare devizne štednje podnosilaca prijava, Federacija Bosne i Hercegovine opravdala uplitanje u prava podnosilaca prijava, jer je kontrola korištenja imovine u skladu sa općim interesom i ima osnova u Zakonu. U prilog naprijed navedenom je i činjenica da će se konkretnim programom sukcesije i unutarnjeg duga, stara devizna štednja riješiti uspostavljanjem pravične ravnoteže između zahtjeva općeg interesa zajednice i zahtjeva zaštite osnovnih prava podnosilaca prijava. Zakonom je otklonjena neizvjesnost u pogledu statusa deviznih potraživanja koja nisu registrovana na Jedinstvenom računu građana i potraživanja koja su registrovana, ali nisu upotrijebljena u procesu privatizacije.

431. Pored naprijed navedenog, tužena strana obavještava Komisiju, da je Parlament Federacije Bosne i Hercegovine dana 31. decembra 2004. godine donio Zakon o izvršenju

proračuna Federacije Bosne i Hercegovine za 2005. godinu, kojim su uređeni: "način izvršenja Proračuna Federacije Bosne i Hercegovine za 2005. godinu (u daljem tekstu: Proračun), upravljanja prihodima i izdacima Proračuna, te pravo i obaveze korisnika proračunskih sredstava". Opći dio Proračuna sastoji se od bilance prihoda i izdataka te računa finansiranja, a posebni dio sadrži detaljan raspored izdataka po proračunu korisnika i vrsti izdataka.

432. Tako je Federalno ministarstvo finansija, u računu finansiranja, iskazalo zaduženja i otplate dugova "stare devizne štednje – isplate pojedincima", sve u cilju uravnoteženja salda bilance prihoda i rashoda Proračuna.

433. Tužena strana, konkretno Federalno ministarstvo finansija, kao budžetski korisnik, je utvrdilo sredstva u Razdijelu 16 Proračuna, pozicija – Tekući Transferi; za "staru deviznu štednju – isplata pojedincima 61420": proračuni za 2004. godinu u iznosu 6.050.000 KM – Proračuni za 2005. godinu u iznosu od 8.000.000 KM.

434. Dakle, odgovarajućim izmjenama i dopunama Zakona o izmjenama i dopunama Zakona o utvrđivanju i realizaciji potraživanja građana u procesu privatizacije i donošenjem Zakona o utvrđivanju, tužena strana je stvorila pravnu sigurnost u pogledu stare devizne štednje. Ovo tim više što je Zakonom o izvršenju proračuna Federacije Bosne i Hercegovine za 2005. godinu, planirala određena sredstva za "staru deviznu štednju – isplata pojedincima", što je Sporazum o sukcesiji stupio na snagu 2. juna 2004. godine, iz kojih neupitno proizilazi da se "stara devizna štednja" rješava putem unutrašnjeg duga Federacije Bosne i Hercegovine, odnosno sredstvima sukcesije.

435. Imajući u vidu naprijed navedeno, tužena strana smatra da nije prekršila prava podnosilaca prijava na mirno uživanje imovine po članu 1. Protokola broj 1 uz Evropsku konvenciju.

436. Izneseni argumenti potvrđuju stav tužene strane da ne postoje uvjeti za prihvatljivost prijava, te tužena strana predlaže Komisiji da prijave podnosilaca proglasi neprihvatljivim, iz razloga iznesenih u ovim pismenim zapažanjima o prihvatljivosti, odnosno da primjenom odredbi člana VIII Sporazuma donese odluke o odbijanju žalbi podnosilaca prijava kao očito neutemeljenih.

6. Meritum u odnosu na banke sa sjedištem izvan Bosne i Hercegovine

437. Tužena strana navodi da je nesporno da potraživanja podnosilaca prijava po osnovu njihove devizne štednje predstavljaju imovinu u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju. Međutim, tužena strana zaključuje da je, na osnovu ranije iznesenih argumenata, mišljenja da ne postoje uvjeti za prihvatljivost prijava.

C. Mišljenje *amicus curiae* - Udruženje za zaštitu deviznih štediša u Bosni i Hercegovini

1. U odnosu na banke sa sjedištem u Bosni i Hercegovini

438. Udruženje za zaštitu deviznih štediša u Bosni i Hercegovini stoji na stanovištu da su svi problemi i evidentna i flagrantna kršenja ljudskih prava u vezi sa "starom deviznom štednjom", položenom u bankama sa sjedištem u Bosni i Hercegovini ili filijalama banaka sa sjedištem u drugim republikama na teritoriji Bosne i Hercegovine prije 31. decembra 1990. godine, proistekla iz razloga što Bosna i Hercegovina, kao pravni sljednik Republike Bosne i Hercegovine i kao jedna od pravnih sljednica SFRJ, nije poduzela potrebne radnje kojima bi zaštitila prava građanskih lica – imaoce deviznih računa i deviznih štednih uloga. Štaviše, donošenjem relevantnih zakona stvorila je pravnu nesigurnost za devizne štediše u pogledu ostvarivanja prava na imovinu.

439. Republika Bosna i Hercegovina je činom izlaska iz SFRJ, prihvatanjem Ustava Socijalističke Republike Bosne i Hercegovine i zakona Socijalističke Republike Bosne i Hercegovine i donošenjem Uredbe sa zakonskom snagom o preuzimanju i primjenjivanju saveznih zakona, koji se u Bosni i Hercegovini primjenjuju kao republički zakoni, znala da preuzima i dio

obaveza i odgovornosti za deviznu štednju građana, za koju je garancije dala SFRJ. Shodno tome, ovom pitanju morala je posvetiti posebnu pažnju, jer su je ustavne odredbe iz člana 39. Ustava Republike Bosne i Hercegovine, kojim se građanima zajamčuje pravo svojine i člana 85, kojim se zajamčuje pravo građanina da bude obaviješten, na to obavezivale.

440. Republika Bosna i Hercegovina je donijela Uredbu sa zakonskom snagom o deviznom poslovanju, kojom je stavila van snage savezni Zakon o deviznom poslovanju. U članu 144. navedene Uredbe, Republika je utvrdila da će se pitanje dijela stare devizne štednje, u dijelu koji se odnosi na redeponovanu štednju kod Narodne banke Jugoslavije, urediti posebnim propisom. Članom 9. iste Uredbe, preuzela je jemstvo za devize građana koje su se nalazile u posjedu banaka i na računima u inostranstvu ovlaštene banke za poslove sa inostranstvom čije je sjedište bilo u Bosni i Hercegovini.

441. Ako Republika Bosna i Hercegovina nije mogla obezbijediti pravo raspolaganja deviznom štednjom redeponovanom kod Narodne banke Jugoslavije, propustila je donijeti zakon kojim utvrđuje deviznu štednju građana u posjedu banaka na cijeloj teritoriji Bosne i Hercegovine i način raspolaganja ovim deviznim sredstvima građana uz zaštitu prava građana sa teritorija koje nisu bile pod njenom kontrolom.

442. Propuštajući da donese ovakav zakon, Bosna i Hercegovina je ostavila na volju bankama da same odlučuju o ovoj imovini građana. Banke su samovoljno odbile isplaćivati štednju i kamatu po deviznoj štednji. Jedino su visoki političari i funkcioneri uspjeli dobiti svoja sredstva nazad.

443. Potpisivanjem Općeg okvirnog sporazuma za mir u Bosni i Hercegovini, Bosna i Hercegovina je preuzela ustavnu obavezu da osigura najviši standard ljudskih prava. Time je trebala da osigura i pravo raspolaganja deviznim štedišama deviznom štednjom (Ustav Bosne i Hercegovine, član II/3.k), kao i pravo na pravično suđenje II/3.e). Treba imati na umu da je Opći okvirni sporazum za mir u Bosni i Hercegovini, sa svojim aneksima, obezbijedio Bosni i Hercegovini pravni milje da ispuni ovu obavezu.

444. Odluka Bosne i Hercegovine o ciljevima i zadacima devizne politike u 1996. godini, u tačci 7, propisuje da Bosna i Hercegovina preuzima obavezu da će staru deviznu štednju deponovanu kod Narodne banke Jugoslavije, zajedno sa kamatom na štednju, rješavati donošenjem zakona o javnom dugu Bosne i Hercegovine ili na drugi način, u sklopu ukupne konsolidacije duga Bosne i Hercegovine zajedno sa međunarodnom zajednicom.

445. Odgovornost Bosne i Hercegovine sastoji se u tome što nakon donošenja ove odluke nije poduzela daljnje operativne korake u realizaciji odluke o zaštiti prava štediša i interesa države, a morala je to učiniti.

446. Bosna i Hercegovina je odgovorna i za donošenje Okvirnog zakona o privatizaciji preduzeća i banaka u Bosni i Hercegovini, kojim je dala izričito pravo entitetima da privatiziraju preduzeća i banke smještene na njihovom teritoriju koje nisu u privatnom vlasništvu.

447. Nadalje, Udruženje za zaštitu deviznih štediša u Bosni i Hercegovini smatra da su sudski organi propustili da zaštite građane tako što nisu donosili ili izvršavali pravomoćne presude u pogledu devizne štednje. Time je prekršen član 6. Evropske konvencije.

448. Odgovornost Bosne i Hercegovine je i u tome što se oglušila na stavove Doma za ljudska prava, koji je, svojom Odlukom u predmetima *Poropat i drugi,* od 10. maja 2000. godine, ukazao na ozbiljna kršenja ljudskih prava proistekla iz odbijanja odgovornosti Bosne i Hercegovine. Osim toga, Udruženje smatra da u pogledu devizne štednje, Država nije napravila niti jedan pozitivan pomak od donošenja relevantnih odluka Doma.

449. Činjenica je da je Bosna i Hercegovina ostala pasivna i po pitanju pregovora o preuzimanju obaveza po jemstvu SFRJ za staru deviznu štednju, koji se vode pod pokroviteljstvom Banke za

međunarodna poravnanja (Anex C Sporazuma o sukcesiji, član 7. stav 1). Bosna i Hercegovina je imala obavezu za pokretanje ovog pitanja putem Visokog predstavnika i Vijeća za implementaciju mira, čije su članice i 5 sljednica SFRJ.

450. Stupanjem na snagu Sporazuma po pitanju sukcesije, Bosna i Hercegovina i entiteti imaju obaveze po pitanju stare devizne štednje u iznosima u kojima banke, kao nosioci obaveza po deviznoj štednji, da utvrde da su Bosna i Hercegovina i entiteti koristili devizna sredstva za svoje potrebe.

451. Donešeni zakoni (Zakon o utvrđivanju i načinu izmirenja unutrašnjeg duga Bosne i Hercegovine; Zakon o utvrđivanju i načinu izmirenja unutrašnjeg duga Republike Srpske; Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine; Zakon o unutrašnjem dugu Brčko distrikta Bosne i Hercegovine) su prema Sporazumu o sukcesiji ništavni, a po Ustavu Bosne i Hercegovine su neustavni sa aspekta kršenja ljudskih prava. Obaveza po staroj deviznoj štednji svodi se isključivo na ugovoreni odnos banke, koja je pravni sljednik banke na dan 31. decembra 1991. godine, i štediše. Po Zakonu o obligacijama, ovaj odnos se ne može prenijeti na trećeg bez pristanka povjerioca – štediše u konkretnom slučaju.

452. Umjesto trošenja silnih novaca i sati u daljim zakonskim i podzakonskim manipulacijama deviznom štednjom, entiteti su dužni dati naloge bankama da aktiviraju stavke po deviznoj štednji isknjižene u pasivnu podbilancu, tj. da ih vrate u aktivu i počnu vraćati štedišama novac. Država i entiteti će vratiti onaj dio sredstava devizne štednje koji su povukli, ili koristili, za vlastite potrebe.

453. Za potraživanja devizne štednje položene kod Narodne banke Jugoslavije sa pravom reotkupa, banke moraju pokrenuti sudske postupke protiv 5 država sljednica, budući da nije postignut dogovor pred Bankom za međunarodna poravnanja.

454. Odgovornost Bosne i Hercegovine i entiteta postoji u odnosu na donošenje zakonskih mjera kojima će se stare devizne štediše zaštiti od eventualnih zloupotreba od strane banaka. Naime, politike i način isplate devizne štednje od strane banaka moraju biti jasne, transparentne i u funkciji nediskriminacije štediša.

455. Donešeni entitetski zakoni kojima se devizna štednja pretvara u javni dug, ne omogućavaju deviznim štedišama procesne garancije u smislu člana 6. Evropske konvencije.

456. U mišljenju je istaknut stav da Država nema javni interes u pogledu opravdanosti miješanja u pravo na imovinu vlasnika stare devizne štednje. U tom smislu, navodi se da Država ne raspolaže podacima o svojoj imovini, te da je miješanje u ovo pravo neopravdano pošto Država ne vodi savjesno proces privatizacije. Na taj način, Država gubi veliki dio sredstava, koja bi pomogla u rješavanju problema stare devizne štednje.

457. Budući da se radi o kršenju ljudskih prava građana Bosne i Hercegovine, a isključivo u interesu organiziranog kriminala koji dolazi iz redova međunarodne zajednice i domaćih političkih oligarhija, *amicus curiae* je mišljenja da bi Komisija trebala:

- obavijestiti i pozvati članove Predsjedništva Bosne i Hercegovine da podnesu Ustavnom sudu Bosne i Hercegovine zahtjev za preispitivanje ustavnosti zakona koji se odnose na privatizaciju banaka i preduzeća, zakona o javnom dugu i zakona o zabrani izvršenja sudskih presuda;

- zatražiti i izricanje mjere zabrane dalje privatizacije preduzeća i banaka dok se ne utvrdi i usvoji program konsolidacije i vraćanja *ino* duga, koji su preuzeli entiteti, uključujući isplatu stare devizne štednje građanima u Bosni i Hercegovini, zajedno sa izbjeglim licima;

- sugerisati Predsjedništvu Bosne i Hercegovine da traže hitno sazivanje sjednice Vijeća za implementaciju mira s ciljem dobivanja stručne i političke podrške u zaštiti prava građana Bosne i Hercegovine.

2. U odnosu na banke sa sjedištem izvan Bosne i Hercegovine

458. U odnosu na Ljubljansku d.d. Ljubljana i Investbanku Beograd, Udruženje štediša ističe da je u vrijeme izlaska Republike Slovenije i Bosne i Hercegovine iz SFRJ, Ljubljanska banka imala sjedište u Republici Sloveniji, a Investbanka u Beogradu. Obaveza po deviznoj štednji položenoj kod ovih banaka pada na teret Republike Slovenije i Državne Zajednice Srbije i Crne Gore, i nikako se ne može tretirati kao obaveza Bosne i Hercegovine.

D. Mišljenje *amicus curiae* - Ured Visokog predstavnika za Bosnu i Hercegovinu

1. U odnosu na banke sa sjedištem u Bosni i Hercegovini

459. Ured Visokog predstavnika za Bosnu i Hercegovinu, u svom mišljenju od 1. aprila 2005. godine, smatra da treba odustati od stavova Doma, izraženih u odlukama *Poropat i drugi* i *Đurković i drugi*, iz razloga što je Država prenijela tu nadležnost na entitete i Brčko Distrikt. Time je Država iskoristila svoju diskrecionu moć. Štaviše, Ured Visokog predstavnika za Bosnu i Hercegovinu smatra da je nerealno očekivati da poddržavne jedinice mogu imati iste standarde za isplatu stare devizne štednje, jer se, uključujući privatizaciju, nalaze u različitim pozicijama.

460. U pogledu obaveza entiteta i Brčko Distrikta, Ured Visokog predstavnika za Bosnu i Hercegovinu je, uz upućivanje na podatke Međunarodnog monetarnog fonda, dao statistički pregled obaveza Države po pitanju unutarnjeg duga i pojedinih njegovih elemenata. Time je Ured Visokog predstavnika za Bosnu i Hercegovinu ukazivao na ozbiljnost situacije.

461. U pogledu procesnih prava, naglašeno je da se "pravo pristupa sudu" u smislu člana 6. Evropske konvencije može ograničiti u javnom interesu, što bi bilo opravdano u slučajevima "stare devizne štednje". U tom smislu, ukazano je na određenu praksu Evropskog suda za ljudska prava (presuda *National & Privincial Building Society et al. protiv Velike Britanije*, od 23. oktobra 1997. godine, broj 117/1996/736/933-935, stav 105). Osim toga, naglašeno je da se podzakonski propisi tek trebaju donijeti, tako da je ocjena zakona preuranjena.

462. Na kraju je istaknuto da postojeći zakonski okvir predstavlja proporcionalan odnos između prava pojedinca i interesa Države, pri čemu Država uživa široko polje procjene.

2. U odnosu na banke sa sjedištem izvan Bosne i Hercegovine

463. Ured Visokog predstavnika za Bosnu i Hercegovinu, u svom mišljenju od 1. aprila 2005. godine, navodi da je, nakon stupanja na snagu Sporazuma o sukcesiji u junu 2004. godine, Republika Slovenija preuzela odgovornost za banke smještene na njenoj teritoriji prilikom ispunjavanja ugovornih obaveza prema vlasnicima stare devizne štednje. Iako Bosna i Hercegovina i Republika Slovenija nisu postigle nikakav bilateralni sporazum, a tek treba da se uspostavi mehanizam za rješavanje potraživanja prema tim bankama prema Sporazumu o sukcesiji, ova potraživanja po osnovu stare devizne štednje izričito su izuzeta iz zakona o izmirenju dugova kao obaveza stranih država.

VII. MIŠLJENJE KOMISIJE

A. Prihvatljivost

464. Komisija podsjeća da su prijave podnesene Domu u skladu sa Sporazumom. S obzirom da Dom o njima nije odlučio do 31. decembra 2003. godine, Komisija je, u skladu sa članom 2.

Sporazuma iz septembra 2003. godine i članom 3. Sporazuma iz 2005. godine, sada nadležna da odlučuje o ovim prijavama. Pri tome, Komisija će uzimati u obzir kriterije za prihvatljivost prijave sadržane u članu VIII(2) i (3) Sporazuma. Komisija, također, zapaža da se Pravila procedure kojima se uređuje njeno postupanje ne razlikuju, u dijelu koji je relevantan za predmete podnosilaca prijava, od Pravila procedure Doma, izuzev u pogledu sastava Komisije.

465. Komisija zapaža da su svi podnosioci prijava polagali devizna sredstva u jednoj ili više banaka sa sjedištem u Republici Bosni i Hercegovini i u jednoj, ili obje, strane banke, Ljubljanskoj banci d.d. Ljubljana i Investbanci Beograd, sa sjedištem van Republike Bosne i Hercegovine. S obzirom da je Zakonom o izmirenju unutrašnjih obaveza Federacija Bosne i Hercegovine u priznavanju stare devizne štednje kao dio svog unutrašnjeg duga različito tretirala deviznu štednju ostvarenu u domaćim bankama u odnosu na štednju ostvarenu u Ljubljanskoj banci d.d. Ljubljana i Investbanci Beograd, Komisija će predmetne prijave ispitati posebno u dijelu koji se odnosi na potraživanja prema domaćim bankama, a posebno u dijelu prihvatljivosti prema stranim bankama.

A.1. U odnosu na devizne uloge ostvarene u bankama sa sjedištem u bivšoj Republici Bosni i Hercegovini

A.1.I. Nadležnost *ratione personae*

466. Općenito, Komisija podsjeća da se njena nadležnost, prema članu II(2) Sporazuma, proteže na navodne ili očigledne povrede ljudskih prava gdje je takvu povredu navodno ili očigledno počinila jedna ili više strana u Sporazumu. Imajući na umu kompleksnost pravnih i ustavnih aranžmana Bosne i Hercegovine, Komisija smatra da bi bilo nerazumno očekivati od podnosilaca prijava da su u stanju u svim okolnostima tačno imenovati tuženu stranu. Iz ovog razloga, Dom je uvijek smatrao da nije ograničen izborom tužene strane podnosioca prijave. Dom je, u nekoliko prilika, ispitao prijave u vezi sa tuženom stranom onako kako je to odredio sam Dom (vidi, npr., *Poropat i drugi*, tačke, *loc. cit*, 132-33).

467. S obzirom na gore navedeno, Komisija će razmotriti sve ove prijave i protiv Bosne i Hercegovine i protiv Federacije Bosne i Hercegovine.

A.1.I.a. Odgovornost Bosne i Hercegovine

468. Komisija će razmotriti da li je i u kojoj mjeri rješavanje pitanja relevantnih za predmetne prijave odgovornost svake od tuženih strana.

469. Komisija podsjeća da, prema članu I Ustava, Bosna i Hercegovina nastavlja svoje pravno postojanje po međunarodnom pravu kao država i tako nasljeđuje status bivše Republike Bosne i Hercegovine. U tom svojstvu, Bosna i Hercegovina uzima učešće u pregovorima koji se tiču sukcesije imovine SFRJ. Međutim, ne može se smatrati da samo taj status stvara odgovornost za bivše unutrašnje obaveze SFRJ, uključujući i onu koja proizilazi iz deponovanja deviza u Narodnoj banci Jugoslavije i garancija koje je SFRJ dala u vezi sa štednjom. Ipak, Republika Bosna i Hercegovina je usvojila zakone i propise u vezi sa deviznom štednjom (vidi CH/97/48, *loc. cit,* tačke 88-91 gore). Član 9. Uredbe iz 1992. godine predviđao je da Republika daje garanciju za deviznu štednju, a član 12. Uredbe iz 1994. godine glasi da građani mogu koristiti svoju štednju slobodno. Imajući u vidu da je članom 144. Uredbe iz 1992. godine određeno da isplate devizne štednje građana uložene kod Narodne banke Jugoslavije treba odrediti posebnim propisom, Dom je zaključio da je ustanovljeno da se izričita garancija i obećanje da se štednja može slobodno koristiti nisu odnosili na staru deviznu štednju nego samo na nove štedne uloge koje su građani počeli ulagati u vrijeme kada je usvojena zakonska regulativa Republike. Ipak, ostavljajući rješavanje stare devizne štednje za poseban propis, Republika je implicitno priznala odgovornost za ovu štednju. Odluke iz 1995. i 1996. godine ne samo da su pojačale ovo implicitno priznanje, već je jasno navedeno da će se pitanje stare štednje rješavati usvajanjem državnog zakona o javnom dugu ili na neki drugi način u okviru ukupne konsolidacije javnog duga države (*Poropat i drugi*, tačka 142. ff, *Todorović i drugi*, tačka 96, *Đurković i drugi*, tačka 202. ff). Iz ovoga je jasno

vidljiv kontinuitet obaveze Države od perioda raspada bivše SFRJ, pa sve do 14. decembra 1995. godine, kada su Sporazum i Ustav Bosne i Hercegovine stupili na snagu.

470. Komisija, prije svega, napominje da je Aneksom II/2 Ustava Bosne i Hercegovine propisan kontinuitet pravnih propisa, prema kojem "[s]vi zakoni, propisi i sudski poslovnici, koji su na snazi na teritoriji Bosne i Hercegovine u trenutku kada Ustav stupi na snagu, ostaće na snazi u onoj mjeri u kojoj nisu u suprotnosti sa Ustavom dok drugačije ne odredi nadležni organ vlasti Bosne i Hercegovine". Na taj način su svi normativni akti, koji su navedeni u prethodnoj tački ove Odluke, ostali na snazi. Nakon toga datuma, Država je prema novom Ustavu dobila nove obaveze, koje su se primjenjivale/se primjenjuju na pitanje imovinskih prava u smislu člana 1. Protkola broj 1 uz Evropsku konvenciju. U alineji 4. Preambule Ustava, koja ima normativni karakter, u skladu sa III. djelimičnom odlukom Ustavnog suda Bosne i Hercegovine u predmetu 5/98 (od 30. juna i 1. jula 2000. godine, tač. 17. ff), propisano je da je država obavezna da "podstakn[e] opšte blagostanje i ekonomski razvoj kroz zaštitu privatnog vlasništva i unapređenje tržišne privrede". Članom I/4 Ustava Bosne i Hercegovine, stipulisana je, između ostalog, sloboda kretanja kapitala širom Bosne i Hercegovine, dok je članom II/1, "Bosna i Hercegovina i oba entiteta [obavezna] osigurati najviši nivo međunarodno priznatih ljudskih prava i osnovnih sloboda. U tu svrhu postoji Komisija za ljudska prava za Bosnu i Hercegovinu, kao što je predviđeno u Aneksu 6 Opšteg okvirnog sporazuma". Osim toga, članom II/6. Ustava Bosne i Hercegovine, "Bosna i Hercegovina, i svi sudovi, ustanove, organi vlasti, te organi kojima posredno rukovode entiteti ili koji djeluju unutar entiteta podvrgnuti su, odnosno primjenjuju ljudska prava i osnovne slobode na koje je ukazano u stavu 2. Konačno, [p]rava i slobode predviđeni u Evropskoj konvenciji za zaštitu ljudskih prava i osnovnih sloboda i u njenim protokolima se direktno primjenjuju u Bosni i Hercegovini. Ovi akti imaju prioritet nad svim ostalim zakonima". Na kraju, Komisija napominje da je Država, u skladu sa članom III/1(d) Ustava Bosne i Hercegovine, direktno odgovorna za monetarnu politiku. Štaviše, član VII. Ustava označava Centralnu banku Bosne i Hercegovine kao jedini nadležni organ za monetarnu politiku u cijeloj zemlji. Tačno je da Centralnoj banci nije dato ovlaštenje da reguliše rad banaka uopće, ili posebno deviznu štednju. Međutim, isplata štednje sa predmetnih bankovnih računa ima reperkusije na protok deviza i tako utiče na monetarnu politiku za koju je Centralna banka, kao državna institucija, odgovorna.

471. Iz ovih odredbi jasno proizilazi da je pravo na imovinu, kao jedno od fundamentalnih prava modernog demokratskog društva, obaveza Države. Država se ne može osloboditi garantovanja poštivanja ovog prava činjenicom da je, na primjer, prenijela regulisanje i implementaciju ovih oblasti na entitetske institucije. U tom smislu, Komisija napominje da je Dom, u svojoj Odluci CH/97/48 (*loc. cit*, tačka 93) zapazio da je Okvirni zakon o privatizaciji preduzeća i banaka, koji priznaje pravo entitetima da privatiziraju imovinu preduzeća i banaka na njihovoj teritoriji koja nije u privatnom vlasništvu i predviđa da će entiteti usvojiti zakone u tom smislu pokrivajući sredstva i obaveze tako ustanovljene, usvojila Parlamentarna skupština Bosne i Hercegovine 19. jula 1999. godine, nakon što je Visoki predstavnik, 22. jula 1998. godine, donio privremeni zakon. Po mišljenju Doma, činjenica da je Parlamentarna skupština usvojila ovaj Zakon - koji se indirektno tiče i stare devizne štednje – je indikacija o nadležnosti Države da reguliše ove stvari, bar u formulisanju općih principa koje treba primijeniti. Komisija smatra da, i danas, činjenica da je Federacija Bosne i Hercegovine usvojila Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine, ne može osloboditi Državu obaveze da se ovo pitanje ne riješi, barem principijelno, na državnom nivou i u skladu sa članom 1. Protokola broj 1 uz Evropsku konvenciju, za koji je Država direktno odgovorna.

472. Time Komisija odbija prigovore tužene strane, Bosne i Hercegovine, da Država nije "preuzela garanciju za deviznu štednju građana koja je deponovana kod bivše Narodne banke Jugoslavije, niti postoji njena obaveza da tu štednju isplaćuje građanima". Komisija napominje da je pitanje deponovanja novca kod bivše Narodne banke Jugoslavije faktičko pitanje, koje je Bosna i Hercegovina trebala uzeti u obzir kada je zakonski, znači, formalno preuzimala obaveze u pogledu devizne štednje. S druge strane, Država (ni Republika Bosna i Hercegovina, niti Bosna i Hercegovina) nije nikada garantovala štedne uloge imovinom i sredstvima Narodne banke Republike Bosne i Hercegovine (vidi dio Odluke vis á vis zakonodavstva Države). Iz tog razloga,

likvidacija Narodne banke Republike Bosne i Hercegovine (Odluka Narodne banke Republike Bosne i Hercegovine u likvidaciji, broj 01-111/03, od 26. juna 2003. godine), i javni poziv kreditorima po osnovu potraživanja (vidi, na primjer, Obavijest o likvidaciji Narodne banke Bosne i Hercegovine, "Službene novine Federacije Bosne i Hercegovine", broj 39/98), ne može uticati na poziciju vlasnika stare devizne štednje, bez obzira što se ova državna imovina mogla separatisati i likvidirati

473. Komisija zaključuje da Bosna i Hercegovina ostaje odgovorna za pronalaženje zajedičkog rješenja za problem starih bankovnih računa u bankama koje su imale sjedište na njenoj teritoriji, te smatra da su prijave prihvatljive *ratione personae* protiv Bosne i Hercegovine u vezi sa članom 1. Protokola broj 1 uz Evropsku konvenciju, u dijelu koji se odnosi na potraživanja podnosilaca prijava prema domaćim bankama.

474. Što se tiče sudskih postupaka koje su pokrenuli neki od podnosilaca prijava i navoda o nemogućnosti drugih da pristupe sudu, Komisija zapaža da se to isključivo tiče sudstva Federacije Bosne i Hercegovine. Komisija, zbog toga, nalazi da su prijave neprihvatljive protiv Bosne i Hercegovine u vezi sa članom 6. Evropske konvencije.

A.1.I.b. Odgovornost Federacije Bosne i Hercegovine

475. Federacija Bosne i Hercegovine tvrdi da se ne može smatrati odgovornom za moguće povrede u ovim predmetima.

476. Komisija podsjeća da je sve zakone primjenjive na teritoriji Federacije Bosne i Hercegovine, koji se bave bankarstvom, potraživanjima građana, privatizacijom i unutrašnjim dugom, donijela Federacija Bosne i Hercegovine i da su svi organi određeni za implementaciju zakona institucije Federacije Bosne i Hercegovine. Nadalje, žalbe podnosilaca prijava i drugih tužilaca u vezi sa deviznom štednjom su ispitali sudovi koji su nadležni samo na teritoriji Federacije. Federacija Bosne i Hercegovine je odgovorna u ovim predmetima za regulatorne mjere, odluku Ustavnog suda Federacije i druge postupke koje je preduzela u dijelu u kome su oni uticali na položaj podnosilaca prijava u odnosu na banke, a posebno, u odnosu na štedne uloge u bankama.

477. Komisija zaključuje da je nadležna *ratione personae* da razmatra predmetne prijave u odnosu na Federaciju Bosne i Hercegovine u dijelu predmetnih prijava koje se odnose na potraživanja prema bankama sa sjedištem u Republici Bosni i Hercegovini.

A.1.II. Stvar već riješena

478. Federacija Bosne i Hercegovine također tvrdi da predmetne prijave treba odbaciti na osnovu toga što je Dom već riješio stvar u odluci *Poropat i drugi*, *Todorović i drugi* i *Đurković i drugi* naknadnim izvršenjem tih odluka od strane Federacije putem postojećih izmjena i dopuna zakona, te mogućih budućih radnji.

479. Međutim, podnosioci prijava ne misle da je stvar riješena. Komisija smatra da usvajanje novog Zakona o unutrašnjim obavezama i dalje ostavlja otvorenim mnoga pitanja, propisujući da će se model i visina isplata regulisati naknadno posebnim propisom. Naročito, Komisija zapaža da su novim zakonskim rješenjima propisana određena ograničenja koja se tiču iznosa u kome će se vršiti gotovinske isplate, a koji bi trebao da podrži fiskalnu održivost Federacije Bosne i Hercegovine. Prema tome, podnosioci prijava i dalje ne mogu da dobiju isplatu sa svojih računa, niti je trenutno u potpunosti izvjesno na koji način i do koje visine će to biti moguće. Dakle, uplitanje se nastavlja, a stvar nije riješena.

480. Ukratko, Komisija dalje smatra da trenutni status zakona koji utiče na staru deviznu štednju ostvarenu u domaćim bankama pokreće pitanja koja još nisu riješena. Komisija, zbog toga, neće odbiti predmetne prijave po članu VIII(3)(b) Sporazuma.

A.1.III. *Res iudicata*

481. Federacija Bosne i Hercegovine tvrdi da je Komisija, u skladu sa članom VIII(2)(b), spriječena da ispita ove predmete zbog toga što su oni u suštini isti kao stvar koju je Dom već ispitao. Federacija posebno tvrdi da odluke Doma po istom pitanju u predmetu *Poropat i drugi*, *Todorović i drugi i Đurković i drugi* sprječavaju razmatranje ovih prijava.

482. Komisija podsjeća da princip *res iudicata* predviđa da je konačna presuda koju donese nadležni sud o meritumu predmeta konačna u odnosu na prava uključenih strana i predstavlja apsolutnu zabranu kasnijih postupaka koji se tiču istog potraživanja. Taj princip je izražen u članu VIII(2)(b) Sporazuma kojim je propisano da Dom "neće razmatrati prijavu koja je u suštini ista kao i stvar koju je Dom već ispitao, ili je već podnesena na drugi postupak međunarodne istrage ili rješavanja". Međutim, nijedan od ovih podnosilaca prijava nije uključen u odluke Doma u predmetima *Poropat i drugi*, *Todorović i drugi* i *Đurković i drugi*; dakle, princip *res iudicata* se ne može odnositi na njih.

483. Član VIII(2)(b) Sporazuma nije primjenjiv u ovom slučaju kako bi se Komisiji uskratila ovlaštenja da razmatra prijave bez obzira na slične ranije prijave pred Domom.

A.1.IV. Očigledno neosnovane

484. Federacija Bosne i Hercegovine smatra da ove prijave treba odbaciti kao očigledno neosnovane.

485. Komisija zapaža da Federacija Bosne i Hercegovine ne navodi nikakve dokaze za ovaj argument, te stoga, smatra da ove prijave pokreću legitimna pitanja spojiva sa Sporazumom i u okviru njene nadležnosti. Prema tome, Komisija odbacuje prijedlog da se prijave moraju odbaciti kao očigledno neosnovane prema članu VIII(2)(c) u dijelu koji se odnosi na povrat devizne štednje ostvarene kod domaćih banaka.

A.1.V. Iscrpljivanje domaćih pravnih lijekova i pravilo 6 mjeseci

486. U skladu sa članom VIII(2)(a), Komisija će razmotriti da li postoje efikasni pravni lijekovi i, ako je tako, da li su podnosioci prijava dokazali da su ih iscrpili, te da li su podnosioci prijava dokazali da su prijave podnesene u roku od šest mjeseci od dana kada je donesena konačna odluka. Komisija podsjeća da pravilo iscrpljivanja pravnih lijekova zahtijeva da podnosioci prijava dođu do konačne odluke. Konačna odluka predstavlja odgovor na zadnji pravni lijek, koji je djelotvoran i adekvatan da ispita nižestepenu odluku kako u činjeničnom tako i u pravnom pogledu. Odluka kojom je djelotvoran pravni lijek odbačen zato što apelanti nisu ispoštovali formalne zahtjeve pravnog lijeka (rok, plaćanje taksi, forma ili ispunjenje zakonskih uvjeta i sl), ne može se smatrati konačnom. S druge strane, korištenje nedjelotvornog pravnog lijeka ne prekida rok od 6 mjeseci za podnošenje prijave Komisiji.

487. Bosna i Hercegovina tvrdi da podnosioci prijava nisu iscrpili domaće pravne lijekove, jer nisu iskoristili sva raspoloživa pravna sredstva pred domaćim sudovima. Takva sredstva uključuju određene redovne i vanredne pravne lijekove predviđene Zakonom o parničnom postupku. Bosna i Hercegovina je, nadalje, navela da je "u svojoj dosadašnjoj praksi Evropska komisija prihvatila predmete u kojima nisu bila iskorištena sva raspoloživa efikasna sredstva, samo u dva slučaja, smatrajući time da je ovakav pristup izrazito rijedak. Navodi da samo sumnja u uspjeh u domaćem postupku podnosice prijava ne oslobađa obaveze da iscrpe domaća pravna sredstva".

488. Komisija, na prvom mjestu, napominje da pri primjeni principa iscrpljivanja pravnih lijekova nije potrebno uzimati u obzir kvantitet odluka Evropske komisije za ljudska prava u pogledu određene problematike (čak i da nema niti jednog predmeta u relevantnom smislu), već je potrebno ispitivati u svakom pojedinom slučaju da li je pravni lijek djelotvoran, ili ne prema relevantnim zakonima države.

489. Na pojedinca se ne može staviti pretjeran teret u otkrivanju koji je najefikasniji put kojim bi se došlo do ostvarivanja svojih prava (Odluka Ustavnog suda Bosne i Hercegovine, *U 18/00,* od 10. maja 2002. godine, tačka 40, "Službeni glasnik Bosne i Hercegovine", broj 30/02). Djelotvornost pravnog lijeka se ne ogleda samo u činjenici da je on pravno i formalno predviđen, već i da je u praksi djelotvoran. Osnovna ljudska prava, koja štiti Evropska konvencija i Ustav Bosne i Hercegovine, moraju biti stvarna i djelotvorna kako u zakonu tako i u praksi, a ne iluzorna i teoretska. Pravni lijekovi koji su predviđeni za zaštitu prava moraju biti fizički dostupni, ne smiju biti ometani aktima, propustima, odlaganjima ili nemarom vlasti, te moraju biti u stanju štititi predmetna prava (Odluka Ustavnog suda Bosne i Hercegovine, *U 36/02*, od 30. januara 2004. godine, tačka 25, "Službeni glasnik Bosne i Hercegovine", broj 9/04).

490. U vezi s tim, Komisija podsjeća da je u Bosni i Hercegovini već etablirana praksa da se podnosioci prijava mogu obratiti direktno Ustavnom sudu Bosne i Hercegovine ili Domu, danas Komisiji, u slučaju kada nema djelotvornih pravnih lijekova u vezi sa određenim ustavnim pravom, odnosno pravom iz Sporazuma. Tako je u svim slučajevima nerazumnog trajanja postupka zaključeno da u Bosni i Hercegovini ne postoji pravni lijek protiv tvrdnje da je u određenom slučaju povrijeđeno pravo na odlučivanje u razumnom roku. Iz toga razloga, apelanti, tj. podnosioci prijava nisu se morali obratiti niti jednom domaćem organu, već direktno Ustavnom sudu Bosne i Hercegovine ili Domu, tj. Komisiji, i tvrditi povredu citiranog prava (vidi, nedavno usvojene predmete Ustavnog suda Bosne i Hercegovine, *AP 769/04*, od 30. novembra 2004. godine, tačka 23, sa uputom na daljnju praksu Evropskog suda za ljudska prava). Nadalje, Dom je jasno naveo da činjenica da postupak još traje neće spriječiti Dom da ispita žalbene navode podnosioca prijave u vezi sa dužinom postupka (vidi Odluka o prihvatljivosti i meritumu, CH/99/1972, *M.T. protiv Republike Srpske*, od 3. jula 2003. godine, tačka 27). Isti slučaj je bio sa pravom pristupa sudu, gdje je zaključeno da Bosna i Hercegovina i njene poddržavne teritorijalne cjeline nisu predvidjeli pravni lijek protiv povrede prava pristupa sudu (vidi, na primjer, Odluku o prihvatljivosti i meritumu Komisije, *Dmitar Arula protiv Federacije Bosne i Hercegovine*, od od 8. i 9. marta 2005. godine, tačka 55; Odluka Ustavnog suda Bosne i Hercegovine, *U 19/00*, od 4. maja 2001. godine, tačka 12. ff, "Službeni glasnik Bosne i Hercegovine", broj 27/01).

491. Komisija navodi da je prva indicija nedjelotvornog pravnog sistema u pogledu isplate stare devizne štednje činjenica da Federacije Bosne i Hercegovine ni dan danas nije počela da isplaćuje deviznu štednju. Osim toga, podsjeća da su neki od podnosilaca prijava pokrenuli domaće sudske postupke kako bi im se isplatila gotovina sa njihovih računa. Nijedan od podnosilaca prijava nije do sada u tome uspio. Komisija uzima u obzir da su brojni postupci u toku, odnosno da je u nekim određeno mirovanje postupka ili su prekinuti zbog proglašenja ratnog stanja u Republici Bosni i Hercegovini i nikada nisu nastavljeni, tako da i oni podnosioci prijava koji su pokrenuli postupke pred sudovima nisu uspjeli izdejstvovati pravosnažne presude domaćih sudova (CH/99/2026, *E.D. i Dž.D. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*; CH/99/3162, *Vasilije Bjelica protiv Bosne i Hercegovine*). Konačno, sama zakonska rješenja ne dozvoljavaju trenutno da se pravomoćne presude iz oblasti ove problematike izvršavaju, jer su predviđeni drugi modaliteti isplate stare devizne štednje.

492. S obzirom na gore navedeno, Komisija smatra da ne postoje efikasni pravni lijekovi koji su dostupni podnosiocima prijava, a koje bi trebali iscrpiti. U ovim okolnostima, Komisija nije spriječena da razmatra prijave.

493. Federacija Bosne i Hercegovine tvrdi da su prijave neprihvatljive prema članu VIII(2)(a) Sporazuma, jer nisu podnesene u roku od šest mjeseci od dana donošenja bilo koje konačne odluke u predmetima podnosilaca prijava. Međutim, sadržaj svake od navedenih povreda je nastavljena situacija, a rok od šest mjeseci se ne može primijeniti sve dok se situacija ne okonča, a što ovdje nije slučaj. Treba napomenuti da je zahtjev za isplatom pravni zahtjev koji se formalno, ali i faktički, proteže od samog početka nemogućnosti isplate štedišama njihove devizne štednje. Prema tome, iako je situacija nastala prije 14. decembra 1995. godine, pravna situacija je nepromijenjena i do danas, kada je Sporazum, bez daljnjeg, na snazi. Radi se, znači, o klasičnom slučaju tvrdnje kontinuirane povrede (vidi, između ostalih, odluke o prihvatljivosti i meritumu Doma,

CH/99/1900 i 1901, *D.S. i N.S. protiv Federacije Bosne i Hercegovine*, od 6. marta 2002. godine, tačka 49; Odluku Ustavnog suda Bosne i Hercegovine, *U 23/00,* "Službeni glasnik Bosne i Hercegovine", broj 10/01).

494. Komisija, zbog toga, zaključuje da prijave u ovom dijelu nisu neprihvatljive prema članu VIII(2)(a).

A.1.VI. Ostalo

495. Komisija zapaža da su podnosioci prijava, u svojim prijavama, označili Republiku Sloveniju kao tuženu stranu: CH/98/505, *Nimeta Kulenović protiv Bosne i Hercegovine, Federacije Bosne i Hercegovine i* Republike *Slovenije i* CH/99/3301, *Nadežda Šehovac-Pavičević protiv Bosne i Hercegovine, Federacije Bosne i Hercegovine i Republike Slovenije*. Komisija smatra da se navodi podnosilaca prijava, u dijelu u kom su upućeni protiv Republike Slovenije, ne odnose na uplitanja u njihova prava zagarantovana Sporazumom od strane jedne od potpisnica Sporazuma (Bosna i Hercegovina, Federacija Bosne i Hercegovine i Republika Srpska). Slijedi da je prijava nespojiva *ratione personae* sa odredbama Sporazuma, u smislu člana VIII(2)(c). Komisija, zbog toga, odlučuje da prijave u ovom dijelu proglasi neprihvatljivim.

496. U skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, Komisija briše dio slijedećih prijava: CH/98/430, *Ekrem Ulak protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u odnosu na sredstva položena kod Jugobanke; CH/98/499, *Suada Saradžić protiv Bosne i Hercegovine*, u odnosu na sredstva položena kod Privredne banke; CH/98/589, *Vjekoslava Bošnjak protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u odnosu na sredstva položena kod Privredne banke; CH/98/599, *Šimo Bošnjak protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na deviznu štednju položenu kod Jugobanke i na drugoj knjižici kod Privredne banke u iznosu od 1.048,14 KM; CH/98/674, *Ana Mrdović protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine,* u odnosu na njena devizna sredstva položena kod Jugobanke; CH/99/2145, *Ivka Livaja protiv Federacije Bosne i Hercegovine,* u odnosu na sredstva položena kod Jugobanke i CH/99/2784, *Fuad Aganović protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na deviznu štednju položenu kod Jugobanke. Naime, uprkos izričitom traženju, podnosioci prijave nisu dostavili kopije deviznih štednih knjižica, čime bi potkrijepili svoje navode.

497. U skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, Komisija briše dio prijava CH/98/537, *Fatima Arapović protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na sredstva položena kod Jugobanke na njeno ime, u iznosu od 332,38 CHF; CH/98/609, *H.A. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na potraživanja u iznosu od 84.192,7 KM polagana "u raznim bankama" i CH/98/684, *M.S. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na sredstva polagana kod Jugobanke u iznosu od 10.225,8 ATS, 22.780,8 FRF, 26.930,54 DEM, 11.226,97 ITL, 5,33 GBP i 72,85 USD. Naime, uprkos izričitom traženju, podnosioci prijava nisu dostavili kopije štednih knjižica, čime bi potkrijepili svoje navode o postojanju ovih potraživanja. Osim toga, podnosioci prijava nisu naveli razloge nedostavljanja štednih knjižica u odnosu na ova potraživanja.

498. U skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, Komisija briše dio prijava, CH/98/527, *Dimšo Đurić protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na štedne pologe supruge i kćerki podnosioca prijave; CH/98/1070*, Ljiljana Vuković protiv Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na sredstva polagana na ime njenog supruga kod Jugobanke Sarajevo u iznosu od 1.086,14 DEM, 611,56 USD i 1.311,25 CHF i kod Privredne banke Sarajevo u iznosu od 457,82 DEM i CH/99/3230, *A.H. protiv Federacije Bosne i Hercegovine*, u odnosu na štedne pologe supruge i djece podnosioca prijave. Komisija zapaža da podnosioci prijava nisu dostavili kopije punomoći kojom ih članovi porodice ovlašćuju na zastupanje pred Komisijom.

499. U skladu sa pravilom 50. stavom 2e. Pravila procedure Komisije, Komisija u cijelosti briše prijave, CH/99/3303, *Tomo Golac protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine* i CH/99/3317, *Ivan Ivica Božić protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine,* jer su podnosioci prijava umrli, a njihovu deviznu štednju su naslijedili podnosioci prijava CH/99/3301, *Nadežda Šehovac – Pavičević protiv Bosne i Hercegovine, Federacije Bosne i Hercegovine i Republike Slovenije,* odnosno CH/99/3317, *Ruža Božić protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, zbog čega više nije opravdano da se nastavi postupak pred Komisijom u odnosu na umrle podnosioce prijava. Naslijeđena devizna štednja razmatrat će se kao dio prijava podnosilaca koji su je naslijedili. U skladu sa pravilom 50. stavom 2e. Pravila procedure Komisije, Komisija u cijelosti briše prijavu CH/98/538, *Zejnil Brković protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, jer je podnosilac prijave obavijestio Komisiju da je cjelokupnu deviznu štednju, u iznosu od 13.814,21 KM, uložio u PIF “Bonus” d.d. Sarajevo.

A.2. U odnosu na devizne uloge ostvarene u Ljubljanskoj banci d.d. Ljubljana, Glavna filijala Sarajevo i Investbanci Beograd

A.2.a Odgovornost Bosne i Hercegovine

464. Komisija podsjeća da je, prije nego što je došlo do raspada SFRJ, za devize na deviznim računima i deviznim štednim ulozima građana kod banaka na njenoj teritoriji, jemčila isključivo tadašnja SFRJ. Nakon što su neke od bivših republika SFRJ, među kojima i Bosna i Hercegovina, sredinom 1991. i početkom 1992. godine postale samostalne države, odgovornost za deviznu štednju je, u skladu sa tada važećim zakonima, prešla na novoformirane države. Međutim, ove novoformirane države su jemčile samo za devizne pologe kod osnovnih banaka koje su imale sjedište i bile registrirane kao samostalno pravno lice na njihovoj teritoriji.

465. Uzimajući u obzir veoma značajno obrazloženje iz prethodne tačke ove Odluke, postavlja se pitanje zašto je, uopšte, došlo do toga da nosioci prava na staroj deviznoj štednji u Ljubljanskoj banci d.d. Ljubljana, Glavna filijala Sarajevo i Investbanci Beograd tvrde da su povrijeđena njihova ljudska prava. Komisija napominje da je osnovni razlog za to zakonodavna aktivnost Republike Bosne i Hercegovine i Bosne i Hercegovine, koje su u periodu od 1992. godine donijele niz akata o priznavanju odgovornosti za staru deviznu štednju. Pri tome, nije postojala diferencijacija između građana koji su imali svoje devize u bankama sa sjedištem u Bosni i Hercegovini i onih u bankama sa sjedištem izvan nje (vidi tač. 368-374. Odluke).

466. Komisija podsjeća da su u ranijim meritornim odlukama, koji se tiču stare devizne štednje (vidi tač. 5-10. Odluke), obuhvaćeni i podnosioci prijava koji su imali deviznu štednju u Ljubljanskoj banci d.d. Ljubljana, Glavna filijala Sarajevo i Investbanci Beograd, što je bila direktna posljedica događanja navedenih u prethodoj tački. U navedenim odlukama Dom je utvrdio odgovornost Bosne i Hercegovine na osnovu toga što je Republika Bosna i Hercegovina usvojila zakone i druge propise koji se bave pitanjem devizne štednje i "samim tim priznala odgovornost za tu štednju". Odgovornosti Bosne i Hercegovine doprinijela je i činjenica da je Država bila uključena u državne pregovore o sukcesiji imovine bivše SFRJ. Međutim, treba naglasiti da se ove odluke nisu bavile pitanjem postojanja ili nepostojanja prava deviznih štediša na isplatu. Štaviše, isti zaključak se može usvojiti i u slučaju ostalih banaka, čije sjedište je bilo u Bosni i Hercegovini. Komisija je zaključila da je povreda ležala u činjenici da Država nije jasno definisala pitanje pravne pozicije deviznih štediša. Ona se samo deklarativno i paušalno izjašnjavala o deviznoj štednji, a nije decidno uspostavila procesno- i materijalno-pravnu osnovu, te institucionalni okvir, koji bi, u skladu sa odgovarajućim zakonima, članom 6. Evropske konvencije i članom 1. Protokola broj 1 uz Evropsku konvenciju, dao odgovor na pitanje da li podnosioci prijava imaju pravo na isplatu devizne štednje u Ljubljanskoj banci i Investbanci, i ako imaju, na koji način je mogu ostvariti. Na izvjestan način, Država je stvorila haotičnu situaciju, protivnu principu pravne sigurnosti, u smislu člana I/2. Ustava Bosne i Hercegovine.

467. Da je stav Doma u vezi sa pravnom nesigurnošću bio ispravan, govore i činjenice u vezi sa statusom Ljubljanske banke d.d. Sarajevo, kojeg je imala u vrijeme donošenja relevantnih odluka

Doma, odnosno u vrijeme do donošenja presude Općinskog suda, broj: Ps-595/03-III od 11. novembra 2004. godine. Naime, kao što je ranije u ovoj Odluci pomenuto, rješenjem Višeg suda, broj: UF/I-748/93 od 2. jula 1993. godine, u sudski registar Kantonalnog suda izvršen je upis Ljubljanske banke d.d. Sarajevo, kao pravnog lica koje je nastalo statusnom promjenom Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo. Prema navedenom rješenju Ljubljanska banka d.d. Sarajevo je, kao pravni sljednik, preuzela prava i obaveze stare Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo, kao pravnog prednika. Sve dok ovakva registracija nije utvrđena kao protivzakonita i promijenjena, postojala je obaveza da se poštuje formalno-pravna situacija, što nalaže princip pravne države, tj. vladavine prava.

468. Međutim, od vremena podnošenja predmetnih prijava i donošenja citiranih odluka Doma, do današnjeg dana, desile su se relevantne zakonodavne, sudske i međunarodno-pravne aktivnosti, koje Komisija mora uzeti u razmatranje, jer se direktno ili indirektno tiču predmetne kategorije stare devizne štednje.

a) Prije svega, 2. juna 2004. godine stupio je na snagu Sporazum o sukcesiji, kojim je, između ostalog, regulisano i pitanje odgovornosti za staru deviznu štednju deponovanu u Narodnoj banci Jugoslavije. Ovim Sporazumom, kao što je ranije pomenuto, Republika Slovenija preuzela je odgovornost za banke smještene na njenoj teritoriji. U vezi sa Sporazumom o sukcesiji, Komisija je, u svojoj odluci u predmetu *CH/98/375 i dr.* (vidi Odluku o prihvatljivosti i meritumu Komisije za ljudska prava, *Besarović i dr. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, od 6. aprila 2005. godine, tačka 1152) zaključila da sama činjenica da je Bosna i Hercegovina učestvovala u pregovorima o sukcesiji ne stvara odgovornost Bosne i Hercegovine za bivše unutrašenje obaveze SFRJ, uključujući i staru deviznu štednju.

b) Pored toga, Federacija Bosne i Hercegovine je donijela Zakon o izmirenju obaveza. Članom 9. navedenog Zakona propisano je da Federacija preuzima obaveze na osnovu stare devizne štednje ostvarene u najnižim poslovnim jedinicama banaka (ekspozitura i/ili agencija) na teritoriji Federacije, a da obaveze Federacije Bosne i Hercegovine ne obuhvataju obaveze na osnovu stare devizne štednje deponovane u Ljubljanskoj banci d.d. Ljubljana i Investbanci Beograd, s obzirom na to da će se one rješavati u procesu sukcesije imovine bivše SFRJ.

c) Konačno, domaći sudovi su, rješavajući status Ljubljanske banke d.d. Sarajevo, utvrdili da je ova banka po svojoj zakonskoj regulativi osnovana kao nezavisna, nova banka koja nema nikakvih prava i obaveza u okviru Ljubljanske banke d.d. Ljubljana. Naime, Komisija podsjeća da je članom 14. Zakona o bankama i drugim finansijskim organizacijama SFRJ (vidi tačku 364. Odluke) predviđeno da je banka samostalno pravno lice, a da njene poslovne jedinice u odnosu sa trećim licima djeluju isključivo u ime i za račun banke. S obzirom da je sjedište Ljubljanske banke d.d. bilo u Ljubljani, Komisija ističe, a što je također utvrđeno i od strane domaćih sudova, da Glavna filijala Sarajevo nije bila pravno lice, već je poslovala u ime i za račun Ljubljanske banke d.d. Ljubljana i nikada nije bila odgovorna za deviznu štednju deponovanu kod navedene banke. Stoga se, Ljubljanske banka d.d. Sarajevo koja je nastala statusnom promjenom Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo, ne može smatrati odgovornom, jer nije mogla preuzeti veća prava i obaveze nego što je imala filijala u Sarajevu. Ovakvo mišljenje podržalo je i Udruženje štediša, koje je, kao zaštitnik interesa svih štediša u Bosni i Hercegovini, aktivno učestvovalo u postupcima pred domaćim sudovima i Komisijom. Udruženje štediša je u postupku pred Općinskim sudom istaklo da ima pravni interes da se utvrdi da Ljubljanska banka d.d. Sarajevo nije odgovorna za staru deviznu štednju, jer, zbog činjenice da ta banka nema sredstava za izmirenje obaveza po osnovu devizne štednje, sve štediše bi ostale bez mogućnosti da ostvare pravo na povrat svojih sredstava. Također, u svom mišljenju dostavljenom Komisiji, Udruženje štediša ističe da se isplata stare devizne štednje ne može smatrati obavezom Bosne i Hercegovine, s obzirom da je sjedište Ljubljanske banke d.d. Ljubljana bilo u Republici Sloveniji, a Investbanke u Beogradu.

469. Postavlja se pitanje kakav uticaj imaju ove promjene (navedene u tač. 468(a)-(c)) na konkretne predmete. Da bi riješila ovo pitanje, Komisija će prvo objasniti zašto Komisija ove

promjene mora uzeti u obzir da bi došla do konačnog stava u vezi predmetne problematike. U svom predmetu CH/99/2624 (*I.D. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, od 9. marta 2005. godine, tačka 85), Komisija je objasnila principe na osnovu kojih se odlučuje da li se određeni pravni akti, koji su doneseni u toku postupka ili postupaka u jednom predmetu, moraju uzeti u obzir. Tom prilikom je navedeno:

> Pitanje, koje pravo treba primjeniti u nekom slučaju, zavisi, prije svega, od tumačenja odredbi o vremenskom važenju normi koje predstavljaju pravnu osnovu odlučenja. Iz toga proizilazi da organ mora primijeniti normu, koja je važeća u trenutku donošenja odluke. Isti pristup se primjenjuje i u žalbenim postupcima. Ovo jasno proizilazi iz principa zakonitosti [...], koji nalaže da [...] organi rješavaju stvari na osnovu zakona, u granicama ovlaštenja i u skladu s ciljem s kojim je ovlaštenje dato. Drugačiji pristup neophodan je samo u slučajevima u kojima zakonodavac ili drugi donosilac općeg akta predvidi u samom zakonu, tj. aktu, prelazne odredbe, koje nalažu da se u postupcima koji nisu okonačni primijene ranije važeće norme, ili u slučajevima u kojima nadležni organ mora odlučiti šta je bilo po zakonu na određeni dan, tj. u određenom vremenskom periodu u prošlosti. Konačno, Komisija naglašava da član I/2. Ustava Bosne i Hercegovine propisuje princip vladavine prava, iz kojega proizilazi princip pravne sigurnosti. To, nadalje, znači da donosilac općeg akta mora voditi računa da se pravna osnova, koja reguliše određene odnose, ne mijenja tako često, što izaziva nesigurnost kod građana.

470. S obzirom da Sporazum o sukcesiji i novi Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine nemaju prelazne odredbe o svom vremenskom važenju, jasno proizilazi da ih Komisija mora uzeti u obzir. Isti slučaj je i sa presudom Općinskog suda, broj: Ps-595/03-III od 11. novembra 2004. godine, kojom je "nova" Ljubljanska banka oslobođena od obaveza stare Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo. U protivnom, bio bi narušen princip vladavine prava. Uzimajući u obzir novonastalu pravnu situaciju, Komisija zaključuje da Bosna i Hercegovina nema obavezu isplate stare devizne štednje u Ljubljanskoj banci d.d. Ljubljana, Glavna filijala Sarajevo i Investbanci Beograd. Time su podnosioci prijava lišeni u Bosni i Hercegovini svoje imovine.

471. Sljedeće pitanje, na koje Komisija mora odgovoriti jeste da li je ovakav postupak nadležnih organa u Bosni i Hercegovini opravdan. Prema jurisprudenciji Evropskog suda, član 1. Protokola broj 1 uz Evropsku konvenciju obuhvata tri različita pravila. Prvo, koje je izraženo u prvoj rečenici prvog stava i koje je opće prirode, izražava princip mirnog uživanja u imovini. Drugo pravilo, u drugoj rečenici istog stava, pokriva lišavanje imovine i podvrgava ga izvjesnim uvjetima. Treće, sadržano u drugom stavu, dozvoljava da države potpisnice imaju pravo, između ostalog, da kontrolišu korištenje imovine u skladu sa općim interesom, sprovođenjem onih zakona koje smatraju potrebnim za tu svrhu (vidi Odluku Ustavnog suda Bosne i Hercegovine, *U 3/99*, od 17. marta 2000. godine, "Službeni glasnik Bosne i Hercegovine", broj 21/00).

472. Svako miješanje u pravo prema drugom ili trećem pravilu iz člana 1. Protokola broj 1 uz Evropsku konvenciju mora biti predviđeno zakonom, mora služiti legitimnom cilju, mora uspostavljati pravičnu ravnotežu između prava nosioca prava i javnog i općeg interesa. Miješanje je zakonito samo ako je zakon koji je osnova miješanja (a) dostupan građanima, (b) toliko precizan da omogućava građanima da odrede svoje postupke, (c) u skladu sa principom pravne države, što znači da sloboda odlučivanja koja je zakonom data izvršnoj vlasti ne smije biti neograničena, tj. zakon mora obezbijediti građanima adekvatnu zaštitu protiv proizvoljnog miješanja (vidi presudu Evropskog suda za ljudska prava, *Sunday Times protiv Velike Britanije,* od 26. aprila 1979. godine, Serija A, broj 30, stav 49; vidi, također, presudu Evropskog suda za ljudska prava, *Malone protiv, Velike Britanije,* od 2. augusta 1984. godine, Serija A, broj 82, st. 67. i 68). Komisija zaključuje da Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine ispunjava standarde u smislu Evropske konvencije, jer je objavljen u "Službenim novinama Federacije Bosne i Hercegovine", tj. dostupan je, i precizno određuje da će se obaveze prema

imaocima stare devizne štednje deponovane kod Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo i kod Investbanke Beograd, rješavati u procesu sukcesije imovine bivše SFRJ.

473. Sljedeće pitanje koje se nameće jeste da li miješanje služi legitimnom cilju i da li uspostavlja pravičnu ravnotežu između prava nosioca prava i javnog i općeg interesa. Komisija smatra da je ovakvo zakonsko rješenje predviđeno u cilju zaštite međunarodno-pravnih interesa Bosne i Hercegovine, tj. prava da ne snosi obaveze drugih država. Osim toga, Država na ovaj način štiti fiskalni i bankarski sistem, tj. fiskalni i bankarski sistem njenih administrativnih jedinica, kao i svoju makroekonomsku stabilnost.

474. Nadalje, Komisija zaključuje da je novi Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine u potpunosti na liniji bankarskog sistema iz vremena kada je postojala bivša SFRJ. Šta to znači? Donošenjem ovog Zakona, Bosna i Hercegovina nije stavila nosioce prava na staroj deviznoj štednji u nepovoljniji položaj od onog koji je bio u vrijeme ulaganja deviznih sredstava u sporne banke, tj. u Ljubljanskoj banci d.d. Ljubljana, Glavna filijala Sarajevo i Investbanci Beograd. Naime, ulaganje u te banke je predstavljalo čin slobodne volje podnosilaca prijava, u smislu člana 11. Zakona o obligacionim odnosima. Kao takav, a primjenom principa slobodnog tržišta, svaki ulagač je snosio posljedice svojih poslovnih poteza. U trenutku ulaganja, svaki ulagač je bio svjestan da se sjedište banke ne nalazi na teritoriji Bosne i Hercegovine, što jasno proizilazi iz naziva ovih banaka. Nadalje, podnosioci prijava, za vrijeme bivše SFRJ, nisu mogli pokrenuti postupak protiv "filijala" navedenih banaka, jer oni nisu imali svojstvo pravnog lica. Oni su mogli da to urade samo protiv banke, koja je imala svojstvo pravnog lica, čije je sjedište u konkretnim slučajevima bilo van teritorije Bosne i Hercegovine. Komisija napominje da ovakvo objašnjenje ne treba da se miješa sa činjenicom da su podnosioci prijava imali mogućnost pokretanja postupka protiv banaka u mjestu sjedišta filijale. Naime, članom 59. Zakona o parničnom postupku SFRJ, propisano je da je u sporovima protiv pravnog lica koje ima poslovnu jedinicu van svog sjedišta, ako spor proizilazi iz pravnog odnosa te jedinice, pored suda opće mjesne nadležnosti, nadležan i sud na čijem području se nalazi ta poslovna jedinica (vidi tačku 367. Odluke). To je omogućavao sudski sistem za vrijeme bivše SFRJ, kao samostalne i zajedničke države, a koji je bio uvezan sistem. Međutim, raspadom te Države, ova prednost je otpala, za što Bosna i Hercegovina ne može da snosi krivicu.

475. Konačno, Komisija mora da dâ odgovor na pitanje, da li je Država povrijedila pravo podnosilaca prijava na imovinu zbog činjenice da je jedan entitet, kao državna administrativna jedinica, donošenjem zakonskog akta, oslobodila Državu svoje obaveze, koju je ova deklarativno imala do donošenja ovog Zakona (uporedi odluke Doma *Đurković i dr, Todorović i dr).* Komisija ponavlja da je sva aktivnost u pogledu "stare devizne štednje" građana prenesena na entitete i Distrikt Brčko, koji su pitanje stare devizne štednje regulisali kroz relevantne zakone o unutrašnjem dugu. U tom smislu, kao što je već navedeno, Federacija Bosne i Hercegovine je donijela Zakon o izmirenju unutrašnjih obaveza Federacije Bosne i Hercegovine. Ovaj Zakon oslobađa Federaciju Bosne i Hercegovine, a samim tim i Državu, obaveze da se isplati stara devizna štednja, polagana kod Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo i kod Investbanke, Beograd. U Odluci *Besarović i dr*, Komisija je zaključila da se Država može osloboditi garantovanja poštivanja prava na imovinu njegovim prenosom, u smislu regulisanja i implementacije, na entitetske institucije, ako obezbijedi dovoljno garanta za adekvatno rješavanje ovog pitanja na nižem nivou u skladu sa, između ostalog, standardima Evropske konvencije (*op. cit*, *CH/98/375 i dr*, tač. 1196-1201). U citiranoj Odluci *Besarović i dr.* utvrđeno je da je Država, iako je imala mogućnost derogacije konkretne odgovornosti na niže administrativne jedinice, odgovorna za isplatu stare devizne štednje, jer je prenijela ovu obavezu na Federaciju Bosne i Hercegovine, a da pri tome nije dala dovoljno garanta za njeno ispunjenje. Ovakav zaljučak se odnosio isključivo na banke, čije sjedište je bilo na teritoriji Bosne i Hercegovine. U konkretnom slučaju, Komisija prihvata mišljenje Entiteta, izraženo u relevantnom zakonu, da Federacija Bosne i Hercegovine, a samim tim ni Država, nije obavezna da isplaćuje staru deviznu štednju, uloženu kod Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo i kod Investbanke Beograd. Shodno tome, Komisija neće slijediti mišljenje izraženo u Odluci *Besarović i dr,* da je Država obavezna donijeti zakonski akt i principijelno

regulisati ovo pitanje na teritoriji cijele Države, jer, u ovom slučaju, nije obavezna ispuniti obaveze, za koje nije nikada ni garantovala.

476. Na kraju, Komisija ističe da problem sa bivšom Ljubljanskom bankom d.d. Ljubljana nije prisutan samo na tlu Bosne i Hercegovine. Naime, devizne štediše iz Republike Hrvatske pokrenule su postupak protiv Republike Slovenije pred Evropskim sudom. Taj Sud je donio odluku, kojom je prijave proglasio prihvatljivim protiv Republike Slovenije (vidi odluku Evropskog suda za ljudska prava, *Kovačić i drugi protiv Republike Slovenije*, od 1. aprila 2004. godine). Evropski sud za ljudska prava je pri odlučivanju uzeo u obzir Ustavni zakon za provođenje i izvršenje Osnovne ustavne Isprave o samostalnosti i neovisnosti Republike Slovenije. Kako je već ranije pomenuto, navedeni Ustavni zakon je dopunjen Ustavnim zakonom o dopuni Ustavnog zakona za provođenje i izvršenje Osnovne ustavne Isprave o samostalnosti i neovisnosti Republike Slovenije, kojim je osnovana nova Ljubljanska banka d.d. Ljubljana. Ova banka je preuzela sva potraživanja, ali ne i obaveze ranije Ljubljanske banke d.d. Ljubljana. Komisija zapaža da ova izmjena Ustavnog zakona nije uticala na donošenje Odluke o prihvatljivosti prijava hrvatskih državljana protiv Republike Slovenije od strane Evropskog suda. Evropski sud je, uzimajući u obzir kriterije prihvatljivosti prijava i ne prejudicirajući odluku u meritumu, utvrdio da su prijave, *inter alia*, prihvatljive *ratione personae* protiv Republike Slovenije. Evropski sud je zaključio da su vlasti Republike Slovenije svojim zakonima uticale na prava imalaca stare devizne štednje izvan njene teritorije i time prouzrokovale odgovornost Republike Slovenije prema Evropskoj konvenciji (*ibid*).

477. U odnosu na Investbanku Beograd, Komisija zapaža da navedena banka nije registrovana u Bosni i Hercegovini kao samostalna banka (vidi tačku 360. Odluke). Komisija podsjeća da je u vrijeme kada su podnosioci prijava polagali svoja sredstva na devizne račune kod ove banke, tj. prije oružanog sukoba u Bosni i Hercegovini, njeno sjedište bilo u Beogradu, na teritoriji sadašnje Državne Zajednice Srbije i Crne Gore. U skladu sa ranije citiranim članom 14. Zakona o bankama i drugim finansijskim organizacijama SFRJ (vidi tačku 364. Odluke), banka je bila isključivi nosilac prava i obaveza nastalih u poslovanju sa trećim licima, odnosno podnosiocima prijava. Slijedom navedenog, stav Komisije u pogledu Ljubljanske banke d.d. Sarajevo se može primijeniti i na Investbanku. Štaviše, problem Investbanke Beograd je jasniji i jednostavniji, jer nikada nije postojao problem sa preuzimanjem prava i obaveza ove banke od strane neke domaće banke.

478. Na osnovu gore navedenog, Komisija zaključuje da je Bosna i Hercegovina, do donošenja Zakona o utvrđivanju i načinu izmirenja unutrašnjeg duga Bosne i Hercegovine (vidi tačku 374. Odluke), bila odgovorna za pravnu nesigurnost, koju su nosioci prava stare devizne štednje imali, uključujući one kod Ljubljanske banke d.d. Ljubljana, Glavna filijala Sarajevo i kod Investbanke Beograd. Novim Zakonom, Bosna i Hercegovina je isključila svoju odgovornost *ratione personae* u vezi sa deviznom štednjom u odnosu na Ljubljansku banku d.d. Ljubljana, Glavna filijala Sarajevo i Investbanku Beograd. Komisija podržava ovo zakonsko rješenje, kojim se Bosna i Hercegovina ne može smatrati odgovornom za obaveze prema podnosiocima prijava, jer su iste nastale na teritoriji drugih država. Slijedi da su prijave nespojive *ratione personae* sa odredbama Sporazuma, u smislu člana VIII(2)(c). Komisija, zbog toga, odlučuje da prijave proglasi neprihvatljivim.

A.2.b. Odgovornost Federacije Bosne i Hercegovine

479. U pogledu odgovornosti Federacije Bosne i Hercegovine, Komisija podsjeća da se Bosna i Hercegovina ne može smatrati odgovornom za obaveze prema podnosiocima prijava, jer iste nisu nastale na njenoj teritoriji. S obzirom na primjenu teritorijalnog principa odgovornosti, slijedi da se Federacija Bosne i Hercegovine, kao njena administrativna jednica, također ne može smatrati odgovornom za navodna kršenja prava podnosilaca prijava u odnosu na potraživanja prema Ljubljanskoj banci i Investbanci.

480. Slijedom navedenog, Komisija zaključuje da su u pogledu odgovornosti Federacije Bosne i Hercegovine prijave nespojive *ratione personae* sa odredbama Sporazuma, u smislu člana VIII(2)(c). Komisija, zbog toga, odlučuje da prijave proglasi neprihvatljivim u ovom dijelu.

A.3. Zaključak u pogledu prihvatljivosti

481. Komisija proglašava sve prijave prihvatljivim prema članu 1. Protokola broj 1 uz Evropsku konvenciju u pogledu Bosne i Hercegovine, i u cijelosti prihvatljivim u pogledu Federacije Bosne i Hercegovine u odnosu na nemogućnost podnosilaca prijava da ostvare povrat stare devizne štednje polagane kod banaka sa sjedištem na teritoriji bivše Republike Bosne i Hercegovine.

482. Komisija proglašava sve prijave neprihvatljivim prema Bosni i Hercegovini i Federaciji Bosne i Hercegovine *ratione personae* sa odredbama Sporazuma, u smislu člana VIII(2)(c), u dijelu koji se odnosi na potraživanja prema Ljubljanskoj banci d.d. Ljubljana i Investbanci Beograd.

483. Komisija proglašava neprihvatljivim dio prijava CH/98/505, *Nimeta Kulenović protiv Bosne i Hercegovine, Federacije Bosne i Hercegovine i* Republike *Slovenije* i CH/99/3301, *Nadežda Šehovac-Pavičević protiv Bosne i Hercegovine, Federacije Bosne i Hercegovine i Republike Slovenije*, u odnosu na Republiku Sloveniju, kao *ratione personae* nespojive sa odredbama Sporazuma, u smislu člana VIII(2)(c).

484. Komisija, u skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, briše dio sljedećih prijava, CH/98/430, *Ekrem Ulak protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*; CH/98/499, *Suada Saradžić protiv Bosne i Hercegovine*; CH/98/589, *Vjekoslava Bošnjak protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*; CH/98/599, *Šimo Bošnjak protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*; CH/98/674, *Ana Mrdović protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*; CH/99/2145, *Ivka Livaja protiv Federacije Bosne i Hercegovine* i CH/99/2784, *Fuad Aganović protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*. Komisija, u skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, briše dio prijava CH/98/537, *Fatima Arapović protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, CH/98/609, *H.A. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine* i CH/98/684, *M.S. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine.*

485. U skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, Komisija briše dio prijava, CH/98/527, *Dimšo Đurić protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, CH/98/1070*, Ljiljana Vuković protiv Federacije Bosne i Hercegovine* i CH/99/3230, *A.H. protiv Federacije Bosne i Hercegovine*.

486. U skladu sa pravilom 50. stavom 2e. Pravila procedure Komisije, Komisija briše u cijelosti prijave CH/98/538, *Zejnil Brković protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*; CH/99/3303, *Tomo Golac protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine* i CH/99/3317, *Ivan Ivica Božić protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine,* jer nije opravdano nastaviti sa razmatranjem prijava.

B. Meritum

487. Po članu XI Sporazuma Komisija će razmotriti pitanje da li gore utvrđene činjenice otkrivaju da su tužene strane prekršile svoje obaveze prema Sporazumu. Prema članu I Sporazuma, strane su obavezne da *obezbijede* "svim licima pod svojom nadležnošću najviši stepen međunarodno priznatih ljudskih prava i osnovnih sloboda", uključujući prava i slobode predviđene Evropskom konvencijom i njenim Protokolima.

B.1. Član 1. Protokola broj 1 uz Evropsku konvenciju

488. Podnosioci prijava se žale da je povrijeđeno njihovo pravo na imovinu prema članu 1. Protokola broj 1 uz Evropsku konvenciju. Ova odredba glasi:

> Svako fizičko i pravno lice ima pravo uživati u svojoj imovini. Niko ne može biti lišen imovine, osim u javnom interesu i pod uvjetima predviđenim zakonom i općim načelima međunarodnog prava.
>
> Prethodne odredbe, međutim, ne utiču ni na koji način na pravo države da primjenjuje zakone koje smatra potrebnim da bi se regulisalo korištenje imovine u skladu sa općim interesima ili da bi se obezbijedila naplata poreza ili drugih dadžbina i kazni.

489. Podnosioci prijava se žale da su njihova prava povrijeđena odbijanjem banaka, tj. tuženih strana, da im isplate deviznu štednju, i konverzijom te štednje u certifikate za privatizaciju, bez njihovog znanja i saglasnosti. Dalje, podnosioci prijava tvrde da radnjama koje je preduzela Federacija nije uspostavljena pravična ravnoteža između javnog i privatnog interesa, a rezultat toga je nastavljena povreda njihovih prava na imovinu.

490. Tužene strane navode da su postupci u pogledu stare devizne štednje bili opravdani i da nije došlo do povrede ljudskih prava. Bosna i Hercegovina se pozvala na saradnju sa Uredom Visokog predstavnika za Bosnu i Hercegovinu, te navela da Država priprema paket zakona o privatizaciji državne imovine, čija je vrijednost znatno veća od duga po staroj deviznoj štednji građana. Bosna i Hercegovina je navela da trenutna zakonska rješenja ne vrijeđaju pravo podnosilaca prijava na imovinu. Federacija Bosne i Hercegovine navodi da je nesporno da se radi o imovini podnosilaca prijava, ali da je ovo pitanje zakonski regulisano u skladu sa pravom na imovinu. Ističe, da je postignuta pravična ravnoteža između interesa Države i podnosilaca prijava, te da je otklonjena buduća nesigurnost u pogledu devizne štednje.

491. Prema jurisprudenciji Evropskog suda za ljudska prava, član 1. Protokola broj 1 uz Evropsku konvenciju obuhvata tri različita pravila. Prvo, koje je izraženo u prvoj rečenici prvog stava i koje je opće prirode, izražava princip mirnog uživanja u imovini. Drugo pravilo, u drugoj rečenici istog stava, pokriva lišavanje imovine i podvrgava ga izvjesnim uvjetima. Treće, sadržano u drugom stavu, dozvoljava da države potpisnice imaju pravo, između ostalog, da kontrolišu korištenje imovine u skladu sa općim interesom, sprovođenjem onih zakona koje smatraju potrebnim za tu svrhu (vidi Odluku Ustavnog suda Bosne i Hercegovine, *U 3/99*, od 17. marta 2000. godine, "Službeni glasnik Bosne i Hercegovine", broj 21/00).

492. Uzimajući u obzir gornju tačku ove Odluke, slijedi da Komisija mora odgovoriti na tri pitanja. Prvo, da li se prava u vezi sa starom deviznom štednjom mogu smatrati “imovinom“ u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju? Drugo, ako se smatraju imovinom, da li se postojećom zakonskom regulativom ili nedostatkom regulative Bosna i Hercegovina, tj. Federacija Bosne i Hercegovine miješa u ta prava tako da uključuje zaštitu člana 1. Protokola broj 1 uz Evropsku konvenciju? Treće, ako je član 1. Protokola broj 1 uz Evropsku konvenciju uključen, da li je miješanje opravdano prema tom članu?

B.1.a. Da li se radi o imovini podnosilaca prijava?

493. Prema ustanovljenoj praksi riječ imovina uključuje širok obim imovinskih interesa koje treba štititi (vidi presudu bivše Evropske komisije za ljudska prava, *Wiggins protiv Ujedinjenog Kraljevstva*, aplikacija broj 7456/76, Odluke i izvještaji (OI) 13, st. 40-46 (1978)), a koji predstavljaju ekonomsku vrijednost. Koncept imovine ima autonomno značenje, a dokazivanje utvrđenog ekonomskog interesa može biti dovoljno ako se ustanovi pravo zaštićeno Evropskom konvencijom, pri čemu pitanje da li su imovinski interesi priznati kao zakonsko pravo u domaćem pravnom sistemu nije od značaja (vidi presudu Evropskog suda za ljudska prava, *Tre Traktörer Aktibolag protiv Švedske*, iz 1984. godine, serija A, broj 159, stav 53).

494. Dom je u svojoj ranijoj praksi, u nekoliko prilika, ustanovio da stara devizna štednja predstavlja imovinu u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju. Dom je utvrdio da, bez obzira na finansijsku situaciju banaka i opću ekonomsku situaciju u Državi i Federaciji Bosne i Hercegovine, te ograničenja u podizanju stare devizne štednje ili *de facto* blokiranje te štednje, novac koji je deponovan na računima podnosilaca prijava predstavlja ekonomsku vrijednost. Potraživanja podnosilaca prijava kod banaka po osnovu njihove devizne štednje tako predstavljaju "vlasništvo" u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju (vidi odluku *Poropat i drugi*, *loc. cit,* tačka 161). Konačno, tužene strane u postupku nisu negirale ovu činjenicu. Štaviše, Federacije Bosne i Hercegovine je afirmativno potvrdila ovaj navod podnosilaca prijava.

B.1.b. Navodne povrede od strane Bosne i Hercegovine

B.1.b.1. Da li se Bosna i Hercegovina nastavila miješati u pravo na imovinu podnosilaca prijava?

495. Komisija, prije svega, napominje da je u predmetu *Poropat i dr.* (loc. cit, tač. 164. ff), Dom jasno utvrdio da se Bosna i Hercegovina miješala u pravo na imovinu podnosilaca prijava zbog činjenice da je propustila da "osigura štedišama stare devizne štednje njihovo pravo na mirno uživanje njihovog vlasništva. Ovo znači uplitanje u to pravo". Više od tri godine kasnije, u odluci *Đurković i dr.* (*loc. cit*, tačka 269. ff), Dom je potvrdio miješanje Bosne i Hercegovine u isto pravo podnosilaca prijava.

496. Od ove odluke, koja je uručena 7. novembra 2003. godine, Država nije donijela niti jedan pravni akt kojim bi regulisala ovo pitanje. S druge strane, isplata stare devizne štednje nije izvršena u bilo kojem smislu. Iz ovog razloga, Komisija smatra da je Bosna i Hercegovina nastavila da se miješa u pravo podnosilaca prijava, zbog čega je neophodno da se ispita opravdanje ovakvog "propuštanja" Države da reguliše pitanje stare devizne štednje.

B.1.b.2. Da li je miješanje opravdano?

497. Prije stupanja na snagu Općeg okvirnog sporazuma za mir u Bosni i Hercegovini, Država je bila zakonodavno aktivna u pogledu stare devizne štednje. Naime, Republika Bosna i Hercegovina je usvojila zakone i propise u vezi sa deviznom štednjom (vidi CH/97/48, *loc. cit,* tač. 88-91; tačka 368. et sequ. ove Odluke). Član 9. stav 3. Uredbe iz 1992. godine predviđao je da Republika daje garanciju za deviznu štednju, a član 12. Uredbe iz 1994. godine stipulisao je da građani mogu koristiti svoju štednju slobodno. Imajući u vidu da je članom 144. Uredbe iz 1992. godine određeno da isplate devizne štednje građana uložene kod Narodne banke Jugoslavije treba odrediti posebnim propisom, Komisija smatra da je ustanovljeno da se izričita garancija i obećanje da se štednja može slobodno koristiti nisu odnosili na staru deviznu štednju nego samo na nove štedne uloge koje su građani počeli ulagati u vrijeme kada je usvojena zakonska regulativa Republike. Ipak, ostavljajući rješavanje stare devizne štednje za poseban propis, Republika je implicitno priznala odgovornost za ovu štednju. Odlukom od 9. aprila 1995. godine, ne samo da je pojačano ovo implicitno priznanje, već je jasno navedeno da će se pitanje stare štednje rješavati usvajanjem državnog zakona o javnom dugu Republike.

498. Iako je Opći okvirni sporazum za mir u Bosni i Hercegovini stupio na snagu nakon datuma koji su navedeni u prethodnoj tački, Komisija ponavlja da, prema članu I Ustava Bosne i Hercegovine, Bosna i Hercegovina nastavlja svoje pravno postojanje po međunarodnom pravu kao država i tako nasljeđuje status bivše Republike Bosne i Hercegovine. Komisija se, nadalje, poziva na Aneks II/2 Ustava Bosne i Hercegovine, kojim je propisan kontinuitet pravnih propisa, prema kojem "[s]vi zakoni, propisi i sudski poslovnici, koji su na snazi na teritoriji Bosne i Hercegovine u trenutku kada Ustav stupi na snagu, ostaće na snazi u onoj mjeri u kojoj nisu u suprotnosti sa Ustavom dok drugačije ne odredi nadležni organ vlasti Bosne i Hercegovine". *In conclusio*, svi opći akti, koji su usvojeni do stupanja na snagu Ustava Bosne i Hercegovine, ostaju na snazi u punom kapacitetu, sve dok drugačije ne odredi nadležni organ vlasti Bosne i Hercegovine. Time su i obaveze, koje je imala Republika Bosna i Hercegovina, a koje su opisane u prehodnoj tački, prešle

na Državu, bez ikakvih ograničenja. Drugim riječima, jasno je vidljiv kontinuitet obaveze Države od perioda raspada bivše SFRJ pa sve do 14. decembra 1995. godine, kada je Sporazum i Ustav Bosne i Hercegovine stupio na snagu. U tom svojstvu, Bosna i Hercegovina uzima učešće u pregovorima koji se tiču sukcesije imovine SFRJ.

499. Nakon stupanja na snagu Ustava Bosne i Hercegovine, Država je dobila nove obaveze koje se odnose na pitanja imovinskih prava u smislu člana 1. Protkola broj 1 uz Evropsku konvenciju. Prije svega, Komisija napominje da tumačenje nadležnosti Države i njenih teritorijalnih cjelina treba biti, prije svega, u okviru jezičkog značenja ustavnih odredbi, a na način da se najdjelotvornije ostvari cilj koji je propisan – u konkretnom slučaju, pravo na imovinu. U alineji 4. Preambule Ustava, koja ima normativni karakter, u skladu sa III. djelimičnom odlukom Ustavnog suda Bosne i Hercegovine u predmetu 5/98 (od 30. juna i 1. jula 2000. godine, tač. 17. ff), propisano je da je država obavezna da “podstakn[e] opšte blagostanje i ekonomski razvoj kroz zaštitu privatnog vlasništva i unapređenje tržišne privrede“. Članom I/4 Ustava Bosne i Hercegovine, stipulisana je, između ostalog, sloboda kretanja kapitala širom Bosne i Hercegovine i garantovanje jedinstvenog tržišta, dok je članom II/1 "Bosna i Hercegovina i oba entiteta [obavezna] osigurati najviši nivo međunarodno priznatih ljudskih prava i osnovnih sloboda". Osim toga, članom II/6. Ustava Bosne i Hercegovine, "Bosna i Hercegovina, i svi sudovi, ustanove, organi vlasti, te organi kojima posredno rukovode entiteti ili koji djeluju unutar entiteta podvrgnuti su, odnosno primjenjuju ljudska prava i osnovne slobode na koje je ukazano u stavu 2". Konačno, "[p]rava i slobode predviđeni u Evropskoj konvenciji za zaštitu ljudskih prava i osnovnih sloboda i u njenim protokolima se direktno primjenjuju u Bosni i Hercegovini. Ovi akti imaju prioritet nad svim ostalim zakonima". Na kraju, Komisija napominje da je Država, u skladu sa članom III/1(d) Ustava Bosne i Hercegovine, direktno odgovorna za monetarnu politiku. Štaviše, član VII. Ustava označava Centralnu banku Bosne i Hercegovine kao jedini nadležni organ za monetarnu politiku u cijeloj zemlji. Tačno je da Centralnoj banci nije dato ovlaštenje da reguliše rad banaka uopšte ili posebno deviznu štednju. Međutim, isplata štednje sa predmetnih bankovnih računa ima reperkusije na protok deviza i tako utiče na monetarnu politiku za koju je Centralna banka, kao državna institucija, odgovorna.

500. S druge strane, u pogledu problema devizne štednje, Država je nastavila sa zakonodavnim aktivnostima nakon stupanja na snagu Sporazuma i Ustava Bosne i Hercegovine. Tako je Odlukom od 10. aprila 1996. godine potvrđena Odluka od 9. aprila 1995. godine, a kojom je propisano da "[d]evizna štednja građana deponovana kod bivše Narodne banke Jugoslavije zajedno sa kamatama na ovu štednju, rješavaće se donošenjem zakona o javnom dugu Bosne i Hercegovine ili na drugi način u sklopu ukupne konsolidacije duga Bosne i Hercegovine zajedno sa međunarodnom zajednicom". Država je 22. jula 1998. godine, odnosno 19. jula 1999. godine, usvojila Okvirni zakon o privatizaciji banaka i preduzeća, koji je samo formulisao određene opće principe u privatiziciji. Uprkos ovoj zakonodavnoj aktivnosti, a u skladu sa ustavnim obavezama Države, Dom je, u svojoj odluci o deviznoj štednji građana, *CH/97/48* (*loc. cit,* tač. 164. ff), zaključio da je Država odgovorna za povredu člana 1. Protokola broj 1 uz Evropsku konvenciju, jer je propustila da preduzme određenu radnju i tako ostavila "štediše u situaciji u kojoj nije bilo pravne osnove po kojoj su oni mogli tražiti isplatu svoje štednje, bilo direktno od banaka ili indirektno od Države kroz plaćanje javnog duga". Ovakva situacija je nastavljena sve do oktobra 2003. godine, kada je Dom, u svojoj zadnjoj odluci CH/98/377 i dr. (*loc. cit*, tačka 204) u vezi sa štednim ulozima građana, zaključio:

> [...] da Bosna i Hercegovina ostaje odgovorna za nalaz zajedničkog rješenja za problem starih bankovih računa. Bosna i Hercegovina je uključena u državne pregovore u vezi sa pitanjima kao što su odgovornosti banaka iz inostranstva (kao što su Ljubljanska banka i Unionbanka, bivša Jugobanka), prava ekonomske sukcesije, i druga pitanja koja utiču na imaoce deviznih štednih računa, uključujući i podnosioce ovih prijava. Dom, radi toga, nalazi da su te prijave prihvatljive protiv Bosne i Hercegovine u vezi sa članom 1 Protokola br. 1 uz Konvenciju.

501. Od 22. jula 1998. godine, odnosno 19. jula 1999. godine, zakonodavno stanje na terenu se nije mijenjalo. Država nije donosila nikakve zakone u vezi sa unutarnjim dugom ili štednjom građana. Jedini zakon, koji je regulisao pitanje "državnog" duga, je Zakon o utvrđivanju i načinu izmirenja unutarnjeg duga Bosne i Hercegovine ("Službeni glasnik Bosne i Hercegovine", broj 44/04), iz kojeg očigledno proizilazi da Bosna i Hercegovina, tj. Država, ne podrazumijeva štednju građana kao svoj dug, već dug entiteta. Drugim riječima, sva aktivnost u pogledu "stare devizne štednje" građana prenesena je na entitete i Distrikt Brčko, koji su pitanje stare devizne štednje regulisali kroz relevantne zakone o unutarnjem dugu. Na ovaj način, jasno je da se Država *de facto* i *de jure* odrekla obaveza koje su proizilazile iz legislative donesene od 1992-1999. godine, uključujući i obaveze iz Ustava Bosne i Hercegovine i Sporazuma.

502. Što se tiče samih obaveza Države, koje proizilaze iz legislative donesene od 1992-1999. godine, Država nije donijela niti jedan akt, kojim bi stavila van snage postojeću legislativu, a kojom je, u to vrijeme, direktno preuzela obaveze po osnovu stare devizne štednje. Problem bi mogao biti riješen primjenom principa *lex posterior derogat lex priori*, čime bi entiteti i Distrikt Brčko mogli preuzeti obavezu samostalnog garantovanja imovinskih prava po osnovu stare devizne štednje. Međutim, u ovom slučaju ne radi se samo o obavezi koja proizilazi iz "državnih" pozitivno-pravnih propisa, koji su derogirani donošenjem novih zakona, a koji regulišu istu materiju. Stara devizna štednja, nakon 14. decembra 1995. godine, predstavlja konstituisano imovinsko pravo u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju, člana II/2/k) Ustava Bosne i Hercegovine, tj. člana 1. tačka 11. Sporazuma. Znači, radi se o pravima, koja su, s jedne strane, jasno definisana obaveza Države, a s druge strane, o pravima koja ne mogu biti derogirana i na niži teritorijalni nivo, na način na koji je to učinjeno. Iz navedenih razloga, potpuna derogacija bi mogla biti moguća da pravna pozicija podnosilaca prijava nije zaštićena Sporazumom i Ustavom Bosne i Hercegovine. Drugim riječima, Država se ne može osloboditi garantovanja poštivanja ovog prava njegovim prenosom, u smislu regulisanja i implementacije, na entitetske institucije, bez da obezbijedi dovoljno garanta za adekvatno rješavanje ovog pitanja na nižem nivou u skladu sa, između ostalog, standardima iz člana 1. Protokola broj 1 uz Evropsku konvenciju.

503. Zašto je bitno da Država načelno reguliše pitanje stare devizne štednje? Komisija primjećuje da je Federacija Bosne i Hercegovine regulisala pitanje stare devizne štednje Zakonom o utvđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine. Tim Zakonom, članom 2, "utvrđuje se sveobuhvatno izmirenje unutrašnjeg duga na način koji osigurava i podržava makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine". Republika Srpska je pitanje devizne štednje regulisala u Zakonu o utvrđivanju i načinu izmirenja unutrašnjeg duga Republike Srpske ("Službeni glasnik Republike Srpske", broj 63/04). U članu 2. je navedeno da "[i]zmirenje unutrašnjeg duga vrši se u skladu sa odredbama ovog zakona na način koji obezbjeđuje i podržava makroekonomsku stabilnost i fiskalnu održivost Republike Srpske". Konačno, Distrikt Brčko je sopstvenim Zakonom o podmirenju obaveza po osnovu stare devizne štednje ("Službeni glasnik Brčko Distrikta BiH", broj 27/04) regulisao pitanje isplate devizne štednje u gotovom novcu i obavezama, vodeći računa o makroekonomskoj stabilnosti Distrikta. Prema procjenama poddržavnih zakonodavaca, ukupan dug na ime stare devizne štednje u Distriktu Brčko iznosi 94 miliona konvertibilnih maraka, u Republici Srpskoj 774 miliona konvertibilnih maraka, dok se u Federaciji ukupan unutarnji dug procjenjuje na 1.858,9 miliona konvertibilnih maraka, od čega sigurno veliki dio otpada na staru deviznu štednju. Komisija je svjesna da je pitanje unutarnjeg duga veliko opterećenje za entitete. Njihova solventnost je interes Države, jer od toga direktno zavisi i moć Države, njena makroekonomska stabilnost. Država, s druge strane, ima obavezu da poštuje i brani princip državnog suvereniteta, što podrazumijeva i finansijsku samostalnost prema vani, ali i prema unutra. Odbrana suvereniteta Države (od čega zavisi i faktička moć prava na imovinu u konkretnim slučajevima) je takva obaveza, da Ustav Bosne i Hercegovine predviđa ne samo preduzimanje mjera u okviru datih joj nadležnosti, nego i sve ostale mjere, bez obzira čija je to konkretno nadležnost u Državi (član III/5.a) Ustava Bosne i Hercegovine). Drugim riječima, Država, u cilju odbrane forme i vrste svog političkog postojanja, može i mora preduzeti sve potrebne mjere. Prema tome, Država mora obezbijediti bezbjedno funkcionisanje svih nadležnih teritorijalnih cjelina u smislu budućih, uređenih dijelova finansijske privrede, koji će biti izloženi i u budućnosti velikim problemima i

rizicima (na primjer, najava rješavanja problema restitucije). To se može postići samo na način da Država, zakonskim aktom, utvrdi principe za sve poddržavne teritorijalne cjeline, a koji bi bili rezultat ekonomske analize makroekonomske stabilnosti Države u konktekstu postojećeg problema.

504. U vezi s tim, član III/1(d) Ustava Bosne i Hercegovine nadležno obavezuje Državu na polju monetarne politike. Štaviše, član VII. Ustava označava Centralnu banku Bosne i Hercegovine kao jedini nadležni organ za monetarnu politiku u cijeloj zemlji. Tačno je da Centralnoj banci nije dato ovlaštenje da reguliše rad banaka uopšte ili posebno deviznu štednju. Međutim, isplata štednje sa predmetnih bankovnih računa ide danas ne preko banaka, već direktno iz entitetskih budžeta, što ima reperkusije na protok novca i deviza i tako utiče na monetarnu politiku za koju je Centralna banka, kao državna institucija, odgovorna. Prema tome, bankovni sistem, osim Centralne banke Bosne i Hercegovine, nema ulogu u pitanju stare devizne štednje.

505. Član I/4. Ustava Bosne i Hercegovine obavezuje Državu da reguliše pitanje jedinstvenog tržišta u Bosni i Hercegovini, u koje spada, između ostalog, promet kapitala. Jedinstveno tržište i liberaliziacija tržišta kapitala obuhvata isključenje svakog ograničenja, tj. ne samo diskriminirajućih mjera, nego i svih drugih mjera, koje bez obzira što nemaju diskriminirajući karakter opterećuju određene grupe više nego druge. Za Komisiju je neprihvatljivo da isto pitanje, za koje je Država odgovorna, i koje je bilo na isti način tretirano sve do donošenja entitetskih zakona o regulisanju ovog problema, uključujući Distrikt Brčko, postane regulisano na sasvim nejednak način. Tako, na primjer, Federacija Bosne i Hercegovine predviđa isplaćivanje, *inter alia*, u novcu u periodu od četiri godine (član 11. Zakona), dok dospjeće obveznica još nije regulisano. Republika Srpska je predvidjela druge modalitete novčane isplate (član 15. Zakona), dok obveznice imaju rok dospjeća 30 godina (član 16. stav 1. tačka 1). Distrikt Brčko predvidio je rok od tri godine za novčanu isplatu (član 2. stav 1. Zakona), dok obveznice imaju rok dospjeća 25 godina (člana 2. stav 2a. Zakona). Nejednako tretiranje je posljedica derogacije problema sa Države na poddržavne teritorijalne cjeline. Na taj način, različito zakonsko tretiranje će, pored zakona slobodnog tržišta, bitno i direktno uticati na tržište obveznicama u Bosni i Hercegovini, kao jedinstvenom tržišnom prostoru. S druge strane, stara devizna štednja je bila, i principijelno ostala, državni problem. U vezi s tim, Komisija napominje da je država obavezna poštovati opći princip jednakosti u pravima, kako to propisuje Ustav Bosne i Hercegovine, i to ne samo naspram ustavnih prava, već svih prava koja su propisana zakonom. Pravo na jednakost je ustavno pravo i odnosi se na sva zakonska prava. Nijedan zakonodavac ne može biti oslobođen te obaveze. Komisija uvažava stav Države da je rješavanje ovog problema na poddržavnom nivou optimalno riješenje. Međutim, Država mora dati garancije da su različita zakonska rješenja na poddržavnim nivoima neophodne mjere radi zaštite funkcionisanja financijske privrede, monetarnog sistema, itd. Drugim riječima, Komisija uvažava stav Države da je opća ravnoteža u privredi veoma važan cilj Države. Međutim, različite mjere i različito tretiranje, koji utiču na jedinstveno tržište kapitala, su dozvoljeni ukoliko ispunjavaju pretpostavke principa proporcionalnosti (vidi presudu Suda za pravdu, predmet C-423/98, *Alfredo Albore*, Zbirka 2000, str. I-5965).

506. Država, dozvolivši da poddržavne cjeline preuzmu operacionalizaciju i odgovornost za isplatu stare devizne štednje, nije dala niti jednu garanciju da će isplata, kako u novcu tako i u formi obveznica, biti realizovana. Komisija smatra da je neophodno da Država da određene garancije u tom smislu. Naime, po teoriji identiteta strana, Republike Bosne i Hercegovine i Bosne i Hercegovine, a koja jasno proizilazi iz člana I Ustava Bosne i Hercegovine, prema kojem Bosna i Hercegovina nastavlja svoje pravno postojanje po međunarodnom pravu kao država i tako nasljeđuje status bivše Republike Bosne i Hercegovine, Bosna i Hercegovina ima poziciju dužnika. Ne bi bilo u skladu sa principom pravne države, da se Država, kao dužnik, oslobodi u potpunosti svoje obaveze tako što bi se, preko svoje moći nadležnosti derogacije, oslobodila davanja garancija za ispunjenje obaveza u koje je ušla. Iz toga razloga, Komisija ne može prihvatiti garanciju koju daju entiteti, a pogotovo ne garanciju obezbjeđenja novca putem privatizacije javnih preduzeća, uzimajući u obzir dosadašnje rezultate iste. Konačno, davanje garancije bi omogućilo da se jača osjećaj postojanja principa kontinuiteta u smislu člana I Ustava Bosne i Hercegovine i dobre vjere u njega. Naime, podnosioci prijava, kao vjerovnici, u trenutku sklapanja pravnog posla

sa državnim bankama, nisu bili opterećeni rizikom da će isplata njihove devizne štednje kad-tad propasti ili postati neutuživa. Stoga, Komisija smatra da je Država odgovorna da se ojača taj osjećaj dobre vjere u kontinuitet pravnog sistema postojanja.

507. Zbog svega navedenog, Komisija smatra da Država mora na određeni način regulisati navedenu problematiku, od čega će direktno zavisiti i uspjeh predviđenog modaliteta isplate stare devizne štednje. Komisija smatra da Država nije obavezna u potpunosti regulisati ova pitanja. Ipak, načelno regulisanje ovih pitanja, a prije svega, pitanje davanja garancije za isplatu od strane određene relevantne međunarodne institucije kapitala, ujednačavanje standarda na teritoriji cijele Države, vodeći računa o ostvarivanju jedinstvenog tržišta u Bosni i Hercegovini i makroekonomskoj stabilnosti Države, će voditi ka tome da pravo na imovinu ne bude ugroženo u budućem periodu, tj. da zakonska regulativa ispuni standarde koji su nametnuti pozitivnom obavezom za Državu, a koja proizilazi iz člana 1. Protokola broj 1 uz Evropsku konvenciju. Komisija napominje da je zakonodavac najkompetentniji, uzimajući u obzir praktična stanovišta, da odluči koja su to pitanja na terenu, koja se načelno moraju uzeti u obzir.

508. S obzirom da Država, Bosna i Hercegovina, nije donijela određeni okvirni zakon, kojim bi načelno regulisala ova pitanja, Komisija smatra da je Bosna i Hercegovina propustila da djelotvorno zaštiti pravo na imovinu podnosilaca prijava, čime je povrijedila svoje pozitivne obaveze koje proizilaze iz člana 1. Protokola broj 1 uz Evropsku konvenciju.

B.1.c. Navodne povrede od strane Federacije Bosne i Hercegovine

509. Pri razmatranju merituma ovih predmeta u odnosu na Federaciju Bosne i Hercegovine, Komisija mora odlučiti da li, u svjetlu najnovijih zakonskih promjena, koje su nastupile nakon odluke *Đurković i drugi,* pravna situacija u Federaciji u vezi sa starom deviznom štednjom nastavlja kršiti član 1. Protokola broj 1 uz Evropsku konvenciju.

510. Komisija, prije svega, ponavlja da se u predmetnim slučajevima radi o imovini podosilaca prijava. Prema tome, Komisija mora utvrditi da li se postojećom zakonskom regulativom Federacija Bosne i Hercegovine miješa u ta prava tako da uključuje zaštitu člana 1. Protokola broj 1 uz Evropsku konvenciju? Osim toga, Komisija mora ispitati, ako se radi o miješanju u to pravo, da li je miješanje opravdano prema tom članu?

B.1.c.1. Da li se radi o miješanju Federacije Bosne i Hercegovine u pravo na imovinu podnosilaca prijava i, ako je odgovor afirmativan, da li se ono sastoji u "kontroli" ili "lišenju" prava na imovinu?

511. Prema stanju spisa, a uzimajući u obzir postojeću zakonsku regulativu, zahtjev podnosilaca prijava odnosi se na isplatu iznosa stare devizne štednje, uključujući pripadajuće kamate. Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine predviđa poseban modalitet isplate stare devizne štednje, dok je članom 9. stavom 4. predviđeno da se kamate od 1. januara 1992. godine otpisuju.

512. U odluci *Đurković i drugi* (*loc. cit*, tačka 244. et sequ.), Dom je naveo:

> U odlukama Poropat i drugi i Todorović i drugi, Dom je utvrdio da je došlo do uplitanja u prava podnosilaca prijava po članu 1 Protokola br. 1 uz Konvenciju na osnovu zakona koji su oslobodili banke njihovih ugovornih obaveza prema podnosiocima prijava i da je podnosiocima prijava onemogućeno da podignu svoj novac. (Poropat i drugi, tačke 170-77; Todorović i drugi, tačke 130-33). Praktično, ista situacija je ostala do danas. Dom zapaža da, u skladu sa izmjenama i dopunama, ne postoje odredbe u Zakonu o potraživanjima građana po osnovu kojih je građanin slobodan da raspolaže svojom štednjom na bilo koji drugi način osim da je pretvori u privatizacijske certifikate. Zakoni, kako su izmijenjeni i dopunjeni, nastavljaju da propisuju obavezni prenos devizne štednje iz banaka na Jedinstveni

račun građana. Podnosioci prijava, a vjerovatno i druge štediše, nisu mogli i još uvijek ne mogu podignuti novac sa svojih računa. Dakle, uplitanje ustanovljeno u odluci Poropat i drugi se nastavlja barem de facto, iako de jure relevantni zakoni nisu više na snazi.

246. Uplitanje je pogoršano nemogućnošću podnosilaca prijava da dobiju obeštećenje na sudovima (vidi tačku 27 gore).

513. Komisija navodi da se od vremena donošenja ovih zaključaka situacija utoliko promijenila što je na snazi novi zakonski okvir, koji reguliše pitanje stare devizne štednje. Međutim, vlasnici stare devizne štednje još uvijek nisu dobili isplatu svoje stare devizne štednje. Novi Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine ne predviđa isplatu stare devizne štednje, iako bi "normalna" situacija kod štednih uloga bila, ispunjenje ugovornih obaveza po ugovoru o štednji u skladu sa pojedinačnim ugovorima ili važećim zakonskim normama. Umjesto toga, novi Zakon je otpisao kamatu od 1. januara 1992. godine, a isplatu stare devizne štednje predvidio u sasvim drugom modalitetu – kao dio unutarnjeg duga Federacije Bosne i Hercegovine. Konačno, Komisija uviđa da izvršenje pravosnažnih presuda, donesenih u vezi stare devizne štednje još nije počelo.

514. Na osnovu izloženog, Komisija zaključuje da je Federacija Bosne i Hercegovine nastavila sa uplitanjem u imovinska prava pojedinih štediša, uključujući i konkretne podnosioce prijava.

515. Za Komisiju ostaje da preispita kakva je priroda ovog miješanja u pravo na imovinu. S jedne strane, Komisija primjećuje da nikada nije bilo *de iure* lišenja ovog imovinskog prava (vidi, na primjer, CH/97/48 i dr, *loc. cit*, tačka 78 – mišljenje OHR-a, kao *amicus curiae*; zakonsku regulativu Republike Bosne i Hercegovine i Bosne i Hercegovine, tačku 88. ff iste Odluke). Međutim, Evropski sud za ljudska prava je u svojoj dugogodišnjoj praksi naglasio da *de facto* lišenje imovine ne pretpostavlja, tj. ne uslovljava bilo koji formalni akt lišenja imovine. Ono obuhvata državne mjere, koje zbog svojih teških reperkusija na pravo na imovinu, imaju istu posljedicu kao i formalni akt lišenja imovine (na primjer, eksproprijacija). Jurisprudencija, pri tome, stavlja akcent na pitanje da li postoji bilo kakva korist od *preostalog* prava na imovinu nakon takvih državnih mjera. U razgraničenju prema "kontroli korištenja prava na imovinu" (stav 2. člana 1. Protokola broj 1 uz Evropsku konvenciju), postavlja se pitanje da li postoji opravdana vjera u mogućnost daljnjeg korištenja prava na imovinu, bez miješanja države u bilo kojoj formi (vidi, na primjer, presude Evropskog suda za ljudska prava, *Sporrong i Lönnroth protiv Švedske*, od 23. septembra 1982. godine, Serija A, broj 52, st. 70-73; *Allan Jacobson protiv Švedske,* od 25. oktobra 1989. godine, Serija A, broj 163, stav 54; *Fredin protiv Švedske*, od 18. februara 1991. godine, Serija A, broj 192, stav 46. i 52. ff, itd).

516. Gledajući retrospektivno konkretnu situaciju oko stare devizne štednje, Komisija bi mogla zaključiti da se radi o *de facto* lišenju imovine. Naime, dugogodišnja nemogućnost da vlasnici stare devizne štednje dođu do realizacije svoga prava na imovinu, s jedne strane, a propali pokušaji Države da donese i implementira određene zakone, s druge strane, vode ka ovakvom zaključku (uporedi presudu Evropskog suda za ljudska prava, *Papmichalopoulus protiv Grčke*, od 24. juna 1993. godine, Serija A, broj 260-B, tač. 43-45). Ipak, u svjetlu novih zakonskih riješenja, Komisija smatra da se može opravdano očekivati da Federacija Bosne i Hercegovine isplati deviznu štednju u okvirima predviđenog modaliteta. Iz toga razloga, Komisija smatra da ovaj slučaj, nakon donošenja novog Zakona, pokreće pitanje "kontrole" prava na imovinu u smislu stava 2. člana 1. Protokola broj 1 uz Evropsku konvenciju.

517. Na ovaj zaključak ne utiče ni činjenica da Zakon različito tretira pitanje kamata od pitanja glavnice. Naime, Zakon ne lišava podnosioce prijava glavnice, već predviđa određene modalitete njene isplate. Komisija zaključuje da zakonski *modus operandi* u vezi glavnice jasno pokreće pitanje kontrole prava na imovinu. Kamate, s druge strane, iako mogu biti predmet pojedinačnog utuženja, te uprkos činjenici da kamate dospijevaju i zastarjevaju sa posebnim rokovima, one se moraju principijelno posmatrati kao sporedni zahtjev u odnosu na zahtjev za isplatu glavnice, te

zajedno čine cjelinu (čl. 372, 399. ff, 1045. Zakona o obligacionim odnosima). Komisija je svjesna da se radi o periodu od 1. januara 1992. godine. Prema tome, lišavanje prava na kamatu, za period duži od 12 godina, sigurno predstavlja značajno ograničenje navedenog prava. Ipak, u svjetlu rečenog, Komisija će tretirati ovo pitanje zajedno sa pravom na glavnicu kao pitanje miješanja u pravo na imovinu od strane Federacije Bosne i Hercegovine u smislu njegove kontrole – član 1. stav 2. Protokola broj 1 uz Evropsku konvenciju. Komisija napominje da ovaj zaključak nema suštinskog uticaja na konačni ishod predmeta.

B.1.c.2. Da li je miješanje opravdano?

518. Kao što je navedeno, prema jurisprudenciji Evropskog suda za ljudska prava, član 1. Protokola broj 1 uz Evropsku konvenciju obuhvata tri različita pravila. Prvo, koje je izraženo u prvoj rečenici prvog stava i koje je generalne prirode, izražava princip mirnog uživanja u imovini. Drugo pravilo, u drugoj rečenici istog stava, pokriva lišavanje imovine i podvrgava ga izvjesnim uslovima. Treće, sadržano u drugom stavu, dozvoljava da države potpisnice imaju pravo, među ostalim, da kontrolišu korištenje imovine u skladu sa općim interesom, sprovođenjem takvih zakona koje smatraju potrebnim u tu svrhu (vidi, *inter alia,* presude Evropskog suda za ljudska prava, *Sporrong i Lönnroth protiv Švedske*, od 23. septembra 1982. godine, Serija A, broj 52, stav 61 i *Scollo protiv Italije*, od 28. septembra 1995. godine, Serija A, broj 315-C, stav 26. sa daljnjim uputama). Svako miješanje u pravo prema drugom ili trećem pravilu mora biti predviđeno zakonom, mora služiti legitimnom cilju, mora uspostavljati pravičnu ravnotežu između prava nosioca prava i javnog i općeg interesa. Drugim riječima, opravdano miješanje se ne može nametnuti samo zakonskom odredbom koja ispunjava uslove vladavine prava i služi legitimnom cilju u javnom interesu, nego mora, također, održati razuman odnos proporcionalnosti između upotrijebljenih sredstava i cilja koji se želi ostvariti. Miješanje u pravo ne smije ići dalje od potrebnog da bi se postigao legitiman cilj, a nosioci imovinskih prava se ne smiju podvrgavati proizvoljnom tretmanu i od njih se ne smije tražiti da snose prevelik teret u ostvarivanju legitimnog cilja (vidi Odluku Ustavnog suda Bosne i Hercegovine, *U 83/03*, od 22. septembra 2004. godine, "Službeni glasnik Bosne i Hercegovine", broj 60/04, tačka 49).

B.1.c.2.a. Miješanje predviđeno zakonom?

519. Miješanje je zakonito samo ako je zakon koji je osnova miješanja (a) dostupan građanima, (b) toliko precizan da omogućava građanima da odrede svoje postupke, (c) u skladu sa principom pravne države, što znači da sloboda odlučivanja koja je zakonom data izvršnoj vlasti ne smije biti neograničena, tj. zakon mora obezbijediti građanima adekvatnu zaštitu protiv proizvoljnog miješanja (vidi presudu Evropskog suda za ljudska prava, *Sunday Times,* od 26. aprila 1979. godine, Serija A, broj 30, stav 49; vidi, također, presudu Evropskog suda za ljudska prava, *Malone,* od 2. augusta 1984. godine, Serija A, broj 82, st. 67. i 68). Sud je istakao da su u mnogim zakonima neizbježno upotrijebljeni termini koji su, u većem ili manjem opsegu, dvosmisleni ili neodređeni i čija je interpretacija i primjena pitanje prakse (vidi presudu Evropskog suda za ljudska prava, *Silver i drugi protiv Ujedinjenog Kraljevstva*, od 25. marta 1983, serija A, broj 18, stav 89).

520. Komisija ne sumnja da Zakon vezan za ovaj predmet ispunjava standarde u smislu Evropske konvencije (vidi Odluku o prihvatljivosti i meritumu Doma, *M.P. i ostali,* CH/02/8202, stavovi 144 i dalje).

B.1.c.2.b. Miješanje u javnom interesu

521. Podnosioci prijava, iako nisu *explicite* naveli, smatraju da je miješanje, tj. kontrola njihovog prava na imovinu, neproporcionalno. Udruženje za zaštitu deviznih štediša u Bosni i Hercegovini, u svojstvu *amicus curiae*, smatra da Država nema interes, niti ga je navela u svojim aktima. Osim toga, ovo Udruženje smatra da se Federacija Bosne i Hercegovine, nesavjesnim ponašanjem prema vlastitoj imovini, ne može pozivati na javni interes. Federacija Bosne i Hercegovine, u svom odgovoru, navodi da je donošenje ovakvih zakonskih rješenja neophodno da se spriječi kolaps

bankovnog sistema, te da je Entitet morao voditi računa o makroekonomskoj stabilnosti i fiskalnoj održivosti Entiteta.

522. Komisija smatra da su ciljevi postojećih zakonskih rješenja opravdani – sprječavanje kolapsa bankovnog sistema, makroekonomska stabilnost i fiskalna održivost Entiteta. Komisija smatra da su ovi interesi postojali i bili opravdani i ranije, kada je Dom dao, u tom smislu, afirmativno mišljenje (vidi CH/97/48, *loc. cit*, tačka 180, CH/98/377, *loc. cit*, tačka 249). Komisija zaključuje da je ovaj interes ostao aktuelan i danas.

B.1.c.2.c. Uspostavljanje pravične ravnoteže između prava nosioca prava i javnog interesa (proporcionalnost)

523. U odlukama *Poropat i drugi, Todorović i drugi* i *Đurković i drugi,* Dom je utvrdio da je došlo do uplitanja u prava podnosilaca prijava po članu 1. Protokola br. 1 uz Evropsku konvenciju na osnovu zakona koji su oslobodili banke njihovih ugovornih obaveza prema podnosiocima prijava i da je podnosiocima prijava onemogućeno da podignu svoj novac (*Poropat i drugi*, *loc. cit*, tač. 170-77; *Todorović i drugi*, *loc. cit*, tač. 130-133). Dom je, nadalje, našao da propisanim zakonskim mjerama nije uspostavljena "pravična ravnoteža" između općeg interesa i zaštite prava na imovinu podnosilaca prijava i da one tako spadaju van slobode odlučivanja Federacije (*Poropat i drugi*, *loc. cit,* tačka 192). Dom je u svojim odlukama istakao nekoliko nedostataka procesa privatizacije, koji su se odnosili na ograničeno važenje certifikata, jednak tretman gotovine i certifikata i sl. Dom je ustanovio da su ovo pitanja koja je Federacija morala riješiti izmjenom i dopunom programa privatizacije. Dom je smatrao da je Federacija trebala da nađe, u okviru svoje slobode odlučivanja, odgovarajuće načine da postigne traženu "pravičnu ravnotežu" interesa (*Poropat i drugi*, *loc. cit,* tačka 204).

524. Komisija priznaje da je od 2000. godine do 2003. godine Federacija izmijenila i dopunila različite odredbe Zakona o potraživanjima građana pokušavajući da nađe rješenje za pitanje nedostataka procesa privatizacije i da izvrši odluku Doma u predmetu *Poropat i drugi*. Međutim, odlukom Ustavnog suda Federacije dalja efikasnost ovih zakona dovedena je u pitanje, s obzirom da je ovom odlukom utvrđeno da ključne odredbe Zakona o potraživanjima građana nisu u skladu sa Ustavom Federacije Bosne i Hercegovine.

525. Tužena strana, Federacija Bosne i Hercegovine, istakla je da prijašnja zakonska regulativa nije uspostavljala pravičnu ravnotežu. Međutim, Komisija zapaža da je Federacija Bosne i Hercegovine usvojila novi Zakon o unutrašnjem dugu, kojim je preuzela obaveze po osnovu stare devizne štednje ostvarene u najnižim poslovnim jedinicama banaka na teritoriji Federacije Bosne i Hercegovine, kao dio svog unutrašnjeg duga. Zakonom je izričito propisano da će se metod i visina isplata u gotovini vršiti na način koji osigurava i podržava makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine. Tužena strana je navela da nova zakonska rješenja uspostavljaju u potpunosti princip proporcionalnosti kontrole prava na imovinu.

526. Komisija priznaje napore Federacije Bosne i Hercegovine da, u pokušajima da izvrši ranije naredbe Doma, nastoji da Zakonom o unutrašnjem dugu iznađu rješenja prihvatljiva za podnosioce prijava, odnosno, da nastoji postići pravičnu ravnotežu između općeg interesa i pojedinačnog tereta podnosilaca prijava. Međutim, Komisija zapaža da nova zakonska rješenja predstavljaju samo okvir na osnovu kojeg treba utvrditi jasan model isplata devizne štednje podnosilaca prijava. Prema tome, u svjetlu novih zakonskih promjena, koje su nastupile nakon odluke *Đurković i drugi,* postojeći zakonski okvir još uvijek ne daje jasnu i dovoljno izvjesnu pravnu situaciju u pogledu konačnog rješenja problema, što dovodi do miješanja u prava podnosilaca prijava od strane Federacije Bosne i Hercegovine.

527. Komisija je došla do ovog zaključaka iz sljedećih razloga:

528. Prvo pitanje, koje se nameće u ovom kontekstu, jeste pitanje verifikacije iznosa stare devizne štednje. Drugim riječima, radi se o verifikaciji "građanskog prava". Zakon je predvidio da

"[v]erifikovanje svih potraživanja za staru deviznu štednju vršit će se na osnovu baze podataka koja je ustanovljena Zakonom o utvrđivanju i ostvarivanju potraživanja građana u postupku privatizacije ("Službene novine Federacije BiH", br. 27/97, 8/99, 45/00, 54/00, 32/01, 57/03, 20/04) i drugim propisima donesenim na osnovu zakona i baza podataka koje posjeduju banke". Komisija napominje da od postupka verifikacije direktno zavisi postojanje ili nepostojanje prava na imovinu.

529. Svaki vlasnik stare devizne štednje mora imati obezbijeđeno pravo da aktivno učestvuje u tom postupku. U tom smislu, Zakon mora jasno predvidjeti koje tijelo će vršiti verifikaciju. Ono ne mora biti sudsko tijelo. Verifikacija se može vršti i od strane upravnih organa. Međutim, u tom slučaju, postupak verifikacije mora, barem u jednoj instanci, imati karakter sudskog postupka pred "tribunalom", u smislu člana 6. Evropske konvencije. To, dalje, znači da verifikacija mora biti okončana, u slučaju spora oko faktičkih ili pravnih pitanja, pred nezavisnim i nepristranim tijelom, koje bi dalo konačno mišljenje u smislu postojanja ili nepostojanja, visine i drugih važnih pitanja oko stare devizne štednje. Tu spada i pitanje konverzije deviza. Pored toga, "tribunal" ne smije biti vezan utvrđenim činjenicama upravnog organa, već mora imati mogućnost da sam preispita činjenice relevantne za svaki pojedini slučaju (u pogledu obaveze sudske zaštite u vezi sa starom deviznom štednjom i nadležnostima takvog tijela vidi *mutatis mutandis* Odluku Ustavnog suda Bosne i Hercegovine, *U 19/00* od 4. maja 2001. godine, tačka 23, "Službeni glasnik Bosne i Hercegovine", broj 27/01; predmete Evropskog suda za ljudska prava, *Iatridis protiv Grčke*, od 25. marta 1999. godine, stav 58, Izvještaji o presudama i odlukama 1999-II; *Hentrich protiv Francuske*, od 22. septembra 1994. godine, Serija A, broj 296-A, stav 42; u pogledu karaktera "tribunala", pojmu nezavisnosti i nepristrasnosti, vidi Odluku Ustavnog suda Bosne i Hercegovine, *U 47/03*, od 15. juna 2004. godine, tačka 23, sa daljnjim uputama na praksu Evropskog suda za ljudska prava). U vezi sa institucionalnom zaštitom u postupku verifikacije, Komisija preporučuje, u cilju zaštite djelotvornog sudskog sistema, da se formira posebno tijelo na nivou Entiteta, koje bi ispunjavalo kriterije navedene u ovoj tački Odluke, a kako se redovni sudovi ne bi opterećivali eventualnim problemima mnogobrojnih imaoca stare devizne štednje.

530. Drugo pitanje se odnosi na procesna prava u postupku verifikacije. Komisija je, prije svega, zabrinuta, a što je u svom mišljenju *amicus curiae*, Udruženje za zaštitu štediša u Bosni i Hercegovini, također, istaklo, za eventualne probleme oko utvrđivanja stare devizne štednje. Kao što je već istaknuto u prethodnim odlukama Doma (vidi, na primjer, CH/97/48, *loc. cit*, tač. 171. ff), ali i primijećeno u radu na aktuelnim predmetima, mnogi imaoci stare devizne štednje nemaju evidenciju iste na Jedinstvenom računu građana. S druge strane, turbulentnim promjenama u bankovnom sistemu, podaci o imaocima stare devizne štednje mogu biti nedostupni. Ovo, štaviše, zbog činjenice da su komercijalne banke, u principu, oslobođene izmirenja duga po osnovu stare devizne štednje, čime se kod njih gubi osjećaj odgovornosti prema obavezi čuvanja podataka. Konačno, ne smije se zanemariti činjenica da su mnogim vlasnicima stare devizne štednje nestale, izgorile ili na drugi način uništene štedne knjižice, kao osnovni dokument i "ugovor" u obligaciono-pravnom smislu. Zbog toga, Entitet, s jedne strane, mora jasno predvidjeti pozitivnu obavezu banaka u tom smislu, a pravo pristupa informacijama imalaca stare devizne štednje, s druge strane. Komisija napominje da se radi o posebno osjetljivoj grupi građana, u velikom broju, penzionerima lošeg imovnog stanja, koji se u postupku verifikacije ne smiju dodatno opteretiti administrativnim troškovima. Osim toga, ratna događanja u Bosni i Hercegovini dovela su do toga da je veliki broj građana napustio domicilni entitet ili, štaviše, Državu. Iz tog razloga, veoma je važan medijski istup nadležnih u Entitetu, transparentnost i reduciranje troškova na minimum kod postupka verifikacije. Što se tiče samih procesnih prava, za Komisiju nije sporno da "verifikaciono tijelo" predvidi *ex offo* postupak verifikacije, čak i bez procesnog učešća imaoca devizne štednje. Međutim, ono mora promptno obavijestiti vlasnika devizne štednje o rezultatu verifikacije, kako bi se vlasnik stare devizne štednje mogao aktivno uključiti u odbranu svojih imovinskih prava pred "tribunalom" u smislu ranijih tačaka ove Odluke. Samo na taj način, neće doći do povrede prava na djelotvoran pristup sudu u smislu člana 6. Evropske konvencije (u tom smislu vidi presudu Evropskog suda u predmetu *Airey protiv Irske* od 9. oktobra 1979. godine, serija A, broj 32, stav 25; Odluku o prihvatljivosti i meritumu Komisije, CH/98/240, od 8. februara 2005. godine, tačka 113. ff).

531. Komisija smatra da je institucionalna i procesno-pravna pitanja u smislu prethodnih tačaka ove Odluke, moguće riješiti podzakonskim aktima iz člana 12. stav 3. Zakona. Međutim, Komisija smatra da je Federacija Bosne i Hercegovine, prekoračivanjem roka iz člana 12. stava 3. Zakona, već prekršila princip zakonitosti, kao element inherentan članu 1. Protokola broj 1 uz Evropsku konvenciju. Na taj način, opravdano se stvara osjećaj pravne nesigurnosti kod podnosilaca prijava, jer on ima svoju pozadinu u dugogodišnjem nerješavanju ovog problema.

532. Komisija pozdravlja zakonsku obavezu tužene strane da verifikaciju izvrši u roku od 9 mjeseci od dana donošenja Zakona, što je, u svjetlu cjelokupne situacije, a posebno broja imalaca stare devizne štednje, opravdan rok.

533. Na kraju, a u vezi sa pravima nosilaca prava na staroj deviznoj štednji, kojima su nadležni sudovi utvrdili pravosnažno njihova prava, Komisija napominje da je Entitet u obavezi da izvrši sve takve presude. Ovo je imperativ vladavine prava, u smislu člana I/2 Ustava Bosne i Hercegovine. Ovaj princip ima prednost nad činjenicom da su pojedini sudovi odbili da procesuiraju određene zahtjeve imalaca prava na staroj deviznoj štednji, čime se stvorio različit tretman kod iste grupe nosilaca prava. U tom smislu, Komisija podržava stav Ustavnog suda Bosne i Hercegovine u svom predmetu (odluke Ustavnog suda Bosne i Hercegovine, *U 21/02*, od 26. marta 2004. godine, tač. 40, "Službeni glasnik Bosne i Hercegovine", broj 18/04; *AP 288/04*, od 17. decembra 2004. godine, tačka 27. ff).

534. Treće pitanje se odnosi na otpis kamata od 1. januara 1992. godine (člana 9. stav 4. Zakona) i na modalitet isplate stare devizne štednje. Komisija je već navela da je dio unutrašnjeg duga, koji se odnosi na staru deviznu štednju, veliko opterećenje za Državu i njene teritorijalne cjeline. Komisija ponavlja da je u tom smislu opravdan javni interes Države.

535. Evropski sud za ljudska prava je ustanovio da domaće vlasti uživaju široko polje procjene prilikom donošenja odluka koje su vezane za lišavanje imovinskih prava pojedinaca zbog neposrednog poznavanja društva i njegovih potreba. Odluka da se oduzme imovina često uključuje razmatranje političkih, ekonomskih i socijalnih pitanja o kojima će se mišljenja u okviru demokratskog društva bitno razlikovati. Stoga će se presuda domaćih vlasti poštivati, osim ako je očigledno bez opravdanog osnova (vidi Odluku o prihvatljivosti i meritumu Doma, CH/98/1311 i CH/01/8542*, Kurtišaj i M.K. protiv Federacije Bosne i Hercegovine*, od 2. septembra 2002. godine, tačka 87; vidi presudu Evropskog suda za ljudska prava, *James i drugi*, od 21. februara 1986. godine, Serija A, broj 98, stav 46). U predmetu *Lithgow i drugi protiv Ujedinjenog Kraljevstva* (presuda od 8. jula 1986. godine, Serija A, broj 102, stav 122), koja se tiče nacionalizovanja imovine, Sud je izjavio:

> Odluka da se usvoji zakon o nacionalizaciji će obično uključiti razmatranje raznih pitanja o kojima se mišljenja u demokratskom društvu mogu, što je i razumljivo, široko razlikovati. Zbog toga, što one direktno poznaju svoje društvo i njegove potrebe i resurse, domaće vlasti su u principu u boljem položaju od međunarodnog sudije da procijene koje mjere su odgovarajuće u toj oblasti i prema tome sloboda procjene koju oni imaju treba biti široka.

536. Pri tome će pomoći i stav Evropskog suda za ljudska prava, u njegovoj odluci *Lithgow i dr. protiv Velike Britanije* (od 8. jula 1986. godine, Serija A, broj 102, st. 121. f), u kojoj je naglasio da oduzimanje imovine uz naknadu, koja ne predstavlja tržišnu vrijednost, u principu, ne predstavlja proporcionalno miješanje u pravo na imovinu nosioca prava. Međutim, pravo na imovinu iz člana 1. Protokola broj 1 uz Evropsku konvenciju ne garantuje pravo na punu kompenzaciju u svim okolnostima, s obzirom da legitimni ciljevi javnog interesa, koji služe da se izvrši određena ekonomska reforma ili ostvari veća socijalna pravda, mogu imati takav značaj da opravdavaju davanje manjeg iznosa od tržišne vrijednosti. Štaviše, Evropski sud za ljudska prava je naglasio da nije nedozvoljeno, pri lišavanju imovine nosilaca prava, da se ne naknadi izgubljena dobit ili nerealizirana mogućnost upotrebe – *ususfructus* (vidi Odluku o dopustivosti bivše Evropske komisije za ljudska prava, *X. protiv Austrije*, od 13. decembra 1979. godine, aplikacija broj 7978/7,

Odluke i izvještaji (OI), broj 18, tačka 3, str. 47). U citiranoj odluci je nadalje navedeno da se izgubljena korist ili dobit može naknaditi samo ako je, "lišenje" imovine direktan uzrok tome. Konačno, Komisija smatra da se ne može primijeniti isti pristup u rješavanju problema "kontrole i lišenja" prava na imovinu, koji pogađa jednu veliku skupinu ljudi, a zakonodavac predviđa globalnu soluciju, od situacije kada se država miješa u individualni slučaj. Komisija, zbog toga, smatra da je na Državi mnogo veća obaveza naknade pune vrijednosti lišenog prava na imovinu ili naknade zbog miješanja u imovinu u individualnim slučajevima, nego kada se radi o generalnom rješavanju slučajeva. Ovakve stavove Komisija podržava iz razloga što je imovina socijalna kategorija i ne može se, u pravno-filozofskom smislu, separatno, apstraktno posmatrati, već ona mora podlijegati društvenim zakonima, koji će, s jedne strane, odražavati interese pojedinca, a s druge strane, interese društvene zajednice. Upravo zbog veze društva i imovine, od pojedinca, kao vlasnika imovinskog prava, očekuje se, već od trenutka sticanja imovinskog prava, da prihvati određenu mjeru "žrtvovanja", ako je potrebno. Samo preko ove granice, postoji obaveza za državu da se naknadi vrijednost lišene imovine, tj. "kontrole" imovine. Gdje leži ova granica, zavisi od obrazloženja iz prethodnih tačaka ove Odluke.

537. Polazeći od gore navedenog, Komisija uvažava ekspertne napore Države, da riješi problem stare devizne štednje na najdjelotvorniji način. Komisija napominje da su pravo na imovinu, pravna sigurnost i pravna jasnoća principi na kojima se mora temeljiti pravni sistem Bosne i Hercegovine u rješavanju postojećeg problema unutarnjeg duga, tj. stare devizne štednje. Samo na taj način se može postići pravni mir u budućnosti Države. Komisija je svjesna da se problem stare devizne štednje mora rješavati u svjetlu cjelokupne situacije u kojoj se Država nalazi. Država ne može apstraktno posmatrati ovaj problem, ne uzimajući u obzir sistem i hijerarhiju vrijednosti koje je stvorio Ustav Bosne i Hercegovine. Pri tome, Komisija posebnu pažnju polaže na princip socijalne države (Preambula Ustava Bosne i Hercegovine).

538. Bosna i Hercegovina je doživjela katastrofu i razaranja, politički i privredni krah. Jedna od posljedica ovih događaja je, sigurno, neriješeno pitanje unutarnjih obaveza Države. Bivša Republika Bosna i Hercegovina, uprkos svome kontinuitetu prema Ustavu Bosne i Hercegovine, doživjela je određenu vrstu privrednog i financijskog sloma. Obzirom da država, kao pravno lice, ne može doživjeti formalni bankrot i nesolventnost, niti je moguće na nju primijeniti opće stečajno pravo, država mora predvidjeti druge mjere, kako bi gradila budući, siguran privredni i financijski sistem. Pri tome je zakonodavac "prirodni" organ za zakonodavstvo, koji ima zadatak da zakonski obradi pitanje aktive i pasive države, vodeći računa o budućnosti.

539. Pri stvaranju buduće države, zakonodavac mora voditi računa o cjelokupnoj budućoj državnoj politici i financijskoj privredi, što je velika razlika u poređenju sa stečajnim postupkom privatnog pravnog lica. Prema tome, u tom postupku ne radi se o "obračunu" sa prošlošću, već o stvaranju osnova za budućnost. Sanacija države i stvaranje zdravog sistema je osnova uređenog razvoja socijalnog i političkog života.

540. Pri tome, zakonodavac nije obavezan niti ima zadatak da uspostavi određeni odnos između ispunjenja starih obaveza i ispunjenja tekućih obaveza, niti da suprostavi ove vrijednosti. Prema tome, pri "sanaciji" države, ne postoji obaveza zakonodavca da uspostavi pravno-obavezujuću skalu obaveza. Ona ne postoji uprkos činjenici da su određene obaveze nastale ranije, a druge obaveze tek nastaju. Isto tako, država, pri stvaranju novog poretka, ne mora da ima obavezu ispunjavanja "novonastalih" obaveza u onoj mjeri u kojoj to dozvoljavaju stare obaveze. Ovo važi posebno u situaciji kada se država, zbog kolateralne štete, obnavlja u svakom svom aspektu.

541. Komisija napominje da "šteta", koju su imaoci stare devizne štednje pretrpili, nije jedina koja postoji. Od početka 1990-tih, a zbog ukupnih događanja u Bosni i Hercegovini, stradali su mnogi životi, zdravlje i sloboda ljudi, druga materijalna dobra, radna mjesta, profesionalni napredak ljudi, itd. U tom smislu govore i statistički podaci koje je prezentirao Ured Visokog predstavnika za Bosnu i Hercegovinu, a koji su odraz ukupnih događanja u Državi. Prema njima, Bosna i Hercegovina ima zajednički procijenjeni dug koji premašuje sumu od 9,2 milijardi konvertibilnih maraka, od čega 4,8 milijardi otpada na obaveze nastale prije 31. decembra 2005. godine.

Procijenjeno je da spoljni i unutrašnji dug iznosi u decembru 2003. godine 75% bruto godišnjeg proizvoda, što je razlog za tešku ekonomsku krizu Države (str. 2. mišljenja). Prema tome, zakonodavac, pri pomirenju svih interesa, mora voditi računa da država ima zadatak stvarati prosperitetnu državu, a ne samo popravljati uništeno i ispravljati nepravdu. Drugim riječima, u vanrednim okolnostima, država mora pomiriti prošlost i budućnost u granicama mogućeg. Prema tome, država se odgovarajućim mjerama ne nastavlja miješati u pravo, jer to nije dozvoljeno, nego preduzima mjere, kojima se usmjerava razvoj već učinjenog miješanja u pravo (uporedi odluke Saveznog ustavnog suda Savezne Republike Njemačke nakon raspada nacionalsocijalističkog sistema *Državni bankrot* (Staatsbankrott), (BVerGE 15, 126, od 23. maja 1962. godine) i spajanja Savezne Republike i Demokratske Republike Njemačke, *Zemaljska reforma* (Bodenreform), (BVerfGE 84, 90, od 23. aprila 1991. godine; vidi i presudu Evropskog suda za ljudska prava, *Wittek protiv Savezne Republike Njemačke*, od 12. decembra 2002. godine, stav 50. ff).

542. Naravno, država se mora pridržavati principa zabrane proizvoljnosti i prava na jednakost. Pri tome, moraju se forsirati određene vrijednosti, kao što je vjera u bankarski sistem. Bankarski sistem je toliko važan da je čak i Savezna Republika Njemačka priznala sve štedne uloge koji su bili ulagani u banke za vrijeme *Njemačkog Rajha*, uprkos činjenici da je ovaj nacionalsocijalistički sistem u potpunosti propao (čl. 10-30 Zakona o općim ratnim štetama, "Službeni glasnik" I, str. 1747, od 1. januara 1958. godine). Osim toga, Komisija smatra da isplata stare devizne štednje ima svoju socijalnu ulogu u podizanju općeg blagostanja građanstva. Konačno, realizacija isplate stare devizne štednje jačala bi vjeru u slovo zakona, pravnu državu i jednakost pred zakonom. Pravna sigurnost, koja proizilazi iz principa vladavine prava, nadopunjuje princip proporcionalnosti u vezi sa miješanjem države u pravo na imovinu. Komisija upućuje na jedan primjer Ustavnog suda Češke Republike (Odluka broj IV.US 215/94, od 8. juna 1995. godine), u pogledu zahtjeva za restitucijom slovačkog državljanina u Češkoj. Naime, pravno valjan zahtjev za restitucijom za vrijeme postojanja jedne države, postao je zakonski irelevantan disolucijom Čehoslovačke i tumačenjem istih zakona na novi način u novoj državi. Ustavni sud Češke Republike je, u svojoj odluci, pozivajući se na navedene principe pravne države i vjere u jednakost, naveo:

> [...] Ustavni sud polazi od činjenice da je svrha kompletne restitucije da se olakšaju posljedice određenih imovinskih nepravdi, koje su se desile za vrijeme relevantnog perioda. Iako je zakonodavac bio svjestan da je nerealno pokušati da se izliječe sve nepravde, tako da je neophodno biti zadovoljan samo sa ispravljanjem nekih od njih, ovi akti [restitucije] ne mogu biti tumačeni dogmatski i neustavno, tako da u pogledu određenih ljudi stvaraju nove nepravde.

543. U konkretnim slučajevima, Komisija zapaža da je, u skladu sa novim Zakonom, Federacija Bosne i Hercegovine preuzela obaveze na osnovu stare devizne štednje, te da je predvidjela da ove obaveze izmiri isplatom u gotovini i izdavanjem obveznica nakon verifikacije potraživanja. Komisija, prije svega, uočava da je kamata otpisana za period od 1. januara 1992. godine. U odnosu na gotovinske isplate propisano je da će Vlada Federacije posebnim propisom utvrditi metod i visinu isplate i to do iznosa koji bi trebao osigurati i podržati makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine, što znači da ni u kom slučaju, još uvijek, nije izvjestan ni način, ni visina budućih gotovinskih isplata (član 10, u vezi sa članom 2. Zakona). Također, u odnosu na gotovinske isplate predviđeno je da će se isplate izvršiti iz budžeta Federacije Bosne i Hercegovine u periodu od četiri godine počevši od fiskalne godine kada se završi postupak verifikovanja stare devizne štednje (član 11). S druge strane, u pogledu obaveza koje ne budu izmirene isplatom u gotovini, predviđeno je da će se izdavati obveznice do iznosa koji je potreban za izmirenje kumulativnih potraživanja. Svi uvjeti za obveznice, također, tek treba da se utvrde posebnim propisom Vlade Federacije (član 21. stav 3), a naročito u vezi roka dospijeća obveznica, visine kamate na obveznice i dužine *grace* perioda.

544. Što se tiče kamata, novi Zakon ih je otpisao, i to za period od 1. januara 1992. godine. Komisija smatra da je ovakav pristup razuman, objektivan i opravdan. Naime, kamata se mora shvatiti i razmatrati u predmetnim slučajevima, upravo, u duhu ovog instituta. Kamata je vrsta naknade onome koji je dao kapital na raspolaganje – naknada za upotrebu. Uzimajući u obzir da

nije u potpunosti jasno u kojoj mjeri i na koji način je Država raspolagala deviznim sredstvima (Poropat i dr, *loc. cit*, stav 58, *amici curiae* mišljenje Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini, strana 25, stav 2), a zbog činjenice da postoji snažan javni interes i potreba da se Država ne optereti u budućnosti, Komisija smatra da je otpis kamata opravdan. Ovaj otpis je opravdan čak i pod pretpostavkom da su komercijalne banke raspolagale sa jednim dijelom deviznih sredstava, jer bi, u današnjim okolnostima, reaktiviranje pasive kod banaka sigurno vodilo ka narušavanju bankarskog sistema, što nije interes Bosne i Hercegovine. Konačno, Evropski sud za ljudska prava naglasio je da Država ima šire polje procjene da li je naknada za izgubljenu dobit potrebna i opravdana, nego je to slučaj sa osnovnim imovinskim zahtjevom – u konkretnim slučajevima, glavnicom (presuda *X. protiv Austrije*, *loc. cit*). Ovo iz razloga što se izgubljena dobit mora naknaditi samo ako je miješanje u pravo na imovinu direktan uzrok gubitku te dobiti, prema tome, podliježe mnogo strožim kriterijima. Prevedeno na konkretne slučajeve, Komisija zaključuje da razlog gubitku kamate nije neopravdano neisplaćivanje stare devizne štednje, već događaji koji su se desili u Bosni i Hercegovini nakon 1992. godine. Nadležnost Komisije u ovakvim slučajevima bila bi da ocijeni da li je došlo do proizvoljnosti Države u lišenju ovoga prava, što u konkretnim slučajevima Komisija ne može da potvrdi (uporedi presudu Evropskog suda za ljudska prava, *James i drugi protiv Velike Britanije*, od 21. februara 1986. godine, Serija A, broj 98, st. 46. i 54).

545. Što se tiče modaliteta isplate, Komisija smatra da novo zakonsko rješenje, nije opravdano iz više razloga. Naime, novi Zakon nije još uvijek sasvim izvjesno propisao model i obim izmirenja obaveza prema podnosiocima prijava, i to na način, na koji bi podnosioci prijava mogli, s jedne strane, ostvariti svoja imovinska prava, a s druge strane, izdefinisati svoju imovinsko-pravnu poziciju za budućnost. To se odnosi, prije svega, na obveznice. Zakon mora sadržavati osnovna načela u vezi sa uvjetima, pod kojima će obveznica biti izdata. Naime, ovi uvjeti, a prije svega, vrijeme dospjeća, su okosnica miješanja u pravo na imovinu. Iz toga razloga, neopravdano je derogirati definisanje ovog prava izvršnoj vlasti. Izvršna vlast nema taj demokratski supstrat, niti nadležnost donositi demokratske zakone, kao što ima zakonodavac. Komisija ponavlja da je miješanje u pravo na imovinu, u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju, moguće samo na osnovu zakona. Zato svaki zakon, koji iskorištava pravo, dato, *inter alia*, u stavu 2. člana 1. Protokola broj 1 uz Evropsku konvenciju, mora sadržavati barem načelna i okvirna rješenja, koja upravni organi mogu, podzakonskim aktima, razrađivati unutar jasno definisanih granica zakona. U protivnom, rješenja nisu donesena u smislu vladavine prava, jer se upravnim organima dozvoljava da predviđaju granice miješanja u imovinska prava, umjesto da izaberu najbezbolniju varijantu unutar datih zakonskih granica. Takvi zakoni ne ispunjavaju standard i kriterij "predvidivosti", zbog čega nisu u skladu sa pravom na imovinu. Čak i kada bi se pretpostavljalo da je ta granica "makroekonomska stabilnost" Federacije Bosne i Hercegovine (član 2. stav 1. Zakona), ovaj pojam, sa tačke gledišta jednog prosječnog građanina, je pravno nedefinisan pojam i otvara mogućnost zloupotrebe od strane izvršne vlasti. S druge strane, upotreba ovako nejasnih pojmova je dozvoljena pod uslovom da je omogućena sudska kontrola, koja bi dala konačnu riječ u pogledu toga da li je u individualnom slučaju izvršni organ pravilno subsumirao činjenično stanje pod pravno nejasan pojam. U konkretnim slučajevima, postojeći Zakon daje mogućnost ne da se takav pojam primjenjuje na individualne slučajeve, već da se na osnovu njega rješava globalna situacija, što je van kontrole suda u pojedinčanim slučajevima (u tom smislu vidi presudu Evropskog suda za ljudska prava, *Kruslin protiv Francusk*e, od 24. aprila 1990. godine, Serija A, broj 176-A, stav 24. f).

546. S druge strane, Komisija preventivno ukazuje da bi rok za dospjeće obveznica preko 15 godina bio neopravdan iz sljedećih razloga. Prije svega, Komisija naglašava da je do donošenja citiranog Zakona u 2004. godini, već prošao znatan broj godina. Prema tome, iako će Zakon formalno propisati rok do 15 godina, imaoci stare devizne štednje moraju *de facto* čekati za dospjeće obveznica preko 25 godina, uzimajući u obzir protekli, zakonski neregulisan period. Ovu činenicu zakonodavac mora uzeti u obzir pri regulisanju pitanja dospjeća obveznica. Drugo, cilj isplate stare devizne štednje je omogućavanje njihovim vlasnicima, u opravdanim granicama moći Države, da raspolažu svojom imovinom po ovom osnovu. Vlasnici devizne štednje su, po podacima iz podnesenih prijava, ali i po navodima *amicus curiae*, Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini (str. 30), većinom starija populacija, slabe ekonomske moći i socijalno ugrožena kategorija stanovništva. Iz ovih razloga, vlasnici stare devizne štednje će biti,

većinom, iz socio-ekonomskih razloga i starosne dobi, prisiljeni trgovati sa obveznicama. Velika ponuda, a predug rok dospijeća, uticati će da njihova realna vrijednost bude znatno manja od nominalne vrijednosti. Na taj način, ne bi se postigao cilj izdavanja obveznica – isplata uložene vrijednosti, dok bi puna vrijednost, po dospijeću obveznica, prešla na ekonomski jaču populaciju, što nije cilj Zakona. Komisija smatra da je maksimalan rok do 15 godina opravdan, te da čuva, s jedne strane, interes države da se ne optereti budžet u prevelikom iznosu, a s druge strane, da omogući vlasnicima obveznica po osnovu stare devizne štednje da im vrijednost ne padne ispod razumne granice. Komisija napominje da će 4-godišnja isplata stare devizne štednje u gotovom novcu, u granicama predviđenim članom 2. Zakona, pomoći da se prebrode socio-ekonomske poteškoće u kriznom i inicijalnom periodu. Ovo štaviše zbog činjenice da je 70% deviznih štediša u posjedu knjižice koja glasi na iznos ispod 1000 konvertibilnih maraka, tj. 470.000 štediša čiji su pojedinačni devizni ulozi 200 konvertibilnih maraka ili manje (mišljenje Ureda Visokog predstavnika za Bosnu i Hercegovinu, str. 9, tačka 13; mišljenje eksperta, prof. dr. Dragoljuba Stojanova u Odluci *Poropat i drugi*).

547. Na kraju Komisija upozorava da Zakon mora predvidjeti pravičnu kamatu na obveznice. U trenutku dospijeća istih, obveznice moraju imati vrijednost koja bi oslikavala realnu vrijednost uloženih deviza, uključujući prosječnu inflacionu stopu (član 14. stav 1. Zakona). Komisija, u tom smislu, ukazuje na praksu Evropskog suda za ljudska prava, koji je u predmetu *Küçük protiv Turske* (od 10. jula 2001. godine, stav 25) naglasio da država-članica vrijeđa član 1. Protokola broj 1 uz Evropsku konvenciju u slučaju da duži period ne ispunjava svoje imovinske obaveze, dok vrijednost istih, zbog uticaja inflacije, opada.

548. Zbog svega nevedenog, Komisija smatra da je Federacija Bosne i Hercegovine, neproporcionalnim, nepotpunim zakononskim rješenjima nastavila da se miješa u pravo podnosilaca prijava na njihovu imovinu. Time je tužena strana, Federacija Bosne i Hercegovine, propustila pozitivne obaveze koje proističu iz principa zakonitosti, kao elementa inherentnog članu 1. Protokola broj 1 uz Evropsku konvenciju.

B.2. Član 6. Evropske konvencije

549. Komisiji ostaje još da ispita da li je podnosiocima prijava povrijeđeno pravo na pravično suđenje u smislu člana 6. Evropske konvencije. Član 6. stav 1. Evropske konvencije glasi:

> Prilikom utvrđivanja građanskih prava i obaveza ili osnovanosti bilo kakve krivične optužbe protiv njega, svako ima pravo na pravično suđenje i javnu raspravu u razumnom roku pred nezavisnim i nepristrasnim, zakonom ustanovljenim sudom.

550. Komisija smatra da predmetne prijave pokreću pitanje prava na pravično suđenje u smislu prava na pristup sudu iz člana 6. Evropske konvencije. Naime, podnosioci prijava se žale da se ne mogu obratiti niti jednoj instituciji, koja bi zaštitila njihova prava na imovinu. Komisija zapaža da su mnogi podnosioci prijava pokrenuli parnične postupke protiv banaka u kojima su polagali devizna sredstva, međutim, njihove tužbe su odbijene, ili su postupci prekinuti prije više od 14 godina, ili su stavljeni u mirovanje i nikada se nisu nastavili, tako da podnosioci prijava nisu uspjeli doći do pravomoćne i izvršne odluke kojom se utvrđuje postojanje njihovog potraživanja. Međutim, Komisija je utvrdila da i u slučaju kada su podnosioci prijava izdejstvovali pravomoćnu odluku kojom je utvrđeno potraživanje po osnovu stare devizne štednje, nikada je nisu uspjeli izvršiti u postupku pred nadležnim sudom (vidi Odluku o prihvatljivosti i meritumu Komisije, CH/98/375 i dr., *Đorđe BESAROVIĆ i drugi protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, od 6. aprila 2005. godine, stav 1249). Prema tome, Komisija zaključuje da postoje dvije vrste problema – s jedne strane nemogućnost institucionalne zaštite usljed uskraćivanja prava na "pristup sudu", a, s druge strane, generalni problem nemogućnosti izvršenja pravosnažnih presuda u vezi sa starom deviznom štednjom. Ipak, s obzirom da u konkretnim slučajevima nema podnosilaca prijava sa izvršnim naslovima, Komisija smatra dovoljnim ako uputi na ovaj problem razmatran u drugim odlukama, a bez daljnjeg elaboriranja u ovoj Odluci.

551. Komisija je u svojoj nedavno usvojenoj praksi još jednom ukazala na značaj prava pristupa sudu (vidi Odluku o prihvatljivosti i meritumu, CH/99/1888, od 8. i 9. marta 2005. godine, tačka 77). U tom smislu, Komisija je navela:

> Nema sumnje, što je potvrđeno dugogodišnjom praksom sudskih organa u BiH, da je pravo pristupa sudu elemenat inherentan pravu iskazanom u članu 6. stavu 1. Evropske konvencije (vidi odluku Ustavnog suda Bosne i Hercegovine, U 3/99, od 17. marta 2000. godine, "Službeni glasnik Bosne i Hercegovine", broj 21/00). Pravo na pristup sudu iz člana 6. stava 1. Evropske konvencije podrazumijeva, prije svega, široke proceduralne garancije i zahtjev za hitni i javni postupak (neobjavljena odluka Ustavnog suda Bosne i Hercegovine, U 107/03, od 19. novembra 2004. godine, tač. 7. i 21). Pravo pristupa sudu ne znači samo formalni pristup sudu, već efikasan pristup sudu. Da bi nadležni organ bio efikasan, on mora obavljati svoju funkciju na zakonit i djelotvoran način. Obaveza obezbjeđivanja efikasnog prava na pristup nadležnim organima spada u kategoriju dužnosti, tj. pozitivne obaveze države (vidi presudu Evropskog suda za ljudska prava, Airey protiv Irske, od 9. oktobra 1979. godine, Serija A, broj 32, stav 25).

552. U dijelu o prihvatljivosti prijava (vidi tačku 1169. ff), Komisija je zaključila da podnosioci prijava, većinom, nisu iscrpljivali pravne lijekove, što nije ni potrebno jer Entitet, kao nadležan u tom smislu, nije predvidio djelotvoran pravni sistem. Samim tim, Komisija smatra da podnosioci prijava, uprkos činjenici da stara devizna štednja nije isplaćivana, kao ugovorna obaveza, nisu imali nikakvu institucionalnu zaštitu niti mogućnost da se obrate bilo kojem sudu ili drugom organu. Ovakvo stanje traje još od samog početka problema, znatno ranije nego je Sporazum stupio na snagu. Situacija se nije promijenila do danas, uprkos odlukama Doma (prije svega, *Poropat i dr*, *loc. cit.* tač 152-156; *Đurković i dr*, *loc. cit.* tač. 220-222), u kojima je *explizite* navedeno da u pravnom sistemu Bosne i Hercegovine ne postoje djelotvorni pravni lijekovi, te je nađeno flagrantno kršenje prava na imovinu vlasnika stare devizne štednje. Tužena strana nije nikada ispoštovala oduke Doma u vezi s tim. Konačno, Komisija primjećuje da tek donošenjem najnovijeg zakona o regulisanju problema unutrašnjeg duga, vlasnici stare devizne štednje imaju formalno-pravno (tj. zakonsko) ograničenje prava "pristupa sudu". Do tada, niti jedan akt nije ograničavao ovo pravo, što je Ured Visokog predstavnika, štaviše, izričito naveo u svom mišljenju, izraženom kao *amicus curiae,* u Odluci *Poropat i drugi* (tačka 79). Međutim, Komisija napominje da su prijave podnijete u toku 1998. i 1999. godine, znači, 6-7 godina prije stupanja na snagu navedenog Zakona, te da cijelo vrijeme postoji *de facto* frustracija podnosilaca prijava oko prava "pristupa sudu". Ova činjenica se ne može zanemariti. Konačno, uzimajući u obzir zaključke ove Odluke u vezi prava na imovinu, gdje je nađena povreda, Komisija smatra da pravo pristupa sudu još uvijek nije opravdano i izbalansirano. Iz ovih razloga, Komisija ne može prihvatiti uputu Ureda Visokog predstavnika na presudu Evropskog suda za ljudska prava u predmetu *National & Privincial Building Society et al. protiv Velike Britanije*, od 23. oktobra 1997. godine. Naime, u ovom predmetu se radilo o "izbalansiranom" ograničenju prava "pristupa sudu" u vezi prava povrata poreza. S druge strane, Komisija naglašava da država ima veće diskreciono pravo u pogledu javnih obaveza (bez obzira što se one u konkretnom slučaju definišu kao imovina u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju), nego je to slučaj sa čistim privatno-pravnim imovinskim pozicijama, kao što je pravo na uložena devizna sredstva. U oblasti javnog prava, kontrola se svodi na zabranu arbitrarnosti, te je dovoljno da javna obaveza bude zasnovana na zakonu i da ne bude proizvoljna (vidi, na primjer, Odluku Ustavnog suda Bosne i Hercegovine, *U 27/01* od 28. septembra 2001. godine, "Službeni glasnik Bosne i Hercegovine", broj 8/02). Samim tim, u oblasti javnog prava je mogućnost ograničenja prava na "pristup sudu" veća nego u čistim obligaciono-pravnim odnosima (ugovor o štednji).

553. Na ovakav zaključak ne može uticati ni činjenica da određena lica (što se ne odnosi na konkretne podnosioce prijava) imaju pravosnažne presude, jer se, s jedne strane, radi o izuzecima, a, s druge strane, o činjenici da niti jedna odluka nikada nije izvršena (vidi *Poropat i dr, loc. cit,* tač. 155, 156, 195). Komisija je, u svojoj nedavnoj jurisprudenciji (vidi Odluku o prihvatljivosti i meritumu, CH/03/14913, od 8. i 9. marta 2005. godine, tač. 38. i 39), navela:

Izvršenje presude, koju donese bilo koji sud, mora biti posmatrano kao integralni dio "suđenja“ u smislu člana 6. Evropske konvencije (vidi presudu Evropskog suda za ljudska prava, *Golder protiv Ujedinjenog Kraljevstva*, od 7. maja 1974. godine, Serija A, broj 18, st. 34-36). To će biti slučaj ako ne postoji izvršenje u razumnom zakonskom roku ili ako neopravdanost neizvršenja povlači ponovnu povredu tog građanskog prava. Komisija podržava i stav Ustavnog suda Bosne i Hercegovine u vezi sa ovim problemom, koji je naveo da u slučaju neizvršenja bilo kojeg pravosnažno utvrđenog građanskog prava, to pravo ima karakter iluzornog prava (op.cit, *AP-288/03*, tačka 27). Naime, ako se pravosnažno utvrdi građansko pravo, a nadležni organ neće da ga izvrši, pravo na pravičan postupak u postupku utvrđivanja građanskog prava bi postalo bespredmetno i bez adekvatnog dejstva. Na taj način, negira se pravo na pristup sudu. Nema sumnje, što je potvrđeno dugogodišnjom praksom sudskih organa u Bosni i Hercegovini, da je pravo pristupa sudu elemenat inherentan pravu iskazanom u članu 6. stavu 1. Evropske konvencije (vidi odluku Ustavnog suda Bosne i Hercegovine, *U 3/99*, od 17. marta 2000. godine, "Službeni glasnik Bosne i Hercegovine", broj 21/00). Pravo na pristup sudu iz člana 6. stava 1. Evropske konvencije podrazumijeva, prije svega, široke proceduralne garancije i zahtjev za hitni i javni postupak (neobjavljena odluka Ustavnog suda Bosne i Hercegovine, *U 107/03*, od 19. novembra 2004. godine, tač. 7. i 21). Pravo pristupa sudu ne znači samo formalni pristup sudu, već efikasan pristup sudu. Da bi nadležni organ bio efikasan, on mora obavljati svoju funkciju na zakonit i djelotvoran način. Obaveza obezbjeđivanja efikasnog prava na pristup nadležnim organima spada u kategoriju dužnosti, tj. pozitivne obaveze države (vidi presudu Evropskog suda za ljudska prava, *Airey protiv Irske*, od 9. oktobra 1979. godine, Serija A, broj 32, stav 25). Ipak, pravo pristupa sudu traje sve dok se ne realizira utvrđeno građansko pravo. U protivnom, djelotvoran postupak prilikom utvrđivanja građanskih prava i obaveza bi bio iluzoran, ako u naknadnom, izvršnom postupku, to građansko pravo ne može zaživjeti.

Komisija, također, podsjeća i na niz odluka Doma, koje se tiču nepoštivanja odluka sudova u Bosni i Hercegovini. Na primjer, u odluci CH/96/17, *Blentić protiv Republike Srpske* (vidi Odluku o prihvatljivosti i meritumu Doma za ljudska prava, od 5. novembra 1997. godine, tačka 35) Dom je našao povredu prava na pravično suđenje zato "što je policija bila pasivna usprkos svojoj obavezi da pomogne u izvršenju sudske odluke“. Također, Komisija podsjeća i na praksu Ombudsmana za ljudska prava za Bosnu i Hercegovinu (u daljnjem tekstu: Ombudsman za ljudska prava), u sličnim predmetima. Tako, u predmetu *B. D. protiv Federacije Bosne i Hercegovine* (vidi predmet (B) 746/97, Izvještaji od 24. marta 1999. godine) Omudsman za ljudska prava našao je povredu člana 6. Evropske konvencije zbog činjenice da "vlasti nisu, više od dvije godine, izvršile presudu i nalog za izvršenje koje je izdao Osnovni sud u Tuzli u korist podnosioca prijave“. Također, u predmetu *A. O. protiv Republike Srpske* (vidi predmet broj (B) 60/96, Izvještaji od 13. aprila 1999. godine) Ombudsman za ljudska prava našao je povredu člana 6. stav 1. Evropske konvencije u "propustu Osnovnog suda iz Banja Luke da izvrši konačnu i obavezujuću odluku, koju je donijela Komisija osnovana prema Aneksu 7 u korist podnosioca žalbe“. Iz navedenog je vidljivo da postoji izgrađena praksa u pogledu toga da neizvršavanje pravosnažnih sudskih odluka predstavlja povredu prava na pravično suđenje.

554. Iz svega navedenog, Komisija zaključuje da je došlo do povrede prava podnosilaca prijava prema članu 6. stavu 1. Evropske konvencije, za što je odgovorna tužena strana, Federacija Bosne i Hercegovine. Tužena strana nije obezbijedila podnosiocima prijava pravo pristupa sudu.

B.3. Zaključak o meritumu

555. Komisija zaključuje da su Bosna i Hercegovina i Federacija Bosne i Hercegovine povrijedile pravo podnosilaca prijava na imovinu koje štiti član 1. Protokola broj 1 uz Evropsku konvenciju.

556. Komisija zaključuje da je Federacija Bosne i Hercegovine povrijedila prava podnosilaca prijava na pravično suđenje, u smislu prava pristupa sudu, koje štiti član 6. Evropske konvencije.

VIII. PRAVNI LIJEKOVI

557. Prema članu XI(1)(b) Sporazuma, a u vezi sa pravilom 58. stavom 1(b) Pravila procedure Komisije, Komisija mora razmotriti pitanje o koracima koje Bosna i Hercegovina i Federacija Bosne i Hercegovine mora preduzeti da ispravi kršenja Sporazuma koja je Komisija utvrdila, uključujući naredbe da sa kršenjima prestane i od njih odustane.

558. Pri utvrđivanju pravnih lijekova, Komisija će uzeti u obzir pravne lijekove koje je izrekla u svojoj sličnoj odluci, CH/98/375 i dr., *Đorđe BESAROVIĆ i drugi protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, od 6. aprila 2005. godine. Naime, ova Odluka mora biti u skladu sa prethodno donesenim pravnim lijekovima, kako bi Komisija ispoštovala princip vladavine prava, iz kojeg proizilazi princip pravne sigurnosti. U pogledu Bosne i Hercegovine, neophodno je da Država, po hitnom postupku, a najkasnije u roku od 5 mjeseci od dana prijema ove Odluke, donese okvirni zakon ili drugi zakonski okvir, koji bi, u skladu sa obrazloženjem i zaključcima ove Odluke, principijelno riješio postojeći problem u vezi sa starom deviznom štednjom na teritoriji cijele Bosne i Hercegovine. U vezi s tim, Komisija nalaže Bosni i Hercegovini da odmah, a najkasnije u roku od mjesec dana, od dana prijema ove Odluke, formira ekspertni tim, u saradnji sa entitetima i Distriktom Brčko, koji će, najkasnije u roku 2 mjeseca od dana formiranja tima, u skladu sa parlamentarnom procedurom, predložiti nacrt okvirnog zakona ili drugog zakonskog okvira.

559. U pogledu Federacije Bosne i Hercegovine, Komisija smatra da je neophodno da naredi tuženoj strani da u roku od 5 mjeseci od dana prijema ove Odluke izmijeni i dopuni postojeći Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine u skladu sa obrazloženjem i zaključcima ove Odluke i Odluke u predmetu CH/98/375 i dr., *Đorđe BESAROVIĆ i drugi protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, od 6. aprila 2005. godine. Izmjene i dopune odnose se, prije svega, na propisivanje pozitivnih obaveza banaka u vezi sa podacima, pristupom informacijama vlasnika stare devizne štednje, institucionalnom i procesno-pravnom zaštitom vlasnika stare devizne štednje, i drugim pitanjima u vezi sa modalitetom isplate devizne štednje, a u vezi sa obrazloženjem iz ove odluke.

560. Federaciji Bosne i Hercegovine se nalaže da po hitnom postupku, u roku od 2 mjeseca od dana prijema ove Odluke, donese podzakonske akte o verifikaciji, vodeći računa o budućim zakonskim rješenjima.

561. Federaciji Bosne i Hercegovine se nalaže da javno istupi u medijima i na odgovarajući način, transparentno i jasno, ukaže na prava i obaveze vlasnika stare devizne štednje.

562. Federaciji Bosne i Hercegovine se nalaže da izvrši verifikaciju potraživanja podnosilaca prijava u zakonom predviđenom roku, poštujući institucionalnu i procesno-pravnu zaštitu u postupku verifikacije potraživanja.

563. Federaciji Bosne i Hercegovine se nalaže da ispoštuje zakonske rokove u vezi sa čl. 10. i 11. Zakona o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine, vodeći računa o datom roku iz prethodne tačke ove Odluke.

564. U slučaju nepoštivanja rokova, datih u prethodnim tačkama ove Odluke, Federaciji Bosne i Hercegovine se nalaže da od 1. marta 2006. godine, podnosiocima prijava isplaćuje iznos od 100

(sto) konvertibilnih maraka mjesečno, ili puni iznos njene/njegove stare devizne štednje (za iznose ispod 100 konvertibilnih maraka), sve do ispunjenja obaveza iz zaključaka ove Odluke.

565. Komisija smatra da bi bilo opravdano da naloži Federaciji Bosne i Hercegovine da svakom podnosiocu prijave, u odnosu na kojeg je utvrđena povreda, na ime nematerijalne štete i eventualnih procesnih troškova, isplati paušalni iznos od po 500 (petstotina) konvertibilnih maraka u roku od tri mjeseca od dana prijema ove Odluke.

IX. ZAKLJUČAK

566. Iz ovih razloga, Komisija odlučuje,

1. jednoglasno, da prijave proglasi prihvatljivim protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine u dijelu koji se odnosi na navodne povrede ljudskih prava nakon 14. decembra 1995. godine u vezi sa pravom na imovinu iz člana 1. Protokola broj 1 uz Evropsku konvenciju, a u vezi sa starom deviznom štednjom u bankama sa sjedištem na teritoriji Bosne i Hercegovine;

2. jednoglasno, da prijave proglasi prihvatljivim protiv Federacije Bosne i Hercegovine u dijelu koji se odnosi na navodne povrede ljudskih prava nakon 14. decembra 1995. godine u vezi sa pravom na pravično suđenje iz člana 6. Evropske konvencije, a u vezi sa starom deviznom štednjom u bankama sa sjedištem na teritoriji Bosne i Hercegovine;

3. jednoglasno, da prijave proglasi neprihvatljivim protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine u dijelu koji se odnosi na navodne povrede ljudskih prava nakon 14. decembra 1995. godine, a u vezi sa starom deviznom štednjom u bankama sa sjedištem van teritorije Bosne i Hercegovine;

4. jednoglasno, da proglasi neprihvatljivim prijave CH/98/505, *Nimeta Kulenović protiv Bosne i Hercegovine, Federacije Bosne i Hercegovine i* Republike *Slovenije* i CH/99/3301, *Nadežda Šehovac-Pavičević protiv Bosne i Hercegovine, Federacije Bosne i Hercegovine i Republike Slovenije*, u dijelu u kojem su upućene protiv Republike Slovenije, kao *ratione personae* nespojive sa odredbama Sporazuma;

5. jednoglasno, da briše dio prijava, CH/98/430, *Ekrem Ulak protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u odnosu na sredstva položena kod Jugobanke; CH/98/499, *Suada Saradžić protiv Bosne i Hercegovine*, u odnosu na sredstva položena kod Privredne banke; CH/98/589, *Vjekoslava Bošnjak protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u odnosu na sredstva položena kod Privredne banke; CH/98/599, *Šimo Bošnjak protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na deviznu štednju položenu kod Jugobanke i na drugoj knjižici kod Privredne banke u iznosu od 1.048,14 KM; CH/98/674, *Ana Mrdović protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine,* u odnosu na njena devizna sredstva položena kod Jugobanke; CH/99/2145, *Ivka Livaja protiv Federacije Bosne i Hercegovine,* u odnosu na sredstva položena kod Jugobanke i CH/99/2784, *Fuad Aganović protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na deviznu štednju položenu kod Jugobanke, jer podnosioci prijava nisu dostavili kopije deviznih štednih knjižica;

6. jednoglasno, da briše dio prijava, CH/98/537, *Fatima Arapović protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na njena sredstva položena kod Jugobanke, u iznosu od 332,38 CHF; CH/98/609, *H.A. protiv Bosne i Hercegovine i Federacije Bosne i* Hercegovine, u dijelu koji se odnosi na potraživanja u iznosu od 84.192,7 KM polagana "u raznim bankama" i CH/98/684, *M.S. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na sredstva polagana kod Jugobanke u iznosu od 10.225,8 ATS, 22.780,8 FRF, 26.930,54 DEM, 11.226,97 ITL, 5,33 GBP i 72,85 USD, jer podnosioci prijava nisu dostavili kopije štednih knjižica kojima bi potkrijepili navode o postojanju ovih potraživanja;

7. jednoglasno, da briše dio prijava, CH/98/527, *Dimšo Đurić protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na štedne pologe njegove supruge i kćerki; CH/98/1070*, Ljiljana Vuković protiv Federacije Bosne i Hercegovine*, u dijelu koji se odnosi na sredstva polagana na ime njenog supruga kod Jugobanke Sarajevo u iznosu od 1.086,14 DEM, 611,56 USD i 1.311,25 CHF i kod Privredne banke Sarajevo u iznosu od 457,82 DEM i CH/99/3230, *A.H. protiv Federacije Bosne i Hercegovine*, u odnosu na štedne pologe njegove supruge i djece, jer podnosioci prijava nisu dostavili kopije punomoći kojom ih članovi porodice ovlašćuju za zastupanje pred Komisijom;

8. jednoglasno, da u cijelosti briše prijave CH/98/538, *Zejnil Brković protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, CH/99/3303, *Tomo Golac protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine* i CH/99/3317, *Ivan Ivica Božić protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine,* jer su podnosioci prijava umrli;

9. jednoglasno, da je Bosna i Hercegovina prekršila prava podnosilaca prijava na mirno uživanje imovine po članu 1. Protokola broj 1 uz Evropsku konvenciju, ne preduzevši odgovarajuće radnje u vezi sa njihovom starom deviznom štednjom kako bi osigurala prava podnosilaca prijava zagarantovana tom odredbom, čime je Bosna i Hercegovina prekršila član I Sporazuma;

10. jednoglasno, da je Federacija Bosne i Hercegovine prekršila prava podnosilaca prijava na mirno uživanje imovine po članu 1. Protokola broj 1 uz Evropsku konvenciju, ne preduzevši odgovarajuće radnje u vezi sa njihovom starom deviznom štednjom, čime je stavila pojedinačan i prevelik teret na podnosioce prijava, čime je Federacija Bosne i Hercegovine prekršila član I Sporazuma;

11. jednoglasno, da je Federacija Bosne i Hercegovine prekršila pravo podnosilaca prijava na pravično suđenje iz člana 6. Evropske konvencije, čime je prekršila član I Sporazuma;

12. jednoglasno, da naredi Bosni i Hercegovini da odmah, a najkasnije u roku od jednog mjeseca, od dana prijema ove Odluke, formira ekspertni tim, u saradnji sa entitetima i Distriktom Brčko, koji će, najkasnije u roku 2 mjeseca od dana formiranja tima, u skladu sa parlamentarnom procedurom, predložiti nacrt okvirnog zakona ili drugog zakonskog okvira;

13. jednoglasno, da naredi Bosni i Hercegovini da po hitnom postupku, a najkasnije u roku od 5 mjeseci od dana prijema ove Odluke, donese okvirni zakon ili drugi zakonski okvir, koji bi, u skladu sa obrazloženjem i zaključcima ove Odluke, principijelno riješio postojeći problem u vezi sa starom deviznom štednjom na teritoriji cijele Bosne i Hercegovine;

14. jednoglasno, da naredi Federaciji Bosne i Hercegovine da po hitnom postupku, u roku od 2 mjeseca od dana prijema ove Odluke, donese podzakonske akte o verifikaciji iznosa stare devizne štednje, vodeći računa o budućim zakonskim rješenjima;

15. jednoglasno, da naredi Federaciji Bosne i Hercegovine da izvrši verifikaciju potraživanja podnosilaca prijava u zakonom predviđenom roku, poštujući institucionalnu i procesno-pravnu zaštitu u postupku verifikacije potraživanja;

16. jednoglasno, da naredi Federaciji Bosne i Hercegovine da ispoštuje zakonske rokove u vezi sa čl. 10. i 11. Zakona o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine, vodeći računa o datom roku iz zaključka broj 13. ove Odluke;

17. jednoglasno, da naredi Federaciji Bosne i Hercegovine, u slučaju nepoštivanja rokova, datih u prethodnim zaključcima ove Odluke, da od 1. marta 2006. godine, podnosiocima prijava isplaćuje iznos od 100 (sto) konvertibilnih maraka mjesečno, ili puni iznos njene ili njegove stare devizne štednje (za iznose ispod 100 konvertibilnih maraka), sve do ispunjenja obaveza iz zaključaka ove Odluke;

18. jednoglasno, da naredi Federaciji Bosne i Hercegovine da javno istupi u medijima i na odgovarajući način, transparentno i jasno, ukaže na prava i obaveze vlasnika stare devizne štednje;

19. jednoglasno, da naredi Federaciji Bosne i Hercegovine da isplati podnosiocima prijava paušalni iznos od po 500 (petstotina) konvertibilnih maraka na ime nematerijalne štete i eventualnih troškova postupka pred nadležnim institucijama, uključujući Dom/Komisiju, zbog povrede prava na pravično suđenje i prava na imovinu, najkasnije u roku od tri mjeseca od dana prijema ove Odluke;

20. jednoglasno, da naredi Federaciji Bosne i Hercegovine da podnosiocima prijava isplati zateznu godišnju kamatu od 10 (deset) posto na iznose koji su im dosuđeni u zaključcima br. 17. i 19, ili svaki njihov neisplaćeni dio od dana isteka roka određenog za takvu isplatu do dana pune isplate svih iznosa podnosiocima prijava u skladu sa tim zaključcima;

21. jednoglasno, da naredi Federaciji Bosne i Hercegovine i Bosni i Hercegovini da izvijeste Komisiju, svaka tri mjeseca od dana prijema ove Odluke, pa sve do izvršenja zaključaka ove Odluke, o koracima preduzetim u sprovođenju gore spomenutih naredbi; i

22. jednoglasno, da Komisija zadržava pravo da donese odluku o daljnjim pravnim lijekovima.

(potpisao) Nedim Ademović Arhivar Komisije	(potpisao) Miodrag Pajić Predsjednik Komisije

HUMAN RIGHTS CHAMBER
FOR BOSNIA AND HERZEGOVINA

ДОМ ЗА ЉУДСКА ПРАВА
ЗА БОСНУ И ХЕРЦЕГОВИНУ

DECISION ON ADMISSIBILITY AND MERITS
(delivered on 12 May 2000)

Case no. CH/98/367

Ilija JANKOVIĆ

against

THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 4 April 2000 with the following members present:

Mr. Andrew GROTRIAN, Acting President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Želimir JUKA
Mr. Miodrag PAJIĆ

Mr. Anders MÅNSSON, Registrar
Ms. Olga KAPIĆ, Deputy Registrar

Having considered the aforementioned application introduced pursuant to Article VIII(1) of the Human Rights Agreement ("the Agreement") set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Adopts the following decision pursuant to Articles VIII(2) and XI of the Agreement and Rules 52, 57 and 58 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The applicant is a citizen of Bosnia and Herzegovina. His application concerns his attempts to purchase an apartment from the former Yugoslav National Army ("JNA"). He has been unable to enter into a contract with the appropriate authorities as there is a dispute as to the purchase price of the apartment. On 24 June 1997 the applicant initiated court proceedings before the Court of First Instance in Banja Luka seeking that he be enabled to enter into a contract for the purchase of the apartment. These proceedings are still pending.

2. The case raises issues primarily under Article 6 of the European Convention on Human Rights.

II. PROCEEDINGS BEFORE THE CHAMBER

3. The application was submitted to the Chamber on 26 January 1998 and registered on 10 April 1998 under the above case number.

4. At its session in October 1999 the Chamber decided to transmit the application to the Republika Srpska for observations on its admissibility and merits. Under the Order concerning the organisation of the proceedings in the case, such observations were due by 12 December 1999.

5. The applicant submitted further observations, including a claim for compensation, on 20 October and 6 December 1999, which were transmitted to the Republika Srpska for its further observations on 12 November and 27 December 1999 respectively.

6. No observations at all have been received from the Republika Srpska. The First Panel considered the admissibility and merits of the application on 8 February 2000 and on 4 April 2000 adopted the present decision.

III. ESTABLISHMENT OF THE FACTS

7. The facts of the case as they appear from the applicant's submissions and the documents in the case file have not been contested by the respondent Party and may be summarised as follows.

8. The applicant has been the holder of the occupancy right over an apartment located at Bana Milosavljevića 36 in Banja Luka since 1973. The holder of the allocation right over the apartment was the JNA. On 6 January 1991, the Law on Securing Housing for the Yugoslav Army (Official Gazette of the Socialist Federal Republic of Yugoslavia no. 84/90) came into force. This law established a regime for the purchase of apartments over which the JNA held the allocation right.

9. The applicant wished to purchase the apartment he occupied, and to this end on 5 February 1992 he paid to the JNA Housing Fund 1,000 Yugoslav Dinars. This was the sum the applicant considers to be the difference between his previous contributions to the JNA Housing Fund and the value of the apartment.

10. The applicant then requested that the military housing authorities issue a contract for the purchase of the apartment, to be entered into by himself and those authorities. They refused to do so as they dispute the amount he was required to pay in order to purchase the apartment. The applicant has been requested to pay a further amount but has refused to do so. He has addressed various institutions of the Republika Srpska, including the Army of the Republika Srpska ("VRS", the successor to the JNA in the Republika Srpska).

11. On 24 June 1997 the applicant initiated proceedings before the Court of First Instance in Banja Luka against the Republika Srpska and the VRS, requesting that he be enabled to enter into a contract for the purchase of the apartment. A number of hearings have been held in the proceedings to date, none of which have decided the matter. The defendants have failed to appear on a number

of occasions. In addition, the judge initially assigned to the case has been replaced by another judge. The applicant's proceedings are still pending.

IV. COMPLAINTS

12. The applicant does not make any specific allegations of violations of his rights as protected by the Agreement. He complains of his inability to enter into a contract for the purchase of the apartment and also of the conduct of the proceedings before the court.

V. SUBMISSIONS OF THE PARTIES

13. The respondent Party has not made any submissions regarding the application.

14. The applicant maintains his complaint. He states that the VRS has acted in an obstructive manner in order to prevent him from being recognised as the owner of the apartment.

VI. OPINION OF THE CHAMBER

A. Admissibility

15. Before considering the merits of the case the Chamber must decide whether to accept it, taking into account the admissibility criteria set out in Article VIII(2) of the Agreement.

16. According to Article VIII(2)(a), the Chamber must consider whether effective remedies exist and whether the applicant has demonstrated that they have been exhausted.

17. The applicant initiated proceedings before the court on 24 June 1997. These proceedings are still pending. There is no ordinary remedy available to the applicant in the legal system of the Republika Srpska against the failure of the court to decide on his proceedings. Accordingly, the Chamber does not consider that there is any effective remedy available to the applicant which he should be required to exhaust. In addition, the Chamber notes that the respondent Party has not sought to claim that there is any effective remedy available to the applicant.

18. The Chamber does not consider that any other ground for declaring the case inadmissible has been established. Accordingly, the case is to be declared admissible.

B. Merits

19. Under Article XI of the Agreement the Chamber must next address the question whether the facts established above disclose a breach by the respondent Party of its obligations under the Agreement. Under Article I of the Agreement the Parties are obliged to "secure to all persons within their jurisdiction the highest level of internationally recognised human rights and fundamental freedoms", including the rights and freedoms provided for in the Convention and the other treaties listed in the Appendix to the Agreement.

20. Although the applicant did not specifically allege a violation of his rights as guaranteed by Article 6 of the Convention, he complained in a general manner of the length of the proceedings he initiated before the court. Accordingly, the Chamber raised it *proprio motu* when transmitting the case to the respondent Party for its observations on the admissibility and merits of the case.

21. Article 6 of the Convention, insofar as relevant to the present case, reads as follows:

> "1. In the determination of his civil rights and obligations …, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law…."

22. The respondent Party did not submit any observations under this provision.

23. The Chamber must examine whether the applicant's dispute with the VRS over whether he is entitled to enter into a contract for the purchase of the apartment concerns a "civil right" within the meaning of Article 6 of the Convention. The Chamber notes that it has already held on numerous occasions that disputes relating to the acquisition of property relate to "civil rights" (see, e.g., cases nos. CH/96/3, 8 and 9, *Medan, Bastijanović and Marković,* decision on the merits delivered on 7 November 1997, paragraph 33, Decisions on Admissibility and Merits 1996-1997). Article 6 is therefore applicable to the proceedings in question.

24. The Chamber has already noted that the applicant initiated his proceedings before the court on 24 June 1997. Accordingly, the period of time that may be taken into account by the Chamber is two years and ten months (as of April 2000).

25. The Chamber has held that the factors to be taken into account in determining whether the length of civil proceedings has been reasonable are as follows: the complexity of the case, the conduct of the applicant and the conduct of the national authorities (case no. CH/98/1171, *Čuturić,* decision on admissibility and merits delivered on 8 October 1999, paragraph 32, Decisions August-December 1999).

1. The complexity of the case

26. According to the information contained in the Chamber's file, the case does not appear to be a complex one, having regard to the nature of the dispute between the parties (see paragraphs 9-11 above).

2. The conduct of the applicant

27. On the basis of the information provided to the Chamber, there does not appear to be any conduct on the part of the applicant which could be considered to be responsible for the delay in the proceedings.

3. The conduct of the national authorities

28. The Chamber notes that there have been a number of hearings held in the case to date. The main apparent reason (see paragraph 11 above) for the failure to decide on the case is the failure of the defendants to appear at the hearings. The Chamber cannot accept that this is a valid reason for the proceedings in the case to have lasted as long as they have. The court could have taken measures to ensure the attendance of the defendants before it, or decided the case in default of appearance by them.

29. In addition, the Republika Srpska is itself a defendant in the proceedings, as well as the VRS, for whose actions the Republika Srpska is responsible. The conduct of these bodies, in failing to cooperate with the courts of the Republika Srpska in proceedings before it, cannot be considered to have been reasonable.

30. The Chamber therefore considers that the length of time that the applicant's proceedings have been pending before the court is unreasonable, that this is as a result of the conduct of the Republika Srpska and its organs, and that the applicant's right to a fair trial within a reasonable time as guaranteed by Article 6 paragraph 1 of the Convention has been violated as a result.

VII. REMEDIES

31. Under Article XI(1)(b) of the Agreement the Chamber must address the question of what steps shall be taken by the respondent Party to remedy the established breaches of the Agreement. In this connection the Chamber shall consider issuing orders to cease and desist, monetary relief as well as provisional measures.

32. The applicant was afforded the opportunity of claiming monetary compensation or other relief. He did not do so, but stated that he would leave it to the Chamber to decide what compensation or other orders are appropriate.

33. The Chamber notes that it has found a violation of the applicant's right to a fair hearing within a reasonable time as guaranteed by Article 6 paragraph 1 of the Convention. It considers it appropriate to order the Republika Srpska to take all necessary steps to ensure that the applicant's proceedings are decided upon in a reasonable time by the court. The Republika Srpska must report to the Chamber, within three months of the date on which this decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure, on the steps taken by it to comply with this order.

VIII. CONCLUSION

34. For the above reasons, the Chamber decides,

1. unanimously, to declare the application admissible;

2. unanimously, that the failure of the Court of First Instance to decide upon the applicant's court proceedings which he initiated on 24 June 1997 constitutes a violation of his right to a fair trial within a reasonable time in the determination of his civil rights and obligations within the meaning of Article 6 of the European Convention on Human Rights, the Republika Srpska thereby being in breach of Article I of the Human Rights Agreement;

3. unanimously, to order the Republika Srpska to take all necessary steps to ensure that the applicant's proceedings before the Court of First Instance are decided upon in a reasonable time;

4. unanimously, to order the Republika Srpska to report to it, within three months of the date on which the present decision becomes final and binding in accordance with Rule 66 of the Chamber's Rules of Procedure, on the steps taken by it to comply with the above order.

(signed)
Anders MÅNSSON
Registrar of the Chamber

(signed)
Andrew GROTRIAN
Acting President of the First Panel

HUMAN RIGHTS COMMISSION
WITHIN THE CONSTITUTIONAL COURT
OF BOSNIA AND HERZEGOVINA

KOMISIJA ZA LJUDSKA PRAVA
PRI USTAVNOM SUDU
BOSNE I HERCEGOVINE

ODLUKA O PRIHVATLJIVOSTI I MERITUMU

Predmet broj CH/98/375 i dr.

Đorđe BESAROVIĆ i drugi

protiv

BOSNE I HERCEGOVINE

i

FEDERACIJE BOSNE I HERCEGOVINE

Komisija za ljudska prava pri Ustavnom sudu Bosne i Hercegovine, na zasjedanju Velikog vijeća od 6. aprila 2005. godine, sa sljedećim prisutnim članovima:

Gosp. Miodrag PAJIĆ, predsjednik
Gosp. Mehmed DEKOVIĆ, potpredsjednik
Gosp. Želimir JUKA, član
Gđa Hatidža HADŽIOSMANOVIĆ, član
Gosp. Jovo ROSIĆ, član

Gosp. Nedim ADEMOVIĆ, arhivar

Razmotrivši gore spomenute prijave podnesene Domu za ljudska prava za Bosnu i Hercegovinu (u daljnjem tekstu: Dom) u skladu sa članom VIII(1) Sporazuma o ljudskim pravima (u daljnjem tekstu: Sporazum) sadržanom u Aneksu 6 uz Opći okvirni sporazum za mir u Bosni i Hercegovini;

Konstatujući da je Dom prestao postojati 31. decembra 2003. godine i da je Komisija za ljudska prava pri Ustavnom sudu Bosne i Hercegovine (u daljnjem tekstu: Komisija) dobila mandat prema sporazumima u skladu sa članom XIV Aneksa 6 uz Opći okvirni sporazum za mir u Bosni i Hercegovini koji su zaključeni u septembru 2003. i januaru 2005. godijne (u daljnjem tekstu: Sporazum iz 2005. godine) da odlučuje o predmetima podnesenim Domu do 31. decembra 2003. godine;

Usvaja sljedeću odluku u skladu sa članom VIII(2)(d) Sporazuma, čl. 3. i 8. Sporazuma iz 2005. godine, kao i pravilom 21. stav 1(a) u vezi sa pravilom 53. Pravila procedure Komisije:

I. UVOD

1. Podnosioci prijava su građani Bosne i Hercegovine. Prije raspada Socijalističke Federativne Republike Jugoslavije (u daljnjem tekstu: SFRJ), ulagali su devize kod bivših komercijalnih banaka u toj zemlji. Zbog rastuće nestašice deviza i drugih ekonomskih problema isplata sredstava sa ovih "starih" deviznih štednih računa progresivno je organičavana po zakonima koji su stupili na snagu tokom 1980-tih i početkom 1990-tih.

2. Neposredno pred početak, kao i u toku oružanih sukoba u Bosni i Hercegovini, podnosioci prijava uglavnom nisu bili u mogućnosti da podižu novac sa svojih štednih računa. Također, svi njihovi pokušaji da podignu novac u poslijeratnom periodu bili su odbijeni bez obrazloženja ili uz pozivanje na zakone koje su usvojile SFRJ, Republika Bosna i Hercegovina i kasnije Federacija Bosne i Hercegovine.

3. Neki od podnosilaca prijava pokrenuli su sudske postupke, kako bi ostvarili svoja potraživanja po osnovu stare devizne štednje, međutim, niti jedan sudski postupak nije rezultirao ostvarenjem potraživanja, tako da su ti postupci do danas ostali bez rezultata.

4. U skladu sa zakonima, koje je Federacija Bosne i Hercegovine usvojila u toku 1997. i 1998. godine, a posebno Zakonom o utvrđivanju i realizaciji potraživanja građana u procesu privatizacije (u daljnjem tekstu: Zakon o potraživanjima građana), potraživanja po osnovu stare devizne štednje trebala su biti riješena u procesu privatizacije imovine u društvenom i državnom vlasništvu. Prema Zakonu o potraživanjima građana, stanja devizne štednje su trebala biti evidentirana na "Jedinstvenom računu građana" koji je vodio Federalni zavod za platni promet. Umjesto isplate štednje, taj Zavod je izdavao certifikate u odgovarajućem iznosu. Prema relevantnim zakonskim odredbama, ovi certifikati su se mogli koristiti u procesu privatizacije za kupovinu stanova, poslovnih prostora u državnom vlasništvu, dionica preduzeća ili drugih sredstava. Ova procedura je sačinjena kako bi se riješila potraživanja građana i na taj način zaštitio sistem isplate javnog duga i spriječio kolaps bankovnog sistema.

5. Dom je 9. juna 2000. godine uručio svoju Odluku o prihvatljivosti i meritumu u predmetu *CH/97/48 i dr.*, *Poropat i drugi protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine,* koja se tiče zahtjeva podnosilaca prijava za ostvarenje potraživanja po osnovu stare devizne štednje. Dom je odlučio da su Bosna i Hercegovina i Federacija Bosne i Hercegovine prekršile prava podnosilaca prijava na mirno uživanje imovine prema članu 1. Protokola broj 1 uz Evropsku konvenciju za zaštitu ljudskih prava i temeljnih sloboda (u daljnjem tekstu: Evropska konvencija). Dom je naredio, *inter alia*, da Federacija Bosne i Hercegovine treba "izmijeniti i dopuniti program privatizacije tako da postigne pravičnu ravnotežu između općeg interesa i zaštite imovinskih prava podnosilaca prijava kao imalaca stare devizne štednje".

6. Od 2. novembra 2000. do 8. februara 2002. godine, Federacija je dopunila razne odredbe Zakona o potraživanjima građana u pokušaju da izvrši naredbu Doma iz odluke *Poropat i drugi*.

7. Međutim, Ustavni sud Federacije Bosne i Hercegovine je 8. januara 2001. godine donio odluku kojom se utvrđuje da ključne odredbe Zakona o potraživanjima građana nisu u skladu sa Ustavom Federacije Bosne i Hercegovine. Na taj način, efikasnost i daljnja primjena ovog Zakona su dovedeni u pitanje.

8. Dom je 11. oktobra 2002. godine uručio odluku o prihvatljivosti i meritumu u predmetu broj *CH/97/104 i dr.*, *Todorović i drugi protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine* (u daljnjem tekstu: odluka *Todorović i drugi)*. U ovoj odluci, Dom je odlučio, *inter alia*, da stanje pravne nesigurnosti koje proističe iz odluke Ustavnog suda Federacije, te činjenica da Federacija nastavlja da primjenjuje zakone koji su proglašeni neustavnima, nepostojanje odgovarajućih izmjena tih zakona, te nedostupnost obeštećenja na domaćim sudovima, sve zajedno, predstavlja nesrazmjerno uplitanje u imovinska prava podnosilaca prijava, čime Federacija Bosne i

Hercegovine krši prava podnosilaca prijava na mirno uživanje imovine u skladu s članom 1. Protokola broj 1 uz Evropsku konvenciju za zaštitu ljudskih prava i temeljnih sloboda (u daljnjem tekstu: Evropska konvencija). Dom je utvrdio da je i Bosna i Hercegovina prekršila član 1. Protokola broj 1 uz Evropsku konvenciju po osnovu opće angažovanosti i odgovornosti Države za staru deviznu štednju, te njenog nepreduzimanja odgovarajućih radnji s tim u vezi. Dom je naredio, *inter alia*, da Federacija Bosne i Hercegovine, u roku od šest mjeseci od dana donošenja odluke, donese relevantne i obavezujuće zakone i propise kojima se jasno reguliše problem stare devizne štednje na način koji je u skladu sa članom 1. Protokola broj 1 uz Evropsku konvenciju.

9. Dom je 4. jula 2003. godine uručio odluku o daljnjim pravnim lijekovima u predmetu broj CH/97/48 i drugi, *Poropat i drugi*, uključujući sve podnosioce prijava iz prethodnih odluka *Poropat i drugi* i *Todorović i drugi*. Dom je zaključio da ni Bosna i Hercegovina, niti Federacija Bosne i Hercegovine, nisu preduzele nikakve relevantne korake za izvršenje odluka Doma, čime su nastavile s kršenjem prava podnosilaca prijava prema članu 1. Protokola broj 1 uz Evropsku konvenciju. Dom je, zbog toga, smatrao odgovarajućim da naredi daljnje pravne lijekove, uključujući, *inter alia*, isplatu novca svakom od podnosilaca prijava. Dom je, između ostalog, naredio da se u roku od jednog mjeseca od datuma uručenja odluke, svakom konkretnom podnosiocu prijave isplati iznos od 2.000 konvertibilnih maraka (u daljnjem tekstu: KM), ili puni iznos njene/njegove stare devizne štednje, u zavisnosti od toga koji je iznos manji, te da će teret ovih isplata snositi tužene strane podjednako.

10. Dom je 7. novembra 2003. godine uručio Odluku u prihvatljivosti i meritumu u predmetu broj *CH/98/377 i dr.*, *Đurković i drugi protiv Bosne i Hercegovine, Federacije Bosne i Hercegovine i Republike Srpske.* U ovoj Odluci, Dom je zaključio, *inter alia*, da situacija u Federaciji Bosne i Hercegovine u pogledu stare devizne štednje, uzeta u cjelini, stavlja pojedinačan i pretjeran teret na mnoge štediše, uključujući i podnosioce prijava. Dom je priznao napore Federacije da uspostavi "pravičnu ravnotežu" raznim izmjenama i dopunama važećih zakona koje su uslijedile nakon usvojenih odluka Doma. Međutim, zaključuje se da kakav god da je bio mogući uticaj tih izmjena, odlukom Ustavnog suda Federacije Bosne i Hercegovine, njihova efikasnost je dovedena u pitanje. Dom je utvrdio da stvoreno stanje pravne neizvjesnosti – nastavljena primjena zakona u svjetlu odluke Ustavnog suda Federacije, nedostatak blagovremenih odgovarajućih izmjena tih zakona i očigledna nemogućnost obraćanja domaćim sudovima – stvara neproporcionalno uplitanje u imovinska prava podnosilaca prijava. U pogledu odgovornosti Bosne i Hercegovine, Dom je ostao na stanovištu da je Država generalno odgovorna za pitanja u vezi sa starom deviznom štednjom.

11. Na tragu novih rješenja, Parlament Federacije Bosne i Hercegovine je 20. novembra 2004. godine usvojio Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine ("Službene novine Federacije Bosne i Hercegovine", broj 64/04), (u daljnjem tekstu: Zakon o izmirenju obaveza). Novim zakonom Federacija Bosne i Hercegovine je utvrdila da će se sveobuhvatno izmirenje unutrašnjeg duga prema fizičkim i pravnim licima izvršiti na način koji osigurava i podržava makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine. Utvrđeno je da se unutrašnji dug, između ostalog, odnosi i na obaveze po osnovu stare devizne štednje ostvarene do najnižih poslovnih jedinica banaka na teritoriji Federacije Bosne i Hercegovine, u iznosu koji se utvrđuje prema verifikaciji obaveza na način propisan istim Zakonom. Međutim, u odnosu na obaveze po osnovu stare devizne štednje deponovane u Ljubljanskoj banci i Invest banci, Zakon o izmirenju obaveza je izričito propisao da će se iste rješavati u procesu sukcesije imovine bivše SFRJ.

12. Predmetne prijave se odnose na zahtjeve podnosilaca prijava da ostvare svoja potraživanja po osnovu stare devizne štednje, deponovane isključivo u bankama Bosne i Hercegovine i njihovim poslovnim jedinicama na teritoriji današnje Federacije Bosne i Hercegovine. Čini se da su, na podlozi zakonske regulative iz 1997. i 1998. godine, banke prebacile staru deviznu štednju ovih podnosilaca prijava na Jedinstvene račune građana u Federalnom zavodu za platni promet (u daljnjem tekstu: Zavod), osim u određenim predmetima gdje podnosioci prijave izričito navode da njihova devizna štednja nije evidentirana na Jedinstvenom računu građana.

13. Prijave pokreću pitanja u vezi sa pravom podnosilaca prijava na mirno uživanje imovine po članu 1. Protokola broj 1 uz Evropsku konvenciju i pravom na pravičnu raspravu u razumnom roku po članu 6. Evropske konvencije.

II. POSTUPAK PRED DOMOM/KOMISIJOM

14. S obzirom na sličnost između činjenica u predmetima i žalbenih navoda podnosilaca prijava, Komisija je odlučila da prijave br. CH/98/375, CH/98/376, CH/98/380, CH/98/391, CH/98/393, CH/98/397, CH/98/398, CH/98/399, CH/98/409, CH/98/412, CH/98/421, CH/98/423, CH/98/425, CH/98/432, CH/98/434, CH/98/436, CH/98/437, CH/98/442, CH/98/434, CH/98/445, CH/98/452, CH/98/458, CH/98/468, CH/98/470, CH/98/475, CH/98/476, CH/98/478, CH/98/484, CH/98/495, CH/98/497, CH/98/501, CH/98/502, CH/98/508, CH/98/510, CH/98/525, CH/98/528, CH/98/529, CH/98/541, CH/98/564, CH/98/569, CH/98/570, CH/98/577, CH/98/580, CH/98/581, CH/98/590, CH/98/592 , CH/98/596, CH/98/601, CH/98/602, CH/98/606, CH/98/607, CH/98/608, CH/98/610, CH/98/612, CH/98/613, CH/98/614, CH/98/616, CH/98/623, CH/98/624, CH/98/625, CH/98/631, CH/98/662, CH/98/673, CH/98/716, CH/98/718, CH/98/831, CH/98/868, CH/98/898, CH/98/1081, CH/98/1082, CH/98/1083, CH/98/1088, CH/98/1091, CH/98/1093, CH/98/1094, CH/98/1096, CH/98/1099, CH/98/1300, CH/98/1301, CH/99/1571, CH/99/1758, CH/99/1769, CH/99/2033, CH/99/2038, CH/99/2052, CH/99/2059, CH/99/2061, CH/99/2071, CH/99/2089, CH/99/2105, CH/99/2134, CH/99/2135, CH/99/2162, CH/99/2165, CH/99/2173, CH/99/2189, CH/99/2190, CH/99/2205, CH/99/2206, CH/99/2208, CH/99/2209, CH/99/2210, CH/99/2212, CH/99/2214, CH/99/2216, CH/99/2217, CH/99/2225, CH/99/2273, CH/99/2275, CH/99/2276, CH/99/2286, CH/99/2288, CH/99/2514, CH/99/2533, CH/99/2534, CH/99/2541, CH/99/2551, CH/99/2552, CH/99/2606, CH/99/2630, CH/99/2631, CH/99/2632, CH/99/2642, CH/99/2663, CH/99/2664, CH/99/2678, CH/99/2679, CH/99/2680, CH/99/2681, CH/99/2686, CH/99/2690, CH/99/2691, CH/99/2733, CH/99/2749, CH/99/2750, CH/99/2755, CH/99/2756, CH/99/2768, CH/99/2769, CH/99/2770, CH/99/2773, CH/99/2785, CH/99/2794, CH/99/2802, CH/99/2804, CH/99/2837, CH/99/2843, CH/99/2846, CH/99/2847, CH/99/2848, CH/99/2851, CH/99/2858, CH/99/2860, CH/99/2861, CH/99/2864, CH/99/2866, CH/99/2875, CH/99/2883, CH/99/2886, CH/99/2890, CH/99/2892, CH/99/2893, CH/99/2894, CH/99/2901, CH/99/2904, CH/99/2905, CH/99/2906, CH/99/2908, CH/99/2918, CH/99/2922, CH/99/2923, CH/99/2939, CH/99/2944, CH/99/2945, CH/99/2946, CH/99/2956, CH/99/2962, CH/99/2966, CH/99/2967, CH/99/2969, CH/99/2976, CH/99/2979, CH/99/2983, CH/99/2992, CH/99/3001, CH/99/3006, CH/99/3007, CH/99/3008, CH/99/3011, CH/99/3018, CH/99/3020, CH/99/3027, CH/99/3037, CH/99/3043, CH/99/3045, CH/99/3057, CH/99/3063, CH/99/3066, CH/99/3068, CH/99/3074, CH/99/3076, CH/99/3082, CH/99/3085, CH/99/3086, CH/99/3089, CH/99/3096, CH/99/3098, CH/99/3114, CH/99/3117, CH/99/3118, CH/99/3122, CH/99/3135, CH/99/3137 CH/99/3138, CH/99/3140, CH/99/3146, CH/99/3157, CH/99/3158, CH/99/3159, CH/99/3167, CH/99/3176, CH/99/3177, CH/99/3178, CH/99/3180, CH/99/3182, CH/99/3183, CH/99/3184, CH/99/3185, CH/99/3188, CH/99/3189, CH/99/3201, CH/99/3202, CH/99/3203, CH/99/3206, CH/99/3208, CH/99/3209, CH/99/3210, CH/99/3211, CH/99/3215, CH/99/3220, CH/99/3221, CH/99/3223, CH/99/3228, CH/99/3233, CH/99/3239, CH/99/3240, CH/99/3242, CH/99/3243, CH/99/3244, CH/99/3247, CH/99/3251, CH/99/3253, CH/99/3255, CH/99/3260, CH/99/3264, CH/99/3265, CH/99/3266, CH/99/3267, CH/99/3271, CH/99/3272, CH/99/3275, CH/99/3276, CH/99/3277, CH/99/3281, CH/99/3282, CH/99/3285, CH/99/3292, CH/99/3298, CH/99/3307, CH/99/3308, CH/99/3311, CH/99/3312, CH/99/3313, CH/99/3315, CH/99/3318, CH/99/3319, CH/99/3320, CH/99/3321, CH/99/3323, CH/99/3324, CH/99/3326, CH/99/3328, CH/99/3334, CH/99/3335, CH/99/3337, CH/99/3338, CH/99/3340, CH/99/3344, CH/99/3347, CH/99/3348, CH/99/3349, CH/99/3350, CH/99/3351, CH/99/3358, CH/99/3364, CH/99/3377, CH/99/3379, CH/99/3380, CH/99/3381, CH/99/3382, CH/99/3383, CH/99/3386, CH/99/3400, CH/99/3421, CH/99/3422, CH/99/3424, CH/99/3428, CH/99/3432, CH/99/3434, CH/99/3435, CH/99/3436, CH/99/3439, CH/99/3442, CH/99/3447 i CH/99/3448 spoji u skladu s pravilom 33. Pravila procedure Komisije istoga dana kada je usvojila ovu odluku.

15. Prijave su podnesene Domu u periodu od 23. februara 1998. do 30. decembra 1999. godine.

16. Dom je 30. maja i 12. decembra 2003. godine proslijedio tuženim stranama, Bosni i Hercegovini i Federaciji Bosne i Hercegovine, dvije grupe predmetnih prijava radi dostavljanja pismenih zapažanja o prihvatljivosti i meritumu prema članu 6. Evropske konvencije i članu 1. Protokola broj 1 uz Evropsku konvenciju.

17. Tužena strana, Bosna i Hercegovina, je 13. juna 2003. godine dostavila Domu svoja pismena zapažanja. Federacija Bosne i Hercegovine je svoja pismena zapažanja dostavila Domu/Komisiji 30. jula 2003. i 13. februara 2004. godine i dodatne informacije 12. decembra 2003. i 8. decembra 2004. godine.

18. Dom/Komisija su podnosiocima prijava proslijedili zapažanja o prihvatljivosti i meritumu tuženih strana na pismena zapažanja.

19. Komisija je 27. januara 2005. godine proslijedila tuženim stranama, Bosni i Hercegovini i Federaciji Bosne i Hercegovine, preostali dio predmetnih prijava, radi dostavljanja pismenih zapažanja o prihvatljivosti i meritumu prema članu 1. Protokola broj 1 uz Evropsku konvenciju.

20. Komisija je 24. februara 2005. godine zaprimila pismena zapažanja tužene strane, Bosne i Hercegovine, i 25. februara 2005. godine je zaprimila pismena zapažanja Federacije Bosne i Hercegovine.

21. Komisija je podnosiocima prijava proslijedila zapažanja o prihvatljivosti i meritumu tuženih strana do dana donošenja ove Odluke.

22. Komisija je pismenim dopisom od 18. februara 2005. godine pozvala Ured visokog predstavnika za Bosnu i Hercegovinu da u postupku rješavanja predmeta devizne štednje pred Komisijom učestvuje u svojstvu *amicus curiae*. Komisija nije primila mišljenje Ureda visokog predstavnika 1. aprila 2005. godine.

23. Komisija je pismenim dopisom od 24. februara 2005. godine pozvala zastupnika Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini, da u postupku rješavanja predmeta devizne štednje pred Komisijom, učestvuje u svojstvu *amicus curiae*.

24. Komisija je 14. marta 2005. godine primila mišljenje Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini.

25. Mišljenje Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini je proslijeđeno tuženim stranama 23. i 25. marta 2005. godine.

III. ČINJENICE

A. Činjenice u pojedinačnim predmetima

1. Predmet broj CH/98/375, Đorđe BESAROVIĆ protiv Federacije Bosne i Hercegovine

26. Prijava je podnesena Domu 23. februara i registrovana 10. aprila 1998. godine.

27. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Podnosilac prijave je 20. avgusta 2003. godine obavijestio Dom da je na sekundarnom tržištu prodao 10.000 KM stare devizne štednje, te da ukupan iznos njegovog potraživanja kod Jugobanke iznosi 53.686,84 KM, sto potvrđuje i izvod sa Jedinstvenog računa građana Zavoda, od 4. aprila 2002. godine.

28. Podnosilac prijave je obavijestio Komisiju 11. februara 2005. godine da nije raspolagao sa preostalim dijelom deviznih sredstava.

29. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

2. Predmet broj CH/98/376, Muhamed GACKIĆ protiv Federacije Bosne i Hercegovine

30. Prijava je podnesena Domu 24. marta i registrovana 10. aprila 1998. godine.

31. Podnosilac prijave je polagao sredstva na štednoj knjižici kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovog pologa 69.618,96 DEM.

32. Podnosilac prijave je 13. februara 2005. godine obavijestio Komisiju da je opunomoćio gđu Amilu Omersoftić da zastupa njegova prava preko Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini kod Suda Bosne i Hercegovine i Evropskog suda za ljudska prava u Strazburu.

3. Predmet broj CH/98/380, Marko BAŠKARADA protiv Federacije Bosne i Hercegovine

33. Prijava je podnesena Domu 25. februara i registrovana 10. aprila 1998. godine.

34. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovog pologa 8.019,88 USD.

35. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

36. Svojim dopisom od 3. marta 2005. godine, podnosilaca prijave je obavijestio Komisiju da je iznos od 2.112 KM utrošio. Prema Izvodu sa jedinstvenog računa građana od 11. januara 2000. godine, čini se da je iznos njegove devizne štednje 11.408,11 KM.

4. Predmet broj CH/98/391, Nedžib ĐOZO protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

37. Prijava je podnesena Domu 26. februara i registrovana 10. aprila 1998. godine.

38. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 101.809,2 DEM, 8.365,27 USD i 1.099,23 LTG .

39. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

5. Predmet broj CH/98/393, Mehmed DALIPAGIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

40. Prijava je podnesena Domu 27. februara i registrovana 10. aprila 1998. godine.

41. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovog pologa 22.058,88 DEM, 119,78 USD i 1.396,37 ATS.

42. Podnosilac prijave je obavijestio Dom 6. novembra 2003. godine da je dio stare devizne štednje u iznosu od 655,60 DEM iskoristio u procesu privatizacije za otkup stana. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 14. oktobra 1999. godine preostala potraživanja podnosioca prijave po osnovu stare devizne štednje iznose 21.825,33 KM.

43. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

6. Predmet broj CH/98/397, Milena BOŠKOVIĆ protiv Federacije Bosne i Hercegovine

44. Prijava je podnesena Domu 3. marta i registrovana 10. aprila 1998. godine.

45. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 13.333,32 KM.

46. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

7. Predmet broj CH/98/398, Osman SAMARDŽIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

47. Prijava je podnesena Domu 4. marta i registrovana 10. aprila 1998. godine.

48. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovog pologa 2.696,48 ATS, 5.782,11 DEM i 15.441,39 CHF.

49. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

8. Predmet broj CH/98/399, Rahima ZILDŽIĆ protiv Federacije Bosne i Hercegovine

50. Prijava je podnesena Domu 4. marta i registrovana 10. aprila 1998. godine.

51. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa na jednoj štednoj knjižici 1.912,61 ATS, 4.560,99 CHF, 662,61 NLG, 53,87 CAD, 13.654,35 FRF i 97,44 DEM, a na drugoj štednoj knjižici 160,86 CHF i 9.612,83 DEM.

52. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

9. Predmet broj CH/98/409, Derviš SUBAŠIĆ protiv Federacije Bosne i Hercegovine

53. Prijava je podnesena Domu 5. marta i registrovana 10. aprila 1998. godine.

54. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njegovog pologa 1.071,79 DEM i 3.578,41 USD.

55. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

10. Predmet broj CH/98/412, Nikola VOJKIĆ protiv Federacije Bosne i Hercegovine

56. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 7.002,81 ATS, 2.862,19 DEM i 2.546,98 CHF. Prema kopiji izvoda sa Jedinstvenog računa građana Zavoda, od 21. aprila 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 6.766,75 KM.

57. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

11. Predmet broj CH/98/421, Milorad SAVIČIĆ protiv Federacije Bosne i Hercegovine

58. Prijava je podnesena Domu 6. marta i registrovana 10. aprila 1998. godine.

59. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Podnosilac prijave nije dostavio kopiju štedne knjižice.

60. Podnosilac prijave je 10. februara 2005. godine dostavio pismo Komisiji sa dodatnim informacijama. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 9. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 16.599,97 KM. Podnosilac prijave nije dostavio kopiju štedne knjižice.

61. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

12. Predmet broj CH/98/423, Halim BIČAKČIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

62. Prijava je podnesena Domu 9. marta i registrovana 10. aprila 1998. godine.

63. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Prema kopiji izvoda sa Jedinstvenog računa građana Zavoda, od 20. marta 2003. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 82.815,41 KM.

64. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

13. Predmet broj CH/98/425, Ahmet ALIKADIĆ protiv Federacije Bosne i Hercegovine

65. Prijava je podnesena Domu 10. marta i registrovana 10. aprila 1998. godine.

Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 34.729, 15 DEM, 727,6 FRF i 5.645,42 USD.

66. Podnosilac prijave je 13. februara 2005. godine obavijestio Komisiju da je kao član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine, opunomoćio gđu Amilu Omersoftić, koja je pokrenula postupke pred Sudom Bosne i Hercegovine i Evropskim sudom za ljudska prava u Strazburu.

14. Predmet broj CH/98/432, Behija MANDIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

67. Prijava je podnesena Domu 11. marta i registrovana 10. aprila 1998. godine.

68. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos pologa 17.192,52 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 2. maja 1999. godine, ukupna potraživanja po osnovu stare devizne štednje podnosioca prijave iznose 28.724,77 KM.

69. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

15. Predmet broj CH/98/434, Nadžija MAGLAJLIĆ protiv Federacije Bosne i Hercegovine

70. Prijava je podnesena Domu 11. marta 1998. i registrovana 10. aprila 1998. godine.

71. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo.

72. Podnosilac prijave je obavijestila Komisiju 18. februara 2005. godine da je polagala devizna sredstva kod Jugobanke Sarajevo. Iznos njenih pologa, prema kopiji štedne knjižice kod Jugobanke je bio 113.163,40 DEM, 24.499,16 CHF i 27.718,42 USD. Prema kopiji izvoda sa Jedinstvenog računa građana kod Zavoda od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 183.930,68 KM. Podnosilac prijave je u svom pismu obavijestila Komisiju da nije raspolagala sa sredstvima stare devizne štednje te da se nije obraćala domaćim ni međunarodnim institucijama.

16. Predmet broj CH/98/436, Nadira ĐURĐEVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

73. Prijava je podnesena Domu 11. marta 1998. i registovana 10. aprila 1998. godine.

74. Podnosilac priave je polagala sredstva na stare devizne knjižice kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa kod Privredne banke, prema kopiji štedne knjižice na dan 5. februar 1998. godine, bio 22.720,34 DEM i 434.916,32 ITL.

75. Podnosilac prijave je obavijestila Komisiju 21. februara 2005. godine da je dio svoje stare devizne štednje, u iznosu od 3.581 KM, iskoristila u otkup stana. Prema izvodu sa Jedinstvenog računa građana kod Zavoda od 23. decembra 1999. godine ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 22.221.57 KM. Podnosilac prijave je u svom pismu navela da su njena potraživanja kod Privredne banke Sarajevo 22.221,65 KM.

76. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

17. Predmet broj CH/98/437, Fadila MUŠINOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

77. Prijava je podnesena Domu 11. marta 1998. i regstrovana 10. aprila 1998. godine.

78. Podnosilac prijave je polagala sredstva na staroj deviznoj knjižici kod Privredne banke Sarajevo. Čini se da je iznos njenog pologa kod Privredne banke, prema kopiji štedne knjižice na dan 29. januar 1992. godine, bio 10.100,67 DEM.

79. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

18. Predmet broj CH/98/442, A.Dž. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

80. Prijava je podnesena Domu 13. marta 1998. i registrovana 10. aprila 1998. godine.

81. Podnosilac prijeve je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovog pologa kod Privredne banke, prema kopiji štedne knjižice na dan 24. oktobar 1996. godine, bio 1.619,61 USD.

82. Podnosilac prijave je obavijestio Komisiju 16. februara 2005. godine da nije raspolagao sa sredstvima stare devizne štednje, te da nije pretvarao svoja sredstva u certifikate.

83. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

19. Predmet broj CH/98/445, Husein HADŽISMAILOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

84. Prijava je podnesena Domu 17. marta i registrovana 10. aprila 1998. godine.

85. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i kod Jugobanke Sarajevo. Čini se da je iznos njegovog pologa kod Privredne banke 10.538,87 USD, a kod Jugobanke 28.324,88 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 9. novembra 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 45.241,72 KM.

86. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

20. Predmet broj CH/98/452, Nada PERKOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

87. Prijava je podnesena Domu 19. marta i registrovana 10. aprila 1998. godine.

88. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 16.188 DEM.

89. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

21. Predmet broj CH/98/458, Milada PANDŽO protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

90. Prijava je podnesena Domu 19. marta i registrovana 13. aprila 1998. godine.

91. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 13.571,98 DEM i 49,70 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 23. septembra 2004. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 13.912,71 KM.

92. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

22. Predmet broj CH/98/468, Draženka ČANKOVIĆ-JANKOVIĆ protiv Federacije Bosne i Hercegovine

93. Prijava je podnesena Domu 24. marta i registrovana 13. aprila 1998. godine.

94. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 2.329,15 DEM.

95. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

23. Predmet broj CH/98/470, Ubavka ĆOROVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

96. Prijava je podnesena Domu 25. marta i registrovana 10. aprila 1998. godine.

97. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, u iznosu od 2.735,65 KM. Podnosilac prijave, međutim, nije dostavila kopiju devizne štedne knjižice.

98. Podnosilac prijave je 15. februara 2005. godine dostavila Komisiji dodatne informacije. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 2.735,65 KM. Podnosilac prijave, u dostavljenim materijalima, nije dostavila kopiju devizne štedne knjižice. Podnosilac

prijave navodi da je njena majka Draginja Savić (veza predmet broj: CH/98/484) prenijela cijeli iznos svoje devizne štednje na račun podnosioca prijave (9.445,37 DEM). U prilogu dostavlja kopiju izvoda sa Jedinstvenog računa građana Zavoda, od 15. maja 2000. godine, u kome je evidentirano njeno ukupno potraživanje po osnovu stare devizne štednje u iznosu od 11.982,89 KM.

99. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

24. Predmet broj CH/98/475, Zdravka VUKASOVIĆ protiv Bosne i Hercegovine

100. Prijava je podnesena Domu 26. marta i registrovana 13. aprila 1998. godine.

101. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Jugobanke Sarajevo. Čini se da je iznos njenih pologa kod Privredne banke 2.573,90 DEM, a kod Jugobanke 609,87 DEM, 998,46 USD i 81,30 FRF.

102. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

25. Predmet broj CH/98/476, Kemal ALIĆEHAJIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

103. Prijava je podnesena Domu 27. marta i registrovana 13. aprila 1998. godine.

104. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Jugobanke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke na jednoj knjižici 45.482,41 DEM, na drugoj knjižici 67.710,73 DEM, te na trećoj 16.785,77 DEM. Čini se da je iznos pologa kod Privredne banke na jednoj knjižici 20.882,56 USD i 15.799,02 DEM, a na drugoj knjižici kod iste banke 442,35 DEM i 5783,88 USD. Prema kopiji izvoda sa Jedinstvenog računa građana Zavoda, od 8. aprila 2000. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 193.049,71 KM.

105. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

26. Predmet broj CH/98/478, Smail ĆEMALOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

106. Prijava je podnesena Domu 27. marta i registrovana 10. aprila 1998. godine.

107. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 2.987,95 DEM.

108. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

27. Predmet broj CH/98/484, Draginja Savić protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

109. Prijava je podnesena Domu 30. marta 1998. i registrovana 11. aprila 1998. godine.

110. Podnositeljica prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke banke Sarajevo. Čini se da je iznos njenih pologa bio 9.445,37 DEM.

111. Podnositeljica prijave navodi da je udruženje deviznih štediša, čiji je ona član, podnijelo tužbu Ustavnom sudu Bosne i Hercegovine. Međutim, kako navodi, njihovim zahtjevima nije udovoljeno.

112. Komisija je 8. februara 2005. godine poslala pismo podnositeljici prijave, tražeći od nje informacije vezane za staru deviznu štenju. U svom pismu Komisiji od 15. februara 2005. godine, podnositeljica prijave je obavjestila da je izvršila prenos svoje cjelokupne devizne štednje na račun svoje kćerke U.Ć, čiji se predmet vodi kod Komisije pod brojem CH/98/470.

28. Predmet broj CH/98/495, N. M. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

113. Prijava je podnesena Domu 2. aprila i registrovana 12. maja 1998. godine.

114. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 57.771,61 DEM i 12.274,17 USD. Podnosilac prijave navodi da je cjelokupan iznos svoje devizne štednje pretvorio u certifikate.

115. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

29. Predmet broj CH/98/497, Mihajlo LOJPUR protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

116. Prijava je podnesena Domu 2. aprila i registrovana 12. maja 1998. godine.

117. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa, na jednoj knjižici, 75.655,92 DEM, a na drugoj knjižici 5.416,82 DEM.

118. Podnosilac prijave je naknadno naveo da ima i drugu štednu knjižicu u Jugobanci, sa ukupnim pologom od 5.416, 82 DEM, međutim, na izričito traženje Komisije nije dostavio kopiju iste. Podnosilac prijave navodi da iznos svoje devizne štednje nije pretvorio u certifikate.

119. Podnosilac prijave se obraćao Kantonalnom sudu u Sarajevu. Pismenim dopisom broj: R-57/98 od 25. marta 1998. godine, Kantonalni sud je obavijestio podnosioca prijave da je Union Banka d.d. Sarajevo pravni sljednik Jugobanke d.d. Sarajevo na području Federacije Bosne i Hercegovine, te da odgovara cjelokupnom svojom imovinom samo za obaveze stvorene na teritoriji Federacije Bosne i Hercegovine.

120. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

30. Predmet broj CH/98/501, M.Š. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

121. Prijava je podnesena Domu 3. aprila i registrovana 12. maja 1998. godine.

122. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Privredne banke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke 17.624,870 AUS i 87.543,34 DEM, a kod Privredne banke 36.209,35 DEM.

123. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

31. Predmet broj CH/98/502, S.Š. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

124. Prijava je podnesena Domu 3. aprila i registrovana 12. maja 1998. godine.

125. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa kod Privredne banke bio 24.079,61 DEM.

126. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

32. Predmet broj CH/98/508, I.Č. protiv Federacije Bosne i Hercegovine

127. Prijava je podnesena Domu 8. aprila i registrovana 12. maja 1998. godine.

128. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 13.087, 84 DEM.

129. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

33. Predmet broj CH/98/510, Nada POPOVIĆ Bosne i Hercegovine i Federacije Bosne i Hercegovine

130. Prijava je podnesena Domu 8. aprila i registrovana 12. maja 1998. godine.

131. Podnosilac prijave postavlja zahtjev za povrat svoje stare devizne štednje i štednje svoga umrlog supruga, ostvarene kod Jugobanke Sarajevo i Privredne banke Sarajevo. Čini se da je ukupan iznos njihovih pologa 24.764,67 KM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 11. novembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 24.764,67 KM.

132. Podnosilac prijave se nije obraćala domaćim institucijama radi rješavanja potraživanja stare devizne štednje. Podnosilac prijave je zajedno sa grupom štediša podnijela tužbu Evropskom sudu za ljudska prava u Strazburu.

34. Predmet broj CH/98/525, Dušan VIDOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

133. Prijava je podnesena Domu 13. aprila i registrovana 12. maja 1998. godine.

134. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 50.199,40 DEM. Izvodom sa Jedinstvenog računa građana Zavoda, od 10. februara 2005. godine je evidentirano da je podnosilac prijave iskoristio svoju staru deviznu štednju u iznosu od 6.374 KM u procesu privatizacije za otkup stana, tako da je preostali iznos potraživanja podnosioca prijave po osnovu stare devizne štednje 43.852,40 KM.

135. Podnosilac prijave je 11. februara 2005. godine obavijestio Komisiju da je iskoristio dio svojih deviznih sredstava u procesu privatizacije, te da ostaje pri zahtjevu za povrat preostalog dijela devizne štednje.

136. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

35. Predmet broj CH/98/528, N.D. protiv Bosne i Hercegovine

137. Prijava je podnesena Domu 13. aprila i registrovana 12. maja 1998. godine.

138. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 3.762,31 DEM i 1.310,07 USD.

139. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

36. Predmet broj CH/98/529, B.D. protiv Bosne i Hercegovine

140. Prijava je podnesena Domu 13. aprila i registrovana 13. maja 1998. godine.

141. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 885,94 DEM.

142. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

37. Predmet broj CH/98/541, Davor MIKA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

143. Prijava je podnesena Domu 17. aprila i registrovana 13. maja 1998. godine.

144. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa na jednoj knjižici 67.269,38 DM, 1.713,85 USD i 35.22 USD, a na drugoj knjižici 2.820,24 DM i 8,72 USD. Prema kopiji izvoda sa Jedinstvenog računa građana Zavoda, od 14. februara 2005. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 73.560 KM.

145. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

38. Predmet broj CH/98/564, Jela BJELJAC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

146. Prijava je podnesena Domu 22. aprila i registrovana 15. maja 1998. godine.

147. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 3.013,80 DEM i 218,49 ATS.

148. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

39. Predmet broj CH/98/569, Velija HADŽOVIĆ protiv Federacije Bosne i Hercegovine

149. Prijava je podnesena Domu 22. aprila i registrovana 15. maja 1998. godine.

150. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa na jednoj knjižici 50,00 DEM i 10,00 CHF, a na drugoj knjižici 28.267,00 DEM, 217,30 USD, 1504,43 ATS, 1000,52 FRF, 17.690,04 CHF i 429,95 SKR.

151. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

40. Predmet broj CH/98/570, Hasan HADŽOVIĆ protiv Federacije Bosne i Hercegovine

152. Prijava je podnesena Domu 22. aprila i registrovana 15. maja 1998. godine.

153. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 7.252,25 DEM, i 189,16 USD.

154. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

41. Predmet broj CH/98/577, Kojo JOVANOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

155. Prijava je podnesena Domu 23. aprila i registrovana 15. maja 1998. godine.

156. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo i Jugobanke Sarajevo. Čini se da je iznos njegovih pologa kod Privredne banke 644,08 DEM, 350.92 ATS i 8,05 USD, a kod Jugobanke 6.992,89 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 11 februara 2002. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne je 7.839,08 KM.

157. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

42. Predmet broj CH/98/580, Mirko JOVANOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

158. Prijava je podnesena Domu 23. aprila i registrovana 15. maja 1998. godine.

159. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 11.499,90 DEM i 368,40 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 5. januara 2001. godine, potraživanja podnosioca prijave po osnovu stare devizne štednje nisu evidentirana na ovom računu.

160. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

43. Predmet broj CH/98/581, Munira ĆATIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

161. Prijava je podnesena Domu 23. aprila i registrovana 15. maja 1998. godine.

162. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 216,18 DEM, 427,92 USD i 88.180,98 DM. U izvodu sa Jedinstvenog računa građana Zavoda, od 14. februara 2005. godine, nije evidentirano potraživanje podnosioca prijave po osnovu stare devizne štednje.

163. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

44. Predmet broj CH/98/590, Slavko MIJIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

164. Prijava je podnesena Domu 24. aprila i registrovana 15. maja 1998. godine.

165. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, filijale u Sarajevu i Konjicu. Čini se da je ukupan iznos njegovih pologa kod filijale u Sarajevu 66,48 USD i 10.305,54 DEM, te kod filijale u Konjicu 1.997,31 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 20. januara 2001. godine ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 12.492,75 KM.

166. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

45. Predmet broj CH/98/592, Husnija OSMANKOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

167. Prijava je podnesena Domu 24. aprila i registrovana 15. maja 1998. godine.

168. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa na prvom računu kod Privredne banke bio 5.434,58 DEM, 2.024,67 USD, 7,14 HFL, 13,94 ATS i 5.377,56 ŠFRS, a na na drugom računu 266,99 DEM. Kod Jugobanke 13.927,5907 DEM i 23.401,1337 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. novembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 52.874,74 KM.

169. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

46. Predmet br CH/98/596, Ivan VRLJIČAK protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

170. Prijava je podnesena Domu 24. aprila i registrovana 15. maja 1998. godine.

171. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 1.600,00 USD.

172. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

47. Predmet broj CH/98/601, J.O.R. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

173. Prijava je podnesena Domu 24. aprila i registrovana 15. maja 1998. godine.

174. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini da je ukupan iznos njenih pologa 40.186,26 DEM.

175. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

48. Predmet broj CH/98/602, Gabrijel PETRIC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

176. Prijava je podnesena Domu 24. aprila i registrovana 15. maja 1998. godine.

177. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Iznos njegovih pologa na jednoj knjižici je 20.000,00 DEM i 20.000,00 SFRS, a na drugoj knjižici 148,83 DEM i 11.239,24 SFRS. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 10. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 55.334,00 KM.

178. Podnosilac prijave navodi da je Udruženje za zaštitu deviznih štediša u Bosni i Hercegovini podnijelo tužbu Evropskom sudu za ljudska prava u Strazburu i Sudu Bosne i Hercegovine. Također, navodi da je kao član Udruženja potpisao punomoć Udruženju, zastupniku gđi Amili Omersoftić, te se na taj način priključio kolektivnoj tužbi štediša.

49. Predmet broj CH/98/606, Dragoslav RAŠEVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

179. Prijava je podnesena Domu 27. aprila i registrovana 15. maja 1998. godine.

180. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 4.779,72 DEM i 14,70 USD.

181. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

50. Predmet broj CH/98/607, Mićo VRLJIČAK protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

182. Prijava je podnesena Domu 27. aprila i registrovana 15. maja 1998. godine.

183. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 1.839,40 USD.

184. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

51. Predmet broj CH/98/608, Fahira HASANBEGOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

185. Prijava je podnesena Domu 27. aprila i registrovana 15. maja 1998. godine.

186. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 4.159 DEM i 1382,70 USD.

187. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

52. Predmet broj CH/98/610, Omer AGANOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

188. Prijava je podnesena Domu 27. aprila i registrovana 15. maja 1998. godine.

189. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Jugobanke Sarajevo. Čini se da je iznos njegovih pologa kod Privredne banke 33.911,6 DEM, a kod Jugobanke 24.142,4155 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 10. februara 2005. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 58.484,42 KM.

190. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

53. Predmet broj CH/98/612, Nebojša LOJPUR protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

191. Prijava je podnesena Domu 28. aprila i registrovana 15. maja 1998. godine.

192. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa na jednoj knjižici 10.274,38 DEM i 106,24 NLG, a na drugoj knjižici 16.678,06 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 5. juna 2000. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 27.046 KM.

193. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

54. Predmet broj CH/98/613, Vera LOJPUR protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

194. Prijava je podnesena Domu 28. aprila i registrovana 15. maja 1998. godine.

195. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa na jednoj knjižici 13.904,95 DEM, na drugoj 1.014,70 USD i 11.000 CHF, te na trećoj 9.196,90 DEM, 4.973,05 USD i 751,74 CHF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 11. februara 2005. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 46.514,53 KM.

196. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

55. Predmet broj CH/98/614, Meho VELEDAR protiv Federacije Bosne i Hercegovine

197. Prijava je podnesena Domu 28. aprila i registrovana 15. maja 1998. godine.

198. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 12.191,3225 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 6. novembra 2001. godine ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 12.410 KM

199. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

200. Supruga podnosioca prijave je 8. marta 2005. godine obavijestila Komisiju da je podnosilac prijave umro, te da ona želi da nastavi postupak pred Komisijom. U prilogu svog pisma ona je dostavila rješenje o nasljeđivanju Općinskog suda II Sarajevo, broj 0-2180/01, od 10. septembra 2001. godine kojim se ona proglašava zakonskim nasljednikom I nasljednog reda, sa dijelom 1/1.

56. Predmet broj CH/98/616, Šefko ODOBAŠIĆ protiv Federacije Bosne i Hercegovine

201. Prijava je podnesena Domu 28. aprila i registrovana 15. maja 1998. godine.

202. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 12.843,43 DEM.

203. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

57. Predmet broj CH/98/623, Šakir HENDA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

204. Prijava je podnesena Domu 4. maja i registrovana 15. maja 1998. godine.

205. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 6.533,3309 DEM.

206. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

58. Predmet broj CH/98/624, Semra HENDA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

207. Prijava je podnesena Domu 4. maja i registrovana 15. maja 1998. godine.

208. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 17.647,2228 DEM.

209. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

59. Predmet broj CH/98/625, N.K. protiv Federacije Bosne i Hercegovine

210. Prijava je podnesena Domu 4. maja i registrovana 15. maja 1998. godine.

211. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu Privredne banke Sarajevo. Čini se da je iznos njegovih pologa kod Privredne banke 42.034,96 DEM i 172,10 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 11. oktobra 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 42.143,99 KM.

212. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

213. Podnosilac prijave je 15. februara 2005. godine poslao dopis Komisiji u kom navodi da se učlanio u Udruženje za zaštitu deviznih štediša u Bosni i Hercegovini.

60. Predmet broj CH/98/631, Č.Š. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

214. Prijava je podnesena Domu 7. maja i registrovana 15. maja 1998. godine.

215. Podnosilac prijave je polagao sredstva na devizne štedne knjižice Jugobanke Sarajevo i Privredne banke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke 24.457,51 DEM na jednoj knjižici i 4278,92 DEM na drugoj knjižici. Iznos pologa kod Privredne banke je 20.095,44 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 10. februara 2005. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 47.624,26 KM.

216. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

61. Predmet broj CH/98/662, N.T. protiv Bosne i Hercegovine

217. Prijava je podnesena Domu 26. maja i registrovana 9. juna 1998. godine.

218. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 26.825,5043 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 27.117,71 KM.

219. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

62. Predmet broj CH/98/673, Murat SUDIĆ protiv Federacije Bosne i Hercegovine

220. Prijava je podnesena Domu 3. juna i registrovana 9. juna 1998. godine.

221. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 1.755,25 DEM.

222. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

63. Predmet broj CH/98/716, Azim PIRIJA protiv Bosne i Hercegovine

223. Prijava je podnesena Domu 24. juna 1998. godine i registrovana istog dana.

224. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke 24.266,35 DEM.

225. Podnosilac prijave je 8. aprila 1997. godine Općinskom sudu I Sarajevo podnio tužbu protiv Unionbanke Sarajevo. Općinski sud I je 13. marta 1998. godine donio presudu broj P-1270/97 kojom se tužbeni zahtjev podnosioca prijave odbija kao neosnovan. Podnosilac prijave nije naveo da li je koristio pravne lijekove protiv prvostepene presude.

64. Predmet broj CH/98/718, Nihad MEHMEDALIĆ protiv Bosne i Hercegovine

226. Prijava je podnesena Domu 25. juna i registrovana 25. juna 1998. godine.

227. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu Jugobanke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke 6.209,56 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 18. novembra 2004. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 6.255,37 KM.

228. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

65. Predmet broj CH/98/831, Fikret ZAHIDIĆ-KORUGIĆ protiv Federacije Bosne i Hercegovine

229. Prijava je podnesena Domu 3. avgusta 1998. godine i registrovana istog dana. Podnosilac prijave je podnio zahtjev za povrat stare devizne štednje koju je njegova supruga ulagala kod Privredne banke Sarajevo, s tim da je na deviznoj knjižici podnosilac prijave označen kao ovlašteno lice. Čini se da je iznos pologa 4.999,85 DEM.

230. Podnosilac prijave i njegova supruga su Općinskom sudu u Tešnju podnijeli tužbu protiv Privredne banke Sarajevo. Općinski sud je 9. februara 2005. godine donio rješenje broj, P-47/01 kojim se tužitelji pozivaju da dopune i urede tužbu. Međutim, čini se da podnosilac prijave i njegova supruga nisu postupili po pozivu suda. Podnosilac prijave se, također, obraćao Ministarstvu socijalne politike, raseljenih lica i izbjeglica Federacije Bosne i Hercegovine i Komisiji za zaštitu ljudskih prava Predsjedništva Bosne i Hercegovine. U oba slučaja je dobio negativan odgovor. U oba slučaja je njegov zahtjev odbijen zbog nenadležnosti.

231. Supruga podnosioca prijave je 15. februara 2005. godine obavijestila Komisiju da je podnosilac prijave umro, te da ona želi nastaviti postupak pred Komisijom.

66. Predmet broj CH/98/868, Ale BEĆIRBEGOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

232. Prijava je podnesena Domu 13. avgusta 1998. godine i registrovana istog dana.

233. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa na jednoj knjižici 31.406,6703 DEM; na drugoj 208,2794 DEM; te na trećoj knjižici 600,5462 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 8. januara 2005. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 32.787,10 KM.

234. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

67. Predmet broj CH/98/898, Šefik BUHIĆ protiv Federacije Bosne i Hercegovine

235. Prijava je podnesena Domu 24. avgusta 1998. godine. i registrovana istog dana.

236. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne Banke Sarajevo. Čini se da je iznos njegovih pologa 193 DEM.

237. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

68. Predmet broj CH/98/1081, Alija ČONGO protiv Bosne i Hercegovine

238. Prijava je podnesena Ombudsmenu za ljudska prava za Bosnu i Hercegovinu u 1998. godini. Ured Ombudsmena je proslijedio prijavu Domu 19. novembra, a prijava je registrovana 24. novembra 1998. godine.

239. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 16.759,23 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 11. februara 2005. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 16.981,78 KM.

240. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

69. Predmet broj CH/98/1082, Petar SAMARDŽIĆ protiv Bosne i Hercegovine

241. Prijava je podnesena Ombudsmenu za ljudska prava za Bosnu i Hercegovinu u 1998. godini. Ured Ombudsmena je proslijedio prijavu Domu 19. novembra, a prijava je registrovana 24. novembra 1998. godine.

242. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Dio devizne štednje podnosilac prijave je iskoristio u procesu privatizacije za otkup stana, tako da se čini da je iznos njegovih preostalih pologa kod Jugobanke 13.616,10 DEM.

243. Podnosilac prijave se nije obraćao drugim domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

70. Predmet broj CH/98/1083, J.Đ. protiv Federacije Bosne i Hercegovine

244. Prijava je podnesena Ombudsmenu za ljudska prava za Bosnu i Hercegovinu u 1998. godini. Ured Ombudsmena je proslijedio prijavu Domu 19. novembra, a prijava je registrovana 24. novembra 1998. godine.

245. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 28.516,86 DEM.

246. Podnosilac prijave se nije obraćao drugim domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

71. Predmet broj CH/98/1088, Ibrahim KOVAČEVIĆ protiv Bosne i Herecgovine i Federacije Bosne i Hercegovine

247. Prijava je podnesena Ombudsmenu za ljudska prava za Bosnu i Hercegovinu u 1998. godini. Ured Ombudsmena je proslijedio prijavu Domu 19. novembra, a prijava je registrovana 24. novembra 1998. godine.

248. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa na jednoj knjižici 19.832,5921 DEM, a na drugoj knjižici 298,48 DEM.

249. Podnosilac prijave se nije obraćao drugim domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

72. Predmet broj CH/98/1091, Trpimir JELIČIĆ protiv Federacije Bosne i Hercegovine

250. Prijava je podnesena Ombudsmenu za ljudska prava za Bosnu i Hercegovinu u 1998. godini. Ured Ombudsmena je proslijedio prijavu Domu 19. novembra, a prijava je registrovana 24. novembra 1998. godine.

251. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 1768,64 DEM.

252. Podnosilac prijave se nije obraćao drugim domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

73. Predmet broj CH/98/1093, LJ.I. protiv Federacije Bosne i Hercegovine

253. Prijava je podnesena Ombudsmenu za ljudska prava za Bosnu i Hercegovinu u 1998. godini. Ured Ombudsmena je proslijedio prijavu Domu 19. novembra, a prijava je registrovana 24. novembra 1998. godine.

254. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa bio 15.579,55 DEM na jednoj knjižici i 9.395,00 DEM na drugoj knjižici.

255. Podnosilac prijave je jedan dio svoje stare devizne štednje iskoristila u procesu privatizacije za otkup stana. Prema izvodu sa Jedinstvenog računa Zavoda, od 5. maja 1999. godine, preostalo potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 9.566,01 KM.

256. Podnosilac prijave se nije obraćala drugim domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

74. Predmet broj CH/98/1094, Halim VEJO protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

257. Prijava je podnesena Ombudsmenu za ljudska prava za Bosnu i Hercegovinu u 1998. godini. Ured Ombudsmena je proslijedio prijavu Domu 19. novembra, a prijava je registrovana 24. novembra 1998. godine.

258. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 10.718,93 USD. Prema izvodu sa Jedinstvenog računa Zavoda, od 5. januara 2004. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 17.868,87 KM.

259. Pismom od 14. februara 2005. godine podnosilac prijave je obavijestio Komisiju da se 21. juna 2004. godine obratio Federalnoj agenciji za privatizaciju radi rješavanja potraživanja stare devizne štednje.

75. Predmet broj CH/98/1096, Munira ALIŠAN protiv Federacije Bosne i Hercegovine

260. Prijava je podnesena Ombudsmenu za ljudska prava za Bosnu i Hercegovinu u 1998. godini. Ured Ombudsmena je proslijedio prijavu Domu 19. novembra, a prijava je registrovana 24. novembra 1998. godine.

261. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa 21.000 DEM. Prema izvodu sa Jedinstvenog računa građana, ukupan iznos potraživanja po osnovu stare devizne štednje iznosti 21.404,87 KM.

262. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

76. Predmet broj CH/98/1099, Miroslav i Milica MARKANOVIĆ protiv Federacije Bosne i Hercegovine

263. Prijava je podnesena Ombudsmenu za ljudska prava za Bosnu i Hercegovinu u 1998. godini. Ured Ombudsmena je proslijedio prijavu Domu 19. novembra, a prijava je registrovana 24. novembra 1998. godine.

264. Podnosilac prijave i njegova supruga su polagali sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos pologa podnosioca prijave 40.607,19 DEM, a iznos pologa njegove supruge 6.196,47 DEM.

265. Pismom od 15. januara 2004. godine podnosilac, Komisija je obavještana da podnosilac prijave i njegova supruga nisu koristili staru deviznu štednju.

266. Podnosilac prijave, niti njegova supruga, nisu se obraćali domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

77. Predmet broj CH/98/1300, Vera KRSTIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

267. Prijava je podnesena Ombudsmenu za ljudska prava za Bosnu i Hercegovinu u 1998. godini. Ured Ombudsmena je proslijedio prijavu Domu 16. novembra 1998. godine, koja je registrovana istog dana.

268. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa na jednoj knjižici 7.088,4985 DEM, a na drugoj knjižici 12.207,7042 DEM.

269. Podnosilac prijave je, također, dostavila fotokopiju tri devizne štedne knjižice kod Jugobanke, koja glasi na ime B.K. Međutim, nije dostavila punomoć, kojom je B.K. ovlašćuje za zastupanje u vezi devizne štednje pred Komisijom.

270. Komisija je 8. februara 2005. godine poslala pismo podnositeljici prijave tražeći od nje da u roku od sedam dana dostavi dodatne informacije u predmetu i punomoć kojom je B.K. ovlašćuje za zastupanje pred Komisijom. Komisiji je vraćena poštanska dostavnica, potpisana 15. februara 2005. godine, iz koje proizilazi da je podnosilac prijave primila pismo Komisije, na koje nije odgovorila.

271. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

78. Predmet broj CH/98/1301, V.P. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

272. Prijava je podnesena Ombudsmenu za ljudska prava za Bosnu i Hercegovinu u 1998. godini. Ured Ombudsmena je proslijedio prijavu Domu 19. novembra, a prijava je registrovana 24. novembra 1998. godine.

273. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke i Privredne banke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke 51,13 DEM i

5.886,68 CHF, dok je iznos njegovih pologa kod Privredne banke 4.289,23 DEM i 1.233,36 USD. Podnosilac prijave je, prema uplatnici od 14. oktobra 2000. godine, uložio 9.439,50 KM u Privatizacijsko-investicioni fond BIG-Investiciona grupa d.d. Sarajevo.

274. Podnosilac prijave, također, postavlja zahtjev za povrat devizne štednje njegove supruge M.P, ostvarene kod Jugobanke. Čini se da je ukupan iznos pologa M.P. u Jugobanci 1014,40 CHF i 8,600 DEM.

275. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

79. Predmet broj CH/99/1571, Haris OMERSOFTIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

276. Prijava je podnesena Domu 15. februara i registrovana 17. februara 1999. godine.

277. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 22. maja 2001. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 63.323,74 KM. Komisija uočava da podnosilac prijave ima još jednu prijavu kod Komisije, broj CH/98/424, koja se odnosi na položena devizna sredstva kod Ljubljanske banke. Iz toga razloga, sredstva sa izvoda sa Jedinstvenog računa građana Zavoda, od 22. maja 2001. godine, su znatno veća nego je utvrđeni iznos devizne štednje kod Jugobanke Sarajevo.

278. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

80. Predmet broj CH/99/1758, Rešad IBRAHIMSPAHIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

279. Prijava je podnesena Domu 23. marta i registrovana 25. marta 1999. godine.

280. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 2.831,16 USD. Međutim, podnosilac prijave navodi da je ukupan iznos njegovih pologa 3.146,60 USD i da je banka prilikom prenosa sredstava na Jedinstveni račun građana, protivno njegovoj volji, konvertovala USD u DEM, po nepovoljnom kursu. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 1. maja 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 4.711.38 KM.

281. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

81. Predmet broj CH/99/1769, Jusuf NIŠIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

282. Prijava je podnesena Domu 22. marta i registrovana 25. marta 1999. godine.

283. Podnosilac prijave je polagao sredstva na deviznu štednju kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 73.002,87 DEM, 4.490,49 CHF i 9.077,70 USD.

284. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

82. Predmet broj CH/98/2033, Ivanka KRNOJELAC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

285. Prijava je podnesena Domu 8. aprila 1999. godine i registrovana istog dana.

286. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 10.191,29 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 22. marta 2005. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 10.386,28 KM.

287. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

83. Predmet broj CH/98/2038, Omer SRNA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

288. Prijava je podnesena Domu 13. aprila 1999. godine i registrovana istog dana.

289. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 38.094,74 DEM.

290. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

84. Predmet broj CH/98/2052, Milovan ĐORDAN protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

291. Prijava je podnesena Domu 15. aprila 1999. godine i registrovana istog dana.

292. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 16.579,45 DEM.

293. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

85. Predmet broj CH/98/2059, Marija STANOKOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

294. Prijava je podnesena Domu 19. aprila 1999. godine i registrovana istog dana.

295. Podnosilac prijave postavlja zahtjev za povrat svoje stare devizne štednje ostvarene kod Jugobanke Sarajevo, kao i devizne štednje svog umrlog supruga, ostvarene kod Jugobanke Sarajevo i Privredne banke Sarajevo. Čini se da je iznos pologa podnosioca prijave 3.101,67 DEM na jednoj knjižici i 6.715,97 DEM na drugoj knjižici, a iznos pologa njenog umrlog supruga je 72.249,76 DEM.

296. Rješenjem Općinskog suda I Sarajevo broj O-945/99, od 9. novembra 1999. godine, podnosilac prijave se iza smrti svoga supruga, proglašava zakonskom nasljednicom I nasljednog reda, sa dijelom 1/2.

297. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

86. Predmet broj CH/99/2061, Josip KNEŽEVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

298. Prijava je podnesena Domu 19. aprila 1999. godine i registrovana istog dana.

299. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Privredne banke Sarajevo.

300. Čini se da je iznos njegovih pologa kod Jugobanke 5.937,22 USD, 26.354,53 DEM i 13,37 CHF, a kod Privredne banke iznos pologa je 279,88 USD.

301. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

87. Predmet broj CH/99/2071, Dara SEKULIĆ protiv Federacije Bosne i Hercegovine

302. Prijava je podnesena Domu 20. aprila i registrovana 26. aprila 1999. godine.

303. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 3.399,1300 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 20. marta 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 3.399,13 KM.

304. Podnosilac prijave je 3. avgusta 2004. godine Federalnoj agenciji za privatizaciju podnijela zahtjev za rješavanje potraživanja stare devizne štednje.

88. Predmet broj CH/99/2089, Dragan SALIHBEGOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

305. Prijava je podnesena Domu 23. aprila i registrovana 26. aprila 1999. godine.

306. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke. Čini se da je iznos njegovih pologa 580,98 DEM.

307. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

89. Predmet broj CH/99/2105, Živana PERIŠIĆ protiv Federacije Bosne i Hercegovine

308. Prijava je podnesena Domu 26. aprila 1999. godine i registrovana istog dana.

309. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo i kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa kod Privredne banke 2.531,21 DEM, a kod Jugobanke 146,2842 DEM.

310. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

90. Predmet broj CH/99/2134, Alija HAMZIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

311. Prijava je podnesena Domu 6. maja i registrovana 10. maja 1999. godine.

312. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Privredne banke Sarajevo.

313. Čini se da je ukupan iznos njegovih pologa kod Jugobanke na jednoj knjižici 2.655,31 DEM i 18.722,49 USD, a na drugoj 4.263,19 DEM i 22.286,46 USD, a kod Privredne banke 2.397,72 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 78.877,48 KM.

314. Čini se da se podnosilac prijave nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

91. Predmet broj CH/99/2135, Saliha HAMZIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

315. Prijava je podnesena Domu 6. maja i registrovana 10. maja 1999. godine.

316. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa na jednoj knjižici 11.439,81 DEM, a na drugoj 13.420,78 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 11. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 25.050,89 KM.

317. Čini se da se podnosilac prijave nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

92. Predmet broj CH/99/2162, B.C. protiv Bosne i Hercegovine

318. Prijava je podnesena Domu 12. maja i registrovana 13. maja 1999. godine.

319. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 32.997,92 DEM.

320. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

93. Predmet broj CH/99/2165, D.Z. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

321. Prijava je podnesena Domu 12. maja i registrovana 13. maja 1999. godine.

322. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke i Jugobanke Sarajevo. Čini se da je iznos njenih pologa kod Privredne banke 29.831,80 DEM, a kod Jugobanke 19.618,49 DEM i 10.146,65 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. decembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje iznosi 53.801,00 KM.

323. Podnosilac prijave je 21. februara 2005. godine obavijestila Komisiju da je dio stare devizne štednje iskoristila u procesu privatizacije za otkup stana, međutim, nije navela tačan iznos koji je iskoristila.

324. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

94. Predmet broj CH/99/2173, Ismet POLUTAK protiv Bosne i Hercegovine

325. Prijava je podnesena Domu 14. maja i registrovana 19. maja 1999. godine.

326. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovog pologa 29.153,12 DEM.

327. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

95. Predmet broj CH/99/2189, Hamdo SOKOLOVIĆ protiv Federacije Bosne i Hercegovine

328. Prijava je podnesena Domu 18. maja i registrovana 24. maja 1999. godine.

329. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovog pologa 32.052,05 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 5. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje iznosi 32.289,73 KM.

330. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

96. Predmet broj CH/99/2190, Sajma ZEBIĆ protiv Federacije Bosne i Hercegovine

331. Prijava je podnesena Domu 18. maja i registrovana 24. maja 1999. godine.

332. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa 11.881,72 DEM.

333. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

97. Predmet broj CH/99/2205, Vera BAMBURAĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

334. Prijava je podnesena Domu 20. maja i registrovana 27. maja 1999. godine.

335. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa na jednoj knjižici 19.522,83 DEM, a na drugoj 65,81 ATS, 125,75 DEM, 2.312,52 ITL, 37,39 NLG, 22,02 CHF, 431,39 GBP i 95,97 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje iznosi 20.079,06 KM.

336. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

98. Predmet broj CH/99/2206, Marija STANIVUK protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

337. Prijava je podnesena Domu 20. maja i registrovana 27. maja 1999. godine.

338. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenog pologa 1.683,78 DEM.

339. Podnosilac prijave je 21. jula 1997. godine podnijela tužbu Općinskom sudu I u Sarajevu protiv Bosne i Hercegovine, Federacije Bosne i Hercegovine i Central Profit banke d.d. Sarajevo, radi povrata devizne štednje. Nema dokaza da je taj sud odlučio po tužbi.

99. Predmet broj CH/99/2208, Božidar LAKIČEVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

340. Prijava je podnesena Domu 20. maja i registrovana 27. maja 1999. godine.

341. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 11.185,49 DEM.

342. Zastupnik podnosioca prijave je 15. februara 2005. godine dostavio Komisiji pismo u kojem navodi da je podnosilac prijave polagao sredstva i kod Privredne banke, ali da će štednu knjižicu dostaviti naknadno, što nije učinio do dana usvajanja ove odluke. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 9. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 12.091,63 KM.

343. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

100. Predmet broj CH/99/2209, Milenka FARKAŠ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

344. Prijava je podnesena Domu 20. maja i registrovana 27. maja 1999. godine.

345. Podnosilac prijave postavlja zahtjev za povrat svoje stare devizne štednje kod Privredne banke Sarajevo koju su ona i njena djeca I.F. i B.F. naslijedili iza smrti njenog supruga F.Z.

346. Rješenjem Osnovnog suda I u Sarajevu, broj O-1653/96, od 8. jula 1996. godine, podnosilac prijave i njena djeca I.F. i B.F. proglašavaju se za nasljednike I nasljednog reda iza umrlog F.Z, sa dijelom od po 1/3, što za svakog od njih iznosi po 6.620,24 DEM.

347. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 10. februara 2005. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 19.860,52 KM.

348. Podnosilac prijave je podnijela tužbu Općinskom sudu I u Sarajevu protiv Central Profit Banke d.d. Sarajevo, ali je istu povukla. Općinski sud I u Sarajevu je donio rješenje, broj P-1515/99, od 24. jula 2000. godine, kojim se tužba podnosioca prijave smatra povučenom.

101. Predmet broj CH/99/2210, Jasna MEMIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

349. Prijava je podnesena Domu 20. maja i registrovana 27. maja 1999. godine.

350. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 964,14 LIT, 126,34 ATS, 1.697,94 DEM, 89,36 CHF, 283,11 FRF, 3.035,12 USD.

351. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

102. Predmet broj CH/99/2212, Subha ISANOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

352. Prijava je podnesena Domu 20. maja i registrovana 27. maja 1999. godine.

353. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 21.709,43 DEM i 528,65 USD.

354. Zastupnik podnosioca prijave je 15. februara 2005. godine obavijestila Komisiju da je podnosilac prijave umrla 7. avgusta 2002. godine, te da je njena kćerka A.Č. naslijedila potraživanja podnosioca prijave po osnovu stare devizne štednje u ukupnom iznosu od 21.709,43 KM. Navodi da A.Č. želi nastaviti postupak pred Komisijom. U prilogu je dostavila rješenje Općinskog suda I u Sarajevu, broj O–1594/02, od 4. novembra 2002. godine kojim se A.Č. proglašava zakonskom nasljednicom podnosioca prijave I nasljednog reda, sa dijelom 1/1.

355. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

103. Predmet broj CH/99/2214, Dragomir DOPUĐA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

356. Prijava je podnesena Domu 20. maja i registrovana 27. maja 1998. godine.

357. Podnosilac prijave postavlja zahtjev za povrat svoje stare devizne štednje koju je ulagao kod Privredne banke i Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 43.387,21 DEM.

358. Također, podnosilac prijave postavlja zahtjev za povrat devizne štednje koju je naslijedio iza smrti V.V, u iznosu od 30.616,48 USD, uložene kod Jugobanke Sarajevo.

359. Rješenjem o nasljeđivanju Osnovnog suda I br. O. 893/95, od 8. novembra 1995. godine, podnosilac prijave se proglašava nasljednikom prvog nasljednog reda, umrle V.V, sa dijelom 1/1.

360. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 10. februara 2005. godine, ukupna potraživanja podnosioca prijave po osnovu stare devizne štednje iznose 92.399,57 KM.

361. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

104. Predmet broj CH/99/2216, Mirjana STIJAČIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

362. Prijava je podnesena Domu 20. maja i registrovana 27. maja 1999. godine.

363. Podnosilac prijave postavlja zahtjev za povrat svoje stare devizne štednje koju je ulagala kod Jugobanke Sarajevo. Čini se da su iznosi njenih pologa kod Jugobanke 897,00 USA, 22.224,12 DEM, 40.439,50 DEM, 111,18 USA i 249,55 BFRS.

364. Također, podnosilac prijave postavlja zahtjev za povrat devizne štednje koju je naslijedila iza smrti svog supruga, u iznosu od 40.439,50 DEM, uložene kod Jugobanke Sarajevo.

365. Rješenjem o nasljeđivanju Osnovnog suda u Sarajevu br. O-729/86, od 24. juna 1986. godine, podnosilac prijave se proglašava zakonskom nasljednicom svog umrlog supruga, sa dijelom 1/1.

366. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 65.254,02 KM.

367. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

105. Predmet broj CH/99/2217, Ljerka VILENICA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

368. Prijava je podnesena Domu 20. maja i registrovana 27. maja 1999. godine.

369. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da su iznosi njenih pologa kod Jugobanke 8.620,74 DEM, 10.138,53 ATS i 364,16 (valuta nije vidljiva iz priložene knjižice). Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupna potraživanja podnosioca prijave po osnovu stare devizne štednje iznose 10.844,58 KM.

370. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

106. Predmet broj CH/99/2225, Džemal POVLAKIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

371. Prijava je podnesena Domu 24. maja i registrovana 27. maja 1999. godine.

372. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Jugobanke Sarajevo. Čini se da je iznos njegovih pologa kod Privredne banke na jednoj knjižici 19.854,92 DEM i na drugoj knjižici 25.720,32 DEM, a kod Jugobanke 39.623,54 DEM i na drugoj knjižici 1.498,42 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 88.289,23 KM.

373. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

107. Predmet broj CH/99/2273, Ljeposava TODOROVIĆ - VUKAŠINOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

374. Prijava je podnesena Domu 20. maja i registrovana 27. maja 1999. godine.

375. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 6.679,7 DEM.

376. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

108. Predmet broj CH/99/2275, Milena VUKŠA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

377. Prijava je podnesena Domu 1. juna i registrovana 4. juna 1999. godine.

378. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenog pologa 3.486,48 DEM.

379. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

109. Predmet broj CH/99/2276, Mira VUKŠA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

380. Prijava je podnesena Domu 1. juna i registrovana 4. juna 1999. godine.

381. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 3.835,04 DEM.

382. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

110. Predmet broj CH/99/2286, Mara KELAVA-STOLIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

383. Prijava je podnesena Domu 4. juna i registrovana 9. juna 1999. godine.

384. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa 9.884,88 DEM.

385. Podnosilac prijave je 22. februara 2005. godine dostavila Komisiji dodatne informacije. Navodi da je dio svoje stare devizne štednje u iznosu od 1.083,29 DEM iskoristila u procesu privatizacije za otkup stana, a da je iza smrti muža naslijedila njegova potraživanja po osnovu stare devizne štednje u iznosu od 9.023,36 DEM, Prema izvodu sa Jedinstvenog računa građana Zavoda, od 30. juna 2000. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 17.824,95 KM.

386. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

111. Predmet broj CH/99/2288, Lj.M. protiv Bosne i Hercegovine

387. Prijava je podnesena Domu 4. juna godine i registrovana 9. juna 1999. godine.

388. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 17.582,51 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 17.582,51 KM.

389. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

112. Predmet broj CH/99/2514, Gvozden GRUJIĆ protiv Federacije Bosne i Hercegovine

390. Prijava je podnesena Domu 10. juna i registrovana 15. juna 1999. godine.

391. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovog pologa kod Jugobanke 33,937,78 ATS i 6.036,13 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 2. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje iznosi 11.027,82 KM

392. Podnosilac prijave je 8. februara 2005. godine dostavio pismo Komisiji u kojem navodi da se kao član Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini priključio kolektivnoj tužbi pred Evropskim sudom za ljudska prava u Strazburu, te da je potpisao punomoć zastupniku Udruženja gđi Amili Omersoftić.

113. Predmet broj CH/99/2533, Hasan MERKEZ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

393. Prijava je podnesena Domu 14. juna i registrovana 17. juna 1999. godine.

394. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje iznosi 104.088,08 KM.

395. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

114. Predmet broj CH/99/2534, Julijana BRADARIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

396. Prijava je podnesena Domu 14. juna i registrovana 17. juna 1999. godine.

397. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Podnosilac prijave navodi da je njen polog 500,00 DEM i 2,04 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 2. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje iznosi 651,24 KM.

398. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

115. Predmet broj CH/99/2541, Katica i Borislav PRALJAK protiv Federacije Bosne i Hercegovine

399. Prijava je podnesene Domu 16. juna i registrovana 17. juna 1999. godine.

400. Podnosioci prijava su polagali sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njihovog pologa 6.775,80 DEM i 6.567,60 DEM. Prema izvodima sa Jedinstvenog računa građana Zavoda, od 9. februara 2005. godine, ukupna potraživanja podnosilaca prijave po osnovu stare devizne štednje iznose 6.654,82 KM (B.P) i 6.865,79 KM (K.P.).

401. Podnosioci prijava se nisu obraćali ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

116. Predmet broj CH/99/2551, Petar SIMOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

402. Prijava je podnesena Domu 17. juna i registrovana 22. juna 1999. godine.

403. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 10.317,12 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 2. februara 1999. godine, ukupna potraživanja podnosioca prijave po osnovu stare devizne štednje iznose 10.501,05 KM.

404. Podnosilac prijave se 24. maja 2004. godine obratio Federalnoj agenciji za privatizaciju u Sarajevu sa zahtjevom za povrat stare devizne štednje, međutim, nije dobio odgovor po zahtjevu.

405. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

117. Predmet broj CH/99/2552, Pašan MEHMEDINOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

406. Prijava je podnesena Domu 17. juna i registrovana 22. juna 1999. godine.

407. Podnosilac prijave je sa svojom suprugom i djecom polagao sredstva na devizne štedne knjižice kod Tuzlanske banke. Čini se da su iznosi pologa podnosioca prijave 465,48 KM, njegove supruge 1.350 DEM, jedne kćerke 429,62 USD i 13.155,86 DEM, te druge kćerke 2.619,42 DEM, 2.192,39 USD, 6.585,57 DEM, 168,66 CHF, 976,86 AUD i 1.850,00 DEM. Uprkos zahtjevu Komisije, podnosilac prijave nije dostavio kopiju punomoći kojom ga ostali članovi porodice ovlašćuju za zastupanje pred Komisijom.

408. Podnosilac prijave je 10. februara 2005. godine dostavio pismo Komisiji u kojem navodi da je njegova supruga preminula, ali da je prije svoje smrti uspjela podići gore navedeni iznos stare devizne štednje. Također navodi da je dio svoje stare devizne štednje u iznosu od 261,53 KM iskoristio u procesu privatizacije za otkup stana. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 13. marta 2003. godine, ukupna potraživanja podnosioca prijave po osnovu stare devizne štednje iznose 203,95 KM.

409. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

118. Predmet broj CH/99/2606, Hermina GRABOVAC protiv Bosne i Hercegovine

410. Prijava je podnesena Domu 23. juna i registrovana 25. juna 1999. godine.

411. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 9.056,56 DEM i 72,19 USD.

412. Podnosilac prijave je 9. februara 2005. godine dostavila pismo Komisiji u kojem navodi da je preko Udruženja građana stare devizne štednje pokrenula postupak pred Sudom Bosne i Hercegovine i Evropskim sudom za ljudska prava u Strazburu.

119. Predmet broj CH/99/2630, Ana DUGONJIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

413. Prijava je podnesena Domu 28. juna i registrovana 30. juna 1999. godine.

414. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa 40.008,61 CHF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 30. juna 2000. godine, ukupna potraživanja podnosioca prijave po osnovu stare devizne štednje iznose 44.421,84 KM.

415. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

120. Predmet broj CH/99/2631, Anto DUGONJIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

416. Prijava je podnesena Domu 28. juna i registrovana 30. juna 1999. godine.

417. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovog pologa 3.629,03 CHF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 28. avgusta 2000. godine, ukupna potraživanja podnosioca prijave po osnovu stare devizne štednje iznose 4.029,34 KM.

418. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

121. Predmet broj CH/99/2632, Momčilo BRATIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

419. Prijava je podnesena Domu 28. juna i registrovana 30. juna 1999. godine.

420. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 15.568,46 DEM i 5.500,88 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 16. novembra 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 21.069,35 KM.

421. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

122. Predmet broj CH/99/2642, Božidar CURAVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

422. Prijava je podnesena Domu 30. juna i registrovana 6. jula 1999. godine.

423. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 20.455,25 DEM, 95.517,87 DEM i 55.789,20 USD.

424. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

123. Predmet broj CH/99/2663, Sadik HUSOMANOVIĆ protiv Bosne i Hercegovine

425. Prijava je podnesena Domu 8. jula godine i registrovana 9. jula 1999. godine.

426. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 425.772,78 FRF, 4.996,60 DEM i 305,02 USD.

427. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

124. Predmet broj CH/99/2664, Jelica HUSOMANOVIĆ protiv Bosne i Hercegovine

428. Prijava je podnesena Domu 8. jula i registrovana 9. jula 1999. godine.

429. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 30.231,83 DEM, 23.480,52 FRF i 1.469,53 USD.

430. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

125. Predmet broj CH/99/2678, Ibrahim BORAČIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

431. Prijava je podnesena Domu 12. jula i registrovana 14. jula 1999. godine.

432. Podnosilac prijave je tražio od Doma da izda naredbu za privremenu mjeru kojom će se zabraniti privatizacija banaka do isplate duga starim deviznim štedišama. Predsjednica Doma je 15. jula 1999. godine odlučila da ne izda naredbu za traženu privremenu mjeru.

433. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke 6.000 DEM na jednoj knjižici i 127,86 DEM na drugoj knjižici. Iznos njegovih pologa kod Privredne banke je 54.239,88 DEM.

434. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

126. Predmet broj CH/99/2679, Nazif ZAJKOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

435. Prijava je podnesena Domu 12. jula i registrovana 14. jula 1999. godine.

436. Podnosilac prijave je tražio od Doma da izda naredbu za privremenu mjeru kojom će se zabraniti privatizacija banaka do isplate duga starim deviznim štedišama. Predsjednica Doma je 15. jula 1999. godine odlučila da ne izda naredbu za traženu privremenu mjeru.

437. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 4.501,47 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 4.536,30 KM.

438. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

127. Predmet broj CH/99/2680, Bahra ŠUVALIJA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

439. Prijava je podnesena Domu 12. jula i registrovana 14. jula 1999. godine.

440. Podnosilac prijave je tražio od Doma da izda naredbu za privremenu mjeru kojom će se zabraniti privatizacija banaka do isplate duga starim deviznim štedišama. Predsjednica Doma je 15. jula 1999. godine odlučila da ne izda naredbu za traženu privremenu mjeru.

441. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 11,51 DEM i 2.231,83 DEM.

442. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

128. Predmet broj CH/99/2681, Ismet ŠUVALIJA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

443. Prijava je podnesena Domu 12. jula i registrovana 14. jula 1999. godine.

444. Podnosilac prijave je tražio od Doma da izda naredbu za privremenu mjeru kojom će se zabraniti privatizacija banaka do isplate duga starim deviznim štedišama. Predsjednica Doma je 15. jula 1999. godine odlučila da ne izda naredbu za traženu privremenu mjeru.

445. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo i Privredne banke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke 10.057,84 DEM, a kod Privredne banke 2.231,83 DEM.

446. Zastupnik podnosioca prijave je 15. februara 2005. godine obavijestio Komisiju da su supruga i sin podnosioca prijave, svoja potraživanja po osnovu stare devizne štednje prebacili na račun podnosioca prijave. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 19.913,96 KM.

447. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

129. Predmet broj CH/99/2686, Mirjana MARTIĆ protiv Bosne i Hercegovine

448. Prijava je podnesena Domu 12. jula i registrovana 26. jula 1999. godine.

449. Podnosilac prijave postavlja zahtjev za povrat devizne štednje koju je naslijedila iza smrti svog supruga S.M. Čini se da je iznos njegovih pologa kod Privredne banke 2.434,80 DEM.

450. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 30. novembra 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 2.434,80 KM.

451. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

130. Predmet broj CH/99/2690, Mato BOŠNJAK protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

452. Prijava je podnesena Domu 13. jula i registrovana 26. jula 1999. godine.

453. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 3.263,62 USD i 722,44 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 5. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 6.157,45 KM.

454. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

131. Predmet broj CH/99/2691, Sanja BOŠNJAK protiv Bosne i Hercegovine

455. Prijava je podnesena Domu 13. jula i registrovana 26. jula 1999. godine.

456. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 2.138,69 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 5. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 2.154,47 KM.

457. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

132. Predmet broj CH/99/2733, Enver KUDIĆ protiv Federacije Bosne i Hercegovine

458. Prijava je podnesena Domu 27. jula i registrovana 2. avgusta 1999. godine.

459. Podnosilac prijave navodi da je zajedno sa suprugom M.K. polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Jugobanke Sarajevo. Čini se da su iznosi njihovih pologa kod Privredne banke 54.469,42 DEM, 19.257,25 CHF, 81,12 FRF, 60.120,49 ATS, 185,61 CAN, 231,86 USD, 163,39 NLG i 22.217,60 LIT, a kod Jugobanke 192.451,32 DEM, 71.518,70 ATS, 1.879,60 NLG, 1.404,65 USD i 1.628,93 CHF. Podnosilac prijave se, također, žali da je njegov sin E.D. polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke 7.450,42 DEM.

460. Podnosilac prijave je 13. aprila 1992. godine podnio tužbu protiv Privredne banke Sarajevo, Glavna filijala Bihać pred Osnovnim sudom u Bihaću, radi isplate devizne štednje. Osnovni sud je donio presudu, broj P-289/92. od 3. decembra 1993. godine, kojom se tužbeni zahtjev podnosioca prijave usvaja. Navedena presuda postala je pravosnažna 12. juna 1994. godine.

461. Podnosilac prijave je 30. decembra 1996. godine podnio prijedlog za izvršenje pravosnažne presude od 3. decembra 1993. godine. Osnovni sud je donio rješenje, broj 19/1997 od 9. aprila 1997. godine, kojim je određeno predloženo izvršenje.

462. Općinski sud u Bihaću je, odlučujući po prigovoru dužnika protiv navedenog rješenja, donio rješenje, broj I-19/97 od 12. januara 1998. godine, kojim se dužnik upućuje da protiv povjerioca pokrene parnicu radi proglašenja da je izvršenje određeno rješenjem od 9. aprila 1997. godine nedopušteno.

463. Privredna banka je 20. januara 1998. godine podnijela tužbu Općinskom sudu protiv podnosioca prijave, radi proglašenja izvršenja nedopuštenim. Općinski sud je donio presudu, broj P-90/98 od 1. aprila 1998. godine, kojom se izvršenje određeno rješenjem od 9. aprila 1997. godine proglašava nedopuštenim.

464. Nezadovoljan navedenom presudom, podnosilac prijave je 22. juna 1998. godine podnio žalbu na navedenu presudu. Kantonalni sud u Bihaću (u daljnjem tekstu: Kantonalni sud) je donio rješenje, broj GŽ:206/98 od 9. novembra 1998. godine, kojim je uvažio žalbu, ukinuo prvostepenu presudu, te predmet vratio prvostepenom sudu na ponovni postupak.

465. Općinski sud je u ponovnom postupku donio presudu, broj P-70/99 od 2. juna 1999. godine, kojom je izvršenje određeno rješenjem od 9. aprila 1997. godine proglašeno nedopuštenim. Podnosilac prijave je podnio žalbu na navedenu presudu. Kantonalni sud je donio presudu, broj GŽ-172/01 od 12. septembra 2001. godine, kojom je uvažio žalbu i preinačio pobijanu presudu, tako da je tužbeni zahtjev tužitelja Privredne banke odbio kao neosnovan.

466. Privredna banka je izjavila reviziju protiv presude Kantonalnog suda od 12. septembra 2001. godine. Po izjavljenoj reviziji Vrhovni sud Federacije Bosne i Hercegovine je donio presudu, broj Rev-90/02 od 13. aprila 2004. godine, kojom je odbio reviziju.

467. Podnosilac prijave je 10. septembra 2002. godine Općinskom sudu podnio prijedlog za određivanje privremene mjere radi osiguranja svog novčanog potraživanja prema dužniku Privrednoj banci. Općinski sud je donio rješenje, broj I-3491/02 od 3. februara 2003. godine, kojim je usvojen prijedlog podnosioca prijave i određena privremena mjera zabranom dužniku bilo kakvog otuđenja ili opterećenja nekretnina u vlasništvu dužnika i to poslovnog prostora površine 261 m^2, u prizemlju objekta upisanog u zk.ul.br. 3762 k.o. Bihać.

468. Podnosilac prijave je 16. aprila 1992. godine podnio tužbu Osnovnom sudu protiv Union banke d.d. Sarajevo (u daljnjem tekstu: Union banka), radi isplate devizne štednje. Osnovni sud je donio presudu, broj P.295/92, od 15. aprila 1994. godine, kojom je tužbeni zahtjev podnosioca prijave usvojen.

469. Union banka je 28. oktobra 1996. godine podnijela žalbu na navedenu presudu. Kantonalni sud je donio presudu, broj Gž:37/97 od 19. septembra 1997. godine, kojom je žalba odbijena kao neosnovana i potvrđena prostepena presuda.

470. Podnosilac prijave je 3. novembra 1997. godine podnio prijedlog za izvršenje pravosnažne presude od 15. aprila 1994. godine. Osnovni sud je donio rješenje, broj I-91/1997 od 24. februara 1998. godine, kojim je određeno predloženo izvršenje.

471. Union banka je 4. marta 1998. godine podnijela prijedlog za odlaganje izvršenja, jer je u toku postupak po izjavljenoj reviziji na presudu Kantonalnog suda od 19. septembra 1997. godine. Općinski sud je donio rješenje, broj I:91/97 od 12. novembra 1998. godine, kojim se prijedlog Union banke za odlaganje izvršenja odbija.

472. Union banka je 20. novembra 1998. godine podnijela žalbu na rješenje od 12. novembra 1998. godine. Kantonalni sud je donio rješenje, broj Gž-1/99 od 23. februara 1999. godine, kojim je odbijena žalba i potvrđeno prvostepeno rješenje.

473. Po izjavljenoj reviziji, Vrhovni sud je donio presudu, broj Rev. 2/99, od 25. februara 1999. godine, kojom je revizija uvažena i nižestepene presude preinačene, tako da je tužbeni zahtjev podnosioca prijave odbijen.

474. Komisija je, 3. februara 2005. godine, podnosiocu prijave poslala preporučeno pismo tražeći da dostavi dodatne podatke u vezi sa potraživanjem stare devizne štednje. U pismu, koje je primljeno u Komisiju 22. februara 2005. godine, podnosilac prijave je naveo da je stanje njegove devizne štednje isto, kao i u vrijeme podnošenja prijave, te da nijedan dio svoje stare devizne štednje nije pretvorio u certifikate u procesu privatizacije, niti prodao na sekundarnom tržištu. On je, dalje, naveo da nije pokrenuo postupak pred Evropskim sudom za ljudska prava, radi rješavanja potraživanja stare devizne štednje.

133. Predmet broj CH/99/2749, Spasinka GRBIĆ protiv Federacije Bosne i Hercegovine

475. Prijava je podnesena Domu 4. avgusta i registrovana 5. avgusta 1999. godine.

476. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 17.614,39 DEM na jednoj knjižici i 1.617,30 DEM na drugoj knjižici.

477. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

134. Predmet broj CH/99/2750, Trifko BOLJANOVIĆ protiv Federacije Bosne i Hercegovine i Bosne i Hercegovine

478. Prijava je podnesena Domu 5. avgusta 1999. godine i registrovana istog dana.

479. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 43,61 USD, 297,04, LIT, 8,78 FF, 3,68 LSTG, 250,58S CH, 5.574,66 DEM.

480. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

135. Predmeti br. CH/99/2755 i CH/99/2756, Ahmed ČUTURIĆ i Marica ČUTURIĆ protiv Federacije Bosne i Hercegovine

481. Prijave su podnesene Domu 6. avgusta 1999. godine i registrovane istog dana.

482. Podnosioci prijava su polagali sredstva na tri devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njihovih pologa na jednoj knjižici 26.236,12 AUD i 45,4 YU dinara, na drugoj knjižici 167,9 GBP i 13.343,58 USD, te na trećoj knjižici 12.803,04 DEM.

483. Podnosioci prijave se nisu obraćali ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

136. Predmet broj CH/99/2768, Mira NADAŽDIN protiv Federacije Bosne i Hercegovine

484. Prijava je podnesena Domu 16. avgusta i registrovana 19. avgusta 1999. godine.

485. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 686,49 USD i 14.942,77 DEM na jednoj knjižici, te 2.424,75 USD i 6.408,49 DEM, 1.194,63 FRF na drugoj knjižici. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 15. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 27.205,54 KM.

486. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

137. Predmet broj CH/99/2769, Milivoje NADAŽDIN protiv Federacije Bosne i Hercegovine

487. Prijava je podnesena Domu 16. avgusta i registrovana 20. avgusta 1999. godine.

488. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 1.498,84 DEM, 1.125,49 CHF, 7,39 USD na jednoj knjižici, 3.104,51 ATS, 2.741,58 LIT, 1.954,66 CHF, 40.125,32 DEM na drugoj knjižici.

489. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

138. Predmet broj CH/99/2770, Danilo NADAŽDIN protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

490. Prijava je podnesena Domu 16. avgusta i registrovana 20. avgusta 1999. godine.

491. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 9.058,31 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 31. marta 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 9.125,14 KM.

492. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

139. Predmet broj CH/99/2773, Dušan MILIDRAGOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

493. Prijava je podnesena Domu 16. avgusta i registrovana 20. avgusta 1999. godine.

494. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke 69.313,96 DEM na jednoj knjižici i 18,924,40 ATS, 749,80 DEM i 1.079,23 USD na drugoj knjižici, a kod Privredne banke 14.444,67 DEM na jednoj knjižici i 681,80 ATS, 29.471,91 DEM, 396,05 USD na drugoj knjižici.

495. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

140. Predmet broj CH/99/2785, Vasva AGANOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

496. Prijava je podnesena Domu 17. avgusta i registrovana 20. avgusta 1999. godine.

497. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa kod Jugobanke 18.700,58 DEM, 20.382,11 ATS, 1.902,99 HFL, 99,46 ŠFRS, 927 ŠKR, a kod Privredne banke 4.017,09 DEM, 3.603,84 SEK, 1.027,45 USD.

498. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

141. Predmet broj CH/99/2794, Momčilo SAVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

499. Prijava je podnesena Domu 24. avgusta i registrovana 25. avgusta 1999. godine.

500. Podnosilac prijave je tražio od Doma da izda naredbu za privremenu mjeru kojom će se zabraniti prenos njegovih štednih uloga na certifikate. Dom je 8. septembra 1999. godine odlučio da ne izda naredbu za traženu privremenu mjeru.

501. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, filijale u Sarajevu i Tomislavgradu. Čini se da je iznos njegovih pologa 3.874,45 DEM na jednoj knjižici i 4.000 DEM na drugoj knjižici.

502. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

142. Predmet broj CH/99/2802, Ljerka TODOROVIĆ protiv Federacije Bosne i Hercegovine

503. Prijava je podnesena Domu 25. avgusta i registrovana 26. avgusta 1999. godine.

504. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 1.056,8581 DEM na jednoj knjižici, 9.643,3520 DEM na drugoj knjižici.

505. Podnosilac prijave je 7. februara 2005. godine dostavila pismo Komisiji sa dodatnim informacijama. Podnosilac prijave navodi da je dio svoje devizne štednje u iznosu od 4.198,59 KM iskoristila u procesu privatizacije za otkup stana. Prema izvodu sa Jedinstvenog računa građana

Zavoda, od 20. novembra 2002. godine, preostali iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 6.601,31 KM.

506. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

143. Predmet broj CH/99/2804, Ana DIVKOVIĆ protiv Federacije Bosne i Hercegovine

507. Prijava je podnesena Domu 26. avgusta i registrovana 27. avgusta 1999. godine.

508. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 12.564,11 DEM na jednoj knjižici i 192.351,45 DEM na drugoj knjižici.

509. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

144. Predmet broj CH/99/2837, Ilinka PRICA protiv Bosne i Hercegovine

510. Prijava je podnesena Domu 6. septembra i registrovana 13. septembra 1999. godine.

511. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 7.991,12 DEM, 118,10 CHF, 1.239,70 LIT, 729,42 FRF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 5. marta 2002. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 8.146,40 KM.

512. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

145. Predmet broj CH/99/2843, Nuraga SULJAGIĆ protiv Federacije Bosne i Hercegovine

513. Prijava je podnesena Domu 8. septembra i registrovana 13. septembra 1999. godine.

514. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 227,22 USD i 7.160,94 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 1. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 7.660,98 KM.

515. Podnosilac prijave je 4. septembra 1999. godine podnio tužbu Općinskom sudu u Tuzli protiv Tuzlanske banke d.d. Tuzla, države Bosne i Hercegovine, Vijeća ministara i Federacije Bosne i Hercegovine, Federalnog ministarstva finansija, radi isplate deviznog štednog uloga. Općinski sud u Tuzli je 29. oktobra 2002. godine donio rješenje broj P. 1455/99 kojim je postupak prekinut u ovoj pravnoj stvari.

516. Podnosilac prijave je 28. novembra 2002. godine podnio žalbu Kantonalnom sudu u Tuzli protiv rješenja Općinskog suda. Kantonalni sud je 7. avgusta 2003. godine donio rješenje broj: Gž. 272/03, kojim se žalba uvažava, prvostepeno rješenje ukida i predmet vraća prvostepenom sudu na ponovni postupak.

146. Predmeti br. CH/99/2846, CH/99/2847 i CH/99/2848, Zlata NUHBEGOVIĆ, Amra NUHBEGOVIĆ i Leila LOPEZ NUHBEGOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

517. Prijave su podnesene Domu 9. septembra i registrovane 13. septembra 1999. godine.

518. Podnosioci prijava postavljaju zahtjev za povrat devizne štednje koju su naslijedile iza smrti svog supruga i oca H.N.

519. H.N. je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Privredna banka je 14. marta 1996. godine na štednoj knjižici stavila zabilježbu o prenosu deviznih sredstava iza smrti H.N. u korist tri podnosioca prijava, a na osnovu pravosnažnog rješenja o nasljeđivanju, broj O-530/94, od 26. decembra 1994. godine. Prenosom sredstava na osnovu navedenog rješenja, podnosioci prijava su stekle potraživanje po osnovu stare devizne štednje u iznosu od po 139.716,5 DEM.

520. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 2. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave Zlate Nuhbegović po osnovu stare devizne štednje je 139.716,50 KM.

521. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 2. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave Amre Nuhbegović po osnovu stare devizne štednje je 154.256,77 KM.

522. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 15. februara 1999. godine, ukupan iznos potraživanja podnosioca prijave Leile Lopez Nuhbegović po osnovu stare devizne štednje je 143.351 KM.

523. Podnosioci prijava se nisu obraćale ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

147. Predmet broj CH/99/2851, Osman SULJAGIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

524. Prijava je podnesena Domu 9. septembra i registrovana 13. septembra 1999. godine.

525. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Tuzla. Čini se da je iznos njegovih pologa kod Privredne banke Sarajevo na jednoj knjižici 73.657,11 DEM, na drugoj knjižici 8.425,31 DEM, a kod Privredne banke Tuzla 5.116,96 DEM. Prema izvodu sa jedinstvenog računa građana od 7. februara 2005. godine, podnosilac prijave nije prebacivao deviznu štednju na jedinstveni račun.

526. Podnosilac prijave se obraćao Ombudsmenu Bosne i Hercegovine, Ured u Tuzli, radi rješavanja potraživanja stare devizne štednje.

148. Predmet broj CH/99/2858, Muhamed JAŠAREVIĆ protiv Federacije Bosne i Hercegovine

527. Prijava je podnesena Domu 13. septembra i registrovana 21. septembra 1999. godine.

528. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 34.232,37 DEM.

529. Podnosilac prijave se obraćao Ombudsmenu Bosne i Hercegovine, ured u Tuzli radi rješavanja potraživanja stare devizne štednje.

149. Predmet broj CH/99/2860, Mensur ADEMOVIĆ protiv Federacije Bosne i Hercegovine

530. Prijava je podnesena Domu 13. septembra i registrovana 21. septembra 1999. godine.

531. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 364,93 USD i 13.539,27 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 16. maja 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 14.247,65 KM.

532. Podnosilac prijave se obraćao Ombudsmenu Bosne i Hercegovine, ured u Tuzli radi rješavanja potraživanja stare devizne štednje.

150. Predmet broj CH/99/2861, Bajazit JAŠAREVIĆ protiv Federacije Bosne i Hercegovine

533. Prijava je podnesena Domu 13. septembra i registrovana 21. septembra 1999. godine.

534. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 700,05 DEM na jednoj knjižici i 14.887,37 DEM na drugoj knjižici. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 27. marta 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 15.790,12 KM, s tim što potražuje dodatni iznos od 34.615,16 KM, što ukupno iznosi 50.405,28 KM (veza: predmet CH/99/2858)..

535. Podnosilac prijave se obraćao Ombudsmenu Bosne i Hercegovine, ured u Tuzli radi rješavanja potraživanja stare devizne štednje.

151. Predmet broj CH/99/2864, Zlatko CRNKOVIĆ protiv Bosne i Hercegovine

536. Prijava je podnesena Domu 13. septembra i registrovana 21. septembra 1999. godine.

537. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 1.599,90 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 10. marta 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 1.619,62 KM.

538. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

152. Predmet broj CH/99/2866, M.M. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

539. Prijava je podnesena Domu 13. septembra i registrovana 21. septembra 1999. godine.

540. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa 227,58 USD, 1,39 GBP, 40,01 NLG i 364,40 DEM.

541. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

153. Predmet broj CH/99/2875, Toma AMIDŽIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

542. Prijava je podnesena Domu 16. septembra i registrovana 21. septembra 1999. godine.

543. Podnosilac prijave postavlja zahtjev za povrat stare devizne štednje koju su on i njegova supruga polagali kod Privredne banke Sarajevo i Jugobanke Sarajevo. Čini se da je ukupan iznos pologa podnosioca prijave kod Privredne banke 29.689,04 CHF, 36,04 DEM i 1.031,65 CHF, a kod Jugobanke 35.348,55 DEM i 3.276,73 DEM.

544. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 17. septembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 34.501,76 KM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 30. aprila 1999. godine, ukupan iznos potraživanja supruge podnosioca prijave po osnovu stare devizne štednje je 1.115,01 KM.

545. U svojoj prijavi podnosilac prijave navodi da se obraćao Ombudsmanu Bosne i Herecegovine radi rješavanja potraživanja stare devizne štednje.

154. Predmet broj CH/99/2883, Šefik NUHBEGOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

546. Prijava je podnesena Domu 17. septembra i registrovana 21. septembra 1999. godine.

547. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 16.841,0123 DEM i 1.110,16 DEM.

548. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

155. Predmet broj CH/99/2886, Draško ŠOŠIĆ protiv Federacije Bosne i Hercegovine

549. Prijava je podnesena Domu 20. septembra i registrovana 21. septembra 1999. godine.

550. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa kod Jugobanke 5.656,5679 DEM i 30.744,6874 DEM, a kod Privredne banke 44.464,95 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 26. decembra 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 70.277,45 KM.

551. Supruga podnosioca prijave je 7. februara 2005. godine obavijestila Komisiju da je njen suprug preminuo, te da je rješenjem o nasljeđivanju Općinskog suda I Sarajevo, broj O-1245/2000 od 18. jula 2000. godine, ona proglašena za zakonskog nasljednika drugog nasljednog reda, sa dijelom 1/1.

552. Supruga podnosioca prijave navodi da je pokrenula postupak pred Evropskim sudom za ljudska prava u Strazburu, radi rješavanja potraživanja stare devizne štednje, ali da nije dobila nikakav odgovor.

156. Predmet broj CH/99/2890, Zdravko VOBORNIK protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

553. Prijava je podnesena Domu 21. septembra i registrovana 27. septembra 1999. godine.

554. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa bio 25.216,9559 DEM.

555. Podnosilac prijave je 10. februara 2005. godine dostavio Komisiji dodatne informacije. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje podnosioca prijave je 13,6 KM. Međutim, podnosilac prijave navodi da u izvodu od 7. februara 2005. godine nije evidentiran ukupan iznos njegovog potraživanja po osnovu stare devizne štednje.

556. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

157. Predmet broj CH/99/2892, Živko RAPAIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

557. Prijava je podnesena Domu 21. septembra i registrovana 27. septembra 1999. godine.

558. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 10.714,4748 DEM.

559. Podnosilac prijave navodi da je Udruženju za zaštitu štediša dao ovlaštenje za zastupanje pred Evropskim sudom za ljudska prava u Strazburu radi rješavanja potraživanja stare devizne štednje. Podnosilac prijave je, također, naveo da je 18. avgusta 2004. godine Službi za zajedničke poslove organa i tijela Federacije Bosne i Hercegovine podnio zahtjev za prenos stare devizne štednje sa certifikata na deviznu knjižicu.

158. Predmet broj CH/99/2893, Mladen KORAĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

560. Prijava je podnesena Domu 21. septembra i registrovana 27. septembra 1999. godine.

561. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 2.178,52 DEM i 78,29 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 6. januara 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 2.324,84 KM.

562. Podnosilac prijave je naveo da je 18. avgusta 2004. godine Kantonalnoj agenciji za privatizaciju Sarajevo podnio zahtjev za povrat stare devizne štednje sa Jedinstvenog računa građana na devizne štedne knjižice.

159. Predmet broj CH/99/2894, Mustafa SULJAGIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

563. Prijava je podnesena Domu 22. septembra i registrovana 27. septembra 1999. godine.

564. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 264.611,043 DEM.

565. U svojoj prijavi podnosilac prijave je naveo da se radi rješavanja potraživanja stare devizne štednje obraćao Komisiji za zaštitu ljudskih prava, Predsjedništva Bosne i Hercegovine, Ustavnom sudu Bosne i Hercegovine, te Ombudsmenu Federacije Bosne i Hercegovine. Komisija za zaštitu ljudskih prava i Ustavni sud su svojim dopisima od 25. februara i 16. aprila 1998. obavijestili podnosioca prijave da nisu nadležni da odlučuju o njegovom zahtjevu.

566. Podnosilac prijave dalje navodi da je 8. jula 1999. godine Privrednoj banci Sarajevo podnio pismeni zahtjev za isplatu stare devizne štednje. Privredna banka Sarajevo je 15. jula 1999. godine obavijestila podnosioca prijave da je u skladu sa Uputstvom o realizaciji potraživanja građana sa Jedinstvenog računa („Službene novine Federacije Bosne i Hercegovine“, broj 1/98), podatke o deviznoj štednji građana sa stanjem na dan 31. marta 1992, godine dostavila Zavodu kako bi sredstva devizne štednje bila unesena na Jedinstveni račun građana.

567. Federacija Bosne i Hercegovine je dopisom od 23. novembra 2004. godine obavijestila Komisiju da se podnosilac prijave obratio Evropskom sudu za ljudska prava u Strazburu radi ostvarenja svog zahtjeva za isplatu stare devizne štednje.

568. Podnosilac prijave navodi da je podnio tužbu Evropskom sudu za ljudska prava u Strazburu radi ostvarenja zahtjeva za isplatu stare devizne štednje.

160. Predmet broj CH/99/2901, Sead DURAKOVIĆ protiv Federacije Bosne i Hercegovine

569. Prijava je podnesena Domu 23. septembra i registrovana 27. septembra 1999. godine.

570. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, filijala Sarajevo i filijala Mostar. Čini se da je ukupan iznos njegovih pologa 1.666,17 DEM i 11.429,73 DEM.

571. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

161. Predmet broj CH/99/2904, Alija TANČICA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

572. Prijava je podnesena Domu 23. septembra i registrovana 27. septembra 1999. godine.

573. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 1.966,52 DEM.

574. Supruga podnosioca prijave je 22. februara 2005. godine obavijestila Komisiju da je njen suprug umro, te da je ona rješenjem o nasljeđivanju Općinskog suda u Sarajevu, broj O-567/04 od 24. avgusta 2004. godine, proglašena za zakonskog nasljednika prvog nasljednog reda, sa dijelom 1/1.

575. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

162. Predmet broj CH/99/2905, Milan MIHOLJČIĆ protiv Federacije Bosne i Hercegovine

576. Prijava je podnesena Domu 23. septembra i registrovana 27. septembra 1999. godine.

577. Podnosilac prijave je polagao devizna sredstva na štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 11.745,83 KM. Prema Izvodu sa Jedinstvenog računa građana Zavoda, od 21. oktobra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 11.487 KM.

578. Supruga podnosioca prijave je 8. februara 2005. godine obavijestila Komisiju da je njen suprug umro, te da je ona rješenjem o nasljeđivanju Općinskog suda Sarajevo, broj O-521/04, od 26. maja 2004. godine, proglašena zakonskom nasljednicom prvog nasljednog reda, sa dijelom 1/1.

579. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

163. Predmet broj CH/99/2906, Branka MIHOLJČIĆ protiv Federacije Bosne i Hercegovine

580. Prijava je podnesena Domu 23. septembra i registrovana 27. septembra 1999. godine.

581. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 7.597,7082 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 13. maja 2004. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 7.692,04 KM.

582. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

164. Predmet broj CH/99/2908, S.E. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

583. Prijava je podnesena Domu 23. septembra i registrovana 27. septembra 1999. godine.

584. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 4.237,28 DEM.

585. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

165. Predmet broj CH/99/2918, Fadil HODŽIĆ protiv Federacije Bosne i Hercegovine

586. Prijava je podnesena Domu 27. septembra 1999. godine i registrovana istog dana.

587. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 14.418,43 DEM i 2.020,5908 DEM. Prema Izvodu sa Jedinstvenog računa građana Zavoda, od 16. septembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 16.574,34 KM.

588. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

166. Predmet broj CH/99/2922, Jovan MARKOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

589. Prijava je podnesena Domu 27. septembra i registrovana 28. septembra 1999. godine.

590. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 3.046,8 DEM i 1.806,07 CHFR.

591. Podnosilac prijave je naveo da je preko Udruženja deviznih štediša, Sarajevo pokrenuo postupak (ne navodi pred kojim organom) radi rješavanja potraživanja stare devizne štednje, te da je postupak u toku.

167. Predmet broj CH/99/2923, Mladen LAPTOŠEVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

592. Prijava je podnesena Domu 27. septembra i registrovana 28. septembra 1999. godine.

593. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 3.591,34 DEM, 399,85 USD, 1.049,99 CHFR i 518,11 ATS.

594. Podnosilac prijave je naveo da je preko Udruženja deviznih štediša, Sarajevo pokrenuo postupak (ne navodi pred kojim organom) radi rješavanja potraživanja stare devizne štednje, te da je postupak u toku.

168. Predmet broj CH/99/2939, Vela VELJIĆ protiv Bosne i Hercegovine

595. Prijava je podnesena Domu 29. septembra i registrovana 30. septembra 1999. godine.

596. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa 20,06 CHFR, 566,59 DEM i 856,48 USD.

597. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

169. Predmet broj CH/99/2944, Bogdan GALIĆ protiv Federacije Bosne i Hercegovine

598. Prijava je podnesena Domu 30. septembra i registrovana 4. oktobra 1999. godine.

599. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Jugobanke Sarajevo. Čini se da je iznos njegovih pologa kod Privredne banke 1.000,19 DEM, a kod Jugobanke 13.275,2921 DEM i 12,549,8999 DEM. Prema izvodu sa Jedinstvenog

računa građana Zavoda, od 7. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 27.238,64 KM.

600. Podnosilac prijave navodi da je 20. maja 2004. godine Federalnoj agenciji za privatizaciju podnio zahtjev za vraćanje devizne štednje u matične banke.

170. Predmet broj CH/99/2945, Slavojka GALIĆ protiv Federacije Bosne i Hercegovine

601. Prijava je podnesena Domu 30. septembra i registrovana 4. oktobra 1999. godine.

602. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa 3.318,97 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 8. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 3.358,83 KM.

603. Podnosilac prijave navodi da je 20. maja 2004. godine Federalnoj agenciji za privatizaciju podnijela zahtjev za vraćanje devizne štednje u matičnu banku.

171. Predmet broj CH/99/2946, Svjetlana GALIĆ-ŠOLA protiv Federacije Bosne i Hercegovine

604. Prijava je podnesena Domu 30. septembra i registrovana 4. oktobra 1999. godine.

605. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 652,5181 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 8. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 667,26 KM.

606. Podnosilac prijave je navodi da je 20. maja 2004. godine Federalnoj agenciji za privatizaciju podnijela zahtjev za vraćanje devizne štednje u matičnu banku.

172. Predmet broj CH/99/2956, Erna MIJIĆ protiv Federacije Bosne i Hercegovine

607. Prijava je podnesena 4. oktobra 1999. godine i registrovana istog dana.

608. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa 3.973,40 DEM i 266,48 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 9. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 4.282,98 KM.

609. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

173. Predmet broj CH/99/2962, Ivica KATALINIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

610. Prijava je podnesena Domu 4. oktobra 1999. godine i registrovana istog dana.

611. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 1.171,56 DEM, 5.826,9 DEM, 1.060,86 USD, 46,68 USD, 8.451,83 ITL i 3,61 FRF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 27. decembra 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 8.975,94 KM.

612. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

174. Predmet broj CH/99/2966, Ljiljana VUKOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

613. Prijava je podnesena 5. oktobra 1999. godine i registrovana istog dana.

614. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke u Sarajevu. Čini se da je ukupan iznos njenih pologa 809,64 DEM.

615. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

175. Predmet broj CH/99/2967, Marica ĐURKOVIĆ protiv Federacije Bosne i Hercegovine

616. Prijava je podnesena Domu 5. oktobra 1999. godine i registrovana istog dana.

617. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 578,29 CAD, 2,37 USD i 54,24 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 9. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 877,53 KM.

618. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

176. Predmet broj CH/99/2969, Mugdim MESIHOVIĆ. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

619. Prijava je podnesena Domu 5. oktobra 1999. godine i registrovana istog dana.

620. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 8.063,578 DEM i 11.249,8499 DEM.

621. U svojoj prijavi podnosilac prijave je naveo da se obraćao Ustavnom sudu Bosne i Hercegovine, Ustavnom sudu Federacije Bosne i Hercegovine i Ombudsmenu Federacije Bosne i Hercegovine radi rješavanja potraživanja stare devizne štednje.

622. Ustavni sud Bosne i Hercegovine je 2. februara 2005. godine obavijestio Komisiju da ni u upisniku, ni u bazi podataka suda nije registrovana apelacija podnosioca prijave u vezi stare devizne štednje.

177. Predmet broj CH/99/2976, Toni ŽAGOVEC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

623. Prijava je podnesena Domu 6. oktobra 1999. godine i registrovana istog dana.

624. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njegovog pologa 4.193,20 DEM i 15,68 USD na jednoj štednoj knjižici, i na drugoj štednoj knjižici 119,37 DEM i 784,39 USD.

625. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

178. Predmet broj CH/99/2979, Kasim ĆATIĆ protiv Federacije Bosne i Hercegovine

626. Prijava je podnesena Domu 6. oktobra 1999. godine i registrovana istog dana.

627. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupni iznos njegovog pologa 11.142,86 DEM.

628. E. i K. Ćatić su 11. februara 2005. godine obavijestili Komisiju da je podnosilac prijave umro, te da oni, kao njegovi nasljednici žele da nastave postupak pred Komisijom. U prilogu pisma su dostavili i rješenje o nasljeđivanju Općinskog suda u Sarajevu broj:0-1788/04, od 7. septembra 2004. godine, kojim se oni proglašaju zakonskim nasljednicima I nasljednog reda, sa dijelom od po 1/2.

629. Podnosilac prijave nije se obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

179. Predmet broj CH/99/2983, Zaim OMEROVIĆ protiv Federacije Bosne i Hercegovine

630. Prijava je podnesena Domu 7. oktobra i registrovana 8. oktobra 1999. godine.

631. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovog pologa 67.106,96 DEM.

632. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

180. Predmet broj CH/99/2992, Ivan PRIMORAC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

633. Prijava je podnesena Domu 8. oktobra i registrovana 12. oktobra 1999. godine.

634. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 15.363,07 DEM.

635. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

181. Predmet broj CH/99/3001, Marija TOMAŽIN protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

636. Prijava je podnesena Domu 12. oktobra i registrovana 15. oktobra 1999. godine.

637. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 471.204,32 LIT i 1.699.10 DEM.

638. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

182. Predmet broj CH/99/3006, M.K. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

639. Prijava je podnesena Domu 13. oktobra 1999. godine i registrovana 15. oktobra 1999. godine.

640. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke u Sarajevu. Čini se da je iznos njenog pologa na jednoj deviznoj knjižici 505,84 DEM, a na drugoj 31,56 USD. Podnosilac prijave je, također, imala pravo raspolaganja na deviznim štednim knjižicama S.K (veza: predmet broj CH/99/3008) i T.E.S. (veza: predmet broj CH/99/3007). Iznos pologa na deviznoj štednoj knjižici S.K. je 1.064,24 DEM, 316,84 USD i 497,07 CHF, a na deviznoj štednoj knjižici T.E.S. je 19.498,32 DEM. Prema Izvodu sa jedinstvenog računa građana, od 1. avgusta 2001. godine, iznos stare devizne štednje podnosioca prijave bio je 12.355,17 KM. Podnosilac prijave navodi da je iznos na jedinstvenom računu građana nastao prenosom 10.332,77 DEM sa devizne štedne knjižice T.E.S. i 2.022,40 DEM sa devizne štedne knjižice S.K.

641. Podnosilac prijave je u pismu od 8. februara 2005. godine obavijestila Komisiju da staru deviznu štednju koja joj je pretvorena u certifikate nije uložila u procesu privatizacije.

642. Podnosilac prijave u svom pismu Komisiji navodi da se obraćala Agenciji za Privatizaciju Federacije Bosne i Hercegovine, sa zahtjevom da se sredstva stare devizne štednje vrate sa jedinstvenog računa na devizne štedne knjižice i da do danas nije dobila nikakvo obavještenje.

183. Predmet broj CH/99/3007, T.E.S. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

643. Prijava je podnesena Domu 13. oktobra 1999. godine i registrovana 15. oktobra 1999. godine.

644. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke u Sarajevu. Čini se da je ukupni iznos njenog pologa kod Jugobanke 1.420,6437 DEM i 19.388,6651 DEM.

645. Iz prijave se čini da se podnosilac prijave nije obračala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

646. Komisiji je 8. februara 2005. godine dostavljeno pismo M.K (veza poredmet: CH/99/3006), kćerke podnositeljice prijave, u kome navodi da je jedan dio stare devizne štednje iskorišten u procesu privatizacije za kupovinu stana, a ostatak pologa u iznosu od 10.332,77 DEM prenesen je na jedinstveni račun M.K, tako da više nema potraživanja po osnovu stare devizne štednje.

184. Predmet broj CH/99/3008, S.K. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

647. Prijava je podnesena Domu 13. oktobra 1999. godine i registrovana 15. oktobra 1999. godine.

648. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke u Sarajevu. Prema priloženoj fotokopiji štedne knižice, čini se da je na prvom računu, iznos sredstava stare devizne štednje bio 437,59 CHF. Prema dokumentu Union banke od 10. februara 1998. godine, iznos sredstava stare devizne štednje na drugom računu bio je 1.986,63 DEM. Prema izvodu sa jedinstvenog računa građana od 3. maja 1999. godine, iznos sredstava devizne štednje podnosioca prijave bio je 2.022.40 KM. U svom pismu Komisiji, podnosilac prijave naveo da je 1. avgusta 2001. godine iznos od 2.022,40 KM prenesen na jedinstveni račun njegove supruge M.K (veza: predmet broj CH/99/3006), i da njegova preostala potraživanja po osnovu stare devizne štednje iznose 437,59 CHF.

649. Podnosilac prijave se nije obračao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

185. Predmet broj CH/99/3011, Srećko KLARIĆ protiv Bosne i Hercegovine

650. Prijava je podnesena Domu 13. oktobra i registrovana 15. oktobra 1999. godine.

651. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 26.474,0812 DEM.

652. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

186. Predmet broj CH/99/3018, Dobrila PAŠTAR protiv Bosne i Hercegovine

653. Prijava je podnesena Domu 18. oktobra i registrovana 19. oktobra 1999. godine.

654. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 4.214,3189 DEM.

655. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

187. Predmet broj CH/99/3020, Mehmed PREVLJAK protiv Bosne i Hercegovine

656. Prijava je podnesena Domu 18. oktobra i registrovana 20. oktobra 1999. godine.

657. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke 264,18 USD i 17.274,47 DEM, a kod Privredne banke 300,54 DEM i 6.634,29 DEM.

658. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

188. Predmet broj CH/99/3027, Marela ČELIKOVIĆ protiv Federacije Bosne i Hercegovine

659. Prijava je podnesena Domu 20. oktobra 1999. godine i registrovana istog dana.

660. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 2. februara 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 15.170,53 KM. Podnosilac prijave nije dostavila kopiju štednje knjižice.

661. Podnosilac prijave se 5. aprila 1999. godine obraćala Agenciji za privatizaciju Federacije Bosne i Hercegovine radi poništenja verifikacije devizne štednje koju je izvršila u banci. Agencija za privatizaciju Federacije Bosne i Hercegovine je 12. aprila 1999. godine odbila zahtjev podnosioca prijave uz obrazloženje da je verifikaciju izvršila slobodnom voljom i dala saglasnost da se štednja prenese na Jedinstveni račun građana kod Zavoda.

662. Uprkos izričitom traženju Komisije od 3. februara 2005. godine, podnosilac prijave nije dostavila kopiju štedne knjižice.

189. Predmet broj CH/99/3037, Sulejman HADŽIAHMETOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

663. Prijava je podnesena Domu 21. oktobra i registrovana 25. oktobra 1999. godine.

664. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 17.941,1285 DEM.

665. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

190. Predmet broj CH/99/3043, Blažo ĆIPOVIĆ protiv Federacije Bosne i Hercegovine

666. Prijava je podnesena Domu 22. oktobra i registrovana 25. oktobra 1999. godine.

667. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 160,68 USD i 7.271,42 DEM.

668. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

669. Dopisom od 8. februara 2005. godine, podnosilac prijave je obavijestio Komisiju da je sva svoja potraživanja po osnovu stare devizne štednje prebacio na drugog nosioca stare devizne štednje, što je potvrđeno Izvodom sa jedinstvenog računa građana od 23. septembra 2003. godine.

191. Predmet broj CH/99/3045, Halima ĆIPOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

670. Prijava je podnesena Domu 22. oktobra i registrovana 25. oktobra 1999. godine.

671. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 3.079,94 DEM.

672. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

192. Predmet broj CH/99/3057, Desanka MILETIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

673. Prijava je podnesena Domu 25. oktobra i registrovana 26. oktobra 1999. godine.

674. Podnosilac prijave postavlja zahtjev za povrat devizne štednje njenog umrlog supruga.

675. Suprug podnosioca prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i kod Jugobanke Sarajevo. Čini se da je iznos njegovog pologa kod Privredne banke 8.381,71 DEM, a kod Jugobanke 21.398.9879 DEM i 17.056,4524 DEM.

676. Rješenjem o nasljeđivanju Općinskog suda I u Sarajevu broj 0-609/82, od 4. juna 1982. godine, podnosilac prijave se proglašava zakonskim nasljednikom drugog nasljednog reda, sa dijelom 1/1.

677. Podnosilac prijave je 8. februara 2005. godine obavijestila Komisiju da je dio stare devizne štednju u iznosu od 1.401,87 KM iskoristila u procesu privatizacije za otkup stana, tako da je preostali iznos njenog potraživanja 46.050,15 KM.

678. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

193. Predmet broj CH/99/3063, Hajrudin INSANIĆ protiv Federacije Bosne i Hercegovine

679. Prijava je podnesena Domu 26. oktobra i registrovana 27. oktobra 1999. godine.

680. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa kod Privredne banke 4.887,45 DEM.

681. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

194. Predmet broj CH/99/3066, Mirjana OVČINA protiv Federacije Bosne i Hercegovine

682. Prijava je podnesena Domu 26. oktobra i registrovana 27. oktobra 1999. godine.

683. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa kod Privredne banke 10.188,66 DEM, a kod Jugobanke 2668,18 USD, 4.072,93 CHF i 18.134,38 ATS. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 26.348,17 KM.

684. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

195. Predmet broj CH/99/3068, Munevera KAPIDŽIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

685. Prijava je podnesena Domu 27. oktobra i registrovana 28. oktobra 1999. godine.

686. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenog pologa 110.632,06 DEM.

687. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

196. Predmet broj CH/99/3074, Nada MIJATOVIĆ protiv Bosne i Hercegovine

688. Prijava je podnesena Domu 28. oktobra 1999. godine i registrovana istog dana.

689. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa na jednoj knjižici 367,46 DEM i na drugoj knjižici 2.168,35 DEM.

690. Podnosilac prijave se obraćala Agenciji za privatizaciju Federacije Bosne i Hercegovine sa zahtjevom za povrat stare devizne štednje.

197. Predmet broj CH/99/3076, Dušan SAVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

691. Prijava je podnesena Domu 28. oktobra i registrovana 28. oktobra 1999. godine.

692. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 14.862,69 DEM.

693. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

198. Predmet broj CH/99/3082, Radovan SIMIĆ protiv Federacije Bosne i Hercegovine

694. Prijava je podnesena Domu 29. oktobra i registrovana 1. novembra 1999. godine.

695. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovog pologa 3.912 USD.

696. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

199. Predmet broj CH/99/3085, Salko MAHMUZIĆ protiv Federacije Bosne i Hercegovine

697. Prijava je podnesena Domu 29. oktobra i registrovana 1. novembra 1999. godine.

698. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugoslovenske izvozno kreditne banke, poslovna jedinica Tuzla. Čini se da je iznos njegovih pologa 3.216,79 DEM.

699. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

200. Predmet broj CH/99/3086, Vidosava LAZIĆ protiv Federacije Bosne i Hercegovine

700. Prijava je podnesena Domu 1. novembra i registrovana 2. novembra 1999. godine.

701. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 2.595,41 DEM.

702. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

201. Predmet broj CH/99/3089, Hajrija KAPO protiv Bosne i Hercegovine

703. Prijava je podnesena Domu 1. novembra i registrovana 2. novembra 1999. godine.

704. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 25.485,79 DEM.

705. Podnosilac prijave navodi da je član Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini, te da se pridružila kolektivnoj tužbi Udruženja pred Sudom za ljudska prava u Strazburu i Sudom Bosne i Hercegovine.

202. Predmet broj CH/99/3096, Emina ŠEHOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

706. Prijava je podnesena Domu 2. novembra i registrovana 3. novembra 1999. godine.

707. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 2.108,52 KM.

708. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

203. Predmet broj CH/99/3098, Osman DŽEMALIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

709. Prijava je podnesena Domu 2. novembra i registrovana 3. novembra 1999. godine.

710. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 27.712,3 DEM.

711. Podnosilac prijave navodi da je član Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini, te da se pridružio kolektivnoj tužbi Udruženja pred Sudom za ljudska prava u Strazburu i Sudom Bosne i Hercegovine.

204. Predmet broj CH/99/3114, Veselinka KOVAČEVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

712. Prijava je podnesena Domu 5. novembra i registrovana 8. novembra 1999. godine.

713. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 16.677,65 DEM i 219.288 DEM.

714. J.K, kćerka podnosioca prijave, je 8. februara 2005. godine obavijestila Komisiju da je njena majka umrla, te da ona kao nasljednica želi nastaviti postupak pred Komisijom. U prilogu pisma je dostavila rješenje o nasljeđivanju Općinskog suda u Sarajevu, broj O-5076/04 od 14. decembra 2004. godine, kojim se ona proglašava zakonskom nasljednicom prvog nasljednog reda

iza smrti podnosioca prijave, sa dijelom 1/2. Kćerka podnosioca prijave je dostavila kopiju navedenog rješenja o nasljeđivanju i izvod iz matične knjige umrlih.

715. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

205. Predmet broj CH/99/3117, Marija TRUMIĆ–KISIĆ protiv Bosne i Hercegovine

716. Prijava je podnesena Domu 5. novembra i registrovana 8. novembra 1999. godine.

717. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 82,20 ATS, 18,56 ITL, 11,63 CHF, 6,82 BEL, 4.208,20 DEM, 0,39 GBP i 132,08 USD.

718. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

206. Predmet broj CH/99/3118, Čedomir KISIĆ protiv Bosne i Hercegovine

719. Prijava je podnesena Domu 5. novembra i registrovana 8. novembra 1999. godine.

720. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 239,78 FRF, 131,71 CHF i 312,76 DEM.

721. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

207. Predmet broj CH/99/3122, Mladen BOJANIĆ protiv Federacije Bosne i Hercegovine

722. Prijava je podnesena Domu 5. novembra i registrovana 8. novembra 1999. godine.

723. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 7.270,52 DEM.

724. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

208. Predmet broj CH/99/3135, Helena ŠIMŠIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

725. Prijava je podnesena Domu 8. novembra i registrovana 9. novembra 1999. godine.

726. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Privredne banke Sarajevo. Čini se da je iznos njenih pologa kod Jugobanke 107,57 DEM i 355.249,18 ITL, a kod Privredne banke 4.260,34 DEM, 1.201,04 USD i 28.426,89 ATS. Prema izvodu sa Jedinstvenog računa građana Zavoda od 9. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 10.948,28 KM.

727. Podnosilac prijave je član Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini, te se pridružila kolektivnoj tužbi pred Evropskim sudom za ljudska prava.

209. Predmet broj CH/99/3137, Refija HAJDAR protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

728. Prijava je podnesena Domu 9. novembra i registrovana 11. novembra 1999. godine.

729. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 21.811,92 DEM. Po izvodu sa jedinstvenog računa građana Federacije Bosne i Hercegovine od 2. maja 1999. godine, iznos sredstava stare devizne štednje podnosioca prijave je 22.067,12 KM.

730. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

210. Predmet broj CH/99/3138, Servet KORKUT protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

731. Prijava je podnesena Domu 9. novembra i registrovana 11. novembra 1999. godine.

732. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 2.083,34 DM na jednoj knjižici, na drugoj knjižici 9.073,51 CHF, te na trećoj knjižici 6.896,94 DM, 2.436,02 USD i 805,62 CHF.

733. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

211. Predmet broj CH/99/3140, Milojka MUČIBABIĆ protiv Bosne i Hercegovine

734. Prijava je podnesena Domu 9. novembra i registrovana 11. novembra 1999. godine.

735. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa kod Privredne banke 1.600 DEM.

736. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

212. Predmet broj CH/99/3146, Krunoslav MAJER protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

737. Prijava je podnesena Domu 10. novembra i registrovana 11. novembra 1999. godine.

738. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 2.029 DEM, 203,55 USD i 3.553,65 CHF.

739. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje. Po izvodu sa jedinstvenog računa građana Federacije Bosne i Hercegovine od 12. oktobra 1999. godine, iznos sredstava stare devizne štednje podnosioca prijave je 6.398,86 KM.

213. Predmet broj CH/99/3157, Ivona ŠOŠIĆ protiv Bosne i Hercegovine

740. Prijava je podnesena Domu 11. novembra i registrovana 12. novembra 1999. godine.

741. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 4. 591,77 DEM, 618,33 USD i 1.722,93 ATS. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 5.956,52 KM.

742. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

214. Predmet broj CH/99/3158, Senka ŠOŠIĆ protiv Bosne i Hercegovine

743. Prijava je podnesena Domu 11. novembra i registrovana 12. novembra 1999. godine.

744. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 560,30 DEM, 107,10 USD i 4,61 ATS i 24.959,15 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 16. septembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 26.156,61 KM.

745. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

215. Predmet broj CH/99/3159, Ivan ŠOŠIĆ protiv Bosne i Hercegovine

746. Prijava je podnesena Domu 11. novembra i registrovana 12. novembra 1999. godine.

747. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 8.342,17 DEM, 280,70 USD i 50,15 ATS. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 8.877,91 KM.

748. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

216. Predmet broj CH/99/3167, Ilija ĆORIĆ protiv Federacije Bosne i Hercegovine

749. Prijava je podnesena Domu 12. novembra 1999. godine i registrovana istog dana.

750. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 1.915 DM i 4.673,46 USD.

751. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

217. Predmet broj CH/99/3176, Vedat PAŠIĆ protiv Bosne i Hercegovine

752. Prijava je podnesena Domu 16. novembra i registrovana 17. novembra 1999. godine.

753. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Podnosilac prijave nije dostavio kopiju štedne knjižice. Prema izvodu sa računa Zavoda, čini se da je iznos njegovih pologa 12.453,48 DEM.

754. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

755. Uprkos izričitom traženju Komisije od 3. februara 2005. godine, podnosilac prijave nije dostavio kopiju štednje knjižice.

218. Predmet broj CH/99/3177, Nejra PAŠIĆ protiv Bosne i Hercegovine

756. Prijava je podnesena Domu 16. novembra i registrovana 17. novembra 1999. godine.

757. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Podnosilac prijave nije dostavila kopiju štedne knjižice. Prema izvodu sa računa Zavoda, čini se da je iznos njenih pologa 2.311,55 DEM.

758. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

759. Uprkos izričitom traženju Komisije od 3. februara 2005. godine, podnosilac prijave nije dostavila kopiju štednje knjižice.

219. Predmet broj CH/99/3178, Enver HAVERIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

760. Prijava je podnesena Domu 16. novembra i registrovana 17. novembra 1999. godine.

761. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Privredne banke Sarajevo. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. aprila 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 59.393,73 KM.

762. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

220. Predmet broj CH/99/3180, Bogdan BOŽOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

763. Prijava je podnesena Domu 17. novembra i registrovana 18. novembra 1999. godine.

764. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 7.803,52 DM, 1.740,08 USD, 127,80 CHF i 226,86 LSTG. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 5. marta 1998. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 11.448,57 KM.

765. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

221. Predmet broj CH/99/3182, Dženana KORJENIĆ protiv Bosne i Hercegovine

766. Prijava je podnesena Domu 18. novembra i registrovana 18. novembra 1999. godine.

767. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 6.875,86 DEM i 954,96 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 29. decembra 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 8.515,35 KM.

768. Podnosilac prijave navodi da je član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine koje je podnijelo tužbu pred Evropskim sudom za ljudska prava u Strazburu, radi povrata devizne štednje.

222. Predmet broj CH/99/3183, Nadežda DAVIDOVIĆ protiv Bosne i Hercegovine

769. Prijava je podnesena Domu 18. novembra 1999. godine i registrovana istog dana.

770. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 13.228,43 DEM i 6.246,88 USD.

771. Podnosilac prijave navodi da je dio svoje devizne štednje u iznosu od 2.798 DEM iskoristila u procesu privatizacije. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 1. februara 2000. godine, preostalo potraživanje podnosioca prijave po osnovu stare devizne štednje je 20.920,96 KM.

772. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

223. Predmet broj CH/99/3184, Sofija POPARA–ZAJOVIĆ protiv Bosne i Hercegovine

773. Prijava je podnesena Domu 18. novembra 1999. godine i registrovana istog dana.

774. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa kod Jugobanke 452,72 CAD, 9.098,19 DEM i 273,40 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 16. septembra 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 10.261,28 KM.

775. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

224. Predmet broj CH/99/3185, Martin RADMAN protiv Bosne i Hercegovine i Fedracije Bosne i Hercegovine

776. Prijava je podnesena Domu 18. novembra 1999. godine i registrovana istog dana.

777. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 1.741,06 DEM, 11.634,20 USD i 126,42 ATS na jednoj i 168,23 USD na drugoj knjižici. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 6. marta 2000. godine, ukupno potraživanja podnosioca prijave po osnovu stare devizne štednje iznosi 21.407,77 KM.

778. Podnosilac prijave navodi da je član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine koje ga zastupa pred nadležnim organima u postupcima povrata devizne štednje.

225. Predmet broj CH/99/3188, Pero ČIRKOVIĆ protiv Fedracije Bosne i Hercegovine

779. Prijava je podnesena Domu 18. novembra 1999. godine i registrovana istog dana.

780. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa na jednoj štednoj knjižici 8.500,00 CHF, a na drugoj knjižici 8.802,67 CHF.

781. Podnosilac prijave se obraćao Ombudsmenu Federacije Bosne i Hercegovine, ured u Tuzli. Ombudsman je donio odluku broj: T:1017/99 – II, od 30. avgusta 1999. godine, kojom se podnosilac prijave upućuju da podnese prijavu Domu.

226. Predmet broj CH/99/3189, Paša OSMIĆ protiv Bosne i Hercegovine

782. Prijava je podnesena Domu 18. novembra 1999. godine i registrovana istog dana.

783. Predmet prijave je zahtjev podnosioca prijave za povrat devizne štednje njenog umrlog supruga.

784. Suprug podnosioca prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa na jednoj knjižici 69.772,64 DEM i na drugoj knjižici 7.890,88 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 17. maja 2004. godine, ukupno potraživanja podnosioca prijave po osnovu stare devizne štednje iznosi 78.897,14 KM.

785. Rješenjem Osnovnog suda u Tuzli broj: 70/92 S.M, od 1. aprila 1992. godine, podnosilac prijave i njeno četvoro djece se proglašavaju nasljednicima iza umrlog A.O, sa dijelom od po 1/5.

786. Podnosilac prijave je podnijela zahtjev za zaštitu imovine Ombudsmenima Federacije Bosne i Hercegovine, ured u Tuzli, koji su po zahtjevu podnosioca prijave donijeli odluku broj:

T:1020/99 – II od 30. avgusta 1999. godine kojom podnosioca prijave upućuju da podnese prijavu Domu.

227. Predmet broj CH/99/3201, Mihajlo ČUČKOVIĆ protiv Bosne i Hercegovine

787. Prijava je podnesena Domu 19. novembra i registrovana 20. novembra 1999. godine.

788. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupni iznos njegovih pologa 9.958,3319 DEM.

789. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

228. Predmet broj CH/99/3202, Fatima ISAK protiv Bosne i Hercegovine

790. Prijava je podnesena Domu 19. novembra i registrovana 20. novembra 1999. godine.

791. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa na jednoj štednoj knjižici 1.589,27 DEM,140,35 CHF i 137,30 USD, na drugoj štednoj knjižici 49.761,55 ITL, 3.591,99 ATS i 77,70 CAD i na trećoj knjižici 27.516,53 DEM i 9.058,83 DEM.

792. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

229. Predmet broj CH/99/3203, Sabaha ISAK protiv Bosne i Hercegovine

793. Prijava je podnesena Domu 19. novembra i registrovana 20. novembra 1999. godine.

794. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Privredne banke Sarajevo. Čini se da je iznos njenih pologa kod Jugobanke na jednom računu 3.873,46 DEM i 31,08 ATS, na drugom računu 11,48 DEM i 2.188,60 USD i na trećem računu 10.816,37 USD, a kod Privredne banke 3.215,62 DEM, 653,57 USD, 31.439,57 ITL, 4.866,51 ATS i 29,68 CAD.

795. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

230. Predmet broj CH/99/3206, Ivan MILANOVSKI protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

796. Prijava je podnesena Domu 22. novembra i registrovana 23. novembra 1999. godine.

797. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 374,02 DEM i 431,42 NLG.

798. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

231. Predmet broj CH/99/3208, Mario JARANOVIĆ protiv Bosne i Hercegovine

799. Prijava je podnesena Domu 22. novembra i registrovana 23. novembra 1999. godine.

800. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 1.315,77 DEM.

801. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

232. Predmet broj CH/99/3209, Žana JARANOVIĆ protiv Bosne i Hercegovine

802. Prijava je podnesena Domu 22. novembra i registrovana 23. novembra 1999. godine.

803. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 1.705,54 DEM.

804. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

233. Predmet broj CH/99/3210, Marija JARANOVIĆ protiv Bosne i Hercegovine

805. Prijava je podnesena Domu 22. novembra i registrovana 23. novembra 1999. godine.

806. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 6.573,96 DEM.

807. M.J, brat podnosioca prijave, je 8. februara 2005. godine obavijestio Komisiju da je podnosilac prijave umrla, te da on želi da nastavi postupak pred Komisijom. U prilogu pisma je dostavio rješenje o nasljeđivanju Osnovnog suda u Jajcu, broj: O.205/92, od 25. marta 1992. godine, kojim se on proglašava zakonskim nasljednikom drugog nasljednog reda, iza smrti podnosioca prijave, s dijelom 1/1.

234. Predmet broj CH/99/3211, Senka VALJEVAC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

808. Prijava je podnesena Domu 22. novembra i registrovana 23. novembra 1999. godine.

809. Podnosilac prijave je maloljetna, zastupana po majci, A.V., na čije ime su polagana sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos pologa podnosioca prijave 1.801,28 DEM.

810. Zastupnik podnosioca prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

235. Predmet broj CH/99/3215, Ivan DUSPARA protiv Bosne i Hercegovine

811. Prijava je podnesena Domu 23. novembra 1999. godine i registrovana istog dana.

812. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 6.790,21 DEM.

813. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

236. Predmet broj CH/99/3220, Sakib VRABAC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

814. Prijava je podnesena Domu 23. novembra i registrovana 24. novembra 1999. godine.

815. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 12.781,81 DEM i 3.550,99 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 8.805,91 KM.

816. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

237. Predmet broj CH/99/3221, Vera DRINOVAC protiv Bosne i Hercegovine

817. Prijava je podnesena Domu 24. novembra 1999. godine i registrovana istog dana.

818. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 31.086,60 KM.

819. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

238. Predmet broj CH/99/3223, Munira SADIKOVIĆ protiv Bosne i Hercegovine

820. Prijava je podnesena Domu 24. novembra 1999. godine i registrovana istog dana.

821. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa na jednoj knjižici 1.117,08 DEM, 3.713,80 ITL, 1.369,77 ATS i 47,92 USD, na drugoj knjižici 17,56 CAD, 60,54 USD, 961,91 ATS i 2.528,75 DEM i na trećoj knjižici 6.660,43 DEM.

822. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

239. Predmet broj CH/99/3228, Hamed VELAGIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

823. Prijava je podnesena Domu 24. novembra 1999. godine i registrovana istog dana.

824. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 18. februara 2005. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 26.252,86 KM.

825. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

240. Predmet broj CH/99/3233, Drago JARANOVIĆ Bosne i Hercegovine

826. Prijava je podnesena Domu 26. novembra 1999. godine i registrovana istog dana.

827. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 2.560,87 DEM.

828. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

241. Predmet broj CH/99/3239, Ljubica JARANOVIĆ protiv Bosne i Hercegovine

829. Prijava je podnesena Domu 29. novembra i registrovana 30. novembra 1999. godine.

830. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 3.526,85 DEM.

831. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

242. Predmet broj CH/99/3240, Petar PETRONIO protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

832. Prijava je podnesena Domu 29. novembra i registrovana 30. novembra 1999. godine.

833. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 14.530,61 DEM.

834. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 21. oktobra 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 14.056,9 KM.

835. Podnosilac prijave navodi da se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

243. Predmet broj CH/99/3242, Novak POTPARA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

836. Prijava je podnesena Domu 29. novembra i registrovana 30. novembra 1999. godine.

837. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 29.797,50 DEM.

838. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

244. Predmet broj CH/99/3243, Sida FINCI-PAPO protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

839. Prijava je podnesena Domu 29. novembra i registrovana 30. novembra 1999. godine.

840. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 29.676,17 DEM.

841. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

245. Predmet broj CH/99/3244, Iso PAPO protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

842. Prijava je podnesena Domu 29. novembra i registrovana 30. novembra 1999. godine.

843. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 5.203,70 DEM.

844. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

246. Predmet broj CH/99/3247, Ismet ALIČKOVIĆ protiv Bosne i Hercegovine

845. Prijava je podnesena Domu 29. novembra i registrovana 30. novembra 1999. godine.

846. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 8. 629,99 DEM i 877,91 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 16. septembra 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 10.160,53 KM. Podnosilac prijave navodi da je njegova devizna štednja konvertirana u KM bez njegovog znanja i saglasnosti i da je pretvorena u certifikate.

847. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

247. Predmet broj CH/99/3251, Savka TEŠIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

848. Prijava je podnesena Domu 30. novembra i registrovana 1. decembra 1999. godine.

849. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 1.612,78 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 25. aprila 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 1.624,60 KM.

850. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

248. Predmet broj CH/99/3253, Ostoja NINIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

851. Prijava je podnesena Domu 30. novembra i registrovana 1. decembra 1999. godine.

852. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 3.973,03 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 4.019,44 KM.

853. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

249. Predmet broj CH/99/3255, Kenan POROBIĆ protiv Bosne i Hercegovine

854. Prijava je podnesena Domu 30. novembra i registrovana 1. decembra 1999. godine.

855. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 616,12 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 601,54 KM.

856. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

250. Predmet broj CH/99/3260, Kadro ATIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

857. Prijava je podnesena Domu 30. novembra i registrovana 1. decembra 1999. godine.

858. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 6.173,9 DEM i 108,56 (u kopiji devizne knjižice nije označena valuta).

859. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

251. Predmet broj CH/99/3264, Ramiza LJUBOVIĆ protiv Bosne i Hercegovine

860. Prijava je podnesena Domu 1. decembra i registrovana 6. decembra 1999. godine.

861. Podnosilac je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i kod Jugobanke Sarajevo. Iznos njenih pologa kod Privredne banke je 8.524,17 USD, a kod Jugobanke 3.319,15 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje prema Privrednoj banci Sarajevo iznosi 14.181,07 KM a prema Jugobanci 5.644,80 KM.

862. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

252. Predmet broj CH/99/3265, Ibrahim KORO protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

863. Prijava je podnesena Domu 1. decembra i registrovana 6. decembra 1999. godine.

864. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 4.409,14 DEM.

865. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

253. Predmet broj CH/99/3266, Samija KORO protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

866. Prijava je podnesena Domu 1. decembra i registrovana 6. decembra 1999. godine.

867. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 5.013,7 DEM.

868. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

254. Predmet broj CH/99/3267, Obrad RADLOVIĆ protiv Federacije Bosne i Hercegovine

869. Prijava je podnesena Domu 1. decembra i registrovana 6. decembra 1999. godine.

870. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo i Privredne banke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke na jednoj knjižici 255,88 CAD, 34,25 ATS, 106,19 USD, 34,07 DEM i 3,46 ŠFRS dok na druge dvije nije jasno vidljiv. Iznos pologa kod Privredne banke je 3,86 USD i 9,46 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 10. februara 2005. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 2.700,17 KM.

871. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

255. Predmet broj CH/99/3271, Seadeta JANJIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

872. Prijava je podnesena Domu 2. decembra i registrovana 6. decembra 1999. godine.

873. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa na tri knjižice 7.689,16 DEM, 23.332,56 DEM i 19.938,11 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 11. marta 2004. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 33.118,11 KM.

874. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

256. Predmet broj CH/99/3272, Vera ŠUNJIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

875. Prijava je podnesena Domu 2. decembra i registrovana 6. decembra 1999. godine.

876. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 201.210,77 DEM i 13.952,11 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 26. februara 2004. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 206.717,17 KM.

877. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

257. Predmet broj CH/99/3275, Jakub MAHMUTOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

878. Prijava je podnesena Domu 2. decembra i registrovana 6. decembra 1999. godine.

879. Podnosilac prijave navodi da je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 31. avgusta 2004. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 58.181,66 KM.

880. Podnosilac prijave navodi da je pokrenuo postupak "pred domaćim sudom".

258. Predmet broj CH/99/3276, Ferida VRAŽALICA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

881. Prijava je podnesena Domu 3. decembra i registrovana 6. decembra 1999. godine.

882. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 10.160,85 DEM.

883. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

259. Predmet broj CH/99/3277, Sabahudin VRAŽALICA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

884. Prijava je podnesena Domu 3. decembra i registrovana 6. decembra 1999. godine.

885. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 9.983,44 USD.

886. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

260. Predmet broj CH/99/3281, Salih ALIREJSOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

887. Prijava je podnesena 3. decembra i registrovana 6. decembra 1999. godine.

888. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 4.525,9034 DEM.

889. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

261. Predmet broj CH/99/3282, Reuf BEĆIROVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

890. Prijava je podnesena 3. decembra i registrovana 6. decembra 1999. godine.

891. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 7.147,2825 DEM.

892. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

262. Predmet broj CH/99/3285, Fevzija BEĆIROVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

893. Prijava je podnesena 3. decembra i registrovana 6. decembra 1999. godine.

894. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 980,8047 DEM.

895. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

263. Predmet broj CH/99/3292, Ž.Š. protiv Federacije Bosne i Hercegovine

896. Prijava je podnesena 3. decembra i registrovana 6. decembra 1999. godine.

897. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 22.718,42 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 18. novembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 23.173,77 KM.

898. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

264. Predmet broj CH/99/3298 Muhamed ATIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

899. Prijava je podnesena 6. decembra i registrovana 7. decembra 1999. godine.

900. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i kod Tuzlanske banke. Čini se da je ukupan iznos pologa kod Privredne banke 8.630,19 DEM, a kod Tuzlanske banke 902,75 DEM.

901. Podnosilac prijave navodi da mu je 21. jula 1994. godine Privredna banka odobrila isplatu 50 DEM zbog bolesti, ali da poslije toga više nije mogao podići svoj novac.

902. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

265. Predmet broj CH/99/3307, Spomenka ALIREJSOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

903. Prijava je podnesena 8. decembra i registrovana 10. decembra 1999. godine.

904. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Jugobanka je 26. marta 1998. godine izdala izvod sa deviznog štednog računa podnosioca prijave na ukupan iznos od 2.941,9843 DEM, tako što je iznose izražene u USD

konvertovala u DEM. Podnosilac prijave se žali da je banka izvršila konverziju USD u DEM po nepovoljnom kursu zbog čega je u izvodu evidentiran znatno niži iznos njene devizne ušteđevine.

905. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 1. maja 1999. godine, potraživanje podnosioca prijave po osnovu devizne štednje iznosi 2.980,31 KM.

906. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

266. Predmet broj CH/99/3308, Enver ALIREJSOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

907. Prijava je podnesena 8. decembra i registrovana 10. decembra 1999. godine.

908. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Jugobanka je 26. marta 1998. godine izdala izvod sa deviznog štednog računa podnosioca prijave na ukupan iznos od 7.178,3359 DEM, tako što je iznose izražene u USD i CHF konvertovala u DEM. Podnosilac prijave se žali da je znatno oštećen konverzijom USD i CHF u DEM jer je izvršena po nepovoljnom kursu.

909. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 1. maja 1999. godine potraživanje podnosioca prijave po osnovu stare devizne ušteđevine iznosi 7.262,28 KM.

910. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

267. Predmet broj CH/99/3311, Kornelija ĐUMIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

911. Prijava je podnesena 8. decembra i registrovana 10. decembra 1999. godine.

912. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 13.063,00 DEM i 1.000 USD na VISA čekovima. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 16. septembra 1999. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 13.166,33 KM.

913. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

268. Predmet broj CH/99/3312, Milan LATINOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

914. Prijava je podnesena 8. decembra i registrovana 10. decembra 1999. godine.

915. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa na jednoj knjižici 10.299,636 DEM i na drugoj knjižici 801,89 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 11.242,56 KM.

916. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

269. Predmet broj CH/99/3313, Erna LATINOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

917. Prijava je podnesena 8. decembra i registrovana 10. decembra 1999. godine.

918. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 742,0448 DEM na jednoj i 4.672,9323 DEM na drugoj knjižici. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 5.461,91 KM.

919. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

270. Predmet broj CH/99/3315, Marko RODIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

920. Prijava je podnesena 8. decembra i registrovana 10. decembra 1999. godine.

921. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 3.486,08 DEM, 1.256,10 USD, 123,93 GBP i 15,41 CHF.

922. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

271. Predmet broj CH/99/3318, Džemal DAUTOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

923. Prijava je podnesena 8. decembra i registrovana 10. decembra 1999. godine.

924. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Prema izvodu sa Jedinstvenog računa građana Zavoda od 29. aprila 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 21.294,69 KM.

925. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

272. Predmet broj CH/99/3319, Mitar PETKOVIĆ protiv Federacije Bosne i Hercegovine

926. Prijava je podnesena 8. decembra i registrovana 10. decembra 1999. godine.

927. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo i kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa kod Privredne banke 1.799,23 DEM, a kod Jugobanke 4.047,66 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 19. septembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 5.892,60 KM.

928. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

273. Predmet broj CH/99/3320, Snežana PETKOVIĆ protiv Federacije Bosne i Hercegovine

929. Prijava je podnesena 8. decembra i registrovana 10. decembra 1999. godine.

930. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo i kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa kod Privredne banke 3.706,08 DEM, a kod Jugobanke 1.542,87 DEM, 219,78 CHF i 113,66 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 1. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 5.720,80 KM.

931. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

274. Predmet broj CH/99/3321, Milka PETKOVIĆ protiv Federacije Bosne i Hercegovine

932. Prijava je podnesena 8. decembra i registrovana 10. decembra 1999. godine.

933. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa 1.612,42 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 17. septembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 1.628,01 KM.

934. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

275. Predmet broj CH/99/3323, Zlatko LANGOF protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

935. Prijava je podnesena 9. decembra i registrovana 10. decembra 1999. godine.

936. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 23.235,91 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 16. septembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 23.452,09 KM.

937. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

276. Predmet broj CH/99/3324, Goran ŠOŠIĆ protiv Bosne i Hercegovine

938. Prijava je podnesena 9. decembra i registrovana 10. decembra 1999. godine.

939. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 5.020,8083 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 16. septembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 5.110,73 KM.

940. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

277. Predmet broj CH/99/3326, Bencion PINTO protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

941. Prijava je podnesena 9. decembra i registrovana 10. decembra 1999. godine.

942. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo i kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa kod Privredne banke 58.865,14 DEM, a kod Jugobanke 3.101,6207 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 62.852,99 KM.

943. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

278. Predmet broj CH/99/3328, Medin ĆUDIĆ protiv Bosne i Hercegovine

944. Prijava je podnesena 9. decembra i registrovana 10. decembra 1999. godine.

945. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 28.948,15 DEM.

946. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

279. Predmet broj CH/99/3334, Bogomir BARBALIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

947. Prijava je podnesena 10. decembra i registrovana 11. decembra 1999. godine.

948. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 10.696,3082 DEM.

949. Podnosilac prijave navodi da je putem Udruženja za zaštitu deviznih štediša Bosne i Hercegovine pokrenuo postupak za povrat stare devizne štednje.

280. Predmet broj CH/99/3335, Idriz ZAHIROVIĆ protiv Federacije Bosne i Hercegovine

950. Prijava je podnesena 2. decembra i registrovana 15. decembra 1999. godine.

951. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa na jednoj knjižici 32.219,90 DEM i na drugoj 4.518,01 DEM.

952. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

281. Predmet broj CH/99/3337, Koviljka PETKOVIĆ protiv Federacije Bosne i Hercegovine

953. Prijava je podnesena 13. decembra i registrovana 15. decembra 1999. godine.

954. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa 1.314,67 DEM i 65,55 CHF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 17. septembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 1.397,89 KM.

955. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

282. Predmet broj CH/99/3338, Milenko PETKOVIĆ protiv Federacije Bosne i Hercegovine

956. Prijava je podnesena 13. decembra i registrovana 15. decembra 1999. godine.

957. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 13.122,04 DEM i 587,92 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 17. septembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 14.198,00 KM.

958. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

283. Predmet broj CH/99/3340, Ferid MEHANOVIĆ protiv Federacije Bosne i Hercegovine

959. Prijava je podnesena 13. decembra i registrovana 15. decembra 1999. godine.

960. Podnosilac prijave je polagao sredstva u YU dinarima na deviznu štednu knjižicu kod Poštanske štedionice Tuzla. Čini se da je ukupan iznos njegovih pologa 40.346,20 YU dinara.

961. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

284. Predmet broj CH/99/3344, D.P. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

962. Prijava je podnesena 13. decembra i registrovana 15. decembra 1999. godine.

963. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa na jednoj knjižici 44.197,9134 DEM i na drugoj 6,369,3111 DEM.

964. Podnosilac prijave navodi da je dio svoje devizne štednje iskoristila u procesu privatizacije za otkup stana, tako da je preostali dio devizne štednje u iznosu od 14.855,69 DEM ostao neiskorišten.

965. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 19. novembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 14.855,69 KM.

966. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

285. Predmet broj CH/99/3347, Sead TUZLIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

967. Prijava je podnesena 14. decembra i registrovana 15. decembra 1999. godine.

968. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovog pologa 10.945,2994 DEM na jednoj knjižici i na drugoj 1.545,8981 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 26. novembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 12.664,11 KM.

969. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

286. Predmet broj CH/99/3348, Razija KOSOVAC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

970. Prijava je podnesena Domu 14. decembra i registrovana 15. decembra 1999. godine.

971. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa 2.988,62 DEM, 2.450,22 FRF, 32,17 CHF, 26,90 ATS i 55,81 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 3.842,03 KM.

972. Podnosilac prijave navodi da je kao član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine podnijela tužbu Evropskom sudu za zaštitu ljudskih prava u Strazburu.

287. Predmet broj CH/99/3349, Rijad KOSOVAC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

973. Prijava je podnesena Domu 14. decembra i registrovana 15. decembra 1999. godine.

974. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 2.588,62 DEM, 2.450,22 FRF, 32,17 CHF,

26,90 ATS i 55,81 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 3.442,03 KM.

975. Podnosilac prijave navodi da je kao član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine podnio tužbu Evropskom sudu za zaštitu ljudskih prava u Strazburu.

288. Predmet broj CH/99/3350, Ivica KORDIĆ protiv Federacije Bosne i Hercegovine

976. Prijava je podnesena Domu 14. decembra i registrovana 15. decembra 1999. godine.

977. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 3.847,02 DEM, 0,44 FRF, 17,19 ITL, 201,55 CHF, i 2.068,03 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 7.539,92 KM.

978. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

289. Predmet broj CH/99/3351, Vida Marija KORDIĆ protiv Federacije Bosne i Hercegovine

979. Prijava je podnesena Domu 14. decembra i registrovana 15. decembra 1999. godine.

980. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 13.276,84 DEM, 36.664,31 ITL, i 345,46 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 13.997,99 KM.

981. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

290. Predmet broj CH/99/3358, Marko ŠKORIĆ protiv Bosne i Hercegovine

982. Prijava je podnesena Domu 15. decembra i registrovana 16. decembra 1999. godine.

983. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa na jednoj knjižici 4.630,51 USD, a na drugoj 8.265,63 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 29. avgusta 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 21.461,4 KM.

984. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

291. Predmet broj CH/99/3364, Mediha KALEM protiv Bosne i Hercegovine

985. Prijava je podnesena Domu 16. decembra i registrovana 17. decembra 1999. godine.

986. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 21.482,48 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 11. maja 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 21.772,71 KM.

987. Podnosilac prijave navodi da je kao član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine podnijela tužbu Evropskom sudu za zaštitu ljudskih prava u Strazburu.

292. Predmet broj CH/99/3377, Žarko DAMJANAC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

988. Prijava je podnesena Domu 21. decembra 1999. godine i registrovana istog dana.

989. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 5.800 DEM i 1.540,83 CHF.

990. Podnosilac prijave navodi da je kao član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine podnio tužbu Evropskom sudu za zaštitu ljudskih prava u Strazburu.

293. Predmet broj CH/99/3379, Anto STJEPIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

991. Prijava je podnesena Domu 21. decembra 1999. godine i registrovana istog dana.

992. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 485.180,59 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 15. maja 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 485.180,6 KM.

993. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

294. Predmet broj CH/99/3380, Mika SOFIJANOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

994. Prijava je podnesena Domu 21. decembra 1999. godine i registrovana istog dana.

995. Predmet prijave je zahtjev podnosioca prijave za povrat devizne štednje njenog umrlog supruga S.S.

996. S.S. je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 9.627,77 DEM.

997. Rješenjem Osnovnog suda I u Sarajevu broj: 0:970/95, od 21. novembra 1995. godine, podnosilac prijave i njena kćerka S.S. se proglašavaju nasljednicima prvog nasljednog reda, iza smrti S.S, sa nasljedničkim dijelom od po 1/2.

998. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 4.851,05 KM.

999. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

295. Predmet broj CH/99/3381, Ante LOZANČIĆ protiv Federacije Bosne i Hercegovine

1000. Prijava je podnesena Domu 22. decembra 1999. godine i registrovana istog dana.

1001. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 4.735, 77 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 7.915,92 KM.

1002. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

296. Predmet broj CH/99/3382, Matilda FINCI protiv Bosne i Hercegovine

1003. Prijava je podnesena Domu 22. decembra 1999. godine i registrovana istog dana.

1004. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 3.599,59 DEM, 6.381,59 ATS, 78,83 DKR, 5.725,63 FRF, 5.429,25 SKR, 1.471,50 CHF, 141,69 GBP i 1.975,95 USD.

1005. Podnosilac prijave navodi da je kao član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine podnijela tužbu Evropskom sudu za zaštitu ljudskih prava u Strazburu.

297. Predmet broj CH/99/3383, Erna ESTER-FINCI protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

1006. Prijava je podnesena Domu 22. decembra 1999. godine i registrovana istog dana.

1007. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 18.049,72 DEM, 4.072,93 SFRS, 18.134,38 ATS, 1.436,56 SKR, 384.289,68 LIT i 2.668,18 USD.

1008. M.F, kćerka podnosioca prijave, je 9. februara 2005. godine obavijestila Komisiju da je podnosilac prijave umrla, te da ona kao njena zakonska nasljednica želi da nastavi postupak pred Komisijom. U prilogu pisma je dostavila rješenje o nasljeđivanju Općinskog suda u Sarajevu broj: O-2090/04, od 16. juna 2004. godine, kojim se ona proglašava zakonskom nasljednicom prvog nasljednog reda, iza smrti podnosioca prijave, sa dijelom 1/2.

1009. Podnosilac prijave je bila član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine.

298. Predmet broj CH/99/3386, Anka ŽIGIĆ protiv Bosne i Hercegovine

1010. Prijava je podnesena Domu 22. decembra 1999. godine i registrovana istog dana.

1011. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 30,22 DEM i 8.674,46 USD.

1012. Podnosilac prijave navodi da je kao član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine podnijela tužbu Evropskom sudu za zaštitu ljudskih prava u Strazburu.

299. Predmet broj CH/99/3400, Huskić HUSO protiv Bosne i Hercegovine

1013. Prijava je podnesena Domu 22. decembra 1999. godine i registrovana istog dana.

1014. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 5.244,40 CHF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 1. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 8.865,89 KM.

1015. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

300. Predmet broj CH/99/3421, M.M. protiv Federacije Bosne i Hercegovine

1016. Prijava je podnesena Domu 27. decembra i registrovana 28. decembra 1999. godine.

1017. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 4.302,07 DEM. Prema izvodu sa

Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 4.339,16 KM.

1018. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

301. Predmet broj CH/99/3422, A.M. protiv Federacije Bosne i Hercegovine

1019. Prijava je podnesena Domu 27. decembra i registrovana 28. decembra 1999. godine.

1020. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 4.598,88 DEM i 417,27 ATS. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 4.579,33 KM.

1021. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

302. Predmet broj CH/99/3424, Mustafa AHMETBAŠIĆ protiv Bosne i Hercegovine

1022. Prijava je podnesena Domu 27. decembra i registrovana 28. decembra 1999. godine.

1023. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 1.000 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 13. decembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 1.664,26 KM.

1024. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

303. Predmet broj CH/99/3428, Bahrudin BIJEDIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

1025. Prijava je podnesena Domu 28. decembra i registrovana 30. decembra 1999. godine.

1026. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 21.501,68 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 9. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 34.977,70 KM.

1027. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

304. Predmet broj CH/99/3432, Zdenka MIŠKOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

1028. Prijava je podnesena Domu 29. decembra i registrovana 30. decembra 1999. godine.

1029. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 13.751,75 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 15. marta 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 13.855 KM.

1030. Podnosilac prijave navodi da je kao član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine podnijela tužbu Evropskom sudu za zaštitu ljudskih prava u Strazburu.

305. Predmet broj CH/99/3434, Vera VERBIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

1031. Prijava je podnesena Domu 29. decembra i registrovana 30. decembra 1999. godine.

1032. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 2. 339,46 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 12. februara 1998. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 2.676,47 KM.

1033. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

306. Predmet broj CH/99/3435, Branislav VERBIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

1034. Prijava je podnesena Domu 29. decembra i registrovana 30. decembra 1999. godine.

1035. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa na jednoj knjižici 9.332,01 DEM, na drugoj 1.347,08 DEM i na trećoj knjižici 2.545,81 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 10. februara 1998. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 14.448,27 KM.

1036. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

307. Predmet broj CH/99/3436, Perica JANJIĆ protiv Bosne i Hercegovine

1037. Prijava je podnesena Domu 29. decembra i registrovana 30. decembra 1999. godine.

1038. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 15.353,69 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 14. marta 1998. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 15.634,16 KM.

1039. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

308. Predmet broj CH/99/3439, Maja FULANOVIĆ protiv Bosne i Hercegovine

1040. Prijava je podnesena Domu 29. decembra i registrovana 30. decembra 1999. godine.

1041. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa na jednoj knjižici 3.738,52 DEM, a na drugoj 3.185,40 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 7.014,8 KM.

1042. Podnosilac prijave navodi da je kao član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine podnijela tužbu Evropskom sudu za zaštitu ljudskih prava u Strazburu.

309. Predmet broj CH/99/3442, Stjepan IVAKOVIĆ protiv Federacije Bosne i Hercegovine

1043. Prijava je podnesena Domu 29. decembra i registrovana 30. decembra 1999. godine.

1044. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa bio 47.162,26 DEM.

1045. Podnosilac prijave je 10. februara 2005. godine dostavio pismo Komisiji sa dodatnim informacijama. Navodi da je dio svoje devizne štednje u iznosu od 11,218,00 KM iskoristio u procesu privatizacije za otkup stana.

1046. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 24. novembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 36.298,77 KM.

1047. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

310. Predmet broj CH/99/3447, Milorad M. BAŠIĆ protiv Bosne i Hercegovine

1048. Prijava je podnesena Domu 29. decembra i registrovana 30. decembra 1999. godine.

1049. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 17.702,18 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. februara 1998. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 17.702,18 KM.

1050. Podnosilac prijave navodi da je kao član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine podnio tužbu Evropskom sudu za zaštitu ljudskih prava u Strazburu.

311. Predmet broj CH/99/3448, Husein JESENKOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

1051. Prijava je podnesena Domu 30. decembra 1999. godine i registrovana istog dana.

1052. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 1.308,5864 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 13. marta 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 1.325,97 KM.

1053. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

B. Usmeni i pismeni nalaz i mišljenje vještaka prof. dr. Dragoljuba Stojanova, iz odluke *Poropat i drugi.*

1054. S obzirom na značaj u rješavanju predmeta, Komisija ponavlja stav Dragoljuba Stojanova, profesora na Ekonomskom fakultetu Univerziteta u Sarajevu, u predmetu *Poropat i drugi*. Profesor dr. Stojanov je u periodu od 1993. do 1994. godine bio član Vlade Republike Bosne i Hercegovine, a u periodu od 1996. do 1997. godine i član Vlade Federacije Bosne i Hercegovine. U vrijeme donošenje odluke *Poropat i drugi,* Dom je imenovao prof. dr. Stojanova za vještaka, koji je podnio 8. oktobra 1999. godine pismeno mišljenje. Na javnoj raspravi od 7. decembra 1999. godine, prof. dr. Stojanov je saslušan u svojstvu vještaka.

(a) Pismeno mišljenje

1055. Gosp. Stojanov je potvrdio da je interes naroda u SFRJ da ulažu novac na devizne štedne račune – za koji je vlada nudila garancije – bio potican stalnim padom vrijednosti dinara. Vlada je pokušala da stabilizira državnu ekonomiju i tokom godina – posebno 1991. godine – pravo raspolaganja tom ušteđevinom bilo je znatno ograničeno i limitirano na male iznose. Međutim, štednja nije u potpunosti zamrznuta. Od 1990. godine bilo je moguće ulagati i raspolagati sa takozvanom "novom" deviznom štednjom bez ograničenja.

1056. Komercijalne banke u jugoslovenskim republikama deponovale su svoje devize kod Narodne banke Jugoslavije na dobrovoljnoj bazi i po osnovu ugovora. Za uzvrat su im davani

beskamatni krediti u dinarima koje su oni onda mogli, uz kamatu, pozajmljivati svojim klijentima. Kamate ostvarene na taj način bile su svakako veće od profita koje bi banke mogle ostvariti da su deponovale devize na račune u inostranstvu. Banke su koristile svoje dinarske kredite na teritoriji odgovarajućih republika uz direktno znanje i uključenost narodne banke republike, koja je *de facto* obezbjeđivala kredite iz svoje kvote deviza kod Narodne banke Jugoslavije. Ovo deponovanje deviza kod Narodne banke bilo je inače samo *pro forma* ili knjigovodstvena transakcija. Tako je veliki dio deviza ostao kod komercijalnih banaka. Gosp. Stojanov nije znao šta se desilo sa tim novcem nakon što je Republika Bosna i Hercegovina postala nezavisna.

1057. Gosp. Stojanov je bio mišljenja da komercijalne banke u Federaciji imaju obaveze prema privatnim licima koja su uložila novac na stare devizne štedne račune. Osim toga, usvajanjem zakona koji se odnose na ovu štednju Republika Bosna i Hercegovina, Bosna i Hercegovina i Federacija Bosne i Hercegovine su također preuzele obaveze prema štedišama. Međutim, s obzirom na iznos neisplaćene stare devizne štednje – koji iznosi oko 1,8 milijardi KM (konvertibilnih maraka) u bankama Federacije – ni Federacija Bosne i Hercegovine, niti Država Bosna i Hercegovina nemaju ekonomski potencijal da isplate staru štednju štedišama. Takođe, zbog nedostatka sredstava i postojanja drugih obaveza, banke bi bankrotirale ako bi bile obavezne da isplate staru štednju. Unatoč tome, bilo bi nemoguće stornirati zahtjeve ulagača pošto bi nepovjerenje u bankarski sistem, koje bi rezultiralo, imalo ozbiljne posljedice na ukupnu domaću privredu.

1058. Međutim, rješenje koje je odabrano za stare devizne štedne račune, odnosno njihovo pretvaranje u certifikate koji bi se koristili u postupku privatizacije, postavlja nekoliko problema: time se sigurna štednja, koja je uživala povjerenje javnosti, pretvara u oblike imovine – prvo certifikate, a onda možda dionice preduzeća - čija je vrijednost nesigurna, a građani se tako prisiljavaju da postanu investitori, bez obzira da li to žele ili ne. Isto tako, ljudi bez stanarskog prava neće moći kupiti stan po sadašnjim pravilima. Dalje, oni koji su u položaju da kupe stan certifikatima neće uživati popust koji se daje onima koji plaćaju gotovinom. Ovo pokazuje da se certifikati ne tretiraju kao jednaka sredstva plaćanja u odnosu na gotovinski novac. Ograničena dvogodišnja vrijednost certifikata postavlja novi problem. S obzirom na ove i druge poteškoće i razočaravajuće rezultate sličnih programa u drugim državama u tranziciji – na primjer u Sloveniji, gdje jednostavno ne postoji nikakvo tržište na kom se certifikati mogu investirati – gosp. Stojanov smatra da je vjerovatno da imaoci certifikata neće biti u stanju da realizuju njihovu nominalnu vrijednost. Mnogi ljudi će prije prodati svoje certifikate na sekundarnom tržištu po krajnje smanjenoj cijeni.

1059. Gosp. Stojanov je zaključio da bi bilo mnogo bolje usvojiti kombinovane metode rješavanja problema deviznih štednih računa. On je sugerisao da bi svaki štediša trebao imati pravo da pretvori, po svojoj slobodnoj volji, dio svoje ušteđevine u privatizacijske certifikate. Ostatak bi trebao biti zadržan u svom starom obliku, tj. na starim računima, i mogao bi biti pokriven javnim dugom Federacije Bosne i Hercegovine. Nadalje, napominjući da u Federaciji postoji oko 470.000 štediša čiji su pojedinačni devizni ulozi 200 KM ili manje, te da ukupan iznos ovih depozita odgovara sumi od 25 miliona KM, on smatra da bi ovu "malu" štednju Federacija trebala isplatiti ulagačima. S obzirom na konvertibilnost, trebalo bi prihvatiti plaćanje u KM. Po mišljenju gosp. Stojanova, ove metode bi pomogle da se povrati povjerenje u bankarski sistem i javne institucije.

(b) Dokazi dati na javnoj raspravi

1060. U Kantonalnom sudu u Sarajevu je 7. decembra 1999. godine održana dodatna javna rasprava u predmetima *Poropat i drugi,* na kojoj je svoj nalaz i mišljenje dao i prof. dr. Stojanov. Tom prilikom, prof. dr. Stojanov je ustvrdio da se pitanje deviznih štednih računa mora rješavati zajedno sa pitanjima koja se odnose na restituciju društvene imovine, vanjski dug Bosne i Hercegovine i ekonomski razvoj zemlje. Ovako usklađeno djelovanje je neophodno pošto rješenje izabrano za jedan od problema može uticati na druge.

1061. On je dalje naveo da rizik da banke bankrotiraju ne bi bio jedini problem ako bi one morale isplatiti novac deviznim štedišama. Ako bi se isplate morale izvršiti u devizama, to bi moglo izazvati značajnu nesolventnost, a moglo bi narušiti i funkcionisanje Valutnog odbora u Bosni i Hercegovini. U svakom slučaju, dalje je teško procijeniti do koje će mjere svoja potraživanja pojedinačne štediše moći realizovati kod banaka u stečajnom postupku. Završni računi banaka često bilježe nominalnu vrijednost sredstava i potraživanja prema preduzećima. Ne može se predvidjeti da li bi se takva potraživanja banaka kod dužnika mogla realizovati i šta bi se moglo dobiti prodajom imovine banke.

1062. Gosp. Stojanov je izrazio znatnu bojazan kad je u pitanju izabrani obrazac privatizacije. Iskustva drugih zemalja u tranziciji i mišljenja brojnih stručnjaka ukazuju da će tranzicija u Bosni i Hercegovini biti težak, dugoročan proces. Problematična politička situacija u zemlji i opći posljeratni uslovi će takođe vjerovatno odložiti i komplikovati taj proces. Dalje, vrijednost privatizacijskih certifikata i raspoložive imovine u postupku privatizacije zavisi, u velikoj mjeri, od ekonomskog razvoja zemlje. Razne institucije i eksperti daju kontradiktorna predviđanja u tom pogledu. Dok Svjetska banka predviđa porast stope ukupnog društvenog prihoda od 14 posto u 2000. i 2001. godini, druge procjene predviđaju spori rast, ili čak pad ukupnog društvenog prihoda. Drugi faktor, koji utiče na vrijednost certifikata i imovine, je povjerenje javnosti. Činjenica da se certifikati prodaju na sekundarnom tržištu po veoma niskim cijenama pokazuje da ljudi ne vjeruju u taj sistem. Iz ovih razloga veoma je teško predvidjeti tržišnu vrijednost imovine koja se sada nudi ili koja će se nuditi u postupku privatizacije. U vezi sa izjavom drugog svjedoka u postupku Poropat i drugi, nominalna vrijednost ove imovine iznosi 26 milijardi DEM, a gosp. Stojanov je naglasio da ne treba miješati nominalnu i stvarnu vrijednost. Stvarna vrijednost, tj. tržišna vrijednost, će se otkriti tek u postupku privatizacije.

IV. RELEVANTNE ZAKONSKE ODREDBE

1063. Zbog rastuće nestašice deviznih sredstava i drugih ekonomskih problema u bivšoj SFRJ, podizanje novca sa starih deviznih štednih računa je bilo strogo ograničeno zakonima koji su doneseni tokom 1980-tih i početkom 1990-tih godina. Poslije oružanog sukoba u Bosni i Hercegovini, bilo je pokušaja da se kroz legislativu privatizacije riješi nedostupnost stare devizne štednje. Međutim, nakon što su pokušaji ostvarenja potraživanja po osnovu stare devizne štednje u procesu privatizacije ostali uglavnom bezuspješni, Federacija Bosne i Hercegovine je usvojila novi zakon na osnovu kojeg stara devizna štednja postaje dio unutrašnjeg duga Federacije Bosne i Hercegovine.

A. Zakoni Republike Bosne i Hercegovine i Bosne i Hercegovine

1064. Dana 11. aprila 1992. godine, nakon sticanja nezavisnosti Republike Bosne i Hercegovine, usvojena je **Uredba sa zakonskom snagom o deviznom poslovanju** iz 1992. godine ("Službeni list Republike Bosne i Hercegovine", broj 2/92). Relevantnim odredbama ove Uredbe predviđeno je sljedeće:

Član 9, u relevantnom dijelu, glasi:

> 3. Za devize na deviznim računima i deviznim štednim ulozima jamči Republika.

1065. Uredba iz 1992. godine je kasnije zamijenjena **Uredbom sa zakonskom snagom o deviznom poslovanju** iz 1994. godine ("Službeni list Republike Bosne i Hercegovine", broj 10/94; kasnije usvojena kao zakon, "Službeni list Republike Bosne i Hercegovine", broj 13/94).

Sljedeće odredbe Uredbe iz 1994. godine su relevantne:

Član 3:

> Devize se mogu koristiti samo za plaćanje prema inozemstvu osim ako ovom uredbom nije drugačije određeno.

Član 12:

> Domaća i strana fizička lica mogu devize držati na računu kod banke i slobodno ih koristiti.

Član 44:

> Devizne rezerve čine potraživanja na računima u inostranstvu, efektivni strani novac i vrijednosni papiri izdati u inozemstvu [deponovani] kod Narodne banke [Bosne i Hercegovine] i [ovlaštenih] banaka.

1066. **Odluka o ciljevima i zadacima monetarno kreditne politike**, objavljena je 9. aprila 1995. godine ("Službeni list Republike Bosne i Hercegovine", broj 11/95). Tačka 12. Odluke glasi:

> Deponovana devizna štednja građana trajno će se riješiti donošenjem zakona o javnom dugu Republike do kraja prvog polugodišta 1995. godine.

1067. Ova Odluka je kasnije izmijenjena i dopunjena sa stupanjem na snagu 2. juna 1995. godine ("Službeni list Republike Bosne i Hercegovine", broj 19/95). Izmijenjena i dopunjena tačka 12. predviđa da treba donijeti zakon o javnom dugu prije kraja septembra 1995. godine. Dalje se dodaje da, do donošenja tog zakona, Narodna banka Bosne i Hercegovine može, uz saglasnost Ministarstva finansija, isplaćivati deviznu štednju u odgovarajućem iznosu u dinarima pripadnicima Armije Republike Bosne i Hercegovine za pokrivanje troškova njihovog liječenja i liječenja članova njihovih porodica.

1068. **Odluka o ciljevima i zadacima devizne politike** donijeta je 10. aprila 1996. godine ("Službeni list Republike Bosne i Hercegovine", broj 13/96). Potvrđujući uglavnom Odluku iz 1995. godine, tačka 7. Odluke iz 1996. godine predviđala je bez posebnog određivanja datuma slijedeće:

> Devizna štednja građana deponovana kod bivše Narodne banke Jugoslavije zajedno sa kamatama na ovu štednju, rješavaće se donošenjem zakona o javnom dugu Bosne i Hercegovine, ili na drugi način u sklopu ukupne konsolidacije duga Bosne i Hercegovine zajedno sa međunarodnom zajednicom.

1069. Visoki predstavnik u Bosni i Hercegovini donio je 22. jula 1998. godine **Okvirni zakon o privatizaciji preduzeća i banaka u Bosni i Hercegovini**. On je stupio na snagu sljedećeg dana kao privremeni zakon ("Službeni list Bosne i Hercegovine“, broj 14/98). Konačno, Parlamentarna skupština Bosne i Hercegovine ga je usvojila 19. jula 1999. godine ("Službeni list Bosne i Hercegovine“, broj 12/99).

B. Odluka o ratifikaciji sporazuma o pitanjima sukcesije Socijalističke Federativne Republike Jugoslavije (“Službeni glasnik BiH”, br. 10/01)

1070. U sporazumu o sukcesiji SFRJ, Aneks C, u relevantnom dijelu, predviđa sljedeće:

Član 2, stav 3.

> […]
>
> Ostala finansijska dugovanja (SFRJ) uključuju:
>
> (a) jamstva SFRJ ili njene narodne banke Jugoslavije za štednju u čvrstoj valuti položenu kod komercijalnih banaka ili njihovih filijala u bilo kojoj državi sljednici prije datuma kojeg je ona proglasila neovisnost;
>
> […]

Član 7.

> Jamstva bivše SFRJ ili njene NBJ za štednju čvrste valute položenu kod komercijalne banke ili neke od njenih filijala u bilo kojoj državi sljednici prije datuma kada je ta država proglasila neovisnost predmet se pregovara bez odlaganja, vodeći naročito računa o potrebi zaštite štednje čvrste valute pojedinaca. Ovi pregovori će se odvijati pod pokroviteljstvom Banke za međunarodna poravnanja.

C. Zakoni Federacije Bosne i Hercegovine o privatizaciji i izmjene i dopune

1071. Osnovne pravne odredbe kojima se omogućava prenos stare devizne štednje na Jedinstveni račun građana radi korištenja u procesu privatizacije sadržane su u članovima 3, 7, 11. i 18. **Zakona o utvrđivanju i realizaciji potraživanja građana u postupku privatizacije** (u daljnjem tekstu: Zakon o potraživanjima građana), koji je stupio na snagu 28. novembra 1997. godine, a počeo se primjenjivati 27. februara 1998. godine, sa izmjenama i dopunama od 5. marta 1999. godine (“Službene novine Federacije Bosne i Hercegovine”, br. 27/97 i 8/99). Ti članovi su propisivali:

Član 3:

> Lice koje ima deviznu štednju u bankama ili poslovnim jedinicama sa sjedištem na teritoriji Federacije Bosne i Hercegovine iznad 100 KM, a bilo je državljanin bivše Socijalističke Republike Bosne i Hercegovine i na dan 31. marta 1991. godine imalo prebivalište na teritoriji koja sada pripada Federaciji Bosne i Hercegovine stiče potraživanja prema Federaciji sa stanjem na dan 31. marta 1992. godine.

> Realizacija potraživanja građana koji su na dan 31. marta 1991. godine imali državljanstvo bivše Socijalističke Republike Bosne i Hercegovine, a koji nemaju prebivalište na teritoriji Federacije, kao i drugih lica, koja imaju devizna potraživanja u bankama na teritoriji Federacije, u smislu ovog zakona, uredit će se posebnim propisom.
>
> Licima iz stava 1. ovog člana s deviznom štednjom do 100 DEM banke će na njihov zahtjev isplatiti iznos štednje.
>
> Potraživanja iz stava 3. ovog člana su isplativa nakon isteka perioda od tri mjeseca od dana primjene ovog Zakona.

Član 7:

> Potraživanja iz člana 3. ovog zakona banka prenosi na Jedinstveni račun štediše.
>
> Način prenosa potraživanja građana … čiji se računi vode u bankama kod kojih su organizacione jedinice na teritoriji Federacije prestale s radom, uredit će se posebnim propisom Federalnog ministarstva finansija.

Član 11:

> Otvaranje Jedinstvenih računa vrši se po službenoj dužnosti na osnovu Jedinstvenog matičnog broja građana-nosilaca potraživanja iz ovog zakona.
>
> Jedinstveni račun predstavlja certifikat građanina.

Član 18:

> Potraživanja sa Jedinstvenog računa mogu se koristiti u postupku privatizacije u roku od dvije godine od dana izdavanja izvoda sa Jedinstvenog računa, a nakon upisa potraživanja po pojedinim vrstama.
>
> Istekom roka iz stava 1. ovog člana, potraživanja na Jedinstvenom računu se gase.

1072. Nakon odluke Doma u predmetu *Poropat i drugi* u junu 2000. godine, Federacija je donijela razne izmjene i dopune ovih odredbi.

1073. **Zakon o izmjenama i dopunama Zakona o utvrđivanju i realizaciji potraživanja građana u procesu privatizacije** ("Službene novine Federacije Bosne i Hercegovine", broj 45/00) stupio je na snagu 2. novembra 2000. godine. Ovim Zakonom član 18. je izmijenjen i dopunjen na taj način da je nosiocu stanarskog prava iz člana 8a.[1] Zakona o prodaji stanova na kojima postoji stanarsko pravo omogućeno da može koristiti svoja potraživanja sa Jedinstvenog računa građana u roku od tri mjeseca od dana ovjere potpisa na ugovoru o kupovini pred nadležnim sudom. Izmjenama i dopunama je dodat treći stav u članu 18, koji predviđa:

> Izuzetno od odredbe st. 1. i 2. ovog člana nosioci stanarskog prava iz člana 8a. Zakona o prodaji stanova na kojima postoji stanarsko pravo ("Službene novine Federacije BiH", br. 27/97, 11/98, 22/99 i 7/00) mogu koristiti potraživanja sa Jedinstvenog računa u roku od tri mjeseca od dana ovjere potpisa na kupoprodajnom ugovoru kod nadležnog suda.

1074. Dodatne izmjene i dopune stava 1. člana 18. su stupile na snagu 8. februara 2002. godine. Tim izmjenama i dopunama opći rok za korištenje certifikata izmijenjen je sa dvije godine na četiri godine, tako da cijeli član, sa izmjenama i dopunama, glasi:

[1] Navedenim članom 8a. je regulisana kupovina napuštenih stanova od strane nosilaca stanarskih prava.

Član 18.

> Potraživanja sa Jedinstvenih računa građana mogu se upotrijebiti u procesu privatizacije u roku od četiri godine od dana izdavanja izvoda sa Jedinstvenog računa građana, nakon registracije svakog pojedinog potraživanja.
>
> Po isteku roka navedenog u stavu 1. ovog člana, potraživanja sa Jedinstvenih računa se gase.
>
> Izuzetno od odredbi stavova 1. i 2. ovog člana, nosioci stanarskog prava iz člana 8a. Zakona o prodaji stanova na kojima postoji stanarsko pravo ("Službene novine Federacije Bosne i Hercegovine", br. 27/97, 11/98, 22/99 i 7/00) mogu koristiti potraživanja sa Jedinstvenog računa u roku od tri mjeseca od dana ovjere potpisa sa kupoprodajnim ugovorom kod nadležnog suda.

1075. Pored ovih izmjena Zakona o potraživanjima građana, Federacija je donijela dodatne izmjene i dopune procesa privatizacije kako bi ublažila položaj vlasnika stare devizne štednje. **Zakon o izmjenama i dopunama Zakona o privatizaciji preduzeća** ("Službene novine Federacije Bosne i Hercegovine", br. 45/00) je stupio na snagu 2. novembra 2000. godine. Ovim Zakonom je izmijenjen i dopunjen član 28. kako bi se certifikati po osnovu stare devizne štednje izjednačili sa gotovinom. Starom verzijom je propisano:

> Prodaja iz člana 26.[2] ovog zakona vrši se uz obavezno plaćanje u novcu najmanje 35 posto ugovorene prodajne cijene.
>
> Za svaki iznos plaćen u novcu preko 35% može se odobriti popust od 8%.

Novom verzijom je propisano:

> Prodaja iz člana 26. ovog zakona vrši se uz obavezno plaćanje u novcu ili certifikatima iz temelja stare devizne štednje najmanje 35 posto ugovorene prodajne cijene.
>
> Za svaki iznos plaćen u novcu ili ceritifikatom po osnovu stare devizne štednje preko 35% može se odobriti popust od 8%.

1076. **Zakonom o izmjenama i dopunama Zakona o privatizaciji preduzeća** ("Službene novine Federacije Bosne i Hercegovine", broj 61/01) izmijenjen je član 27. stav 1. Starom verzijom je propisano:

> Mala privatizacija u smislu člana 26. ovog zakona provodi se javnom prodajom, koju je preduzeće dužno pripremiti i prijaviti nadležnoj agenciji (za privatizaciju) u roku od 12 mjeseci od dana početka primjene ovog zakona.

Novom verzijom je propisano:

> Mala privatizacija u smislu člana 26. ovog zakona provodi se javnom prodajom, koju je preduzeće dužno pripremiti i prijaviti nadležnoj agenciji (za privatizaciju) u roku koji odredi Agencija Federacije, i u roku važenja potraživanja građana iz Zakona o utvrđivanju i realizaciji potraživanja građana u postupku privatizacije (certifikati itd).

1077. **Zakon o izmjenama i dopunama Zakona o prodaji stanova na kojima postoji stanarsko pravo** stupio je na snagu 8. januara 2002. godine (nakon datuma odluke Ustavnog suda Federacije). Novi član 24. tog zakona je izjednačio certifikate iz osnova stare devizne štednje sa novcem. Starom verzijom je propisano:

[2] Navedenim članom 26. regulisana je prodaja preduzeća u procesu male privatizacije.

Plaćanje otkupne cijene stana vrši se jednim od platežnih sredstava i to:

a) gotovinom

b) certifikatima na temelju tražbine građana, a koji su utvrđeni posebnim propisima

Kada se plaćanje vrši novcem cijena stana se umanjuje za 20% utvrđene otkupne cijene.

Novom verzijom je propisano*:*

Plaćanje otkupne cijene stana vrši se jednim od platežnih sredstava i to:

a) novcem

b) certifikatima na temelju tražbine građana, a koji su utvrđeni posebnim propisima.

Kada se plaćanje vrši novcem ili certifikatom iz osnova stare devizne štednje cijena stana se umanjuje za 20% utvrđene otkupne cijene.

1078. U pismu Domu za ljudska prava od 8. decembra 2000. godine, u vezi sa implementacijom odluke *Poropat i drugi*, Federacija navodi da ona, "preko nadležnih Ministarstava i agencija, vodi aktivnosti informisanja građana o važnosti posjeta bankama kako bi dali Jedinstveni matični broj s ciljem da omoguće prenos svoje stare devizne štednje na Jedinstveni račun građana i izdavanje certifikata kojim bi im omogućila da učestvuju u procesu privatizacije koji je u postupku jer nema drugog načina na koji bi građani Bosne i Hercegovine – imaoci stare devizne štednje, realizovali svoja potraživanja po tom osnovu na bilo koji drugi način osim putem procesa privatizacije."

1079. Federacija Bosne i Hercegovine je **Zakonom o izmjenama i dopunama Zakona o potraživanju građana** ("Službene novine Federacije Bosne i Hercegovine", broj 57/03) izmijenila član 7. koji je glasio:

Potraživanja iz člana 3. ovog zakona banka prenosi na Jedinstveni račun štediše.

Novom verzijom je propisano:

Potraživanja iz člana 3. ovog zakona banka, na zahtjev štediše koji se podnosi u roku do šest mjeseci od dana usvajanja ovog zakona, prenosi na Jedinstveni račun štediše.

Također, izmijenjen je i član 11. koji je glasio:

Otvaranje Jedinstvenih računa vrši se po službenoj dužnosti na osnovu matičnog broja građana-nosilaca potraživanja iz ovog zakona.

Novom verzijom je propisano:

Otvaranje Jedinstvenih računa vrši se po službenoj dužnosti na osnovu matičnog broja građana-nosilaca potraživanja iz ovog zakona, a otvaranje Jedinstvenog računa po osnovu stare devizne štednje vrši se na zahtjev štediše.

1080. Također, došlo je do izmjene i člana 18. koji se odnosio na rok upotrebe certifikata u procesu privatizacije, u smislu da je rok od 4 godine produžen na 6 godina, tako da član 18. sa izmjenama sada glasi:

> Potraživanja sa Jedinstvenog računa mogu se koristiti u postupku privatizacije u roku od šest godina od dana izdavanja izvoda sa Jedinstvenog računa, a nakon upisa potraživanja po pojedinim vrstama.

1081. Član 20. Zakona o potraživanju građana je dopunjen sa dva nova stava 20a. i 20b. koji regulišu neiskorištena potraživanja podnosilaca prijava po osnovu stare devizne štednje koja su prenijeta na Jedinstveni račun, kao i sredstva koja su štediše utrošili u privatizacijske investicione fondove. Član 20. je glasio:

> Direktor Agencije za privatizaciju u Federaciji Bosne i Hercegovine će u roku od 30 dana od stupanja na snagu ovog zakona donijeti Uputstvo o evidenciji i realizaciji potraživanja sa Jedinstvenog računa.

Novi stavovi su:

> 20a. Agencija za privatizaciju u Federaciji BiH će neiskorištena potraživanja po osnovu stare devizne štednje koja su prenijeta na Jedinstveni račun vratiti na račun imaoca u roku od 30 dana od dana podnošenja zahtjeva štediše.
>
> 20b. Štediše koje su izvršile prijenos potraživanja iz osnova stare devizne štednje u privatizacijske investicione fondove, koja žele povratiti na svoje Jedinstvene račune, mogu podnijeti zahtjev privatizacijskim investicionim fondovima za povrat potraživanja u roku do šest mjeseci od dana stupanja na snagu ovog zakona.

1082. Federacija Bosne i Hercegovine je usvojila nove izmjene i dopune Zakona o potraživanju objavljene u "Službenim novinama Federacije Bosne i Hercegovine", broj 20/04, tako da je član 5. dopunjen sa novim članom 5a. koji glasi:

> Član 5a. Izuzetno od člana 5. ovog Zakona potraživanje po osnovu stare devizne štednje postaje unutrašnji dug Federacije Bosne i Hercegovine koji se izmiruje u skladu sa posebnim zakonom, osim ako lice koje ima potraživanje na osnovu stare devizne štednje ne da izjavu da se ta potraživanja koriste za namjene iz člana 18. ovog Zakona.
>
> Izjava iz stava 1. ovog člana je neopoziva i podnosi se Federalnom ministarstvu finansija u roku od tri mjeseca od dana stupanja na snagu ovog Zakona.

1083. Također, izmijenjen je i član 18. koji je regulisao način korištenja certifikata, i sada glasi:

> Potraživanja sa Jedinstvenog računa mogu se koristiti u procesu privatizacije:
>
> - za kupovinu dionica preduzeća, imovine preduzeća i druge imovine koja se bude prodavala u procesu privatizacije do 30. juna 2006. godine, pod uvjetom da učešće pojedinačne ponude ne prelazi 10% od ukupne kupovne cijene;
>
> - za kupovinu stanova na kojima postoji stanarsko pravo do 30. juna 2007. godine u visini do 100% od ukupne cijene.
>
> Istekom rokova iz stava 1. ovog člana potraživanja na Jedinstvenom računu se gase.
>
> Izuzetno od odredbe stava 2. ovog člana rok za kupovinu stanova na kojima postoji stanarsko pravo može se mijenjati zavisno od donošenja i promjena propisa o restituciji.

1084. Posljednjim izmjenama i dopunama Zakona o potraživanju obuhvaćen je i član 20. koji sada glasi:

Agencija za privatizaciju u Federaciji Bosne i Hercegovine dostavit će Federalnom ministarstvu finansija bazu podataka o stanju neiskorištenih potraživanja po osnovu stare devizne štednje na Jedinstvenom računu u roku od 30 dana od dana stupanja na snagu ovog Zakona.

Član 20b. koji je davao štedišama koji su uložili svoja sredstva u PIF-ove mogućnost da traže povrat uloženih sredstava se novim zakonom briše.

1085. Parlament Federacije Bosne i Hercegovine je 20. novembra 2004. godine usvojio **Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine** ("Službene novine Federacije Bosne i Hercegovine", broj 64/04), koji u relevantnom dijelu glasi:

Član 1.

Ovim Zakonom utvrđuju se unutrašnje obaveze Federacije Bosne i Hercegovine prema fizičkim i pravnim licima, nastale na osnovu: neisplaćenih invalidnina, neisplaćenih penzija, neisplaćenih naknada prema dobavljačima za robe, materijale i usluge, obaveze nastale na osnovu neisplaćenih plaća i dodataka, te ostale obaveze (u daljnjem tekstu: unutrašnji dug), odnosno način pojedinačne verifikacije utvrđenih potraživanja, kao i način njihovog izmirenja.

Član 2.

Ovim Zakonom utvrđuje se sveobuhvatno izmirenje unutrašnjeg duga na način koji osigurava i podržava makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine (u daljnjem tekstu: Federacija).

Unutrašnji dug Federacije procjenjuje se u iznosu od 1.858,9 miliona KM. Ova procjena isključuje iznos obaveza za staru deviznu štednju, s obzirom na to da će se oni utvrditi u postupku verifikacije.

Obaveze unutrašnjeg duga iz stava 1. ovog člana izmiruju se isplatom u gotovini, putem izdavanja obveznica (u daljnjem tekstu: obveznice) i otpisivanjem, prema odredbama ovog Zakona.

Izmirenje svih kategorija unutrašnjeg duga, uključujući i staru deviznu štednju, neće prelaziti iznos od 10% GDP za 2003. godinu i to u neto sadašnjoj vrijednosti za sve planirane isplate svih kategorija unutrašnjeg duga.

Član 3.

Unutrašnji dug Federacije iznosi 1.858,9 miliona KM, isključujući iznos obaveze za staru deviznu štednju koji će se utvrditi u postupku verifikacije, a čine ga:

- opće obaveze u iznosu od 947,9 miliona KM,

- obaveze na osnovu kredita komercijalnih banaka u iznosu od 11 miliona KM,

- obaveze za staru deviznu štednju u iznosu koji će se utvrditi prema verifikaciji obaveza na način propisan u članu 12. ovog Zakona.

Član 9.

Federacija preuzima obaveze na osnovu stare devizne štednje ostvarene u najnižim poslovnim jedinicama banaka (ekspozitura i/ili agencija) na teritoriji Federacije. Ukoliko banka nema poslovnih jedinica onda se smatra da je sjedište banke najniža poslovna jedinica.

Obaveze na osnovu stare devizne štednje, definirane stavom 1. ovog člana, ne obuhvataju obaveze na osnovu stare devizne štednje deponovane u Ljubljanskoj banci i Invest banci, s obzirom na to da će se one rješavati u procesu sukcesije imovine bivše SFRJ.

Obaveze na osnovu stare devizne štednje iz člana 3. ovog Zakona Federacija će izmiriti isplatom u gotovini i izdavanjem obveznica.

Kamate na staru deviznu štednju od 01. januara 1992. godine otpisuju se.

Član 10.

Kad se izvrši verifikovanje potraživanja za staru deviznu štednju, na način predviđen članom 12. ovog Zakona, Vlada Federacije će posebnim propisom utvrditi metod i visinu isplate u gotovini za staru deviznu štednju svakom fizičkom licu, nosiocu stare devizne štednje, do iznosa propisanog u članu 2. ovog Zakona.

Član 11.

Gotovinske isplate za staru deviznu štednju iz člana 10. ovog Zakona izvršit će se iz budžeta Federacije u periodu od četiri godine počevši od fiskalne godine kada se završi postupak verifikovanja stare devizne štednje.

Član 12.

Verifikovanje svih potraživanja za staru deviznu štednju vršit će se na osnovu baze podataka koja je ustanovljena Zakonom o utvrđivanju i ostvarivanju potraživanja građana u postupku privatizacije ("Službene novine Federacije BiH", br. 27/97, 8/99, 45/00, 54/00, 32/01, 57/03, 20/04) i drugim propisima donesenim na osnovu zakona i baza podataka koje posjeduju banke.

Proces verifikacije potraživanja za staru deviznu štednju završit će se u roku od devet mjeseci od dana stupanja na snagu ovog Zakona.

Federalni ministar finansija donijet će podzakonske akte o verifikaciji svih potraživanja za staru deviznu štednju u roku od 90 dana od dana stupanja na snagu ovog Zakona.

Član 13.

Za obaveze za staru deviznu štednju koje ne budu izmirene isplatom u gotovini, u skladu sa čl. 9. i 10. ovog Zakona, izdat će se obveznice do iznosa koji je potreban za izmirenje kumulativnih potraživanja.

Član 14.

Kad se izvrši verifikovanje potraživanja za staru deviznu štednju na način predviđen članom 12. ovog Zakona, Vlada Federacije će posebnim propisom utvrditi model izdavanja obveznica propisujući rok dospijeća obveznica, visinu kamate na obveznice i dužinu grace perioda, a do iznosa koji se utvrdi kao glavnica u procesu verifikovanja potraživanja na osnovu stare devizne štednje do iznosa propisanog u članu 2. ovog Zakona.

Kako bi osigurala dodatna finansijska sredstva nosiocima obveznica iz člana 13. ovog Zakona, Vlada Federacije, u svojstvu dioničara a prema važećim propisima, svojom Odlukom rasporedit će do 15% dividende iz privrednih društava sa državnim kapitalom kako bi otkupljivala javne obveznice putem ponude po tržišnoj

cijeni, isplaćujući ih kako je predviđeno godišnjim budžetom, počevši od obveznica sa najnižom nominalnom vrijednosti i progresivno krenuvši ka obveznicama sa višom nominalnom vrijednosti.

Član 15.

Vlada Federacije će tri posto iznosa koji se ostvari od prodaje preduzeća JP „BH Telecom“, JP „Elektroprivrede BiH“ d.d., JP „Elektroprivrede HZHB'“ d.d. i „Hrvatske telekomunikacije” d.o.o. Mostar uplatiti na poseban račun.

Sredstva ostvarena na posebnom računu iz stava 1. ovog člana koristit će se u svrhu prijevremenog otkupa obveznica na osnovu stare devizne štednje po tržišnoj cijeni i to uključujući prioritet u isplati - otkupu obveznica vlasnika stare devizne štednje i to ponudom otkupljenja obveznica sa najnižom nominalnom vrijednosti, a potom obveznica sa višom nominalnom vrijednosti.

Federalni ministar finansija donijet će podzakonske akte o načinu raspolaganja sredstvima deponovanim na računu iz prethodnog stava, odnosno o modalitetima isplate vlasnika obveznica, shodno ostvarenju sredstava iz ovog člana.

Član 21.

Obveznice za izmirenje obaveza za staru deviznu štednju i ratnih potraživanja su vrijednosni papiri koje izdaje u cijelosti ili djelimično Bosna i Hercegovina (u daljnjem tekstu: vrijednosni papiri BiH) u ime Federacije, ili Federacija (u daljnjem tekstu: vrijednosni papiri Federacije) prema posebnom propisu.

Obveznice izdate za izmirenje obaveza za staru deviznu štednju i ratna potraživanja su utržive i prenosive i izdaju se i vode samo u elektronskoj formi.

Svi uvjeti vezani za obveznice utvrđuju se odlukom Vlade Federacije i posebnim propisom.

Za predračun obaveza na osnovu stare devizne štednje i ratnih potraživanja u KM koristi se srednji zvanični kurs Centralne banke Bosne i Hercegovine koji važi na dan donošenja odluke Vlade Federacije o emisiji obveznica u smislu ovog Zakona.

Obveznice izdate za izmirenje obaveza iz stava 2. ovog člana predstavljaju unutrašnji dug Federacije u skladu sa posebnim propisom.

Federalno ministarstvo finansija upravljat će računima sa kojih se sredstva koja su položena mogu podizati u svrhu isplate obveznice.

Član 22.

Obveznice Federacije ne podliježu propisima i odobrenju Komisije za vrijednosne papire Federacije Bosne i Hercegovine.

Član 24.

Federacija garantuje za obveznice izdate u skladu sa odredbama ovog Zakona za izmirenje unutrašnjeg duga.

Član 26.

Vlada Federacije će u roku od 30 dana od dana stupanja na snagu ovog Zakona donijeti podzakonske akte za utvrđivanje prioriteta među kategorijama obaveza za

izmirenje potraživanja u skladu sa stavom 2. člana 7., članom 8. i članom 11. ovog Zakona.

D. Odluka Ustavnog suda Federacije Bosne i Hercegovine

1086. Ustavni sud Federacije Bosne i Hercegovine je 8. januara 2001. godine utvrdio da članovi 3, 7, 11. i 18. Zakona o potraživanjima građana nisu u skladu sa Ustavom Federacije Bosne i Hercegovine. Ustanovio je da su ti članovi u suprotnosti sa članom 1. Protokola broj 1 uz Evropsku konvenciju i time u suprotnosti sa članom II.A.2(1)(k) Ustava Federacije Bosne i Hercegovine i Amandmanom 5. Navedeni Sud, u svojoj odluci, nije pomenuo prethodne izmjene i dopune zakona od 2. novembra 2000. godine. Ustavni sud Federacije Bosne i Hercegovine nije naredio nikakve posebne izmjene i dopune ili na neki drugi način propisao prelazne odredbe po kojima bi relevantni članovi trebali biti primijenjeni.

1087. Odluka Ustavnog suda Federacije Bosne i Hercegovine, u relevantnom dijelu, glasi:

> Ustavom Federacije Bosne i Hercegovine članom II A. 2. (1)(k) i Amandmanom V utvrđeno je da će Federacija osigurati primjenu najvišeg nivoa međunarodno priznatih prava i sloboda utvrđenih u dokumentima navedenim u Aneksu ovog ustava [...].
>
> Utvrđujući ustavnost članova 3., 7., 11. i 18. Zakona o utvrđivanju i realizaciji potraživanja građana u procesu privatizacije sa navedenim ustavnim odredbama i članom 1. stav 1. Protokola br. 1 uz Evropsku konvenciju o ljudskim pravima i osnovnim slobodama, Sud je utvrdio da odredbe članova 3., 7., 11. i 18. Zakona o utvrđivanju i realizaciji potraživanja građana u postupku privatizacije nisu u skladu sa Ustavom Federacije Bosne i Hercegovine.

1088. Odluka Ustavnog suda Federacije objavljena je 9. marta 2001. godine u "Službenim novinama Federacije Bosne i Hercegovine", broj 7/01.

1089. Članom 12(b) dijela IV(c) Ustava Federacije predviđa se da ako Ustavni sud Federacije *utvrdi da zakon, usvojeni ili predloženi zakon ili drugi propis Federacije ili bilo kojeg kantona ili općine nije u skladu sa ovim Ustavom, taj zakon ili drugi propis neće se primjenjivati, odnosno stupiti na snagu, osim ukoliko se izmijeni na način koji propiše Sud ili ukoliko Sud ne utvrdi prijelazna rješenja, koja ne mogu biti na snazi duže od šest mjeseci.*

1090. Federacija Bosne i Hercegovine je 14. maja 2001. godine podnijela apelaciju Ustavnom sudu Bosne i Hercegovine protiv presude Ustavnog suda Federacije, zavedenu kao *U 57/01*. Ustavni sud Bosne i Hercegovine je, na svojoj sjednici od 20. decembra 2003. godine, rješenjem odbacio apelaciju iz formalnih razloga.

V. ŽALBENI NAVODI

1091. Podnosioci prijava se generalno žale da je povrijeđeno njihovo pravo na mirno uživanje imovine, zagarantovano članom 1. Protokola broj 1 uz Evropsku konvenciju. Jedan dio podnosilaca prijava se, također, žali da je povrijeđeno njihovo pravo na pravičnu raspravu u razumnom roku pred nezavisnim i nepristrasnim sudom, zagarantovano članom 6. Evropske konvencije. Nekoliko podnosilaca prijava navode povrede raznih članova Univerzalne deklaracije o ljudskim pravima.

1092. Svi podnosioci prijava traže punu isplatu cjelokupne devizne štednje, a mnogi posebno traže isplatu kamata. Također traže kompenzaciju za duševne patnje, troškove postupka pred domaćim sudovima i Domom, te ostale troškove. Neki od podnosilaca prijava traže od Doma da naredi donošenje zakona po kojem će stara devizna štednja biti proglašena neotuđivom privatnom imovinom bez ikakvih ograničenja.

VI. PODNESCI STRANA

A. Bosna i Hercegovina

1. U pogledu činjenica

1093. Tužena strana navodi da je, nakon dobijanja samostalnosti, odmah počela sa pravnim regulisanjem u oblasti deviznog poslovanja. To je učinjeno iz razloga što su sva devizna sredstva, među kojima je bila i devizna štednja građana, činila ukupne rezerve bivše SFRJ. Zna se da je stanje deviznih rezervi bivše SFRJ na dan 31. decembar 1990. godine iznosilo 13 milijardi USD, a na dan 31. decembar 1991. godine oko 1,5 milijardi USD. Iz ovoga proizilazi da je bivša SFRJ putem Narodne banke Jugoslavije, gdje je vršeno deponovanje svih deviznih rezervi bivše SFRJ, svjesno sklonila sve devize i na taj način onemogućila bivše republike, među kojima je bila i Bosna i Herceovina, da raspolažu sa deviznim rezervama koje su sa njenog područja bile deponovane kod Narodne banke Jugoslavije.

1094. Tužena strana ističe da, u skladu sa gore navedenim, Bosna i Hercegovina do sada ni na koji način nije preuzela garanciju za deviznu štednju građana koja je deponovana kod bivše Narodne banke Jugoslavije, niti postoji njena obaveza da tu štednju isplaćuje građanima.

2. U pogledu prihvatljivosti

1095. Tužena strana navodi da, s obzirom da podnosioci prijava nisu uopće koristili domaća pravna sredstva koja su im stajala na raspolaganju, nisu ispunjeni uslovi za prihvatljivost prijava i razmatranje merituma spora od strane uvažene Komisije do okončanja tih postupaka pred domaćim organima uprave i pravosuđa po raspoloživim pravnim lijekovima saglasno odredbama člana 26. Evropske konvencije i člana 8. stav 2a. Aneksa 6. Općeg okvirnog sporazuma za mir u Bosni i Hercegovini.

1096. Tužena strana ističe da iz prijava proizilazi da je ljudsko pravo podnosilaca prijava povrijeđeno u mjesecu junu 1992. godine i da je ta navodna povreda trajala čitav rat, a da su prijave podnesene više godina poslije rata. Naime, Dom/Komisija može razmatrati predmete, između ostalog, samo nakon što su iscrpljena domaća pravna sredstva i ako je zahtjev podnesen u roku od šest mjeseci od dana donošenja konačne odluke.

1097. Tužena strana smatra da Komisija, u svim predmetima gdje građani potražuju isplatu stare devizne štednje mora donijeti identičnu odluku (da imaju, ili nemaju pravo na naplatu stare devizne štednje) po kojoj bi bilo utvrđeno da li Bosna i Hercegovina preuzima garancije na staru deviznu štednju od bivše SFRJ.

1098. Tužena strana predlaže Komisiji da, iz gore navedenih razloga, prijave odbaci kao neprihvatljive.

3. U pogledu merituma

1099. Tužena strana traži od Komisije, ukoliko ocijeni da za sada nisu ispunjeni uslovi za odbacivanje prijava, da se sačeka sa odlučivanjem o prihvatljivosti prijava do konačnog ishoda u navedenim postupcima koji se trebaju pokrenuti pred domaćim nadležnim sudovima.

1100. Tužena strana navodi da je, prema njenim saznanjima do kojih se došlo u konsultacijama sa Vijećem ministara Bosne i Hercegovine, Uredom visokog predstavnika za Bosnu i Hercegovinu i dr, trenutno našla najcjelishodnija rješenja ovog problema. U takvoj situaciji, a u punoj saradnji sa Uredom Visokog predstavnika za Bosnu i Hercegovinu, Država Bosna i Hercegovina je kao jedino moguće rješenje iznašla soluciju da kroz proces privatizacije državne imovine omogući deviznim štedišama obeštećenja kroz otkup te imovine kako devizne štediše ne bi ostale bez ikakve naknade. U tom cilju, Država Bosna i Hercegovina-Vijeće ministara Bosne i Hercegovine, u saradnji sa Uredom visokog predstavnika za Bosnu i Hercegovinu, priprema paket zakona o privatizaciji državne imovine kako na nivou države, tako i na nivou entiteta Bosne i Hercegovine.

1101. Tužena strana ističe da nisu povrijeđena ljudska prava podnosilaca prijava kroz soluciju koja im se nudi predviđenim zakonskim rješenjima kao načinom punog obeštećenja, a u smislu koja su im zagarantovana Evropskom konvencijom.

1102. Tužena strana predlaže Komisiji, ukoliko ne odbaci prijave kao neprihvatljive, da odbije prijave u meritumu spora u odnosu na tuženu stranu, Bosnu i Hercegovinu, kao i da se odbiju zahtjevi podnosilaca prijava za kompenzaciju i naknadu troškova postupka.

B. Federacija Bosne i Hercegovine

1. U pogledu činjenica

1103. Tužena strana ističe činjenicu, da je od dana podnošenja prijava Domu/Komisiji, preduzela regulativne mjere s ciljem da spriječi kolaps platnog sistema javnog duga i bankovnog sistema, a u svrhu zaštite vlasnika sredstava na deviznim štednim knjižicama. Naime, nakon pravosnažne presude Ustavnog suda Federacije Bosne i Hercegovine broj: U-10/00 od 8. januara 2001. godine, tužena strana je donijela Zakon o izmjenama i dopunama Zakona o utvrđivanju i realizaciji potraživanja građana u postupku privatizacije (u daljnjem tekstu: Zakon o realizaciji potraživanja) objavljen u "Službenim novinama Federacije Bosne i Hercegovine", broj: 45/00 od 25. oktobra 2000. godine; broj: 54/00 od 26. decembra 2000. godine; broj: 32/01 od 24. jula 2001. godine; broj: 27/02 od 28. juna.2002. godine; broj: 57/03 od 21. novembra .2003. godine i broj: 44/04 od 21. avgusta 2004. godine, kojim su uređena pitanja utvrđivanja i ostvarivanja potraživanja u postupku privatizacije. Zakonom su definirane vrste potraživanja građana prema Federaciji Bosne i Hercegovine, načini evidentiranja i postupka ostvarivanja ovih potraživanja u postupku privatizacije. Zakonom su definirane vrste potraživanja te između ostalog i potraživanja na osnovu stare devizne štednje.

1104. Naime, u međuvremenu, tužena strana, konkretno Vlada Federacije Bosne i Hercegovine na sjednici od 15. decembra 2003. godine, donijela je Odluku o usvajanju strateškog plana za izmirenje unutrašnjih potraživanja prema Federaciji Bosne i Hercegovine ("Službene novine Federacije Bosne i Hercegovine ", broj: 63/03 od 16. decembra 2003. godine – u daljnjem tekstu: Odluka). Odlukom je utvrđeno da unutrašnja potraživanja prema Federaciji Bosne i Hercegovine ukupno iznose 3.263,4 miliona KM, a obuhvataju između ostalog i obaveze za staru deviznu štednju u iznosu od 1.110 miliona KM, te da će se način isplate i dinamika isplate i izvor finansiranja neisplaćenih potraživanja prema Federaciji Bosne i Hercegovine, regulirati posebnim zakonima. Tako je članom 4. Odluke određen način izmirenja obaveza prema kojem Vlada Federacije Bosne i Hercegovine planira gotovinsku isplatu vlasnicima stare devizne štednje u

iznosu od 105 miliona KM, izdavanje obveznica sa nominalnom vrijednošću u iznosu od 1.005 miliona KM, sa rokom dospijeća od 20 godina, 10 godina, grace perioda i kamatom od 0,5%, koja će imati neto sadašnju vrijednost u iznosu od 452 miliona KM.

1105. Nadalje, Parlament Federacije Bosne i Hercegovine je donio Zakon o utvrđivanju i načinu izmirenja unutranjih obaveza Federacije Bosne i Hercegovine ("Službene novine Federacije Bosne i Hercegovine", broj: 66/2004 od 27. novembra 2004. godine), koji je stupio na snagu narednog dana od dana objavljivanja. Ovim zakonom utvrđuje se sveobuhvatno izmirenje unutarnjeg duga na način koji osigurava i podržava makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine (član 2. Zakona o utvrđivanju). Unutarnji dug Federacije Bosne i Hercegovine prema članu 3. navedenog zakona, između ostalog čine i obavezu za staru deviznu štednju u iznosu koji će biti utvrđen po verificiranju obaveza. Obaveze po osnovu stare devizne štednje definisane članom 3. Zakona o utvrđivanju, Federacija Bosne i Hercegovine će izmiriti isplatom u gotovini i izdavanjem obveznica.

> Proces verificiranja tražbina za staru deviznu štednju okončat će se u roku od devet mjeseci od stupanja na snagu ovog Zakona.
>
> Federalni ministar finansija donijeće podzakonske akte o verificiranju svih tražbina za staru deviznu štednju u roku od 90 dana od dana stupanja na snagu ovog Zakona.
>
> Kako bi osigurala dodatna finansijska sredstva nositeljima obveznica iz članka 13. ovog Zakona, Vlada Federacije Bosne i Hercegovine u svojstvu dioničara, a sukladno važećim propisima, svojom će Odlukom rasporediti do 15% dividende iz gospodarskih društava s državnim kapitalom kako bi otkupljivala javne obveznice putem ponude po tržišnoj cijeni, isplaćujući ih kako je predviđeno godišnjim proračunom, počevši od obveznica s najnižom nominalnom vrijednošću i progresivno krenuši s obveznicama s višom nominalnom vrijednošću.

1106. Dakle, slijedom navedenih činjenica, tužena strana ističe da je, primjenom odredbi Zakona o realizaciji potraživanja i Zakona o izmirenju obaveza, utvrđena unutarnja obaveza Federacije Bosne i Hercegovine prema fizičkim licima i pravnim licima, kao i način njihovog izmirenja. Naime, izradom podzakonskog akta će biti izvršene verifikacije svih potraživanja za staru deviznu štednju, pa tako i potraživanja za staru deviznu štednju podnosilaca prijava.

2. U pogledu prihvatljivosti

1107. Tužena strana smatra nespornim da je putem navedene legislative i propisa dat jasan okvir kojim su stare devizne štediše dobile konkretne pouzdane informacije u vezi sa budućim tretmanom njihove stare devizne štednje, na način koji uzima u obzir opće interese, i istovremeno ne predstavlja pretjeran pojedinačan teret na podnosioce prijava.

1108. Naime, tužena strana opravdano sumnja, a imajući u vidu vremenski period od dana podnošenja prijave do danas, da su pojedini podnosioci prijava, *uložili svoju deviznu štednju putem certifikata*, tako što su ih prodali. S tim u vezi, tužena strana podsjeća Komisiju na njenu Odluku o brisanju u predmetu broj: CH/99/2211 *Olga Terpin* protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine od 9. februara 2004. godine.

1109. U prilog naprijed navedenom, tužena strana ističe činjenicu da podnosioci prijava od dana podnošenja prijava Domu/Komisiji, odnosno od dana pravosnažnosti presude Ustavnog suda Federacije Bosne i Hercegovine broj: U-10/00, nisu dostavili nove informacije – dokumentaciju: da li su pokušali da podignu svoju staru deviznu štednju – zatražili pomoć kod domaćeg suda.

1110. Dakle, u ovakvoj konstelaciji preduzetih radnji, odnosno radnji koje će preduzeti tužena strana, unutarnji dug Federacije Bosne i Hercegovine, kojim se obaveze za staru deviznu štednju u

iznosu koji će biti utvrđen po verificiranju obaveza, na način propisan u članu 12. Zakona o izmirenju obaveza, a u vezi sa odredbom stava 1. tačka 3. člana 3. Zakona o izmirenju obaveza, izmirit će se isplatom u gotovini, odnosno za obaveze za staru deviznu štednju koje ne budu izmirene u gotovini i sukladno čl. 9. i 10. Zakona o izmirenju obaveza, izdat će se obveznice do iznosa koji je potreban za izmirenje kumulativnih tražbina (član 13. Zakona o izmirenju obaveza). Kad su u pitanju obveznice za izdavanje obaveza za staru deviznu štednju, tužena strana podsjeća Komisiju na poglavlje III – Obveznice – odredbe članova od 21. do 25. Zakona o izmirenju obaveza – kojim je između ostalog utvrđen način – metod – uvjeti izmirenja obaveza za staru deviznu štednju, u vidu obveznica, za koje Federacija Bosne i Hercegovine jamči sukladno odredbama ovog Zakona za izmirenje obaveza.

1111. Slijedom izloženog, tužena strana smatra da su se stekli uslovi da Komisija, primjenom odredbi člana VIII Sporazuma, prijave u rubriciranim predmetima proglasi neprihvatljivim, prema članu 1. Protokola broj 1 uz Evropsku konvenciju u pogledu tužene strane Federacije Bosne i Hercegovine.

1112. Slijedom navedenoga, tužena strana predlaže Komisiji da prijave podnosilaca odbaci, primjenom člana VIII(3)(b) Sporazuma, jer je predmetna stvar već riješena, na način i u skladu sa naredbama iz ranijih odluka Doma koje se tiču pitanja “stare“ devizne štednje, kao i sa Odlukom Ustavnog suda Federacije Bosne i Hercegovine.

3. U pogledu merituma

1113. Nesporno je da potraživanja podnosilaca prijava po osnovu njihove devizne štednje predstavljaju imovinu u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju.

1114. U skladu sa stavom 2. člana 1. Protokola broj 1 uz Evropsku konvenciju, s obzirom na ekonomske poteškoće Federacije i banaka, a da bi se spriječio kolaps bankovnog sistema, tužena strana je zakonom regulisala korištenje potraživanja građana po osnovu njihove devizne štednje. Prema ranijim zakonskim rješenjima, nije bila postignuta pravična ravnoteža između općeg interesa i imovinskih prava imalaca stare devizne štednje, a što je utvrđeno odlukama Doma za ljudska prava.

1115. Tužena strana ne osporava da potraživanja podnosilaca prijava prema bankama lociranim na području Federacije Bosne i Hercegovine po osnovu njihove devizne štednje predstavljaju *imovinu* u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju. Međutim tužena strana podsjeća Komisiju da član 1. Protokola broj 1 uz Evropsku konvenciju uključuje i tri posebna pravila, na osnovu kojih Država ima pravo da se miješa u pravo na imovinu u skladu sa javnim interesom.

1116. Dakle, tužena strana je našla, u okviru svoje slobode odlučivanja, odgovarajući način i postigla traženu *pravičnu ravnotežu* interesa. Naime, u trenutnoj fazi, podnosioci prijava ili druge devizne štediše, imaju mogućnost da ostvare svoja imovinska prava u određenim iznosima za staru deviznu štednju na teritoriji Federacije Bosne i Hercegovine, s obzirom da su potraživanja po osnovu stare devizne štednje postala unutrašnji dug Federacije Bosne i Hercegovine, koji se izmiruje u skladu sa posebnim zakonom, osim ako lica – podnosioci prijava koji imaju potraživanja na osnovu stare devizne štednje nisu dali izjavu da se ta potraživanja koriste za namjene iz člana 18. Zakona o izmjenama i dopunama Zakona o utvrđivanju i realizaciji potraživanja građana u procesu privatizacije. Tužena strana navodi da će, na osnovu utvrđenog metoda i visine, isplatiti u gotovini, odnosno ukoliko se obaveze za staru deviznu štednju, koje ne budu izmirene isplatom u gotovini, u skladu utvrđenim modelom, rokom, visinom, izdati obveznice do iznosa koji je potreban za izmirenje kumulativnih tražbina.

1117. S obzirom na gore navedeno, tužena strana smatra da je u vezi stare devizne štednje podnosilaca prijava, Federacija Bosne i Hercegovine opravdala uplitanje u prava podnosilaca prijava, jer je kontrola korištenja imovine *u skladu sa općim interesom* i ima osnova u Zakonu. U

prilog naprijed navedenom je i činjenica da će se konkretnim programom sukcesije i unutarnjeg duga, stara devizna štednja riješiti uspostavljanjem *pravične ravnoteže* između zahtjeva općeg interesa zajednice i zahtjeva zaštite osnovnih prava podnosilaca prijava, te istim je otklonjena neizvjesnost u pogledu statusa deviznih potraživanja koja nisu registrovana na Jedinstvenom računu građana i potraživanja koja su registrovana, ali nisu upotrijebljena u procesu privatizacije.

1118. Pored naprijed navedenog, tužena strana obavještava Komisiju, da je Parlament Federacije Bosne i Hercegovine dana 31. decembra 2004. godine donio Zakon o izvršenju proračuna Federacije Bosne i Hercegovine za 2005. godinu ("Službene novine Federacije Bosne i Hercegovine", broj: 78/04), kojim su uređeni: *način izvršenja Proračuna Federacije Bosne i Hercegovine za 2005. godinu (u daljem tekstu: Proračun), upravljanja prihodima i izdacima Proračuna, te pravo i obaveze korisnika proračunskih sredstava*. Opći dio Proračuna sastoji se od bilance prihoda i izdataka te računa finansiranja, a posebni dio sadrži detaljan raspored izdataka po proračunu korisnika i vrsti izdataka.

1119. Tako je Federalno ministarstvo finansija, u računu finansiranja, iskazalo zaduženja i otplate dugova *stare devizne štednje – isplate pojedincima*, sve u cilju uravnoteženja salda bilance prihoda i rashoda Proračuna.

1120. Tužena strana, konkretno Federalno ministarstvo finansija, kao budžetski korisnik, je utvrdilo sredstva u Razdijelu 16 Proračuna, pozicija – Tekući Transferi; za *staru deviznu štednju – isplata pojedincima 61420*: proračuni za 2004. godinu u iznosu 6.050.000 KM – Proračuni za 2005. godinu u iznosu od 8.000.000 KM.

1121. Dakle, odgovarajućim izmjenama i dopunama Zakona o izmjenama i dopunama Zakona o utvrđivanju i realizaciji potraživanja građana u procesu privatizacije i donošenjem Zakona o utvrđivanju, tužena strana je stvorila pravnu sigurnost u pogledu stare devizne štednje, tim više što je Zakonom o izvršenju proračuna Federacije Bosne i Hercegovine za 2005. godinu, planirala određena sredstva za *staru deviznu štednju – isplata pojedincima*, što je Sporazum o sukcesiji stupio na snagu 2. juna 2004. godine, iz kojih neupitno proizilazi da se *stara devizna štednja* rješava putem unutrašnjeg duga Federacije Bosne i Hercegovine, odnosno sredstvima sukcesije.

1122. Imajući u vidu naprijed navedeno, tužena strana smatra da nije prekršila prava podnosilaca prijava na mirno uživanje imovine po članu 1. Protokola broj 1 uz Evropsku konvenciju.

1123. Izneseni argumenti potvrđuju stav tužene strane da ne postoje uvjeti za prihvatljivost prijava, te tužena strana predlaže Komisiji da prijave podnosilaca proglasi neprihvatljivim, iz razloga iznesenih u ovim pismenim zapažanjima o prihvatljivosti, odnosno da primjenom odredbi člana VIII Sporazuma donese odluke o odbijanju žalbi podnosilaca prijava kao očito neutemeljenih.

C. Mišljenje *amicus curiae* – Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini

1124. Udruženje za zaštitu deviznih štediša u Bosni i Hercegovini stoji na stanovištu da su svi problemi i evidentna i flagrantna kršenje ljudskih prava u vezi sa *starom deviznom štednjom*, položenom u bankama sa sjedištem u Bosni i Hercegovini ili filijalama banaka sa sjedištem u drugim republikama na teritoriji Bosne i Hercegovine prije 31. decembra 1990. godine, proistekla iz razloga što Bosna i Hercegovina, kao pravni sljednik Republike Bosne i Hercegovine i kao jedna od pravnih sljednica SFRJ, nije poduzela potrebne radnje kojima bi zaštitila prava građanskih lica – imaoce deviznih računa i deviznih štednih uloga kod banaka odnosno filijala na dan 31. decembra 1990. godine. Štaviše, donošenjem relevantnih zakona stvorila je pravnu nesigurnost za devizne štediše u pogledu ostvarivanja prava na imovinu.

1125. Republika Bosna i Hercegovina je činom izlaska iz SFRJ, prihvatanjem Ustava Socijalističke Republike Bosne i Hercegovine i zakona Socijalističke Republike Bosne i Hercegovine i donošenjem Uredbe sa zakonskom snagom o preuzimanju i primjenjivanju saveznih zakona, koji se u Bosni i Hercegovini primjenjuju kao republički zakoni ("Službeni list Republike

Bosne i Hercegovine“, broj 2/92), znala da preuzima i dio obaveza i odgovornosti za deviznu štednju građana za koju je garancije dala SFRJ, pa je ovom pitanju morala posvetiti posebnu pažnju jer su je ustavne odredbe iz člana 39. Ustava Republike Bosne i Hercegovine, kojim se građanima zajamčuje pravo svojine i člana 85, kojim se zajamčuje pravo građanina da bude obaviješten, na to obavezivale.

1126. Republika Bosna i Hercegovina je donijela Uredbu sa zakonskom snagom o deviznom poslovanju (“Službeni list Republike Bosne i Hercegovine“, broj 2/92), kojom je stavila van snage savezni Zakon o deviznom poslovanju (“Službeni list Socijalističke Federativne Republike Jugoslavije“, broj 66/85 i 82/90). U članu 144. navedene Uredbe, Republika je utvrdila da će se pitanje dijela stare devizne štednje, u dijelu koji se odnosi na redeponovanu štednju kod Narodne banke Jugoslavije, urediti posebnim propisom. Članom 9. iste Uredbe, preuzela je jemstvo za devize građana koje su se nalazile u posjedu banaka i na računima u inostranstvu ovlaštene banke za poslove sa inostranstvom čije je sjedište bilo u Bosni i Hercegovini.

1127. Ako Republika Bosna i Hercegovina nije mogla obezbijediti pravo raspolaganja deviznom štednjom redeponovanom kod Narodne banke Jugoslavije, propustila je donijeti zakon kojim utvrđuje deviznu štednju građana u posjedu banaka na cijeloj teritoriji Bosne i Hercegovine i način raspolaganja ovim deviznim sredstvima građana uz zaštitu prava građana sa teritorija koje nisu bile pod njenom kontrolom.

1128. Propuštajući da donese ovakav zakon, Bosna i Hercegovina je ostavila na volju bankama da same odlučuju o ovoj imovini građana. Banke su samovoljno odbile isplaćivati štednju i kamatu po deviznoj štednji. Jedino su visoki političari i funkcioneri uspjeli dobiti svoja sredstva nazad.

1129. Potpisivanjem Okvirnog mirovnog sporazuma, Bosna i Hercegovina je preuzela ustavnu obavezu da osigura najviši standard ljudskih prava, pa time da osigura i pravo raspolaganja deviznim štedišama deviznom štednjom (Ustav Bosne i Hercegovine, član II/3.k), kao i pravo na pravično suđenje II/3.e). Treba imati na umu da je Opći okvirni sporazum za mir u Bosni i Hercegovini, sa svojim aneksima, obezbijedio Bosni i Hercegovini pravni milje da ispuni ovu obavezu.

1130. Odluka Bosne i Hercegovine o ciljevima i zadacima devizne politike u 1996. godini (“Službeni list Republike Bosne i Hercegovine“, broj 33/94), u tačci 7, propisuje da Bosna i Hercegovina preuzima obavezu da će staru deviznu štednju deponovanu kod Narodne banke Jugoslavije, zajedno sa kamatom na štednju, rješavati donošenjem zakona o javnom dugu Bosne i Hercegovine ili na drugi način, u sklopu ukupne konsolidacije duga Bosne i Hercegovine zajedno sa međunarodnom zajednicom.

1131. Odgovornost Bosne i Hercegovine sastoji se u tome što nakon donošenja ove odluke (“Službeni list Republike Bosne i Hercegovine“, broj 13/96) nije poduzela daljnje operativne korake u realizaciji odluke o zaštiti prava štediša i interesa države, a morala je to učiniti.

1132. Bosna i Hercegovina je odgovorna i za donošenje Okvirnog zakona o privatizaciji preduzeća i banaka u Bosni i Hercegovini (“Službeni glasnik Bosne i Hercegovine, broj 14/98), kojim je dala izričito pravo entitetima da privatiziraju preduzeća i banke smještene na njihovom teritoriju koje nisu u privatnom vlasništvu.

1133. Nadalje, Udruženje za zaštitu deviznih štediša u Bosni i Hercegovini smatra da su sudski organi propustili da zaštite građane tako što nisu donosili ili izvršavali pravomoćne presude u pogledu devizne štednje, čime su prekršili član 6. Evropske konvencije.

1134. Odgovornost Bosne i Hercegovine je i u tome što se oglušila na stavove Doma za ljudska prava, koji je, svojom Odlukom u predmetima *Poropat i drugi,* od 10. maja 2000. godine, ukazao na ozbiljna kršenja ljudskih prava proisteklih iz odbijanja odgovornosti Bosne i Hercegovine. Osim

toga, Udruženje smatra da u pogledu devizne štednje, Država nije napravila niti jedan pozitivan pomak od donošenja relevantnih odluka Doma.

1135. Činjenica je da je Bosna i Hercegovina ostala pasivna i po pitanju pregovora o preuzimanju obaveza po jemstvu SFRJ za staru deviznu štednju, koji se vode pod pokroviteljstvom Banke za međunarodna poravnanja (Anex C Sporazuma o sukcesiji, član 7. stav 1). Bosna i Hercegovina je imala obavezu za pokretanje ovog pitanja putem Visokog predstavnika i Vijeća za implementaciju mira, čije su članice i 5 sljednica SFRJ.

1136. Stupanjem na snagu Sporazuma po pitanju sukcesije, Bosna i Hercegovina i entiteti imaju obaveze po pitanju stare devizne štednje u iznosima u kojima banke nosioci obaveza po deviznoj štednji utvrde da su Bosna i Hercegovina i entiteti koristili devizna sredstva za svoje potrebe.

1137. Donešeni zakoni (Zakon o utvrđivanju i načinu izmirenja unutrašnjeg duga Bosne i Hercegovine; Zakon o utvrđivanju i načinu izmirenja unutrašnjeg duga Republike Srpske; Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine; Zakon o unutrašnjem dugu Brčko distrikta Bosne i Hercegovine) su prema Sporazumu o sukcesiji ništavni, a po Ustavu Bosne i Hercegovine su neustavni sa aspekta kršenja ljudskih prava. Obaveza po staroj deviznoj štednji svodi se isključivo na ugovoreni odnos banke, koja je pravni sljednik banke na dan 31. decembra 1991. godine, i štediše te po zakonu o obligacijama ne može se prenijeti na trećeg bez pristanka povjerioca – štediše u konkretnom slučaju.

1138. Umjesto trošenja silnih novaca i sati u daljim zakonskim i podzakonskim manipulacijama deviznom štednjom, entiteti su dužni dati naloge bankama da aktiviraju stavke po deviznoj štednji isknjižene u pasivnu podbilancu, tj. da ih vrate u aktivu i počnu vraćati štedišama novac. Država i entiteti će vratiti onaj dio sredstava devizne štednje koji su povukli, ili koristili, za vlastite potrebe.

1139. Za potraživanja devizne štednje položene kod Narodne banke Jugoslavije sa pravom reotkupa, banke moraju pokrenuti sudske postupke protiv 5 država sljednica, budući da nije postignut dogovor pred Bankom za međunarodna poravnanja.

1140. Odgovornost Bosne i Hercegovine i entiteta postoji u odnosu na donošenje zakonskih mjera kojima će se stare devizne štediše zaštiti od eventualnih zloupotreba od strane banaka. Naime, politike i način isplate devizne štednje od strane banaka moraju biti jasne, transparentne i u funkciji nediskriminacije štediša.

1141. Donešeni entitetski zakoni kojima se devizna štednja pretvara u javni dug, ne omogućavaju deviznim štedišama procesne garancije u smislu člana 6. Evropske konvencije.

1142. U mišljenju je istaknut stav da Država nema javni interes u pogledu opravdanosti miješanja u pravo na imovinu vlasnika stare devizne štednje. U tom smislu, navodi se da Država ne raspolaže podacima o svojoj imovini, te da je miješanje u ovo pravo neopravdano pošto Država ne vodi savjesno proces privatizacije. Na taj način, Država gubi veliki dio sredstava, koja bi pomogla u rješavanju problema stare devizne štednje.

1143. Budući da se radi o kršenju ljudskih prava građana Bosne i Hercegovine, a isključivo u interesu organiziranog kriminala koji dolazi iz redova međunarodne zajednice i domaćih političkih oligarhija, *amici curiae* je mišljenja da bi Komisija trebala:

- obavijestiti i pozvati članove Predsjedništva Bosne i Hercegovine da podnesu Ustavnom sudu Bosne i Hercegovine zahtjev za preispitivanje ustavnosti zakona koji se odnose na privatizaciju banaka i preduzeća, zakona o javnom dugu i zakona o zabrani izvršenja sudskih presuda;

- zatražiti i izricanje mjere zabrane dalje privatizacije preduzeća i banaka dok se ne utvrdi i usvoji program konsolidacije i vraćanja *ino* duga koji su preuzeli entiteti i

pitanje isplate stare devizne štednje građanima u Bosni i Hercegovini uključujući i izbjegla lica;

- sugerisati Predsjedništvu Bosne i Hercegovine da traže hitno sazivanje sjednice Vijeća za implementaciju mira s ciljem dobivanja stručne i političke podrške u zaštiti prava građana Bosne i Hercegovine.

D. Mišljenje *amicus curiae* – Ured Visokog predstavnika za Bosnu i Hercegovinu

1144. Ured Visokog predstavnika za Bosnu i Hercegovinu, u svom mišljenju od 1. aprila 2005. godine, smatra da treba odustati od stavova Doma, izraženih u odlukama *Poropat i drugi* i *Đurković i drugi*, iz razloga što je Država prenijela tu nadležnost na entitete i Brčko Distrikt. Time je Država iskoristila svoju diskrecionu moć. Štaviše, Ured Visokog predstavnika za Bosnu i Hercegovinu smatra da je nerealno očekivati da poddržavne jedinice mogu imati iste standarde za isplatu stare devizne štednje, jer se, uključujući privatizaciju, nalaze u različitim pozicijama.

1145. U pogledu obaveza entiteta i Brčko Distrikta, Ured Visokog predstavnika za Bosnu i Hercegovinu je, uz upućivanje na podatke Međunarodnog monetarnog fonda, dao statistički pregled obaveza Države po pitanju unutarnjeg duga i pojedinih njegovih elemenata. Time je Ured Visokog predstavnika za Bosnu i Hercegovinu ukazivao na ozbiljnost situacije.

1146. U pogledu procesnih prava, naglašeno je da se *pravo pristupa sudu* u smislu člana 6. Evropske konvencije može ograničiti u javnom interesu, što bi bilo opravdano u slučajevima *stare devizne štednje.* U tom smislu, ukazano je na određenu praksu Evropskog suda za ljudska prava (presuda *National & Privincial Building Society et al. protiv Velike Britanije*, od 23. oktobra 1997. godine, broj 117/1996/736/933-935, stav 105). Osim toga, naglašeno je da se podzakonski propisi tek trebaju donijeti, tako da je ocjena zakona preuranjena.

1147. Na kraju je istaknuto da postojeći zakonski okvir predstavlja proporcionalan odnos između prava pojedinca i interesa Države, pri čemu Država uživa široko polje procjene.

VII. MIŠLJENJE KOMISIJE

A. Prihvatljivost

1148. Komisija podsjeća da su prijave podnesene Domu u skladu sa Sporazumom. S obzirom da Dom o njima nije odlučio do 31. decembra 2003. godine, Komisija je, u skladu sa članom 2. Sporazuma iz septembra 2003. godine i članom 3. Sporazuma iz 2005. godine, sada nadležna da odlučuje o ovim prijavama. Pri tome, Komisija će uzimati u obzir kriterije za prihvatljivost prijave sadržane u članu VIII(2) i (3) Sporazuma. Komisija, također, zapaža da se Pravila procedure kojima se uređuje njeno postupanje ne razlikuju, u dijelu koji je relevantan za predmete podnosilaca prijava, od Pravila procedure Doma, izuzev u pogledu sastava Komisije.

1. Nadležnost *ratione personae*

1149. Općenito, Komisija podsjeća da se njena nadležnost, prema članu II(2) Sporazuma, proteže na navodne ili očigledne povrede ljudskih prava gdje je takvu povredu navodno ili očigledno počinila jedna ili više strana u Sporazumu. Imajući na umu kompleksnost pravnih i ustavnih aranžmana Bosne i Hercegovine, Komisija smatra da bi bilo nerazumno očekivati od podnosilaca prijava da su u stanju u svim okolnostima tačno imenovati tuženu stranu. Iz ovog razloga, Dom je uvijek smatrao da nije ograničen izborom tužene strane podnosioca prijave. Dom je, u nekoliko prilika, ispitao prijave u vezi sa tuženom stranom onako kako je to odredio sam Dom (vidi, npr., *Poropat i drugi*, tačke, *loc. cit*, 132-33).

1150. S obzirom na gore navedeno, Komisija će razmotriti sve ove prijave i protiv Bosne i Hercegovine i protiv Federacije Bosne i Hercegovine.

(a) Odgovornost Bosne i Hercegovine

1151. Komisija će razmotriti da li je i u kojoj mjeri rješavanje pitanja relevantnih za predmetne prijave odgovornost svake od tuženih strana.

1152. Komisija podsjeća da, prema članu I Ustava, Bosna i Hercegovina nastavlja svoje pravno postojanje po međunarodnom pravu kao država i tako nasljeđuje status bivše Republike Bosne i Hercegovine. U tom svojstvu, Bosna i Hercegovina uzima učešće u pregovorima koji se tiču sukcesije imovine SFRJ. Međutim, ne može se smatrati da samo taj status stvara odgovornost za bivše unutrašnje obaveze SFRJ, uključujući i onu koja proizilazi iz deponovanja deviza u Narodnoj banci Jugoslavije i garancija koje je SFRJ dala u vezi sa štednjom. Ipak, Republika Bosna i Hercegovina je usvojila zakone i propise u vezi sa deviznom štednjom (vidi CH/97/48, *loc. cit,* tačke 88-91 gore). Član 9. Uredbe iz 1992. godine predviđao je da Republika daje garanciju za deviznu štednju, a član 12. Uredbe iz 1994. godine glasi da građani mogu koristiti svoju štednju slobodno. Imajući u vidu da je članom 144. Uredbe iz 1992. godine određeno da isplate devizne štednje građana uložene kod Narodne banke Jugoslavije treba odrediti posebnim propisom, Dom je zaključio da je ustanovljeno da se izričita garancija i obećanje da se štednja može slobodno koristiti nisu odnosili na staru deviznu štednju nego samo na nove štedne uloge koje su građani počeli ulagati u vrijeme kada je usvojena zakonska regulativa Republike. Ipak, ostavljajući rješavanje stare devizne štednje za poseban propis, Republika je implicitno priznala odgovornost za ovu štednju. Odluke iz 1995. i 1996. godine ne samo da su pojačale ovo implicitno priznanje, već je jasno navedeno da će se pitanje stare štednje rješavati usvajanjem državnog zakona o javnom dugu ili na neki drugi način u okviru ukupne konsolidacije javnog duga države (*Poropat i drugi*, tačka 142. ff, *Todorović i drugi*, tačka 96, *Đurković i drugi*, tačka 202. ff). Iz ovoga je jasno vidljiv kontinuitet obaveze Države od perioda raspada bivše SFRJ, pa sve do 14. decembra 1995. godine, kada su Sporazum i Ustav Bosne i Hercegovine stupili na snagu.

1153. Komisija, prije svega, napominje da je Aneksom II/2 Ustava Bosne i Hercegovine propisan kontinuitet pravnih propisa, prema kojem *[s]vi zakoni, propisi i sudski poslovnici, koji su na snazi na teritoriji Bosne i Hercegovine u trenutku kada Ustav stupi na snagu, ostaće na snazi u onoj*

mjeri u kojoj nisu u suprotnosti sa Ustavom dok drugačije ne odredi nadležni organ vlasti Bosne i Hercegovine. Na taj način su svi normativni akti, koji su navedeni u prethodnoj tački ove Odluke, ostali na snazi. Nakon toga datuma, Država je prema novom Ustavu dobila nove obaveze, koje su se primjenjivale/se primjenjuju na pitanje imovinskih prava u smislu člana 1. Protkola broj 1 uz Evropsku konvenciju. U alineji 4. Preambule Ustava, koja ima normativni karakter, u skladu sa III. djelimičnom odlukom Ustavnog suda Bosne i Hercegovine u predmetu 5/98 (od 30. juna i 1. jula 2000. godine, tač. 17. ff), propisano je da je država obavezna da *podstakn[e] opšte blagostanje i ekonomski razvoj kroz zaštitu privatnog vlasništva i unapređenje tržišne privrede*. Članom I/4 Ustava Bosne i Hercegovine, stipulisana je, između ostalog, sloboda kretanja kapitala širom Bosne i Hercegovine, dok je članom II/1, *Bosna i Hercegovina i oba entiteta [obavezna] osigurati najviši nivo međunarodno priznatih ljudskih prava i osnovnih sloboda. U tu svrhu postoji Komisija za ljudska prava za Bosnu i Hercegovinu, kao što je predviđeno u Aneksu 6 Opšteg okvirnog sporazuma.* Osim toga, članom II/6. Ustava Bosne i Hercegovine, *Bosna i Hercegovina, i svi sudovi, ustanove, organi vlasti, te organi kojima posredno rukovode entiteti ili koji djeluju unutar entiteta podvrgnuti su, odnosno primjenjuju ljudska prava i osnovne slobode na koje je ukazano u stavu 2*. Konačno, *[p]rava i slobode predviđeni u Evropskoj konvenciji za zaštitu ljudskih prava i osnovnih sloboda i u njenim protokolima se direktno primjenjuju u Bosni i Hercegovini. Ovi akti imaju prioritet nad svim ostalim zakonima*. Na kraju, Komisija napominje da je Država, u skladu sa članom III/1(d) Ustava Bosne i Hercegovine, direktno odgovorna za monetarnu politiku. Štaviše, član VII. Ustava označava Centralnu banku Bosne i Hercegovine kao jedini nadležni organ za monetarnu politiku u cijeloj zemlji. Tačno je da Centralnoj banci nije dato ovlaštenje da reguliše rad banaka uopšte, ili posebno deviznu štednju. Međutim, isplata štednje sa predmetnih bankovnih računa ima reperkusije na protok deviza i tako utiče na monetarnu politiku za koju je Centralna banka, kao državna institucija, odgovorna.

1154. Iz ovih odredbi jasno proizilazi da je pravo na imovinu, kao jedno od fundamentalnih prava modernog demokratskog društva, obaveza Države. Država se ne može osloboditi garantovanja poštivanja ovog prava činjenicom da je, na primjer, prenijela regulisanje i implementaciju ovih oblasti na entitetske institucije. U tom smislu, Komisija napominje da je Dom, u svojoj Odluci CH/97/48 (*loc. cit*, tačka 93) zapazio da je Okvirni zakon o privatizaciji preduzeća i banaka, koji priznaje pravo entitetima da privatiziraju imovinu preduzeća i banaka na njihovoj teritoriji koja nije u privatnom vlasništvu i predviđa da će entiteti usvojiti zakone u tom smislu pokrivajući sredstva i obaveze tako ustanovljene**,** usvojila Parlamentarna skupština Bosne i Hercegovine 19. jula 1999. godine, nakon što je Visoki predstavnik, 22. jula 1998. godine, donio privremeni zakon. Po mišljenju Doma, činjenica da je Parlamentarna skupština usvojila ovaj Zakon - koji se indirektno tiče i stare devizne štednje – je indikacija o nadležnosti Države da reguliše ove stvari, bar u formulisanju općih principa koje treba primijeniti. Komisija smatra da, i danas, činjenica da je Federacija Bosne i Hercegovine usvojila Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine, ne može osloboditi Državu obaveze da se ovo pitanje ne riješi, barem principijelno, na državnom nivou i u skladu sa članom 1. Protokola broj 1 uz Evropsku konvenciju, za koji je Država direktno odgovorna.

1155. Time Komisija odbija prigovore tužene strane, Bosne i Hercegovine, da Država nije *preuzela garanciju za deviznu štednju građana koja je deponovana kod bivše Narodne banke Jugoslavije, niti postoji njena obaveza da tu štednju isplaćuje građanima*. Komisija napominje da je pitanje deponovanja novca kod bivše Narodne banke Jugoslavije faktičko pitanje, koje je Bosna i Hercegovina trebala uzeti u obzir kada je zakonski, znači, formalno preuzimala obaveze u pogledu devizne štednje. S druge strane, Država (ni Republika Bosna i Hercegovina, niti Bosna i Hercegovina) nije nikada garantovala štedne uloge imovinom i sredstvima Narodne banke Republike Bosne i Hercegovine (vidi dio Odluke vis á vis zakonodavstva Države). Iz tog razloga, likvidacija Narodne banke Republike Bosne i Hercegovine (Odluka Narodne banke Republike Bosne i Hercegovine u likvidaciji, broj 01-111/03, od 26. juna 2003. godine), i javni poziv kreditorima po osnovu potraživanja (vidi, na primjer, Obavijest o likvidaciji Narodne banke Bosne i Hercegovine, "Službene novine Federacije Bosne i Hercegovine", broj 39/98), ne može uticati na poziciju vlasnika stare devizne štednje, bez obzira što se imovina ove države imovine mogla separatisati i likvidirati

1156. Komisija zaključuje da Bosna i Hercegovina ostaje odgovorna za pronalaženje zajedičkog rješenja za problem starih bankovnih računa, te smatra da su prijave prihvatljive *ratione personae* protiv Bosne i Hercegovine u vezi sa članom 1. Protokola broj 1 uz Evropsku konvenciju.

1157. Što se tiče sudskih postupaka koje su pokrenuli neki od podnosilaca prijava i navoda o nemogućnosti drugih da pristupe sudu, Komisija zapaža da se to isključivo tiče sudstva Federacije Bosne i Hercegovine. Komisija, zbog toga, nalazi da su prijave neprihvatljive protiv Bosne i Hercegovine u vezi sa članom 6. Evropske konvencije.

(b) Odgovornost Federacije Bosne i Hercegovine

1158. Federacija Bosne i Hercegovine tvrdi da se ne može smatrati odgovornom za moguće povrede u ovim predmetima.

1159. Komisija podsjeća da je sve zakone primjenjive na teritoriji Federacije Bosne i Hercegovine, koji se bave bankarstvom, potraživanjima građana, privatizacijom i unutrašnjim dugom, donijela Federacija Bosne i Hercegovine i da su svi organi određeni za implementaciju zakona institucije Federacije Bosne i Hercegovine. Nadalje, žalbe podnosilaca prijava i drugih tužilaca u vezi sa deviznom štednjom su ispitali sudovi koji su nadležni samo na teritoriji Federacije. Federacija Bosne i Hercegovine je odgovorna u ovim predmetima za regulatorne mjere, odluku Ustavnog suda Federacije i druge postupke koje je preduzela u dijelu u kome su oni uticali na položaj podnosilaca prijava u odnosu na banke, a posebno, u odnosu na štedne uloge u bankama.

1160. Komisija zaključuje da je nadležna *ratione personae* da razmatra predmetne prijave u odnosu na Federaciju Bosne i Hercegovine.

2. Stvar već riješena

1161. Federacija Bosne i Hercegovine također tvrdi da predmetne prijave treba odbaciti na osnovu toga što je Dom već riješio stvar u odluci *Poropat i drugi*, *Todorović i drugi* i *Đurković i drugi* naknadnim izvršenjem tih odluka od strane Federacije putem postojećih izmjena i dopuna zakona, te mogućih budućih radnji.

1162. Međutim, podnosioci prijava ne misle da je stvar riješena. Komisija smatra da usvajanje novog Zakona o unutrašnjim obavezama i dalje ostavlja otvorenim mnoga pitanja, propisujući da će se model i visina isplata regulisati naknadno posebnim propisom. Naročito, Komisija zapaža da su novim zakonskim rješenjima propisana određena ograničenja koja se tiču iznosa u kome će se vršiti gotovinske isplate, a koji bi trebao da podrži fiskalnu održivost Federacije Bosne i Hercegovine. Prema tome, podnosioci prijava i dalje ne mogu da dobiju isplatu sa svojih računa, niti je trenutno u potpunosti izvjesno na koji način i do koje visine će to biti moguće. Dakle, uplitanje se nastavlja, a stvar nije riješena.

1163. Ukratko, Komisija dalje smatra da trenutni status zakona koji utiče na staru deviznu štednju pokreće pitanja koja još nisu riješena. Komisija, zbog toga, neće odbiti predmetne prijave po članu VIII(3)(b) Sporazuma.

3. *Res iudicata*

1164. Federacija Bosne i Hercegovine tvrdi da je Komisija, u skladu sa članom VIII(2)(b), spriječena da ispita ove predmete zbog toga što su oni u suštini isti kao stvar koju je Dom već ispitao. Federacija posebno tvrdi da odluke Doma po istom pitanju u predmetu *Poropat i drugi*, *Todorović i drugi i Đurković i drugi* sprječavaju razmatranje ovih prijava.

1165. Komisija podsjeća da princip *res iudicata* predviđa da je konačna presuda koju donese nadležni sud o meritumu predmeta konačna u odnosu na prava uključenih strana i predstavlja

apsolutnu zabranu kasnijih postupaka koji se tiču istog potraživanja. Taj princip je izražen u članu VIII(2)(b) Sporazuma kojim je propisano da Dom *neće razmatrati prijavu koja je u suštini ista kao i stvar koju je Dom već ispitao, ili je već podnesena na drugi postupak međunarodne istrage ili rješavanja*. Međutim, nijedan od ovih podnosilaca prijava nije uključen u odluke Doma u predmetima *Poropat i drugi*, *Todorović i drugi* i *Đurković i drugi*; dakle, princip *res iudicata* se ne može odnositi na njih.

1166. Član VIII(2)(b) Sporazuma nije primjenjiv u ovom slučaju kako bi se Komisiji uskratila ovlaštenja da razmatra prijave bez obzira na slične ranije prijave pred Domom.

4. Očigledno neosnovane

1167. Federacija tvrdi da ove prijave treba odbaciti kao očigledno neosnovane.

1168. Federacija ne navodi nikakve dokaze za ovaj argument i Komisija smatra da ove prijave pokreću legitimna pitanja spojiva sa Sporazumom i u okviru njene nadležnosti. Prema tome, Komisija odbacuje prijedlog da se prijave moraju odbaciti kao očigledno neosnovane prema članu VIII(2)(c).

5. Iscrpljivanje domaćih pravnih lijekova i pravilo 6 mjeseci

1169. U skladu sa članom VIII(2)(a), Komisija će razmotriti da li postoje efikasni pravni lijekovi i, ako je tako, da li su podnosioci prijava dokazali da su ih iscrpili, te da li su podnosioci prijava dokazali da su prijave podnesene u roku od šest mjeseci od dana kada je donesena konačna odluka. Komisija podsjeća da pravilo iscrpljivanja pravnih lijekova zahtijeva da podnosioci prijava dođu do konačne odluke. Konačna odluka predstavlja odgovor na zadnji pravni lijek, koji je djelotvoran i adekvatan da ispita nižestepenu odluku kako u činjeničnom tako i u pravnom pogledu. Odluka kojom je djelotvoran pravni lijek odbačen zato što apelanti nisu ispoštovali formalne zahtjeve pravnog lijeka (rok, plaćanje taksi, forma ili ispunjenje zakonskih uvjeta i sl), ne može se smatrati konačnom. S druge strane, korištenje nedjelotvornog pravnog lijeka ne prekida rok od 6 mjeseci za podnošenje prijave Komisiji.

1170. Bosna i Hercegovina tvrdi da podnosioci prijava nisu iscrpili domaće pravne lijekove, jer nisu iskoristili sva raspoloživa pravna sredstva pred domaćim sudovima. Takva sredstva uključuju određene redovne i vanredne pravne lijekove predviđene Zakonom o parničnom postupku. Bosna i Hercegovina je, nadalje, navela da je *u svojoj dosadašnjoj praksi Evropska komisija prihvatila predmete u kojima nisu bila iskorištena sva raspoloživa efikasna sredstva, samo u dva slučaja*, smatrajući time da je ovakav pristup izrazito rijedak. Navodi da *samo sumnja u uspjeh u domaćem postupku podnosice prijava ne oslobađa obaveze da iscrpe domaća pravna sredstva*.

1171. Komisija, na prvom mjestu, napominje da pri primjeni principa iscrpljivanja pravnih lijekova nije potrebno uzimati u obzir kvantitet odluka Evropske komisije za ljudska prava u pogledu određene problematike (čak i da nema niti jednog predmeta u relevantnom smislu), već je potrebno ispitivati u svakom pojedinom slučaju da li je pravni lijek djelotvoran, ili ne prema relevantnim zakonima države.

1172. Na pojedinca se ne može staviti pretjerani teret u otkrivanju koji je najefikasniji put kojim bi se došlo do ostvarivanja svojih prava (Odluka Ustavnog suda Bosne i Hercegovine, *U 18/00,* od 10. maja 2002. godine, tačka 40, "Službeni glasnik Bosne i Hercegovine", broj 30/02). Djelotvornost pravnog lijeka se ne ogleda samo u činjenici da je on pravno i formalno predviđen, već i da je u praksi djelotvoran. Osnovna ljudska prava, koja štiti Evropska konvencija i Ustav Bosne i Hercegovine, moraju biti stvarna i djelotvorna kako u zakonu tako i u praksi, a ne iluzorna i teoretska. Pravni lijekovi koji su predviđeni za zaštitu prava moraju biti fizički dostupni, ne smiju biti ometani aktima, propustima, odlaganjima ili nemarom vlasti, te moraju biti u stanju štititi predmetna prava (Odluka Ustavnog suda Bosne i Hercegovine, *U 36/02*, od 30. januara 2004. godine, tačka 25, "Službeni glasnik Bosne i Hercegovine", broj 9/04).

1173. U vezi s tim, Komisija podsjeća da je u Bosni i Hercegovini već etablirana praksa da se podnosioci prijava mogu obratiti direktno Ustavnom sudu Bosne i Hercegovine ili Domu, danas Komisiji, u slučaju kada nema djelotvornih pravnih lijekova u vezi sa određenim ustavnim pravom, odnosno pravom iz Sporazuma. Tako je u svim slučajevima nerazumnog trajanja postupka zaključeno da u Bosni i Hercegovini ne postoji pravni lijek protiv tvrdnje da je u određenom slučaju povrijeđeno pravo na odlučivanje u razumnom roku. Iz toga razloga, apelanti, tj. podnosioci prijava nisu se morali obratiti niti jednom domaćem organu, već direktno Ustavnom sudu Bosne i Hercegovine ili Domu, tj. Komisiji, i tvrditi povredu citiranog prava (vidi, nedavno usvojene predmete Ustavnog suda Bosne i Hercegovine, *AP 769/04*, od 30. novembra 2004. godine, tačka 23, sa uputom na daljnju praksu Evropskog suda za ljudska prava). Nadalje, Dom je jasno naveo da činjenica da postupak još traje neće spriječiti Dom da ispita žalbene navode podnosioca prijave u vezi sa dužinom postupka (Odluka o prihvatljivosti i meritumu, CH/99/1972, *M.T. protiv Republike Srpske*, od 3. jula 2003. godine, tačka 27). Isti slučaj je bio sa pravom pristupa sudu, gdje je zaključeno da Bosna i Hercegovina i njene poddržavne teritorijalne cjeline nisu predvidjeli pravni lijek protiv povrede prava pristupa sudu (vidi, na primjer, Odluku o prihvatljivosti i meritumu Komisije, Dmitar Arula protiv Federacije Bosne i Hercegovine, od od 8. i 9. marta 2005. godine, tačka 55; Odluka Ustavnog suda Bosne i Hercegovine, *U 19/00* od 4. maja 2001. godine, tačka 12. ff, "Službeni glasnik Bosne i Hercegovine", broj 27/01).

1174. Komisija navodi da je prva indicija nedjelotvornog pravnog sistema u pogledu isplate stare devizne štednje činjenica da Bosna i Hercegovina ni dan danas nije počela da isplaćuje deviznu štednju. Osim toga, podsjeća da su neki od podnosilaca prijava pokrenuli domaće sudske postupke kako bi im se isplatila gotovina sa njihovih računa. Nijedan od podnosilaca prijava nije do sada u tome uspio. Osim toga, Komisija uzima u obzir da su brojni postupci u toku i nakon više od pet godina. Konačno, sama zakonska rješenja ne dozvoljavalju trenutno da se pravomoćne presude iz oblasti ove problematike izvršavaju, jer su predviđeni drugi modaliteti isplate stare devizne štednje.

1175. S obzirom na gore navedeno, Komisija smatra da ne postoje efikasni pravni lijekovi koji su dostupni podnosiocima prijava, a koje bi trebali iscrpiti. U ovim okolnostima, Komisija nije spriječena da razmatra prijave.

1176. Bosna i Hercegovina tvrdi da su prijave neprihvatljive prema članu VIII(2)(a) Sporazuma, jer nisu podnesene u roku od šest mjeseci od dana donošenja bilo koje konačne odluke u predmetima podnosilaca prijava. Međutim, sadržaj svake od navedenih povreda je nastavljena situacija, a rok od šest mjeseci se ne može primijeniti sve dok se situacija ne okonča, a što ovdje nije slučaj. Treba napomenuti da je zahtjev za isplatom pravni zahtjev koji se formalno, ali i faktički, proteže od samog početka nemogućnosti isplate štedišama njihove devizne štednje. Prema tome, iako je situacija nastala prije 14. decembra 1995. godine, pravna situacija je nepromijenjena i do danas, kada je Sporazum, bez daljnjeg, na snazi. Radi se, znači, o klasičnom slučaju tvrdnje kontinuirane povrede (vidi, između ostalih, odluke o prihvatljivosti i meritumu Doma, CH/99/1900 i 1901, *D.S. i N.S. protiv Federacije Bosne i Hercegovine*, od 6. marta 2002. godine, tačka 49; Odluku Ustavnog suda Bosne i Hercegovine, *U 23/00,* "Službeni glasnik Bosne i Hercegovine", broj 10/01).

1177. Komisija, zbog toga, zaključuje da prijave nisu neprihvatljive prema članu VIII(2)(a).

(c) Ostalo

1178. U skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, Komisija briše dio prijave, u predmetu broj CH/98/1300, *Vera KRSTIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u vezi sa deviznim štednim knjižicama kod Jugobanke, koje glase na ime B.K, jer uprkos izričitom traženju Komisije, podnosilac prijave nije dostavila punomoć, kojom je B.K. ovlašćuje na zastupanje u vezi devizne štednje pred Komisijom.

1179. U skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, Komisija briše dio prijave, u predmetu broj CH/99/2208, *Božidar LAKIČEVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u vezi sa položenim sredstvima kod Privredne banke. Naime, uprkos izričitom traženju, podnosilac prijave nije dostavio kopiju knjižica, čime bi potkrijepio svoje navode. Osim toga, podnosilac prijave nije naveo razloge nedostavljanja knjižice.

1180. U skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, Komisija briše dio prijave *broj CH/98/470, Ubavka ĆOROVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, za svoja potraživanja u iznosu od 2.735,65 KM i prijave br. *CH/98/421*, *Milorad SAVIČIĆ protiv Federacije Bosne i Hercegovine, CH/99/3027, Marela ČELIKOVIĆ protiv Federacije Bosne i Hercegovine*, *CH/99/3176, Vedat PAŠIĆ protiv Bosne i Hercegovine* i *CH/99/3177, Nejra PAŠIĆ protiv Bosne i Hercegovine*. Naime, uprkos izričitom traženju, podnosioci prijava nisu dostavili kopiju štednjih knjižica, čime bi potkrijepili svoje navode. Osim toga, podnosioci prijava nisu naveli razloge nedostavljanja knjižice.

1181. U skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, Komisija briše dio prijave, u predmetu broj CH/99/2552, *Pašan MEHMEDINOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, koji se odnosi na štedne pologe kćerki podnosioca prijave, jer, uprkos izričitom traženju Komisije, nije dostavio kopiju punomoći kojom ga ovi članovi porodice ovlašćuju za zastupanje pred Komisijom.

1182. U skladu sa pravilom 50. stavom 2e. Pravila procedure Komisije, Komisija briše prijave br. *CH/98/484, Draginja SAVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine, CH/99/3007, T.E.S. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine* i *CH/99/3043, Blažo ĆIPOVIĆ protiv Federacije Bosne i Hercegovine,* jer podnosiloci prijava ne posjeduju više deviznu štednju, zbog čega više nije opravdano da se nastavi postupak pred Komisijom. Naime, Komisija smatra da se ovi podnosioci prijava ne mogu smatrati više „žrtvama“ navodnih povreda ljudskih prava i sloboda.

8. Zaključak u pogledu prihvatljivosti

1183. Pošto nije utvrđen bilo koji osnov za proglašavanje prijava neprihvatljivim, Komisija proglašava sve prijave prihvatljivim prema članu 1. Protokola broj 1 uz Evropsku konvenciju u pogledu Bosne i Hercegovine, i u cijelosti prihvatljive u pogledu Federacije Bosne i Hercegovine.

1184. Komisija, u skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, briše dio prijava u predmetima br. *CH/98/470, Ubavka ĆOROVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine,* CH/98/1300, *Vera KRSTIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, CH/99/2208, *Božidar LAKIČEVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, CH/99/2552, *Pašan MEHMEDINOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*. Komisija, u skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, briše prijave br. *CH/98/421*, *Milorad SAVIČIĆ protiv Federacije Bosne i Hercegovine, CH/99/3027, Marela ČELIKOVIĆ protiv Federacije Bosne i Hercegovine*, *CH/99/3176, Vedat PAŠIĆ protiv Bosne i Hercegovine* i *CH/99/3177, Nejra PAŠIĆ protiv Bosne i Hercegovine.*

1185. U skladu sa pravilom 50. stavom 2e. Pravila procedure Komisije, Komisija briše prijave br. *CH/98/484, Draginja SAVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, *CH/99/3007, T.E.S. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine* i *CH/99/3043, Blažo ĆIPOVIĆ protiv Federacije Bosne i Hercegovine,* jer podnosiloci prijava ne posjeduju više deviznu štednju.

B. Meritum

1186. Po članu XI Sporazuma Dom će potom razmotriti pitanje da li gore utvrđene činjenice otkrivaju da su tužene strane prekršile svoje obaveze prema Sporazumu. Prema članu I Sporazuma, strane su obavezne da *obezbijede svim licima pod svojom nadležnošću najviši stepen*

međunarodno priznatih ljudskih prava i osnovnih sloboda, uključujući prava i slobode predviđene Evropskom konvencijom i njenim Protokolima.

B.1. Član 1. Protokola broj 1 uz Evropsku konvenciju

1187. Podnosioci prijava se žale da je povrijeđeno njihovo pravo na imovinu prema članu 1. Protokola broj 1 uz Evropsku konvenciju. Ova odredba glasi:

> *Svako fizičko i pravno lice ima pravo uživati u svojoj imovini. Niko ne može biti lišen imovine, osim u javnom interesu i pod uvjetima predviđenim zakonom i općim načelima međunarodnog prava.*
>
> *Prethodne odredbe, međutim, ne utiču ni na koji način na pravo države da primjenjuje zakone koje smatra potrebnim da bi se regulisalo korištenje imovine u skladu sa općim interesima ili da bi se obezbijedila naplata poreza ili drugih dadžbina i kazni.*

1188. Podnosioci prijava se žale da su njihova prava povrijeđena odbijanjem banaka, tj. tuženih strana, da im isplate deviznu štednju, i konverzijom te štednje u certifikate za privatizaciju, bez njihovog znanja i saglasnosti. Dalje, podnosioci prijava tvrde da radnjama koje je preduzela Federacija nije uspostavljena pravična ravnoteža između javnog i privatnog interesa, a rezultat toga je nastavljena povreda njihovih prava na imovinu.

1189. Tužene strane navode da su postupci u pogledu stare devizne štednje bili opravdani i da nije došlo do povrede ljudskih prava. Bosna i Hercegovina se pozvala na saradnju sa Uredom Visokog predstavnika za Bosnu i Hercegovinu, te navela da Država priprema paket zakona o privatizaciji državne imovine, čija je vrijednost znatno veća od duga po staroj deviznoj štednji građana. Bosna i Hercegovina je navela da trenutna zakonska rješenja ne vrijeđaju pravo podnosilaca prijava na imovinu. Federacija Bosne i Hercegovine navodi da je nesporno da se radi o imovini podnosilaca prijava, ali da je ovo pitanje zakonski regulisano u skladu sa pravom na imovinu. Ističe, da je postignuta pravična ravnoteža između interesa Države i podnosilaca prijava, te da je otklonjena buduća nesigurnost u pogledu devizne štednje.

1190. Prema jurisprudenciji Evropskog suda za ljudska prava, član 1. Protokola broj 1 uz Evropsku konvenciju obuhvata tri različita pravila. Prvo, koje je izraženo u prvoj rečenici prvog stava i koje je opće prirode, izražava princip mirnog uživanja u imovini. Drugo pravilo, u drugoj rečenici istog stava, pokriva lišavanje imovine i podvrgava ga izvjesnim uvjetima. Treći, sadržan u drugom stavu, dozvoljava da države potpisnice imaju pravo, između ostalog, da kontrolišu korištenje imovine u skladu sa općim interesom, sprovođenjem onih zakona koje smatraju potrebnim za tu svrhu (vidi Odluku Ustavnog suda Bosne i Hercegovine, *U 3/99*, od 17. marta 2000. godine, "Službeni glasnik Bosne i Hercegovine", broj 21/00).

1191. Uzimajući u obzir gornju tačku ove Odluke, slijedi da Komisija mora odgovoriti na tri pitanja. Prvo, da li se prava u vezi sa starom deviznom štednjom mogu smatrati *imovinom* u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju? Drugo, ako se smatraju imovinom, da li se postojećom zakonskom regulativom ili nedostatkom regulative Bosna i Hercegovina, tj. Federacija Bosne i Hercegovine miješa u ta prava tako da uključuje zaštitu člana 1. Protokola broj 1 uz Evropsku konvenciju? Treće, ako je član 1. Protokola broj 1 uz Evropsku konvenciju uključen, da li je miješanje opravdano prema tom članu?

B.1.a. Da li se radi o imovini podnosilaca prijava?

1192. Prema ustanovljenoj praksi riječ imovina uključuje širok obim imovinskih interesa koje treba štititi (vidi presudu bivše Evropske komisije za ljudska prava, *Wiggins protiv Ujedinjenog Kraljevstva*, aplikacija broj 7456/76, Odluke i izvještaji (OI) 13, st. 40-46 (1978)), a koji predstavljaju ekonomsku vrijednost. Koncept imovine ima autonomno značenje, a dokazivanje utvrđenog ekonomskog interesa može biti dovoljno ako se ustanovi pravo zaštićeno Evropskom konvencijom, pri čemu pitanje da li su imovinski interesi priznati kao zakonsko pravo u domaćem pravnom sistemu nije od značaja (vidi presudu Evropskog suda za ljudska prava, *Tre Traktörer Aktibolag protiv Švedske*, iz 1984. godine, serija A, broj 159, stav 53).

1193. Dom je u svojoj ranijoj praksi, u nekoliko prilika, ustanovio da stara devizna štednja predstavlja imovinu u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju. Dom je utvrdio da, bez obzira na finansijsku situaciju banaka i opću ekonomsku situaciju u Državi i Federaciji Bosne i Hercegovine, te ograničenja u podizanju stare devizne štednje ili *de facto* blokiranje te štednje, novac koji je deponovan na računima podnosilaca prijava predstavlja ekonomsku vrijednost. Potraživanja podnosilaca prijava kod banaka po osnovu njihove devizne štednje tako predstavljaju *vlasništvo* u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju (vidi odluku *Poropat i drugi*, *loc. cit,* tačka 161). Konačno, tužene strane u postupku nisu negirale ovu činjenicu. Štaviše, Federacije Bosne i Hercegovine je afirmativno potvrdila ovaj navod podnosilaca prijava.

B.1.b. Navodne povrede od strane Bosne i Hercegovine

B.1.b.1. Da li se Bosna i Hercegovina nastavila miješati u pravo na imovinu podnosilaca prijava?

1194. Komisija, prije svega, napominje da je u predmetu *Poropat i dr* (loc. cit, tač. 164. ff), Dom jasno utvrdio da se Bosna i Hercegovina miješala u pravo na imovinu podnosilaca prijava zbog činjenice da je propustila da *osigura štedišama stare devizne štednje njihovo pravo na mirno uživanje njihovog vlasništva. Ovo znači uplitanje u to pravo*. Preko tri godine kasnije, u odluci *Đurković i dr.* (*loc. cit*, tačka 269. ff), Dom je potvrdio miješanje Bosne i Hercegovine u isto pravo podnosilaca prijave.

1195. Od ove odluke, koja je uručena 7. novembra 2003. godine, Država nije donijela niti jedan pravni akt kojim bi regulisala ovo pitanje. S druge strane, isplata stare devizne štednje nije izvršena u bilo kojem smislu. Iz ovog razloga, Komisija smatra da je Bosna i Hercegovina nastavila da se miješa u pravo podnosilaca prijava, zbog čega je neophodno da se ispita opravdanje ovakvog *propuštanja* Države da reguliše pitanje stare devizne štednje.

B.1.b.2. Da li je miješanje opravdano?

1196. Prije stupanja na snagu Općeg okvirnog sporazuma za mir u Bosni i Hercegovini, Država je bila zakonodavno aktivna u pogledu stare devizne štednje. Naime, Republika Bosna i Hercegovina je usvojila zakone i propise u vezi sa deviznom štednjom (vidi CH/97/48, *loc. cit,* tač. 88-91; tačka 1064. ff ove Odluke). Član 9. stav 3. Uredbe iz 1992. godine predviđao je da Republika daje garanciju za deviznu štednju, a član 12. Uredbe iz 1994. godine stipulisao je da građani mogu koristiti svoju štednju slobodno. Imajući u vidu da je članom 144. Uredbe iz 1992. godine određeno da isplate devizne štednje građana uložene kod Narodne banke Jugoslavije treba odrediti posebnim propisom, Komisija smatra da je ustanovljeno da se izričita garancija i obećanje da se štednja može slobodno koristiti nisu odnosili na staru deviznu štednju nego samo na nove štedne uloge koje su građani počeli ulagati u vrijeme kada je usvojena zakonska regulativa Republike. Ipak, ostavljajući rješavanje stare devizne štednje za poseban propis, Republika je implicitno priznala odgovornost za ovu štednju. Odlukom od 9. aprila 1995. godine, ne samo da je pojačano ovo implicitno priznanje, već je jasno navedeno da će se pitanje stare štednje rješavati usvajanjem državnog zakona o javnom dugu Republike.

1197. Iako je Opći okvirni sporazum za mir u Bosni i Hercegovini stupio na snagu nakon datuma koji su navedeni u prethodnoj tački, Komisija ponavlja da, prema članu I Ustava Bosne i Hercegovine, Bosna i Hercegovina nastavlja svoje pravno postojanje po međunarodnom pravu kao država i tako nasljeđuje status bivše Republike Bosne i Hercegovine. Komisija se, nadalje, poziva na Aneks II/2 Ustava Bosne i Hercegovine, kojim je propisan kontinuitet pravnih propisa, prema kojem *[s]vi zakoni, propisi i sudski poslovnici, koji su na snazi na teritoriji Bosne i Hercegovine u trenutku kada Ustav stupi na snagu, ostaće na snazi u onoj mjeri u kojoj nisu u suprotnosti sa Ustavom dok drugačije ne odredi nadležni organ vlasti Bosne i Hercegovine*. *In conclusio*, svi opći akti, koji su usvojeni do stupanja na snagu Ustava Bosne i Hercegovine, ostaju na snazi u punom kapacitetu, sve dok drugačije ne odredi nadležni organ vlasti Bosne i Hercegovine. Time su i obaveze, koje je imala Republika Bosna i Hercegovina, a koje su opisane u prehodnoj tački, prešle na Državu, bez ikakvih ograničenja. Drugim riječima, jasno je vidljiv kontinuitet obaveze Države od perioda raspada bivše SFRJ pa sve do 14. decembra 1995. godine, kada je Sporazum i Ustav Bosne i Hercegovine stupio na snagu. U tom svojstvu, Bosna i Hercegovina uzima učešće u pregovorima koji se tiču sukcesije imovine SFRJ.

1198. Nakon stupanja na snagu Ustava Bosne i Hercegovine, Država je dobila nove obaveze koje se odnose na pitanja imovinskih prava u smislu člana 1. Protkola broj 1 uz Evropsku konvenciju. Prije svega, Komisija napominje da tumačenje nadležnosti Države i njenih teritorijalnih cjelina treba biti, prije svega, u okviru jezičkog značenja ustavnih odredbi, a na način da se najdjelotvornije ostvari cilj koji je propisan – u konkretnom slučaju, pravo na imovinu. U alineji 4. Preambule Ustava, koja ima normativni karakter, u skladu sa odlukom Ustavnog suda Bosne i Hercegovine III. djelimičnu odluku u predmetu 5/98 (od 30. juna i 1. jula 2000. godine, tač. 17. ff), propisano je da je država obavezna da *podstakn[e] opšte blagostanje i ekonomski razvoj kroz zaštitu privatnog vlasništva i unapređenje tržišne privrede*. Članom I/4 Ustava Bosne i Hercegovine, stipulisana je, između ostalog, sloboda kretanja kapitala širom Bosne i Hercegovine i garantovanje jedinstvenog tržišta, dok je članom II/1, *Bosna i Hercegovina i oba entiteta [obavezna] osigurati najviši nivo međunarodno priznatih ljudskih prava i osnovnih sloboda*. Osim toga, članom II/6. Ustava Bosne i Hercegovine, *Bosna i Hercegovina, i svi sudovi, ustanove, organi vlasti, te organi kojima posredno rukovode entiteti ili koji djeluju unutar entiteta podvrgnuti* su, *odnosno primjenjuju ljudska prava i osnovne slobode na koje je ukazano u stavu 2*. Konačno, *[p]rava i slobode predviđeni u Evropskoj konvenciji za zaštitu ljudskih prava i osnovnih sloboda i u njenim protokolima se direktno primjenjuju u Bosni i Hercegovini. Ovi akti imaju prioritet nad svim ostalim zakonima.* Na kraju, Komisija napominje da je Država, u skladu sa članom III/1(d) Ustava Bosne i Hercegovine, direktno odgovorna za monetarnu politiku. Štaviše, član VII. Ustava označava Centralnu banku Bosne i Hercegovine kao jedini nadležni organ za monetarnu politiku u cijeloj zemlji. Tačno je da Centralnoj banci nije dato ovlaštenje da reguliše rad banaka uopšte ili posebno deviznu štednju. Međutim, isplata štednje sa predmetnih bankovnih računa ima reperkusije na protok deviza i tako utiče na monetarnu politiku za koju je Centralna banka, kao državna institucija, odgovorna.

1199. S druge strane, u pogledu problema devizne štednje, Država je nastavila sa zakonodavnim aktivnostima nakon stupanja na snagu Sporazuma i Ustava Bosne i Hercegovine. Tako je Odlukom od 10. aprila 1996. godine potvrđena Odluka od 9. aprila 1995. godine, a kojom je propisano da *[d]evizna štednja građana deponovana kod bivše Narodne banke Jugoslavije zajedno sa kamatama na ovu štednju, rješavaće se donošenjem zakona o javnom dugu Bosne i Hercegovine ili na drugi način u sklopu ukupne konsolidacije duga Bosne i Hercegovine zajedno sa međunarodnom zajednicom.* Država je 22. jula 1998. godine, odnosno 19. jula 1999. godine, usvojila Okvirni zakon o privatizaciji banaka i preduzeća, koji je samo formulisao određene opće principe u privatiziciji. Uprkos ovoj zakonodavnoj aktivnosti, a u skladu sa ustavnim obavezama Države, Dom je, u svojoj odluci o deviznoj štednji građana, *CH/97/48* (*loc. cit,* tač. 164.ff), zaključio da je Država odgovorna za povredu člana 1. Protokola broj 1 uz Evropsku konvenciju, jer je propustila da preduzme određenu radnju i tako ostavila *štediše u situaciji u kojoj nije bilo pravne osnove po kojoj su oni mogli tražiti isplatu svoje štednje, bilo direktno od banaka ili indirektno od Države kroz plaćanje javnog duga*. Ovakva situacija je nastavljena sve do oktobra 2003. godine,

kada je Dom, u svojoj zadnjoj odluci CH/98/377 i dr. (*loc. cit*, tačka 204) u vezi sa štednim ulozima građana, zaključio:

> *[...] da Bosna i Hercegovina ostaje odgovorna za nalaz zajedničkog rješenja za problem starih bankovih računa. Bosna i Hercegovina je uključena u državne pregovore u vezi sa pitanjima kao što su odgovornosti banaka iz inostranstva (kao što su Ljubljanska banka i Unionbanka, bivša Jugobanka), prava ekonomske sukcesije, i druga pitanja koja utiču na imaoce deviznih štednih računa, uključujući i podnosioce ovih prijava. Dom, radi toga, nalazi da su te prijave prihvatljive protiv Bosne i Hercegovine u vezi sa članom 1 Protokola br. 1 uz Konvenciju.*

1200. Od 22. jula 1998. godine, odnosno 19. jula 1999. godine, zakonodavno stanje na terenu se nije mijenjalo. Država nije donosila nikakve zakone u vezi sa unutarnjim dugom ili štednjom građana. Jedini zakon, koji je regulisao pitanje *državnog* duga, je Zakon o utvrđivanju i načinu izmirenja unutarnjeg duga Bosne i Hercegovine ("Službeni glasnik Bosne i Hercegovine", broj 44/04), iz kojeg očigledno proizilazi da Bosna i Hercegovina, tj. Država, ne podrazumijeva štednju građana kao svoj dug, već dug entiteta. Drugim riječima, sva aktivnost u pogledu *stare devizne štednje* građana prenesena je na entitete i Distrikt Brčko, koji su pitanje stare devizne štednje regulisali kroz relevantne zakone o unutarnjem dugu. Na ovaj način, jasno je da se Država *de facto* i *de jure* odrekla obaveza koje su proizilazile iz legislative donesene od 1992-1999. godine, uključujući i obaveze iz Ustava Bosne i Hercegovine i Sporazuma.

1201. Što se tiče samih obaveza Države, koje proizilaze iz legislative donesene od 1992-1999. godine, Država nije donijela niti jedan akt, kojim bi stavila van snage postojeću legislativu, a kojom je, u to vrijeme, direktno preuzela obaveze po osnovu stare devizne štednje. Problem bi mogao biti riješen primjenom principa *lex posterior derogat lex priori*, čime bi entiteti i Distrikt Brčko mogli preuzeti obavezu samostalnog garantovanja imovinskih prava po osnovu stare devizne štednje. Međutim, u ovom slučaju ne radi se samo o obavezi koja proizilazi iz *državnih* pozitivno-pravnih propisa, koji su derogirani donošenjem novih zakona, a koji regulišu istu materiju. Stara devizna štednja, nakon 14. decembra 1995. godine, predstavlja konstituisano imovinsko pravo u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju, člana II/2/k) Ustava Bosne i Hercegovine, tj. člana 1. tačka 11. Sporazuma. Znači, radi se o pravima, koja su, s jedne strane, jasno definisana obaveza Države, a s druge strane, o pravima koja ne mogu biti derogirana i na niži teritorijalni nivo, na način na koji je to učinjeno. Iz navedenih razloga, potpuna derogacija bi mogla biti moguća da pravna pozicija podnosilaca prijava nije zaštićena Sporazumom i Ustavom Bosne i Hercegovine. Drugim riječima, Država se ne može osloboditi garantovanja poštivanja ovog prava njegovim prenosom, u smislu regulisanja i implementacije, na entitetske institucije, bez da obezbijedi dovoljno garanta za adekvatno rješavanje ovog pitanja na nižem nivou u skladu sa, između ostalog, standardima iz člana 1. Protokola broj 1 uz Evropsku konvenciju.

1202. Zašto je bitno da Država načelno reguliše pitanje stare devizne štednje? Komisija primjećuje da je Federacija Bosne i Hercegovine regulisala pitanje stare devizne štednje Zakonom o utvđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine. Tim Zakonom, članom 2, *utvrđuje se sveobuhvatno izmirenje unutrašnjeg duga na način koji osigurava i podržava makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine*. Republika Srpska je pitanje devizne štednje regulisala u Zakonu o utvrđivanju i načinu izmirenja unutrašnjeg duga Republike Srpske ("Službeni glasnik Republike Srpske", broj 63/04). U članu 2. je navedeno da *[i]zmirenje unutrašnjeg duga vrši se u skladu sa odredbama ovog zakona na način koji obezbjeđuje i podržava makroekonomsku stabilnost i fiskalnu održivost Republike Srpske*. Konačno, Distrikt Brčko je sopstvenim Zakonom o podmirenju obaveza po osnovu stare devizne štednje ("Službeni glasnik Brčko Distrikta BiH", broj 27/04) regulisao pitanje isplate devizne štednje u gotovom novcu i obavezama, vodeći računa o makroekonomskoj stabilnosti Distrikta. Prema procjenama poddržavnih zakonodavaca, ukupan dug na ime stare devizne štednje u Distriktu Brčko iznosi 94 miliona konvertibilnih maraka, u Republici Srpskoj 774 miliona konvertibilnih maraka, dok se u Federaciji ukupan unutarnji dug procjenjuje na 1.858,9 miliona konvertibilnih maraka, od čega sigurno veliki dio otpada na staru deviznu štednju. Komisija je svjesna da je

pitanje unutarnjeg duga veliko opterećenje za entitete. Njihova solventnost je interes Države, jer od toga direktno zavisi i moć Države, njena makroekonomska stabilnost. Država, s druge strane, ima obavezu da poštuje i brani princip državnog suvereniteta, što podrazumijeva i finansijsku samostalnost prema vani, ali i prema unutra. Odbrana suvereniteta Države (od čega zavisi i faktička moć prava na imovinu u konkretnim slučajevima) je takva obaveza, da Ustav Bosne i Hercegovine predviđa ne samo preduzimanje mjera u okviru datih joj nadležnosti, nego i sve ostale mjere, bez obzira čija je to konkretno nadležnost u Državi (član III/5.a) Ustava Bosne i Hercegovine. Drugim riječima, Država, u cilju odbrane forme i vrste svog političkog postojanja, može i mora preduzeti sve potrebne mjere. Prema tome, Država mora obezbijediti bezbjedno funkcionisanje svih nadležnih teritorijalnih cjelina u smislu budućih, uređenih dijelova finansijske privrede, koji će biti izloženi i u budućnosti velikim problemima i rizicima (na primjer, najava rješavanja problema restitucije). To se može postići samo na način da Država, zakonskim aktom, utvrdi principe za sve poddržavne teritorijalne cjeline, a koji bi bili rezultat ekonomske analize makroekonomske stabilnosti Države u konktekstu postojećeg problema.

1203. U vezi s tim, član III/1(d) Ustava Bosne i Hercegovine nadležno obavezuje Državu na polju monetarne politike. Štaviše, član VII. Ustava označava Centralnu banku Bosne i Hercegovine kao jedini nadležni organ za monetarnu politiku u cijeloj zemlji. Tačno je da Centralnoj banci nije dato ovlaštenje da reguliše rad banaka uopšte ili posebno deviznu štednju. Međutim, isplata štednje sa predmetnih bankovnih računa ide danas ne preko banaka, već direktno iz entitetskih budžeta, što ima reperkusije na protok novca i deviza i tako utiče na monetarnu politiku za koju je Centralna banka, kao državna institucija, odgovorna. Prema tome, bankovni sistem, osim Centralne banke Bosne i Hercegovine, nema ulogu u pitanju stare devizne štednje.

1204. Član I/4. Ustava Bosne i Hercegovine obavezuje Državu da reguliše pitanje jedinstvenog tržišta u Bosni i Hercegovini, u koje spada, između ostalog, promet kapitala. Jedinstveno tržište i liberaliziacija tržišta kapitala obuhvata isključenje svakog ograničenja, tj. ne samo diskriminirajućih mjera, nego i svih drugih mjera, koje bez obzira što nemaju diskriminirajući karakter opterećuju određene grupe više nego druge. Za Komisiju je neprihvatljivo da isto pitanje, za koje je Država odgovorna, i koje je bilo na isti način tretirano sve do donošenja entitetskih zakona o regulisanju ovog problema, uključujući Distrikt Brčko, postane regulisano na sasvim nejednak način. Tako, na primjer, Federacija Bosne i Hercegovine predviđa isplaćivanje, *inter alia*, u novcu u periodu od četiri godine (član 11. Zakona), dok dospjeće obveznica još nije regulisano. Republika Srpska je predvidjela druge modalitete novčane isplate (član 15. Zakona), dok obveznice imaju rok dospjeća 30 godina (član 16. stav 1. tačka 1). Distrikt Brčko predvidio je rok od tri godine za novčanu isplatu (član 2. stav 1. Zakona), dok obveznice imaju rok dospjeća 25 godina (člana 2. stav 2a. Zakona). Nejednako tretiranje je posljedica derogacije problema sa Države na poddržavne teritorijalne cjeline. Na taj način, različito zakonsko tretiranje će, pored zakona slobodnog tržišta, bitno i direktno uticati na tržište obveznicama u Bosni i Hercegovini, kao jedinstvenom tržišnom prostoru. S druge strane, stara devizna štednja je bila, i principijelno ostala, državni problem. U vezi s tim, Komisija napominje da je država obavezna poštovati opći princip jednakosti u pravima, kako to propisuje Ustav Bosne i Hercegovine, i to ne samo naspram ustavnih prava, već svih prava koja su propisana zakonom. Pravo na jednakost je ustavno pravo i odnosi se na sva zakonska prava. Nijedan zakonodavac ne može biti oslobođen te obaveze. Komisija uvažava stav Države da je rješavanje ovog problema na poddržavnom nivou optimalno riješenje. Međutim, Država mora dati garancije da su različita zakonska rješenja na poddržavnim nivoima neophodne mjere radi zaštite funkcionisanja financijske privrede, monetarnog sistema, itd. Drugim riječima, Komisija uvažava stav Države da je opća ravnoteža u privredi veoma važan cilj Države. Međutim, različite mjere i različito tretiranje, koji utiču na jedinstveno tržište kapitala, su dozvoljeni ukoliko ispunjavaju pretpostavke principa proporcionalnosti (vidi presudu Suda za pravdu, predmet C-423/98, *Alfredo Albore*, Zbirka 2000, str. I-5965).

1205. Država, dozvolivši da poddržavne cjeline preuzmu operacionalizaciju i odgovornost za isplatu stare devizne štednje, nije dala niti jednu garanciju da će isplata, kako u novcu tako i u formi obveznica, biti realizovana. Komisija smatra da je neophodno da Država da određene garancije u tom smislu. Naime, po teoriji identiteta strana, Republike Bosne i Hercegovine i Bosne i

Hercegovine, a koja jasno proizilazi iz člana I Ustava Bosne i Hercegovine, prema kojem Bosna i Hercegovina nastavlja svoje pravno postojanje po međunarodnom pravu kao država i tako nasljeđuje status bivše Republike Bosne i Hercegovine, Bosna i Hercegovina ima poziciju dužnika. Ne bi bilo u skladu sa principom pravne države, da se Država, kao dužnik, oslobodi u potpunosti svoje obaveze tako što bi se, preko svoje moći nadležnosti derogacije, oslobodila davanja garancija za ispunjenje obaveza u koje je ušla. Iz toga razloga, Komisija ne može prihvatiti garanciju koju daju entiteti, a pogotovo ne garanciju obezbjeđenja novca putem privatizacije javnih preduzeća, uzimajući u obzir dosadašnje rezultate iste. Konačno, davanje garancije bi omogućilo da se jača osjećaj postojanja principa kontinuiteta u smislu člana I Ustava Bosne i Hercegovine i dobre vjere u njega. Naime, podnosioci prijava, kao vjerovnici, u trenutku sklapanja pravnog posla sa državnim bankama, nisu bili opterećeni rizikom da će isplata njihove devizne štednje kad-tad propasti ili postati neutuživa. Stoga, Komisija smatra da je Država odgovorna da se ojača taj osjećaj dobre vjere u kontinuitet pravnog sistema postojanja.

1206. Zbog svega navedenog, Komisija smatra da Država mora na određeni način regulisati navedenu problematiku, od čega će direktno zavisiti i uspjeh predviđenog modaliteta isplate stare devizne štednje. Komisija smatra da Država nije obavezna u potpunosti regulisati ova pitanja. Ipak, načelno regulisanje ovih pitanja, a prije svega, pitanje davanja garancije za isplatu od strane određene relevantne međunarodne institucije kapitala, ujednačavanje standarda na teritoriji cijele Države, vodeći računa o ostvarivanju jedinstvenog tržišta u Bosni i Hercegovini i makroekonomskoj stabilnosti Države, će voditi ka tome da pravo na imovinu ne bude ugroženo u budućem periodu, tj. da zakonska regulativa ispuni standarde koji su nametnuti pozitivnom obavezom za Državu, a koja proizilazi iz člana 1. Protokola broj 1 uz Evropsku konvenciju. Komisija napominje da je zakonodavac najkompetentniji, uzimajući u obzir praktična stanovišta, da odluči koja su to pitanja na terenu, koja se načelno moraju uzeti u obzir.

1207. S obzirom da Država, Bosna i Hercegovina, nije donijela određeni okvirni zakon, kojim bi načelno regulisala ova pitanja, Komisija smatra da je Bosna i Hercegovina propustila da djelotvorno zaštiti pravo na imovinu podnosilaca prijava, čime je povrijedila svoje pozitivne obaveze koje proizilaze iz člana 1. Protokola broj 1 uz Evropsku konvenciju.

B.1.c. Navodne povrede od strane Federacije Bosne i Hercegovine

1208. Pri razmatranju merituma ovih predmeta u odnosu na Federaciju Bosne i Hercegovine, Komisija mora odlučiti da li, u svjetlu najnovijih zakonskih promjena, koje su nastupile nakon odluke *Đurković i drugi,* pravna situacija u Federaciji u vezi sa starom deviznom štednjom nastavlja kršiti član 1. Protokola broj 1 uz Evropsku konvenciju.

1209. Komisija, prije svega, ponavlja da se u predmetnim slučajevima radi o imovini podosilaca prijava. Prema tome, Komisija mora utvrditi da li se postojećom zakonskom regulativom Federacija Bosne i Hercegovine miješa u ta prava tako da uključuje zaštitu člana 1. Protokola broj 1 uz Evropsku konvenciju? Osim toga, Komisija mora ispitati, ako se radi o miješanju u to pravo, da li je miješanje opravdano prema tom članu?

B.1.c.1. Da li se radi o miješanju Federacije Bosne i Hercegovine u pravo na imovinu podnosilaca prijava i, ako je odgovor afirmativan, da li se ono sastoji u *kontroli* ili *lišenju* prava na imovinu?

1210. Prema stanju spisa, a uzimajući u obzir postojeću zakonsku regulativu, zahtjev podnosilaca prijava odnosi se na isplatu iznosa stare devizne štednje, uključujući pripadajuće kamate. Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine predviđa poseban modalitet isplate stare devizne štednje, dok je članom 9. stavom 4. predviđeno da se kamate od 1. januara 1992. godine otpisuju.

1211. U odluci *Đurković i drugi* (*loc. cit*, tačka 244. ff), Dom je naveo:

U odlukama Poropat i drugi i Todorović i drugi, Dom je utvrdio da je došlo do uplitanja u prava podnosilaca prijava po članu 1 Protokola br. 1 uz Konvenciju na osnovu zakona koji su oslobodili banke njihovih ugovornih obaveza prema podnosiocima prijava i da je podnosiocima prijava onemogućeno da podignu svoj novac. (Poropat i drugi, tačke 170-77; Todorović i drugi, tačke 130-33). Praktično, ista situacija je ostala do danas. Dom zapaža da, u skladu sa izmjenama i dopunama, ne postoje odredbe u Zakonu o potraživanjima građana po osnovu kojih je građanin slobodan da raspolaže svojom štednjom na bilo koji drugi način osim da je pretvori u privatizacijske certifikate. Zakoni, kako su izmijenjeni i dopunjeni, nastavljaju da propisuju obavezni prenos devizne štednje iz banaka na Jedinstveni račun građana. Podnosioci prijava, a vjerovatno i druge štediše, nisu mogli i još uvijek ne mogu podignuti novac sa svojih računa. Dakle, uplitanje ustanovljeno u odluci Poropat i drugi se nastavlja barem de facto, iako de jure relevantni zakoni nisu više na snazi.

246. Uplitanje je pogoršano nemogućnošću podnosilaca prijava da dobiju obeštećenje na sudovima (vidi tačku 27 gore).

1212. Komisija navodi da se od vremena donošenja ovih zaključaka situacija utoliko promijenila što je na snazi novi zakonski okvir, koji reguliše pitanje stare devizne štednje. Međutim, vlasnici stare devizne štednje još uvijek nisu dobili isplatu svoje stare devizne štednje. Novi Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine ne predviđa isplatu stare devizne štednje, iako bi *normalna* situacija kod štednih uloga bila, ispunjenje ugovornih obaveza po ugovoru o štednji u skladu sa pojedinačnim ugovorima ili važećim zakonskim normama. Umjesto toga, novi Zakon je otpisao kamatu od 1. januara 1992. godine, a isplatu stare devizne štednje predvidio u sasvim drugom modalitetu – kao dio unutarnjeg duga Federacije Bosne i Hercegovine. Konačno, Komisija uviđa da izvršenje pravosnažnih presuda, donesenih u vezi stare devizne štednje još nije počelo.

1213. Na osnovu izloženog, Komisija zaključuje da je Federacija Bosne i Hercegovine nastavila sa uplitanjem u imovinska prava pojedinih štediša, uključujući i konkretne podnosioce prijava.

1214. Za Komisiju ostaje da preispita kakva je priroda ovog miješanja u pravo na imovinu. S jedne strane, Komisija primjećuje da nikada nije bilo *de iure* lišenja ovog imovinskog prava (vidi, na primjer, CH/97/48 i dr, *loc. cit*, tačka 78 – mišljenje OHR-a, kao *amicus curiae*; zakonsku regulativu Republike Bosne i Hercegovine i Bosne i Hercegovine, tačku 88. ff iste Odluke). Međutim, Evropski sud za ljudska prava je u svojoj dugogodišnjoj praksi naglasio da *de facto* lišenje imovine ne pretpostavlja, tj. ne uslovljava bilo koji formalni akt lišenja imovine. Ono obuhvata državne mjere, koje zbog svojih teških reperkusija na pravo na imovinu, imaju istu posljedicu kao i formalni akt lišenja imovine (na primjer, eksproprijacija). Jurisprudencija, pri tome, stavlja akcent na pitanje da li postoji bilo kakva korist od *preostalog* prava na imovinu nakon takvih državnih mjera. U razgraničenju prema *kontroli korištenja prava na imovinu* (stav 2. člana 1. Protokola broj 1 uz Evropsku konvenciju), postavlja se pitanje da li postoji opravdana vjera u mogućnost daljnjeg korištenja prava na imovinu, bez miješanja države u bilo kojoj formi (vidi, na primjer, presude Evropskog suda za ljudska prava, *Sporrong i Lönnroth protiv Švedske*, od 23. septembra 1982. godine, Serija A, broj 52, st. 70-73; *Allan Jacobson protiv Švedske,* od 25. oktobra 1989. godine, Serija A, broj 163, stav 54; *Fredin protiv Švedske*, od 18. februara 1991. godine, Serija A, broj 192, stav 46. i 52. ff, itd).

1215. Gledajući retrospektivno konkretnu situaciju oko stare devizne štednje, Komisija bi mogla zaključiti da se radi o *de facto* lišenju imovine. Naime, dugogodišnja nemogućnost da vlasnici stare devizne štednje dođu do realizacije svoga prava na imovinu, s jedne strane, a propali pokušaji Države da donese i implementira određene zakone, s druge strane, vode ka ovakvom zaključku (uporedi presudu Evropskog suda za ljudska prava, *Papmichalopoulus protiv Grčke*, od 24. juna 1993. godine, Serija A, broj 260-B, tač. 43-45). Ipak, u svjetlu novih zakonskih riješenja, Komisija smatra da se može opravdano očekivati da Federacija Bosne i Hercegovine isplati deviznu štednju

u okvirima predviđenog modaliteta. Iz toga razloga, Komisija smatra da ovaj slučaj, nakon donošenja novog Zakona, pokreće pitanje *kontrole* prava na imovinu u smislu stava 2. člana 1. Protokola broj 1 uz Evropsku konvenciju.

1216. Na ovaj zaključak ne utiče ni činjenica da Zakon različito tretira pitanje kamata od pitanja glavnice. Naime, Zakon ne lišava podnosioce prijava glavnice, već predviđa određene modalitete njene isplate. Komisija zaključuje da zakonski *modus operandi* u vezi glavnice jasno pokreće pitanje kontrole prava na imovinu. Kamate, s druge strane, iako mogu biti predmet pojedinačnog utuženja, te uprkos činjenici da kamate dospijevaju i zastarjevaju sa posebnim rokovima, one se moraju principijelno posmatrati kao sporedni zahtjev u odnosu na zahtjev za isplatu glavnice, te zajedno čine cjelinu (čl. 372, 399. ff, 1045. Zakona o obligacionim odnosima). Komisija je svjesna da se radi o periodu od 1. januara 1992. godine. Prema tome, lišavanje prava na kamatu, za period duži od 12 godina, sigurno predstavlja značajno ograničenje navedenog prava. Ipak, u svjetlu rečenog, Komisija će tretirati ovo pitanje zajedno sa pravom na glavnicu kao pitanje miješanja u pravo na imovinu od strane Federacije Bosne i Hercegovine u smislu njegove kontrole – član 1. stav 2. Protokola broj 1 uz Evropsku konvenciju. Komisija napominje da ovaj zaključak nema suštinskog uticaja na konačni ishod predmeta.

B.1.c.2. Da li je miješanje opravdano?

1217. Kao što je navedeno, prema jurisprudenciji Evropskog suda za ljudska prava, član 1. Protokola broj 1 uz Evropsku konvenciju obuhvata tri različita pravila. Prvo, koje je izraženo u prvoj rečenici prvog stava i koje je generalne prirode, izražava princip mirnog uživanja u imovini. Drugo pravilo, u drugoj rečenici istog stava, pokriva lišavanje imovine i podvrgava ga izvjesnim uslovima. Treće, sadržano u drugom stavu, dozvoljava da države potpisnice imaju pravo, među ostalim, da kontrolišu korištenje imovine u skladu sa općim interesom, sprovođenjem takvih zakona koje smatraju potrebnim za tu svrhu (vidi, *inter alia,* presude Evropskog suda za ljudska prava, *Sporrong i Lönnroth protiv Švedske*, od 23. septembra 1982. godine, Serija A, broj 52, stav 61 i *Scollo protiv Italije*, od 28. septembra 1995. godine, Serija A, broj 315-C, stav 26. sa daljnjim uputama). Svako miješanje u pravo prema drugom ili trećem pravilu mora biti predviđeno zakonom, mora služiti legitimnom cilju, mora uspostavljati pravičnu ravnotežu između prava nosioca prava i javnog i općeg interesa. Drugim riječima, opravdano miješanje se ne može nametnuti samo zakonskom odredbom koja ispunjava uslove vladavine prava i služi legitimnom cilju u javnom interesu, nego mora, također, održati razuman odnos proporcionalnosti između upotrijebljenih sredstava i cilja koji se želi ostvariti. Miješanje u pravo ne smije ići dalje od potrebnog da bi se postigao legitiman cilj, a nosioci imovinskih prava se ne smiju podvrgavati proizvoljnom tretmanu i od njih se ne smije tražiti da snose prevelik teret u ostvarivanju legitimnog cilja (vidi Odluku Ustavnog suda Bosne i Hercegovine, U 83/03, od 22. septembra 2004. godine, "Službeni glasnik Bosne i Hercegovine", broj 60/04, tačka 49).

<u>B.2.c.2.a. Miješanje predviđeno zakonom?</u>

1218. Miješanje je zakonito samo ako je zakon koji je osnova miješanja (a) dostupan građanima, (b) toliko precizan da omogućava građanima da odrede svoje postupke, (c) u skladu sa principom pravne države, što znači da sloboda odlučivanja koja je zakonom data izvršnoj vlasti ne smije biti neograničena, tj. zakon mora obezbijediti građanima adekvatnu zaštitu protiv proizvoljnog miješanja (vidi presudu Evropskog suda za ljudska prava, *Sunday Times,* od 26. aprila 1979. godine, Serija A, broj 30, stav 49; vidi, također, presudu Evropskog suda za ljudska prava, *Malone,* od 2. augusta 1984. godine, Serija A, broj 82, st. 67. i 68). Sud je istakao da su u mnogim zakonima neizbježno upotrijebljeni termini koji su, u većem ili manjem opsegu, dvosmisleni ili neodređeni i čija je interpretacija i primjena pitanje prakse (vidi presudu Evropskog suda za ljudska prava, *Silver i drugi protiv Ujedinjenog Kraljevstva*, od 25. marta 1983, serija A, broj 18, stav 89).

1219. Komisija ne sumnja da Zakon vezan za ovaj predmet ispunjava standarde u smislu Evropske konvencije (vidi Odluku o prihvatljivosti i meritumu Doma, *M.P. i ostali,* CH/02/8202, stavovi 144 i dalje).

B.1.c.2.b. Miješanje u javnom interesu

1220. Podnosioci prijava, iako nisu *explicite* naveli, smatraju da je miješanje, tj. kontrola njihovog prava na imovinu, neproporcionalno. Udruženje za zaštitu deviznih štediša u Bosni i Hercegovini, u svojstvu *amicus curiae*, smatra da Država nema interes, niti ga je navela u svojim aktima. Osim toga, ovo Udruženje smatra da se Federacija Bosne i Hercegovine, nesavjesnim ponašanjem prema vlastitoj imovini, ne može pozivati na javni interes. Federacija Bosne i Hercegovine, u svom odgovoru, navodi da je donošenje ovakvih zakonskih rješenja neophodno da se spriječi kolaps bankovnog sistema, te da je Entitet morao voditi računa o makroekonomskoj stabilnosti i fiskalnoj održivosti Entiteta.

1221. Komisija smatra da su ciljevi postojećih zakonskih rješenja opravdani – sprječavanje kolapsa bankovnog sistema, makroekonomska stabilnost i fiskalna održivost Entiteta. Komisija smatra da su ovi interesi postojali i bili opravdani i ranije, kada je Dom dao, u tom smislu, afirmativno mišljenje (vidi CH/97/48, *loc. cit*, tačka 180, CH/98/377, *loc. cit*, tačka 249). Komisija zaključuje da je ovaj interes ostao aktuelan i danas.

B.1.c.2.c. Uspostavljanje pravične ravnoteže između prava nosioca prava i javnog interesa (proporcionalnost)

1222. U odlukama *Poropat i drugi, Todorović i drugi* i *Đurković i drugi,* Dom je utvrdio da je došlo do uplitanja u prava podnosilaca prijava po članu 1. Protokola br. 1 uz Evropsku konvenciju na osnovu zakona koji su oslobodili banke njihovih ugovornih obaveza prema podnosiocima prijava i da je podnosiocima prijava onemogućeno da podignu svoj novac (*Poropat i drugi*, *loc. cit*, tač. 170-77; *Todorović i drugi*, *loc. cit*, tač. 130-133). Dom je, nadalje, našao da propisanim zakonskim mjerama nije uspostavljena *pravična ravnoteža* između općeg interesa i zaštite prava na imovinu podnosilaca prijava i da one tako spadaju van slobode odlučivanja Federacije (*Poropat i drugi*, *loc. cit,* tačka 192). Dom je u svojim odlukama istakao nekoliko nedostataka procesa privatizacije, koji su se odnosili na ograničeno važenje certifikata, jednak tretman gotovine i certifikata i sl. Dom je ustanovio da su ovo pitanja koja je Federacija morala riješiti izmjenom i dopunom programa privatizacije. Dom je smatrao da je Federacija trebala da nađe, u okviru svoje slobode odlučivanja, odgovarajuće načine da postigne traženu *pravičnu ravnotežu* interesa (*Poropat i drugi*, *loc. cit,* tačka 204).

1223. Komisija priznaje da je od 2000. godine do 2003. godine Federacija izmijenila i dopunila različite odredbe Zakona o potraživanjima građana pokušavajući da nađe rješenje za pitanje nedostataka procesa privatizacije i da izvrši odluku Doma u predmetu *Poropat i drugi*. Međutim, odlukom Ustavnog suda Federacije dalja efikasnost ovih zakona dovedena je u pitanje, s obzirom da je ovom odlukom utvrđeno da ključne odredbe Zakona o potraživanjima građana nisu u skladu sa Ustavom Federacije Bosne i Hercegovine.

1224. Tužena strana, Federacija Bosne i Hercegovine, istakla je da prijašnja zakonska regulativa nije uspostavljala pravičnu ravnotežu. Međutim, Komisija zapaža da je Federacija Bosne i Hercegovine usvojila novi Zakon o unutrašnjem dugu, kojim je preuzela obaveze po osnovu stare devizne štednje ostvarene u najnižim poslovnim jedinicama banaka na teritoriji Federacije Bosne i Hercegovine, kao dio svog unutrašnjeg duga. Zakonom je izričito propisano da će se metod i visina isplata u gotovini vršiti na način koji osigurava i podržava makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine. Tužena strana je navela da nova zakonska rješenja uspostavljaju u potpunosti princip proporcionalnosti kontrole prava na imovinu.

1225. Komisija priznaje napore Federacije Bosne i Hercegovine da, u pokušajima da izvrši ranije naredbe Doma, nastoji da Zakonom o unutrašnjem dugu iznađu rješenja prihvatljiva za podnosioce prijava, odnosno, da nastoji postići pravičnu ravnotežu između općeg interesa i pojedinačnog tereta podnosilaca prijava. Međutim, Komisija zapaža da nova zakonska rješenja predstavljaju samo okvir na osnovu kojeg treba utvrditi jasan model isplata devizne štednje podnosilaca prijava. Prema tome, u svjetlu novih zakonskih promjena, koje su nastupile nakon odluke *Đurković i drugi,*

postojeći zakonski okvir još uvijek ne daje jasnu i dovoljno izvjesnu pravnu situaciju u pogledu konačnog rješenja problema, što dovodi do miješanja u prava podnosilaca prijava od strane Federacije Bosne i Hercegovine.

1226. Komisija je došla do ovog zaključaka iz sljedećih razloga:

1227. Prvo pitanje, koje se nameće u ovom kontekstu, jeste pitanje verifikacije iznosa stare devizne štednje. Drugim riječima, radi se o verifikaciji *građanskog prava*. Zakon je predvidio da *[v]erifikovanje svih potraživanja za staru deviznu štednju vršit će se na osnovu baze podataka koja je ustanovljena Zakonom o utvrđivanju i ostvarivanju potraživanja građana u postupku privatizacije ("Službene novine Federacije BiH", br. 27/97, 8/99, 45/00, 54/00, 32/01, 57/03, 20/04) i drugim propisima donesenim na osnovu zakona i baza podataka koje posjeduju banke*. Komisija napominje da od postupka verifikacije direktno zavisi postojanje ili nepostojanje prava na imovinu.

1228. Svaki vlasnik stare devizne štednje mora imati obezbijeđeno pravo da aktivno učestvuje u tom postupku. U tom smislu, Zakon mora jasno predvidjeti koje tijelo će vršiti verifikaciju. Ono ne mora biti sudsko tijelo. Verifikacija se može vršti i od strane upravnih organa. Međutim, u tom slučaju, postupak verifikacije mora, barem u jednoj instanci, imati karakter sudskog postupka pred *tribunalom*, u smislu člana 6. Evropske konvencije. To, dalje, znači da verifikacija mora biti okončana, u slučaju spora oko faktičkih ili pravnih pitanja, pred nezavisnim i nepristranim tijelom, koje bi dalo konačno mišljenje u smislu postojanja ili nepostojanja, visine i drugih važnih pitanja oko stare devizne štednje. Tu spada i pitanje konverzije deviza (vidi predmete CH/99/3307, Spomenka ALIREJSOVIĆ, CH/99/3308, Enver ALIREJSOVIĆ). Pored toga, *tribunal* ne smije biti vezan utvrđenim činjenicama upravnog organa, već mora imati mogućnost da sam preispita činjenice relevantne za svaki pojedini slučaju (u pogledu obaveze sudske zaštite u vezi sa starom deviznom štednjom i nadležnostima takvog tijela vidi *mutatis mutandis* Odluku Ustavnog suda Bosne i Hercegovine, *U 19/00* od 4. maja 2001. godine, tačka 23, "Službeni glasnik Bosne i Hercegovine", broj 27/01; predmete Evropskog suda za ljudska prava, *Iatridis protiv Grčke*, od 25. marta 1999. godine, stav 58, Izvještaji o presudama i odlukama 1999-II; *Hentrich protiv Francuske*, od 22. septembra 1994. godine, Serija A, broj 296-A, stav 42; u pogledu karaktera *tribunala*, pojmu nezavisnosti i nepristrasnosti, vidi Odluku Ustavnog suda Bosne i Hercegovine, *U 47/03*, od 15. juna 2004. godine, tačka 23, sa daljnjim uputama na praksu Evropskog suda za ljudska prava). U vezi sa institucionalnom zaštitom u postupku verifikacije, Komisija preporučuje, u cilju zaštite djelotvornog sudskog sistema, da se formira posebno tijelo na nivou Entiteta, koje bi ispunjavalo kriterije navedene u ovoj tački Odluke, a kako se redovni sudovi ne bi opterećivali sa eventualnim problemima mnogobrojnih imaoca stare devizne štednje.

1229. Drugo pitanje se odnosi na procesna prava u postupku verifikacije. Komisija je, prije svega, zabrinuta, a što je u svom mišljenju *amicus curiae*, Udruženje za zaštitu štediša u Bosni i Hercegovini, također, istakao, za eventualne probleme oko utvrđivanja stare devizne štednje. Kao što je već istaknuto u prethodnim odlukama Doma (vidi, na primjer, CH/97/48, *loc. cit*, tač. 171. ff), ali i primijećeno u radu na aktuelnim predmetima, mnogi imaoci stare devizne štednje nemaju evidenciju iste na Jedinstvenom računu građana. S druge strane, turbulentnim promjenama u bankovnom sistemu, podaci o imaocima stare devizne štednje mogu biti nedostupni. Ovo, štaviše, zbog činjenice da su komercijalne banke, u principu, oslobođene izmirenja duga po osnovu stare devizne štednje, čime se kod njih gubi osjećaj odgovornosti prema obavezi čuvanja podataka. Konačno, ne smije se zanemariti činjenica da su mnogim vlasnicima stare devizne štednje nestale, izgorile ili na drugi način uništene štedne knjižice, kao osnovni dokument i *ugovor* u obligaciono-pravnom smislu. Zbog toga, Entitet, s jedne strane, mora jasno predvidjeti pozitivnu obavezu banaka u tom smislu, a pravo pristupa informacijama imalaca stare devizne štednje, s druge strane. Komisija napominje da se radi o posebno osjetljivoj grupi građana, u velikom broju, penzionerima lošeg imovnog stanja, koji se u postupku verifikacije ne smiju dodatno opteretiti administrativnim troškovima. Osim toga, ratna događanja u Bosni i Hercegovini doveli su do toga da je veliki broj građana napustio domicilni entitet ili, štaviše, Državu. Iz toga razloga, veoma je važan medijski istup nedležnih u Entitetu, transparentnost i reduciranje troškova na minimum kod postupka verifikacije. Što se tiče samih procesnih prava, za Komisiju nije sporno da *verifikaciono*

tijelo predvidi *ex offo* postupak verifikacije, čak i bez procesnog učešća imaoca devizne štednje. Međutim, ono mora promptno obavijestiti vlasnika devizne štednje o rezultatu verifikacije, kako bi se vlasnik stare devizne štednje mogao aktivno uključiti u odbranu svojih imovinskih prava pred *tribunalom* u smislu ranijih tačaka ove Odluke. Samo na taj način, neće doći do povrede prava na djelotvoran pristup sudu u smislu člana 6. Evropske konvencije (u tom smislu vidi presudu Evropskog suda u predmetu *Airey protiv Irske* od 9. oktobra 1979. godine, serija A, broj 32, stav 25; Odluku o prihvatljivosti i meritumu Komisije, CH/98/240, od 8. februara 2005. godine, tačka 113. ff).

1230. Komisija smatra da je institucionalna i procesno-pravna pitanja u smislu prethodnih tačaka ove Odluke, moguće riješiti podzakonskim aktima iz člana 12. stav 3. Zakona. Međutim, Komisija smatra da je Federacija Bosne i Hercegovine, prekoračivanjem roka iz člana 12. stava 3. Zakona, već prekršila princip zakonitosti, kao element inherentan članu 1. Protokola broj 1 uz Evropsku konvenciju. Na taj način, opravdano se stvara osjećaj pravne nesigurnosti kod podnosilaca prijava, jer on ima svoju pozadinu u dugogodišnjem nerješavanju ovog problema.

1231. Komisija pozdravlja zakonsku obavezu tužene strane da verifikaciju izvrši u roku od 9 mjeseci od dana donošenja Zakona, što je, u svjetlu cjelokupne situacije, a posebno broja imalaca stare devizne štednje, opravdan rok.

1232. Na kraju, a u vezi sa pravima nosilaca prava na staroj deviznoj štednji, kojima su nadležni sudovi utvrdili pravosnažno njihova prava, Komisija napominje da je Entitet u obavezi da izvrši sve takve presude. Ovo je imperativ vladavine prava, u smislu člana I/2 Ustava Bosne i Hercegovine. Ovaj princip ima prednost nad činjenicom da su pojedini sudovi odbili da procesuiraju određene zahtjeve imalaca prava na staroj deviznoj štednji, čime se stvorio različit tretman kod iste grupe nosilaca prava. U tom smislu, Komisija podržava stav Ustavnog suda Bosne i Hercegovine u svom predmetu (odluke Ustavnog suda Bosne i Hercegovine, *U 21/02*, od 26. marta 2004. godine, tač. 40, "Službeni glasnik Bosne i Hercegovine", broj 18/04; *AP 288/04*, od 17. decembra 2004. godine, tačka 27. ff).

1233. Treće pitanje se odnosi na otpis kamata od 1. januara 1992. godine (člana 9. stav 4. Zakona) i na modalitet isplate stare devizne štednje. Komisija je već navela da je dio unutarnjeg duga, koji se odnosi na staru deviznu štednju, veliko opterećenje za Državu i njene teritorijalne cjeline. Komisija ponavlja da je u tom smislu opravdan javni interes Države.

1234. Evropski sud za ljudska prava je ustanovio da domaće vlasti uživaju široko polje procjene prilikom donošenja odluka koje su vezane za lišavanje imovinskih prava pojedinaca zbog neposrednog poznavanja društva i njegovih potreba. Odluka da se oduzme imovina često uključuje razmatranje političkih, ekonomskih i socijalnih pitanja o kojima će se mišljenja u okviru demokratskog društva bitno razlikovati. Stoga će se presuda domaćih vlasti poštivati, osim ako je očigledno bez opravdanog osnova (vidi Odluku o prihvatljivosti i meritumu Doma, CH/98/1311 i CH/01/8542*, Kurtišaj i M.K. protiv Federacije Bosne i Hercegovine*, od 2. septembra 2002. godine, tačka 87; vidi presudu Evropskog suda za ljudska prava, *James i drugi*, od 21. februara 1986. godine, Serija A, broj 98, stav 46). U predmetu *Lithgow i drugi protiv Ujedinjenog Kraljevstva* (presuda od 8. jula 1986. godine, Serija A, broj 102, stav 122), koja se tiče nacionalizovanja imovine, Sud je izjavio:

> *Odluka da se usvoji zakon o nacionalizaciji će obično uključiti razmatranje raznih pitanja o kojima se mišljenja u demokratskom društvu mogu, što je i razumljivo, široko razlikovati. Zbog toga, što one direktno poznaju svoje društvo i njegove potrebe i resurse, domaće vlasti su u principu u boljem položaju od međunarodnog sudije da procijene koje mjere su odgovarajuće u toj oblasti i prema tome sloboda procjene koju oni imaju treba biti široka.*

1235. Pri tome će pomoći i stav Evropskog suda za ljudska prava, u njegovoj odluci *Lithgow i dr. protiv Velike Britanije* (od 8. jula 1986. godine, Serija A, broj 102, st. 121. f), u kojoj je naglasio da

oduzimanje imovine uz naknadu, koja ne predstavlja tržišnu vrijednost, u principu, ne predstavlja proporcionalno miješanje u pravo na imovinu nosioca prava. Međutim, pravo na imovinu iz člana 1. Protokola broj 1 uz Evropsku konvenciju ne garantuje pravo na punu kompenzaciju u svim okolnostima, s obzirom da legitimni ciljevi javnog interesa, koji služe da se izvrši određena ekonomska reforma ili ostvari veća socijalna pravda, mogu imati takav značaj da opravdavaju davanje manjeg iznosa od tržišne vrijednosti. Štaviše, Evropski sud za ljudska prava je naglasio da nije nedozvoljeno, pri lišavanju imovine nosilaca prava, da se ne naknadi izgubljena dobit ili nerealizirana mogućnost upotrebe – *ususfructus* (vidi Odluku o dopustivosti bivše Evropske komisije za ljudska prava, *X. protiv Austrije*, od 13. decembra 1979. godine, aplikacija broj 7978/7, Odluke i izvještaji (OI), broj 18, tačka 3, str. 47). U citiranoj odluci je nadalje navedeno da se izgubljena korist ili dobit može naknaditi samo ako je, *lišenje* imovine direktan uzrok tome. Konačno, Komisija smatra da se ne može primijeniti isti pristup u rješavanju problema *kontrole i lišenja* prava na imovinu, koji pogađa jednu veliku skupinu ljudi, a zakonodavac predviđa globalnu soluciju, od situacije kada se država miješa u individualni slučaj. Komisija, zbog toga, smatra da je na Državi mnogo veća obaveza naknade pune vrijednosti lišenog prava na imovinu ili naknade zbog miješanja u imovinu u individualnim slučajevima, nego kada se radi o generalnom rješavanju slučajeva. Ovakve stavove Komisija podržava iz razloga što je imovina socijalna kategorija i ne može se, u pravno-filozofskom smislu, separatno, apstraktno posmatrati, već ona mora podlijegati društvenim zakonima, koji će, s jedne strane, odražavati interese pojedinca, a s druge strane, interese društvene zajednice. Upravo zbog veze društva i imovine, od pojedinca, kao vlasnika imovinskog prava, očekuje se, već od trenutka sticanja imovinskog prava, da prihvati određenu mjeru *žrtvovanja*, ako je potrebno. Samo preko ove granice, postoji obaveza za državu da se naknadi vrijednost lišene imovine, tj. *kontrole* imovine. Gdje leži ova granica, zavisi od obrazloženja iz prethodnih tačaka ove Odluke.

1236. Polazeći od gore navedenog, Komisija uvažava ekspertne napore Države, da riješi problem stare devizne štednje na najdjelotvorniji način. Komisija napominje da su pravo na imovinu, pravna sigurnost i pravna jasnoća principi na kojima se mora temeljiti pravni sistem Bosne i Hercegovine u rješavanju postojećeg problema unutarnjeg duga, tj. stare devizne štednje. Samo na taj način se može postići pravni mir u budućnosti Države. Komisija je svjesna da se problem stare devizne štednje mora rješavati u svjetlu cjelokupne situacije u kojoj se Država nalazi. Država ne može apstraktno posmatrati ovaj problem, ne uzimajući u obzir sistem i hijerarhiju vrijednosti koje je stvorio Ustav Bosne i Hercegovine. Pri tome, Komisija posebnu pažnju polaže na princip socijalne države (Preambula Ustava Bosne i Hercegovine).

1237. Bosna i Hercegovina je doživjela katastrofu i razaranja, politički i privredni krah. Jedna od posljedica ovih događaja je, sigurno, neriješeno pitanje unutarnjih obaveza Države. Bivša Republika Bosna i Hercegovina, uprkos svome kontinuitetu prema Ustavu Bosne i Hercegovine, doživjela je određenu vrstu privrednog i financijskog sloma. Obzirom da država, kao pravno lice, ne može doživjeti formalni bankrot i nesolventnost, niti je moguće na nju primijeniti opće stečajno pravo, država mora predvidjeti druge mjere, kako bi gradila budući, siguran privredni i financijski sistem. Pri tome je zakonodavac *prirodni* organ za zakonodavstvo, koji ima zadatak da zakonski obradi pitanje aktive i pasive države, vodeći računa o budućnosti.

1238. Pri stvaranju buduće države, zakonodavac mora voditi računa o cjelokupnoj budućoj državnoj politici i financijskoj privredi, što je velika razlika u poređenju sa stečajnim postupkom privatnog pravnog lica. Prema tome, u tom postupku ne radi se o *obračunu* sa prošlošću, već o stvaranju osnova za budućnost. Sanacija države i stvaranje zdravog sistema je osnova uređenog razvoja socijalnog i političkog života.

1239. Pri tome, zakonodavac nije obavezan niti ima zadatak da uspostavi određeni odnos između ispunjenja starih obaveza i ispunjenja tekućih obaveza, niti da suprostavi ove vrijednosti. Prema tome, pri *sanaciji* države, ne postoji obaveza zakonodavca da uspostavi pravno-obavezujuću skalu obaveza. Ona ne postoji uprkos činjenici da su određene obaveze nastale ranije, a druge obaveze tek nastaju. Isto tako, država, pri stvaranju novog poretka, ne mora da ima obavezu ispunjavanja

novonastalih obaveza u onoj mjeri u kojoj to dozvoljavaju stare obaveze. Ovo važi posebno u situaciji kada se država, zbog kolateralne štete, obnavlja u svakom svom aspektu.

1240. Komisija napominje da *šteta*, koju su imaoci stare devizne štednje pretrpili, nije jedina koja postoji. Od početka 1990-tih, a zbog ukupnih događanja u Bosni i Hercegovini, stradali su mnogi životi, zdravlje i sloboda ljudi, druga materijalna dobra, radna mjesta, profesionalni napredak ljudi, itd. U tom smislu govore i statistički podaci koje je prezentirao Ured Visokog predstavnika za Bosnu i Hercegovinu, a koji su odraz ukupnih događanja u Državi. Prema njima, Bosna i Hercegovina ima zajednički procijenjeni dug koji premašuje sumu od 9,2 milijardi konvertibilnih maraka, od čega 4,8 milijardi otpada na obaveze nastale prije 31. decembra 2005. godine. Procijenjeno je da spoljni i unutrašnji dug iznosi u decembru 2003. godine 75% bruto godišnjeg proizvoda, što je razlog za tešku ekonomsku krizu Države (str. 2. mišljenja). Prema tome, zakonodavac, pri pomirenju svih interesa, mora voditi računa da država ima zadatak stvarati prosperitetnu državu, a ne samo popravljati uništeno i ispravljati nepravdu. Drugim riječima, u vanrednim okolnostima, država mora pomiriti prošlost i budućnost u granicama mogućeg. Prema tome, država se odgovarajućim mjerama ne nastavlja miješati u pravo, jer to nije dozvoljeno, nego preduzima mjere, kojima se usmjerava razvoj već učinjenog miješanja u pravo (uporedi odluke Saveznog ustavnog suda Savezne Republike Njemačke nakon raspada nacionalsocijalističkog sistema *Državni bankrot* (Staatsbankrott), (BVerGE 15, 126, od 23. maja 1962. godine) i spajanja Savezne Republike i Demokratske Republike Njemačke, *Zemaljska reforma* (Bodenreform), (BVerfGE 84, 90, od 23. aprila 1991. godine; vidi i presudu Evropskog suda za ljudska prava, *Wittek protiv Savezne Republike Njemačke*, od 12. decembra 2002. godine, stav 50. ff).

1241. Naravno, država se mora pridržavati principa zabrane proizvoljnosti i prava na jednakost. Pri tome, moraju se forsirati određene vrijednosti, kao što je vjera u bankarski sistem. Bankarski sistem je toliko važan da je čak i Savezna Republika Njemačka priznala sve štedne uloge koji su bili ulagani u banke za vrijeme *Njemačkog Rajha*, uprkos činjenici da je ovaj nacionalsocijalistički sistem u potpunosti propao (čl. 10-30 Zakona o općim ratnim štetama, "Službeni glasnik" I, str. 1747, od 1. januara 1958. godine). Osim toga, Komisija smatra da isplata stare devizne štednje ima svoju socijalnu ulogu u podizanju općeg blagostanja građanstva. Konačno, realizacija isplate stare devizne štednje jačala bi vjeru u slovo zakona, pravnu državu i jednakost pred zakonom. Pravna sigurnost, koja proizilazi iz principa vladavine prava, nadopunjuje princip proporcionalnosti u vezi sa miješanjem države u pravo na imovinu. Komisija upućuje na jedan primjer Ustavnog suda Češke Republike (Odluka broj IV.US 215/94, od 8. juna 1995. godine), u pogledu zahtjeva za restitucijom slovačkog državljanina u Češkoj. Naime, pravno valjan zahtjev za restitucijom za vrijeme postojanja jedne države, postao je zakonski irelevantan disolucijom Čehoslovačke i tumačenjem istih zakona na novi način u novoj državi. Ustavni sud Češke Republike je, u svojoj odluci, pozivajući se na navedene principe pravne države i vjere u jednakost, naveo:

> *[...] Ustavni sud polazi od činjenice da je svrha kompletne restitucije da se olakšaju posljedice određenih imovinskih nepravdi, koje su se desile za vrijeme relevantnog perioda. Iako je zakonodavac bio svjestan da je nerealno pokušati da se izliječe sve nepravde, tako da je neophodno biti zadovoljan samo sa ispravljanjem nekih od njih, ovi akti [restitucije] ne mogu biti tumačeni dogmatski i neustavno, tako da u pogledu određenih ljudi stvaraju nove nepravde.*

1242. U konkretnim slučajevima, Komisija zapaža da je, u skladu sa novim Zakonom, Federacija Bosne i Hercegovine preuzela obaveze na osnovu stare devizne štednje, te da je predvidjela da ove obaveze izmiri isplatom u gotovini i izdavanjem obveznica nakon verifikacije potraživanja. Komisija, prije svega, uočava da je kamata otpisana za period od 1. januara 1992. godine. U odnosu na gotovinske isplate propisano je da će Vlada Federacije posebnim propisom utvrditi metod i visinu isplate i to do iznosa koji bi trebao osigurati i podržati makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine, što znači da ni u kom slučaju, još uvijek, nije izvjestan ni način, ni visina budućih gotovinskih isplata (član 10, u vezi sa članom 2. Zakona). Također, u odnosu na gotovinske isplate predviđeno je da će se isplate izvršiti iz budžeta Federacije Bosne i Hercegovine u periodu od četiri godine počevši od fiskalne godine kada se

završi postupak verifikovanja stare devizne štednje (član 11). S druge strane, u pogledu obaveza koje ne budu izmirene isplatom u gotovini, predviđeno je da će se izdavati obveznice do iznosa koji je potreban za izmirenje kumulativnih potraživanja. Svi uvjeti za obveznice, također, tek treba da se utvrde posebnim propisom Vlade Federacije (član 21. stav 3), a naročito u vezi roka dospijeća obveznica, visine kamate na obveznice i dužine *grace* perioda.

1243. Što se tiče kamata, novi Zakon ih je otpisao, i to za period od 1. januara 1992. godine. Komisija smatra da je ovakav pristup razuman, objektivan i opravdan. Naime, kamata se mora shvatiti i razmatrati u predmetnim slučajevima, upravo, u duhu ovog instituta. Kamata je vrsta naknade onome koji je dao kapital na raspolaganje – naknada za upotrebu. Uzimajući u obzir da nije u potpunosti jasno u kojoj mjeri i na koji način je Država raspolagala deviznim sredstvima (Poropat i dr, *loc. cit*, stav 58, *amici curiae* mišljenje Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini, strana 25, stav 2), a zbog činjenice da postoji snažan javni interes i potreba da se Država ne optereti u budućnosti, Komisija smatra da je otpis kamata opravdan. Ovaj otpis je opravdan čak i pod pretpostavkom da su komercijalne banke raspolagale sa jednim dijelom deviznih sredstava, jer bi, u današnjim okolnostima, reaktiviranje pasive kod banaka sigurno vodilo ka narušavanju bankarskog sistema, što nije interes Bosne i Hercegovine. Konačno, Evropski sud za ljudska prava naglasio je da Država ima šire polje procjene da li je naknada za izgubljenu dobit potrebna i opravdana, nego je to slučaj sa osnovnim imovinskim zahtjevom – u konkretnim slučajevima, glavnicom (presuda *X. protiv Austrije*, *loc. cit*). Ovo iz razloga što se izgubljena dobit mora naknaditi samo ako je miješanje u pravo na imovinu direktan uzrok gubitku te dobiti, prema tome, podliježe mnogo strožim kriterijima. Prevedeno na konkretne slučajeve, Komisija zaključuje da razlog gubitku kamate nije neopravdano neisplaćivanje stare devizne štednje, već događaji koji su se desili u Bosni i Hercegovini nakon 1992. godine. Nadležnost Komisije u ovakvim slučajevima bila bi da ocijeni da li je došlo do proizvoljnosti Države u lišenju ovoga prava, što u konkretnim slučajevima Komisija ne može da potvrdi (uporedi presudu Evropskog suda za ljudska prava, *James i dr. protiv Velike Britanije*, od 21. februara 1986. godine, Serija A, broj 98, st. 46. i 54).

1244. Što se tiče modaliteta isplate, Komisija smatra da novo zakonsko rješenje, nije opravdano iz više razloga. Naime, novi Zakon nije još uvijek sasvim izvjesno propisao model i obim izmirenja obaveza prema podnosiocima prijava, i to na način, na koji bi podnosioci prijava mogli, s jedne strane, ostvariti svoja imovinska prava, a s druge strane, izdefinisati svoju imovinsko-pravnu poziciju za budućnost. To se odnosi, prije svega, na obveznice. Zakon mora sadržavati osnovna načela u vezi sa uvjetima, pod kojima će obveznica biti izdata. Naime, ovi uvjeti, a prije svega, vrijeme dospjeća, su okosnica miješanja u pravo na imovinu. Iz toga razloga, neopravdano je derogirati definisanje ovog prava izvršnoj vlasti. Izvršna vlast nema taj demokratski supstrat, niti nadležnost donositi demokratske zakone, kao što ima zakonodavac. Komisija ponavlja da je miješanje u pravo na imovinu, u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju, moguće samo na osnovu zakona. Zato svaki zakon, koji iskorištava pravo, dato, *inter alia*, u stavu 2. člana 1. Protokola broj 1 uz Evropsku konvenciju, mora sadržavati barem načelna i okvirna rješenja, koja upravni organi mogu, podzakonskim aktima, razrađivati unutar jasno definisanih granica zakona. U protivnom, rješenja nisu donesena u smislu vladavine prava, jer se upravnim organima dozvoljava da predviđaju granice miješanja u imovinska prava, umjesto da izaberu najbezbolniju varijantu unutar datih zakonskih granica. Takvi zakoni ne ispunjavaju standard i kriterij *predvidivosti*, zbog čega nisu u skladu sa pravom na imovinu. Čak i kada bi se pretpostavljalo da je ta granica *makroekonomska stabilnost* Federacije Bosne i Hercegovine (član 2. stav 1. Zakona), ovaj pojam, sa tačke gledišta jednog prosječnog građanina, je pravno nedefinisan pojam i otvara mogućnost zloupotrebe od strane izvršne vlasti. S druge strane, upotreba ovako nejasnih pojmova je dozvoljena pod uslovom da je omogućena sudska kontrola, koja bi dala konačnu riječ u pogledu toga da li je u individualnom slučaju izvršni organ pravilno subsumirao činjenično stanje pod pravno nejasan pojam. U konkretnim slučajevima, postojeći Zakon daje mogućnost ne da se takav pojam primjenjuje na individualne slučajeve, već da se na osnovu njega rješava globalna situacija, što je van kontrole suda u pojedinčanim slučajevima (u tom smislu vidi presudu Evropskog suda za ljudska prava, *Kruslin protiv Francusk*e, od 24. aprila 1990. godine, Serija A, broj 176-A, stav 24. f).

1245. S druge strane, Komisija preventivno ukazuje da bi rok za dospjeće obveznica preko 15 godina bio neopravdan iz sljedećih razloga. Cilj isplate stare devizne štednje je omogućavanje njihovim vlasnicima, u opravdanim granicama moći Države, da raspolažu svojom imovinom po ovom osnovu. Vlasnici devizne štednje su, po podacima iz podnesenih prijava, ali i po navodima *amicus curiae*, Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini (str. 30), većinom starija populacija, slabe ekonomske moći i socijalno ugrožena kategorija stanovništva. Iz ovih razloga, vlasnici stare devizne štednje će biti, većinom, iz socio-ekonomskih razloga i starosne dobi, prisiljeni trgovati sa obveznicama. Velika ponuda, a predug rok dospijeća, uticati će da njihova realna vrijednost bude znatno manja od nominalne vrijednosti. Na taj način, ne bi se postigao cilj izdavanja obveznica – isplata uložene vrijednosti, dok bi puna vrijednost, po dospijeću obveznica, prešla na ekonomski jaču populaciju, što nije cilj Zakona. Komisija smatra da je maksimalan rok do 15 godina opravdan, te da čuva, s jedne strane, interes države da se ne optereti budžet u prevelikom iznosu, a s druge strane, da omogući vlasnicima obveznica po osnovu stare devizne štednje da im vrijednost ne padne ispod razumne granice. Komisija napominje da će 4-godišnja isplata stare devizne štednje u gotovom novcu, u granicama predviđenim članom 2. Zakona, pomoći da se prebrode socio-ekonomske poteškoće u kriznom i inicijalnom periodu. Ovo štaviše zbog činjenice da je 70% deviznih štediša u posjedu knjižice koja glasi na iznos ispod 1000 konvertibilnih maraka, tj. 470.000 štediša čiji su pojedinačni devizni ulozi 200 konvertibilnih maraka ili manje (mišljenje Ureda Visokog predstavnika za Bosnu i Hercegovinu, str. 9, tačka 13; mišljenje eksperta, prof. dr. Dragoljuba Stojanova u Odluci Poropat i drugi, tačka 1054. ove Odluke).

1246. Na kraju Komisija upozorava da Zakon mora predvidjeti pravičnu kamatu na obveznice. U trenutku dospijeća istih, obveznice moraju imati vrijednost koja bi oslikavala realnu vrijednost uloženih deviza, uključujući prosječnu inflacionu stopu (član 14. stav 1. Zakona). Komisija, u tom smislu, ukazuje na praksu Evropskog suda za ljudska prava, koji je u predmetu *Küçük protiv Turske* (od 10. jula 2001. godine, stav 25) naglasio da država-članica vrijeđa član 1. Protokola broj 1 uz Evropsku konvenciju u slučaju da duži period ne ispunjava svoje imovinske obaveze, dok vrijednost istih, zbog uticaja inflacije, opada.

1247. Iz svega nevedenog, Komisija smatra da je Federacija Bosne i Hercegovine, neproporcionalnim, nepotpunim zakononskim rješenjima nastavila da se miješa u pravo podnosilaca prijava na njihovu imovinu. Time je tužena strana, Federacija Bosne i Hercegovine, propustila pozitivne obaveze koje proističu iz principa zakonitosti, kao inherentnog elementa članu 1. Protokola broj 1 uz Evropsku konvenciju.

B.2. Član 6. Evropske konvencije

1248. Komisiji ostaje još da ispita da li je podnosiocima prijava povrijeđeno pravo na pravično suđenje u smislu člana 6. Evropske konvencije. Član 6. stav 1. Evropske konvencije glasi:

> Prilikom utvrđivanja građanskih prava i obaveza ili osnovanosti bilo kakve krivične optužbe protiv njega, svako ima pravo na pravično suđenje i javnu raspravu u razumnom roku pred nezavisnim i nepristrasnim, zakonom ustanovljenim sudom.

1249. Komisija smatra da predmetne prijave pokreću pitanje prava na pravično suđenje u smislu prava na pristup sudu iz člana 6. Evropske konvencije. Naime, podnosioci prijava se žale da se ne mogu obratiti niti jednoj instituciji, koja bi zaštitila njihova prava na imovinu. S druge strane, neki podnosioci prijava, kako iz ove Odluke, tako i iz ranijih odluka, se žale da ne mogu da izvrše pravomoćne odluke u vezi sa starom deviznom štednjom. Prema tome, Komisija zaključuje da postoje dvije vrste problema – s jedne strane nemogućnost institucionalne zaštite usljed uskraćivanja prava na *pristup sudu*, a, s druge strane, nemogućnost izvršenja pravosnažnih presuda u vezi sa starom deviznom štednjom.

1250. Komisija je u svojoj nedavno usvojenoj praksi još jednom ukazala na značaj prava pristupa sudu (vidi Odluku o prihvatljivosti i meritumu, CH/99/1888, od 8. i 9. marta 2005. godine, tačka 77). U tom smislu, Komisija je navela:

> *Nema sumnje, što je potvrđeno dugogodišnjom praksom sudskih organa u BiH, da je pravo pristupa sudu elemenat inherentan pravu iskazanom u članu 6. stavu 1. Evropske konvencije (vidi odluku Ustavnog suda Bosne i Hercegovine, U 3/99, od 17. marta 2000. godine, "Službeni glasnik Bosne i Hercegovine", broj 21/00). Pravo na pristup sudu iz člana 6. stava 1. Evropske konvencije podrazumijeva, prije svega, široke proceduralne garancije i zahtjev za hitni i javni postupak (neobjavljena odluka Ustavnog suda Bosne i Hercegovine, U 107/03, od 19. novembra 2004. godine, tač. 7. i 21). Pravo pristupa sudu ne znači samo formalni pristup sudu, već efikasan pristup sudu. Da bi nadležni organ bio efikasan, on mora obavljati svoju funkciju na zakonit i djelotvoran način. Obaveza obezbjeđivanja efikasnog prava na pristup nadležnim organima spada u kategoriju dužnosti, tj. pozitivne obaveze države (vidi presudu Evropskog suda za ljudska prava, Airey protiv Irske, od 9. oktobra 1979. godine, Serija A, broj 32, stav 25).*

1251. U dijelu o prihvatljivosti prijava (vidi tačku 1169. ff), Komisija je zaključila da podnosioci prijava, većinom, nisu iscrpljivali pravne lijekove, što nije ni potrebno jer Entitet, kao nadležan u tom smislu, nije predvidio djelotvoran pravni sistem. Samim tim, Komisija smatra da podnosioci prijava, uprkos činjenici da stara devizna štednja nije isplaćivana, kao ugovorna obaveza, nisu imali nikakvu institucionalnu zaštitu niti mogućnost da se obrate bilo kojem sudu ili drugom organu. Ovakvo stanje traje još od samog početka problema, znatno ranije nego je Sporazum stupio na snagu. Situacija se nije promijenila do danas, uprkos odlukama Doma (prije svega, *Poropat i dr*, *loc. cit.* tač 152-156; *Đurković i dr*, *loc. cit.* tač. 220-222), u kojima je *explizite* navedeno da u pravnom sistemu Bosne i Hercegovine ne postoji djelotvorni pravni lijekovi, te je nađeno flagrantno kršenje prava na imovinu vlasnika stare devizne štednje. Tužena strana nije nikada ispoštovala oduke Doma u vezi s tim. Konačno, Komisija primjećuje da tek donošenjem najnovijeg zakona o regulisanju problema unutrašnjeg duga, vlasnici stare devizne štednje imaju formalno-pravno (tj., zakonsko) ograničenje prava *pristupa sudu*. Do tada, niti jedan akt nije ograničavao ovo pravo, što je Ured Visokog predstavnika, štaviše, izričito naveo u svom mišljenju, izraženom kao *amicus curiae,* u Odluci Poropat i drugi (tačka 79). Međutim, Komisija napominje da su prijave podnijete u toku 1998. i 1999. godine, znači, 6-7 godina prije stupanja na snagu navedenog zakona, te da cijelo vrijeme postoji *de facto* frustracija podnosilaca prijava oko prava *pristupa sudu*. Ova činjenica se ne može zanemariti. Konačno, uzimajući u obzir zaključke ove Odluke u vezi prava na imovinu, gdje je nađena povreda, Komisija smatra da pravo pristupa sudu još uvijek nije opravdano i izbalansirano. Iz ovih razloga, Komisija ne može prihvatiti uputu na presudu Evropskog suda za ljudska prava u predmetu *National & Privincial Building Society et al. protiv Velike Britanije*, od 23. oktobra 1997. godine. Naime, u ovom predmetu se radilo o *izbalansiranom* ograničenju prava *pristupa sudu* u vezi povrata poreza. S druge strane, Komisija naglašava da država ima veće diskreciono pravo u pogledu javnih obaveza (bez obzira što se one u konkretnom slučaju definišu kao imovina u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju), nego je to slučaj sa čistim privatno-pravnim imovinskim pozicijama, kao što je pravo na uložena devizna sredstva. U oblasti javnog prava, kontrola se svodi na zabranu arbitrarnosti, te je dovoljno da javna obaveza bude zasnovana na zakonu i da ne bude proizvoljna (vidi, na primjer, Odluku Ustavnog suda Bosne i Hercegovine, *U 27/01* od 28. septembra 2001. godine, "Službeni gasnik Bosne i Hercegovine", broj 8/02). Samim tim, u oblasti javnog prava je mogućnost ograničenja prava na *pristup sudu* veća nego u čistim obligaciono-pravnim odnosima (ugovor o štednji).

1252. Na ovakav zaključak ne može uticati ni činjenica da određena lica imaju pravosnažne presude, jer se, s jedne strane, radi o izuzecima, a, s druge strane, o činjenici da niti jedna odluka nikada nije izvršena (vidi *Poropat i dr, loc. cit,* tač. 155, 156, 195). Komisija je, u svojoj nedavnoj jurisprudenciji (vidi Odluku o prihvatljivosti i meritumu, CH/03/14913, od 8. i 9. marta 2005. godine, tač. 38. i 39), navela:

Izvršenje presude, koju donese bilo koji sud, mora biti posmatrano kao integralni dio „suđenja“ u smislu člana 6. Evropske konvencije (vidi presudu Evropskog suda za ljudska prava, Golder protiv Ujedinjenog Kraljevstva, od 7. maja 1974. godine, Serija A, broj 18, st. 34-36). To će biti slučaj ako ne postoji izvršenje u razumnom zakonskom roku ili ako neopravdanost neizvršenja povlači ponovnu povredu tog građanskog prava. Komisija podržava i stav Ustavnog suda Bosne i Hercegovine u vezi sa ovim problemom, koji je naveo da u slučaju neizvršenja bilo kojeg pravosnažno utvrđenog građanskog prava, to pravo ima karakter iluzornog prava (op.cit, AP-288/03, tačka 27). Naime, ako se pravosnažno utvrdi građansko pravo, a nadležni organ neće da ga izvrši, pravo na pravičan postupak u postupku utvrđivanja građanskog prava bi postalo bespredmetno i bez adekvatnog dejstva. Na taj način, negira se pravo na pristup sudu. Nema sumnje, što je potvrđeno dugogodišnjom praksom sudskih organa u Bosni i Hercegovini, da je pravo pristupa sudu elemenat inherentan pravu iskazanom u članu 6. stavu 1. Evropske konvencije (vidi odluku Ustavnog suda Bosne i Hercegovine, U 3/99, od 17. marta 2000. godine, "Službeni glasnik Bosne i Hercegovine", broj 21/00). Pravo na pristup sudu iz člana 6. stava 1. Evropske konvencije podrazumijeva, prije svega, široke proceduralne garancije i zahtjev za hitni i javni postupak (neobjavljena odluka Ustavnog suda Bosne i Hercegovine, U 107/03, od 19. novembra 2004. godine, tač. 7. i 21). Pravo pristupa sudu ne znači samo formalni pristup sudu, već efikasan pristup sudu. Da bi nadležni organ bio efikasan, on mora obavljati svoju funkciju na zakonit i djelotvoran način. Obaveza obezbjeđivanja efikasnog prava na pristup nadležnim organima spada u kategoriju dužnosti, tj. pozitivne obaveze države (vidi presudu Evropskog suda za ljudska prava, Airey protiv Irske, od 9. oktobra 1979. godine, Serija A, broj 32, stav 25). Ipak, pravo pristupa sudu traje sve dok se ne realizira utvrđeno građansko pravo. U protivnom, djelotvoran postupak prilikom utvrđivanja građanskih prava i obaveza bi bio iluzoran, ako u naknadnom, izvršnom postupku, to građansko pravo ne može zaživjeti.

Komisija, također, podsjeća i na niz odluka Doma, koje se tiču nepoštivanja odluka sudova u Bosni i Hercegovini. Na primjer, u odluci CH/96/17, Blentić protiv Republike Srpske (vidi Odluku o prihvatljivosti i meritumu Doma za ljudska prava, od 5. novembra 1997. godine, tačka 35) Dom je našao povredu prava na pravično suđenje zato "što je policija bila pasivna usprkos svojoj obavezi da pomogne u izvršenju sudske odluke“. Također, Komisija podsjeća i na praksu Ombudsmana za ljudska prava za Bosnu i Hercegovinu (u daljnjem tekstu: Ombudsman za ljudska prava), u sličnim predmetima. Tako, u predmetu B. D. protiv Federacije Bosne i Hercegovine (vidi predmet (B) 746/97, Izvještaji od 24. marta 1999. godine) Omudsman za ljudska prava našao je povredu člana 6. Evropske konvencije zbog činjenice da "vlasti nisu, više od dvije godine, izvršile presudu i nalog za izvršenje koje je izdao Osnovni sud u Tuzli u korist podnosioca prijave“. Također, u predmetu A. O. protiv Republike Srpske (vidi predmet broj (B) 60/96, Izvještaji od 13. aprila 1999. godine) Ombudsman za ljudska prava našao je povredu člana 6. stav 1. Evropske konvencije u "propustu Osnovnog suda iz Banja Luke da izvrši konačnu i obavezujuću odluku, koju je donijela Komisija osnovana prema Aneksu 7 u korist podnosioca žalbe“. Iz navedenog je vidljivo da postoji izgrađena praksa u pogledu toga da neizvršavanje pravosnažnih sudskih odluka predstavlja povredu prava na pravično suđenje.

1253. U vezi sa citiranom Odlukom, Komisija primjećuje da je podnosilac prijave, u predmetu broj CH/99/2733, *Enver KUDIĆ protiv Federacije Bosne i Hercegovine*, došao do pravosnažne presude Osnovnog suda, broj P-289/92 od 3. decembra 1993. godine, koja nikada nije izvršena.

1254. Komisija napominje da do donošenja Zakona o privremenom odlaganju od izvršenja potraživanja na osnovu izvršnih odluka na teret budžeta Federacije Bosne i Hercegovine ("Službeni glasnik Federacije Bosne i Hercegovine", broj 9/04, od 16. februara 2004. godine) nije

postojala pravna osnova koja bi zabranila izvršenje pravosnažnih presuda po osnovu stare devizne štednje u Bosni i Hercegovini. Član 2, stav 1, alineja 1. ovog Zakona propisuje privremeno odlaganje izvršenja potraživanja nastalih na osnovu izvršnih dokumenata, donesenih u upravnom i sudskom postupku, a koja se odnose na staru deviznu štednju. Član 3. stav 5. Zakona o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine je propisao da *na izvršne akte koji su uređeni Zakonom o privremenom odlaganju od izvršenja potraživanja na osnovu izvršnih odluka na teret budžeta Federacije Bosne i Hercegovine ("Službeni glasnik Federacije Bosne i Hercegovine", broj 9/04), primjenjuju se odredbe ovog Zakona*. Obzirom na zaključke Komisije u vezi sa pravom na imovinu podnosilaca prijava iz člana 1. Protokola broj 1 uz Evropsku konvenciju, Komisija smatra da je neopravdano privremeno odlaganje izvršenja potraživanja nastalih na osnovu pravosnažnih izvršnih presuda. Komisija, iz ovog razloga, napominje da sve dok se pitanje stare devizne štednje ne uredi na način saglasan sa standardima iz člana 1. Protokola broj 1 uz Evropsku konvenciju, odlaganje izvršenja pravosnažnih presuda neće biti opravdano.

1255. Iz svega navedenog, Komisija zaključuje da je došlo do povrede prava podnosilaca prijava prema članu 6. stavu 1. Evropske konvencije, za što je odgovorna tužena strana, Federacija Bosne i Hercegovine. Tužena strana nije obezbijedila podnosiocima prijava pravo pristupa sudu i nema opravdan razlog za neizvršenje pravosnažnih presuda u vezi sa starom deviznom štednjom.

B.3. Zaključak o meritumu

1256. Komisija zaključuje da su Bosna i Hercegovina i Federacija Bosne i Hercegovine povrijedile pravo podnosilaca prijava na imovinu koje štiti član 1. Protokola broj 1 uz Evropsku konvenciju.

1257. Komisija zaključuje da je Federacija Bosne i Hercegovine povrijedila prava podnosilaca prijava na pravično suđenje, u smislu prava pristupa sudu, koje štiti član 6. Evropske konvencije.

VIII. PRAVNI LIJEKOVI

1258. Prema članu XI(1)(b) Sporazuma, a u vezi sa pravilom 58. stavom 1(b) Pravila procedure Komisije, Komisija mora razmotriti pitanje o koracima koje Bosna i Hercegovina i Federacija Bosne i Hercegovine mora preduzeti da ispravi kršenja Sporazuma koja je Komisija utvrdila, uključujući naredbe da sa kršenjima prestane i od njih odustane.

1259. U pogledu Bosne i Hercegovine, neophodno je da Država, po hitnom postupku, a najkasnije u roku od 6 mjeseci od dana prijema ove Odluke, donese okvirni zakon ili drugi zakonski okvir, koji bi, u skladu sa obrazloženjem i zaključcima ove Odluke, principijelno riješio postojeći problem u vezi sa starom deviznom štednjom na teritoriji cijele Bosne i Hercegovine. U vezi s tim, Komisija nalaže Bosni i Hercegovini da odmah, a najkasnije u roku od dva mjeseca, od dana prijema ove Odluke, formira ekspertni tim, u saradnji sa entitetima i Distriktom Brčko, koji će, najkasnije u roku 2 mjeseca od dana formiranja tima, u skladu sa parlamentarnom procedurom, predložiti nacrt okvirnog zakona ili drugog zakonskog okvira.

1260. U pogledu Federacije Bosne i Hercegovine, Komisija smatra da je neophodno da naredi tuženoj strani da u roku od 6 mjeseci od dana prijema ove Odluke izmijeni i dopuni postojeći Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine u skladu sa obrazloženjem i zaključcima ove Odluke. Izmjene i dopune odnose se, prije svega, na propisivanje pozitivnih obaveza banaka u vezi sa podacima, pristupom informacijama vlasnika stare devizne štednje, institucionalnom i procesno-pravnom zaštitom vlasnika stare devizne štednje, i drugim pitanjima u vezi sa modalitetom isplate devizne štednje, a u vezi sa obrazloženjem iz ove odluke.

1261. Federaciji Bosne i Hercegovine se nalaže da po hitnom postupku, u roku od 3 mjeseca od dana prijema ove Odluke, donese podzakonske akte o verifikaciji, vodeći računa o budućim zakonskim rješenjima.

1262. Federaciji Bosne i Hercegovine se nalaže da javno istupi u medijima i na odgovarajući način, transparentno i jasno, ukaže na prava i obaveze vlasnika stare devizne štednje.

1263. Federaciji Bosne i Hercegovine se nalaže da izvrši verifikaciju potraživanja podnosilaca prijava u zakonom predviđenom roku, poštujući institucionalnu i procesno-pravnu zaštitu u postupku verifikacije potraživanja.

1264. Federaciji Bosne i Hercegovine se nalaže da ispoštuje zakonske rokove u vezi sa čl. 10. i 11. Zakona o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine, vodeći računa o datom roku iz prethodne tačke ove Odluke.

1265. U slučaju nepoštivanja rokova, datih u prethodnim tačkama ove Odluke, Federaciji Bosne i Hercegovine se nalaže da od 1. marta 2006. godine, podnosiocima prijava isplaćuje iznos od 100 (sto) konvertibilnih maraka mjesečno, ili puni iznos njene ili njegove stare devizne štednje (za iznose ispod 100 konvertibilnih maraka), sve do ispunjenja obaveza iz zaključaka ove Odluke.

1266. Komisija nalaže da se u predmetu broj CH/99/2733, Enver KUDIĆ protiv Federacije Bosne i Hercegovine, u roku od dva mjeseca od dana prijema ove Odluke, izvrši presuda Osnovnog suda, broj P-289/92. od 3. decembra 1993. godine.

1267. Komisija smatra da bi bilo opravdano da naloži Federaciji Bosne i Hercegovine da svakom podnosiocu prijave, na ime nematerijalne štete i eventualnih procesnih troškova, isplati paušalni iznos od po 500 (petstotina) konvertibilnih maraka u roku od tri mjeseca od dana prijema ove Odluke.

IX. ZAKLJUČAK

1268. Iz ovih razloga, Komisija odlučuje,

1. jednoglasno, da prijave proglasi prihvatljivim protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine u dijelu koji se odnosi na navodne povrede ljudskih prava nakon 14. decembra 1995. godine u vezi sa pravom na imovinu iz člana 1. Protokola broj 1 uz Evropsku konvenciju;

2. jednoglasno, da prijave proglasi prihvatljivim protiv Federacije Bosne i Hercegovine u dijelu koji se odnosi na navodne povrede ljudskih prava nakon 14. decembra 1995. godine u vezi sa pravom na pravično suđenje iz člana 6. Evropske konvencije;

3. jednoglasno, da briše dio prijave, u predmetu broj *CH/98/1300, Vera KRSTIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u vezi sa deviznim štednim knjižicama kod Jugobanke, koje glase na ime B.K, jer podnosilac prijave nije dostavila punomoć, kojom je B.K. ovlašćuje za zastupanje u vezi devizne štednje pred Komisijom;

4. jednoglasno, da briše dio prijava, u predmetu broj *CH/99/2208, Božidar LAKIČEVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u vezi sa navodima podnosioca prijave koji se odnose na položena sredstva kod Privredne banke, i u predmetu broj *CH/98/470, Ubavka ĆOROVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovi*ne, u vezi svojih potraživanja u iznosu od 2.735,65 KM, jer podnosioci prijava nisu dostavili kopiju knjižica, čime bi potkrijepili svoje navode, kao i prijave br. *CH/98/421*, *Milorad SAVIČIĆ protiv Federacije Bosne i Hercegovine, CH/99/3027, Marela ČELIKOVIĆ protiv Federacije Bosne i Hercegovine*, *CH/99/3176, Vedat PAŠIĆ protiv Bosne i Hercegovine* i *CH/99/3177, Nejra PAŠIĆ protiv Bosne i Hercegovine*, jer podnosioci prijava nisu dostavili kopiju knjižica;

5. jednoglasno, da briše dio prijave, u predmetu broj CH/99/2552, *Pašan MEHMEDINOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, koji se odnosi na štedne pologe kćerki podnosioca prijave, jer podnosilac prijave nije dostavio kopiju punomoći kojom ga ovi

članovi porodice ovlašćuju za zastupanje pred Domom/Komisijom;

6. jednoglasno, da briše prijave, u predmetima br. *CH/98/484, Draginja Savić protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine, CH/99/3007, T.E.S. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine* i *CH/99/3043, Blažo ĆIPOVIĆ protiv Federacije Bosne i Hercegovine,* jer podnosioci prijava ne posjeduju više staru deviznu štednju;

7. jednoglasno, da je Bosna i Hercegovina prekršila prava podnosilaca prijava na mirno uživanje imovine po članu 1. Protokola broj 1 uz Evropsku konvenciju, ne preduzevši odgovarajuće radnje u vezi sa njihovom starom deviznom štednjom kako bi osigurala prava podnosilaca prijava zagarantovana tom odredbom, čime je Bosna i Hercegovina prekršila član I Sporazuma;

8. jednoglasno, da je Federacija Bosne i Hercegovine prekršila prava podnosilaca prijava na mirno uživanje imovine po članu 1. Protokola broj 1 uz Evropsku konvenciju, ne preduzevši odgovarajuće radnje u vezi sa njihovom starom deviznom štednjom, čime je stavila pojedinačan i prevelik teret na podnosioce prijava, čime je Federacija Bosne i Hercegovine prekršila član I Sporazuma;

9. jednoglasno, da je Federacija Bosne i Hercegovine prekršila pravo podnosilaca prijava na pravično suđenje iz člana 6. Evropske konvencije, čime je Bosna i Hercegovina prekršila član I Sporazuma;;

10. jednoglasno, da naredi Bosni i Hercegovini da odmah, a najkasnije u roku od dva mjeseca, od dana prijema ove Odluke, formira ekspertni tim, u saradnji sa entitetima i Distriktom Brčko, koji će, najkasnije u roku 2 mjeseca od dana formiranja tima, u skladu sa parlamentarnom procedurom, predložiti nacrt okvirnog zakona ili drugog zakonskog okvira;

11. jednoglasno, da naredi Bosni i Hercegovini da po hitnom postupku, a najkasnije u roku od 6 mjeseci od dana prijema ove Odluke, donese okvirni zakon ili drugi zakonski okvir, koji bi, u skladu sa obrazloženjem i zaključcima ove Odluke, principijelno riješio postojeći problem u vezi sa starom deviznom štednjom na teritoriji cijele Bosne i Hercegovine;

12. jednoglasno, da naredi Federaciji Bosne i Hercegovine da po hitnom postupku, u roku od 3 mjeseca od dana prijema ove Odluke, donese podzakonske akte o verifikaciji iznosa stare devizne štednje, vodeći računa o budućim zakonskim rješenjima;

13. jednoglasno, da naredi Federaciji Bosne i Hercegovine da izvrši verifikaciju potraživanja podnosilaca prijava u zakonom predviđenom roku, poštujući institucionalnu i procesno-pravnu zaštitu u postupku verifikacije potraživanja;

14. jednoglasno, da naredi Federaciji Bosne i Hercegovine da ispoštuje zakonske rokove u vezi sa čl. 10. i 11. Zakona o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine, vodeći računa o datom roku iz zaključka broj 13. ove Odluke;

15. jednoglasno, da naredi Federaciji Bosne i Hercegovine, u slučaju nepoštivanja rokova, datih u prethodnim zaključcima ove Odluke, da od 1. marta 2006. godine, podnosiocima prijava isplaćuje iznos od 100 (sto) konvertibilnih maraka mjesečno, ili puni iznos njene ili njegove stare devizne štednje (za iznose ispod 100 konvertibilnih maraka), sve do ispunjenja obaveza iz zaključaka ove Odluke;

16. jednoglasno, da naredi Federaciji Bosne i Hercegovine da javno istupi u medijima i na odgovarajući način, transparentno i jasno, ukaže na prava i obaveze vlasnika stare devizne štednje;

17. jednoglasno, da naredi Federaciji Bosne i Hercegovine, da, u vezi predmeta broj CH/99/2733, Enver KUDIĆ protiv Federacije Bosne i Hercegovine, u roku od dva mjeseca od dana

prijema ove Odluke, izvrši presuda Osnovnog suda, broj P-289/92 od 3. decembra 1993. godine;

18. jednoglasno, da naredi Federaciji Bosne i Hercegovine da isplati svim podnosiocima prijava paušalni iznos od 500 (petstotina) konvertibilnih maraka na ime nematerijalne štete i eventulanih troškova postupka pred nadležnim institucijama, uključujući Dom/Komisiju, zbog povrede prava na pravično suđenje i prava na imovinu, najkasnije u roku od tri mjeseca od dana prijema ove Odluke;

19. jednoglasno, da naredi Federaciji Bosne i Hercegovine da podnosiocima prijava isplati zateznu godišnju kamatu od 10 (deset) posto na iznose koji su im dosuđeni u zaključcima br. 15, 17. i 18, ili svaki njihov neisplaćeni dio od dana isteka roka određenog za takvu isplatu do dana pune isplate svih iznosa podnosiocima prijava u skladu sa tim zaključcima; i

20. jednoglasno, da naredi Federaciji Bosne i Hercegovine i Bosni i Hercegovini da izvijesti Komisiju, svaka tri mjeseca od dana prijema ove Odluke, pa sve do izvršenja zaključaka ove Odluke, o koracima preduzetim u sprovođenju gore spomenutih naredbi.

(potpisao)
Nedim Ademović
Arhivar Komisije

(potpisao)
Miodrag Pajić
Predsjednik Komisije

ODLUKA O PRIHVATLJIVOSTI I MERITUMU

Predmet broj CH/98/375 i dr.

Đorđe BESAROVIĆ i drugi

protiv

BOSNE I HERCEGOVINE

i

FEDERACIJE BOSNE I HERCEGOVINE

Komisija za ljudska prava pri Ustavnom sudu Bosne i Hercegovine, na zasjedanju Velikog vijeća od 6. aprila 2005. godine, sa sljedećim prisutnim članovima:

Gosp. Miodrag PAJIĆ, predsjednik
Gosp. Mehmed DEKOVIĆ, potpredsjednik
Gosp. Želimir JUKA, član
Gđa Hatidža HADŽIOSMANOVIĆ, član
Gosp. Jovo ROSIĆ, član

Gosp. Nedim ADEMOVIĆ, arhivar

Razmotrivši gore spomenute prijave podnesene Domu za ljudska prava za Bosnu i Hercegovinu (u daljnjem tekstu: Dom) u skladu sa članom VIII(1) Sporazuma o ljudskim pravima (u daljnjem tekstu: Sporazum) sadržanom u Aneksu 6 uz Opći okvirni sporazum za mir u Bosni i Hercegovini;

Konstatujući da je Dom prestao postojati 31. decembra 2003. godine i da je Komisija za ljudska prava pri Ustavnom sudu Bosne i Hercegovine (u daljnjem tekstu: Komisija) dobila mandat prema sporazumima u skladu sa članom XIV Aneksa 6 uz Opći okvirni sporazum za mir u Bosni i Hercegovini koji su zaključeni u septembru 2003. i januaru 2005. godijne (u daljnjem tekstu: Sporazum iz 2005. godine) da odlučuje o predmetima podnesenim Domu do 31. decembra 2003. godine;

Usvaja sljedeću odluku u skladu sa članom VIII(2)(d) Sporazuma, čl. 3. i 8. Sporazuma iz 2005. godine, kao i pravilom 21. stav 1(a) u vezi sa pravilom 53. Pravila procedure Komisije:

I. UVOD

1. Podnosioci prijava su građani Bosne i Hercegovine. Prije raspada Socijalističke Federativne Republike Jugoslavije (u daljnjem tekstu: SFRJ), ulagali su devize kod bivših komercijalnih banaka u toj zemlji. Zbog rastuće nestašice deviza i drugih ekonomskih problema isplata sredstava sa ovih "starih" deviznih štednih računa progresivno je organičavana po zakonima koji su stupili na snagu tokom 1980-tih i početkom 1990-tih.

2. Neposredno pred početak, kao i u toku oružanih sukoba u Bosni i Hercegovini, podnosioci prijava uglavnom nisu bili u mogućnosti da podižu novac sa svojih štednih računa. Također, svi njihovi pokušaji da podignu novac u poslijeratnom periodu bili su odbijeni bez obrazloženja ili uz pozivanje na zakone koje su usvojile SFRJ, Republika Bosna i Hercegovina i kasnije Federacija Bosne i Hercegovine.

3. Neki od podnosilaca prijava pokrenuli su sudske postupke, kako bi ostvarili svoja potraživanja po osnovu stare devizne štednje, međutim, niti jedan sudski postupak nije rezultirao ostvarenjem potraživanja, tako da su ti postupci do danas ostali bez rezultata.

4. U skladu sa zakonima, koje je Federacija Bosne i Hercegovine usvojila u toku 1997. i 1998. godine, a posebno Zakonom o utvrđivanju i realizaciji potraživanja građana u procesu privatizacije (u daljnjem tekstu: Zakon o potraživanjima građana), potraživanja po osnovu stare devizne štednje trebala su biti riješena u procesu privatizacije imovine u društvenom i državnom vlasništvu. Prema Zakonu o potraživanjima građana, stanja devizne štednje su trebala biti evidentirana na "Jedinstvenom računu građana" koji je vodio Federalni zavod za platni promet. Umjesto isplate štednje, taj Zavod je izdavao certifikate u odgovarajućem iznosu. Prema relevantnim zakonskim odredbama, ovi certifikati su se mogli koristiti u procesu privatizacije za kupovinu stanova, poslovnih prostora u državnom vlasništvu, dionica preduzeća ili drugih sredstava. Ova procedura je sačinjena kako bi se riješila potraživanja građana i na taj način zaštitio sistem isplate javnog duga i spriječio kolaps bankovnog sistema.

5. Dom je 9. juna 2000. godine uručio svoju Odluku o prihvatljivosti i meritumu u predmetu *CH/97/48 i dr.*, *Poropat i drugi protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine,* koja se tiče zahtjeva podnosilaca prijava za ostvarenje potraživanja po osnovu stare devizne štednje. Dom je odlučio da su Bosna i Hercegovina i Federacija Bosne i Hercegovine prekršile prava podnosilaca prijava na mirno uživanje imovine prema članu 1. Protokola broj 1 uz Evropsku konvenciju za zaštitu ljudskih prava i temeljnih sloboda (u daljnjem tekstu: Evropska konvencija). Dom je naredio, *inter alia*, da Federacija Bosne i Hercegovine treba "izmijeniti i dopuniti program privatizacije tako da postigne pravičnu ravnotežu između općeg interesa i zaštite imovinskih prava podnosilaca prijava kao imalaca stare devizne štednje".

6. Od 2. novembra 2000. do 8. februara 2002. godine, Federacija je dopunila razne odredbe Zakona o potraživanjima građana u pokušaju da izvrši naredbu Doma iz odluke *Poropat i drugi*.

7. Međutim, Ustavni sud Federacije Bosne i Hercegovine je 8. januara 2001. godine donio odluku kojom se utvrđuje da ključne odredbe Zakona o potraživanjima građana nisu u skladu sa Ustavom Federacije Bosne i Hercegovine. Na taj način, efikasnost i daljnja primjena ovog Zakona su dovedeni u pitanje.

8. Dom je 11. oktobra 2002. godine uručio odluku o prihvatljivosti i meritumu u predmetu broj *CH/97/104 i dr.*, *Todorović i drugi protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine* (u daljnjem tekstu: odluka *Todorović i drugi)*. U ovoj odluci, Dom je odlučio, *inter alia*, da stanje pravne nesigurnosti koje proističe iz odluke Ustavnog suda Federacije, te činjenica da Federacija nastavlja da primjenjuje zakone koji su proglašeni neustavnima, nepostojanje odgovarajućih izmjena tih zakona, te nedostupnost obeštećenja na domaćim sudovima, sve zajedno, predstavlja nesrazmjerno uplitanje u imovinska prava podnosilaca prijava, čime Federacija Bosne i

Hercegovine krši prava podnosilaca prijava na mirno uživanje imovine u skladu s članom 1. Protokola broj 1 uz Evropsku konvenciju za zaštitu ljudskih prava i temeljnih sloboda (u daljnjem tekstu: Evropska konvencija). Dom je utvrdio da je i Bosna i Hercegovina prekršila član 1. Protokola broj 1 uz Evropsku konvenciju po osnovu opće angažovanosti i odgovornosti Države za staru deviznu štednju, te njenog nepreduzimanja odgovarajućih radnji s tim u vezi. Dom je naredio, *inter alia*, da Federacija Bosne i Hercegovine, u roku od šest mjeseci od dana donošenja odluke, donese relevantne i obavezujuće zakone i propise kojima se jasno reguliše problem stare devizne štednje na način koji je u skladu sa članom 1. Protokola broj 1 uz Evropsku konvenciju.

9. Dom je 4. jula 2003. godine uručio odluku o daljnjim pravnim lijekovima u predmetu broj CH/97/48 i drugi, *Poropat i drugi*, uključujući sve podnosioce prijava iz prethodnih odluka *Poropat i drugi* i *Todorović i drugi*. Dom je zaključio da ni Bosna i Hercegovina, niti Federacija Bosne i Hercegovine, nisu preduzele nikakve relevantne korake za izvršenje odluka Doma, čime su nastavile s kršenjem prava podnosilaca prijava prema članu 1. Protokola broj 1 uz Evropsku konvenciju. Dom je, zbog toga, smatrao odgovarajućim da naredi daljnje pravne lijekove, uključujući, *inter alia*, isplatu novca svakom od podnosilaca prijava. Dom je, između ostalog, naredio da se u roku od jednog mjeseca od datuma uručenja odluke, svakom konkretnom podnosiocu prijave isplati iznos od 2.000 konvertibilnih maraka (u daljnjem tekstu: KM), ili puni iznos njene/njegove stare devizne štednje, u zavisnosti od toga koji je iznos manji, te da će teret ovih isplata snositi tužene strane podjednako.

10. Dom je 7. novembra 2003. godine uručio Odluku u prihvatljivosti i meritumu u predmetu broj *CH/98/377 i dr.*, *Đurković i drugi protiv Bosne i Hercegovine, Federacije Bosne i Hercegovine i Republike Srpske.* U ovoj Odluci, Dom je zaključio, *inter alia*, da situacija u Federaciji Bosne i Hercegovine u pogledu stare devizne štednje, uzeta u cjelini, stavlja pojedinačan i pretjeran teret na mnoge štediše, uključujući i podnosioce prijava. Dom je priznao napore Federacije da uspostavi "pravičnu ravnotežu" raznim izmjenama i dopunama važećih zakona koje su uslijedile nakon usvojenih odluka Doma. Međutim, zaključuje se da kakav god da je bio mogući uticaj tih izmjena, odlukom Ustavnog suda Federacije Bosne i Hercegovine, njihova efikasnost je dovedena u pitanje. Dom je utvrdio da stvoreno stanje pravne neizvjesnosti – nastavljena primjena zakona u svjetlu odluke Ustavnog suda Federacije, nedostatak blagovremenih odgovarajućih izmjena tih zakona i očigledna nemogućnost obraćanja domaćim sudovima – stvara neproporcionalno uplitanje u imovinska prava podnosilaca prijava. U pogledu odgovornosti Bosne i Hercegovine, Dom je ostao na stanovištu da je Država generalno odgovorna za pitanja u vezi sa starom deviznom štednjom.

11. Na tragu novih rješenja, Parlament Federacije Bosne i Hercegovine je 20. novembra 2004. godine usvojio Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine ("Službene novine Federacije Bosne i Hercegovine", broj 64/04), (u daljnjem tekstu: Zakon o izmirenju obaveza). Novim zakonom Federacija Bosne i Hercegovine je utvrdila da će se sveobuhvatno izmirenje unutrašnjeg duga prema fizičkim i pravnim licima izvršiti na način koji osigurava i podržava makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine. Utvrđeno je da se unutrašnji dug, između ostalog, odnosi i na obaveze po osnovu stare devizne štednje ostvarene do najnižih poslovnih jedinica banaka na teritoriji Federacije Bosne i Hercegovine, u iznosu koji se utvrđuje prema verifikaciji obaveza na način propisan istim Zakonom. Međutim, u odnosu na obaveze po osnovu stare devizne štednje deponovane u Ljubljanskoj banci i Invest banci, Zakon o izmirenju obaveza je izričito propisao da će se iste rješavati u procesu sukcesije imovine bivše SFRJ.

12. Predmetne prijave se odnose na zahtjeve podnosilaca prijava da ostvare svoja potraživanja po osnovu stare devizne štednje, deponovane isključivo u bankama Bosne i Hercegovine i njihovim poslovnim jedinicama na teritoriji današnje Federacije Bosne i Hercegovine. Čini se da su, na podlozi zakonske regulative iz 1997. i 1998. godine, banke prebacile staru deviznu štednju ovih podnosilaca prijava na Jedinstvene račune građana u Federalnom zavodu za platni promet (u daljnjem tekstu: Zavod), osim u određenim predmetima gdje podnosioci prijave izričito navode da njihova devizna štednja nije evidentirana na Jedinstvenom računu građana.

13. Prijave pokreću pitanja u vezi sa pravom podnosilaca prijava na mirno uživanje imovine po članu 1. Protokola broj 1 uz Evropsku konvenciju i pravom na pravičnu raspravu u razumnom roku po članu 6. Evropske konvencije.

II. POSTUPAK PRED DOMOM/KOMISIJOM

14. S obzirom na sličnost između činjenica u predmetima i žalbenih navoda podnosilaca prijava, Komisija je odlučila da prijave br. CH/98/375, CH/98/376, CH/98/380, CH/98/391, CH/98/393, CH/98/397, CH/98/398, CH/98/399, CH/98/409, CH/98/412, CH/98/421, CH/98/423, CH/98/425, CH/98/432, CH/98/434, CH/98/436, CH/98/437, CH/98/442, CH/98/434, CH/98/445, CH/98/452, CH/98/458, CH/98/468, CH/98/470, CH/98/475, CH/98/476, CH/98/478, CH/98/484, CH/98/495, CH/98/497, CH/98/501, CH/98/502, CH/98/508, CH/98/510, CH/98/525, CH/98/528, CH/98/529, CH/98/541, CH/98/564, CH/98/569, CH/98/570, CH/98/577, CH/98/580, CH/98/581, CH/98/590, CH/98/592 , CH/98/596, CH/98/601, CH/98/602, CH/98/606, CH/98/607, CH/98/608, CH/98/610, CH/98/612, CH/98/613, CH/98/614, CH/98/616, CH/98/623, CH/98/624, CH/98/625, CH/98/631, CH/98/662, CH/98/673, CH/98/716, CH/98/718, CH/98/831, CH/98/868, CH/98/898, CH/98/1081, CH/98/1082, CH/98/1083, CH/98/1088, CH/98/1091, CH/98/1093, CH/98/1094, CH/98/1096, CH/98/1099, CH/98/1300, CH/98/1301, CH/99/1571, CH/99/1758, CH/99/1769, CH/99/2033, CH/99/2038, CH/99/2052, CH/99/2059, CH/99/2061, CH/99/2071, CH/99/2089, CH/99/2105, CH/99/2134, CH/99/2135, CH/99/2162, CH/99/2165, CH/99/2173, CH/99/2189, CH/99/2190, CH/99/2205, CH/99/2206, CH/99/2208, CH/99/2209, CH/99/2210, CH/99/2212, CH/99/2214, CH/99/2216, CH/99/2217, CH/99/2225, CH/99/2273, CH/99/2275, CH/99/2276, CH/99/2286, CH/99/2288, CH/99/2514, CH/99/2533, CH/99/2534, CH/99/2541, CH/99/2551, CH/99/2552, CH/99/2606, CH/99/2630, CH/99/2631, CH/99/2632, CH/99/2642, CH/99/2663, CH/99/2664, CH/99/2678, CH/99/2679, CH/99/2680, CH/99/2681, CH/99/2686, CH/99/2690, CH/99/2691, CH/99/2733, CH/99/2749, CH/99/2750, CH/99/2755, CH/99/2756, CH/99/2768, CH/99/2769, CH/99/2770, CH/99/2773, CH/99/2785, CH/99/2794, CH/99/2802, CH/99/2804, CH/99/2837, CH/99/2843, CH/99/2846, CH/99/2847, CH/99/2848, CH/99/2851, CH/99/2858, CH/99/2860, CH/99/2861, CH/99/2864, CH/99/2866, CH/99/2875, CH/99/2883, CH/99/2886, CH/99/2890, CH/99/2892, CH/99/2893, CH/99/2894, CH/99/2901, CH/99/2904, CH/99/2905, CH/99/2906, CH/99/2908, CH/99/2918, CH/99/2922, CH/99/2923, CH/99/2939, CH/99/2944, CH/99/2945, CH/99/2946, CH/99/2956, CH/99/2962, CH/99/2966, CH/99/2967, CH/99/2969, CH/99/2976, CH/99/2979, CH/99/2983, CH/99/2992, CH/99/3001, CH/99/3006, CH/99/3007, CH/99/3008, CH/99/3011, CH/99/3018, CH/99/3020, CH/99/3027, CH/99/3037, CH/99/3043, CH/99/3045, CH/99/3057, CH/99/3063, CH/99/3066, CH/99/3068, CH/99/3074, CH/99/3076, CH/99/3082, CH/99/3085, CH/99/3086, CH/99/3089, CH/99/3096, CH/99/3098, CH/99/3114, CH/99/3117, CH/99/3118, CH/99/3122, CH/99/3135, CH/99/3137 CH/99/3138, CH/99/3140, CH/99/3146, CH/99/3157, CH/99/3158, CH/99/3159, CH/99/3167, CH/99/3176, CH/99/3177, CH/99/3178, CH/99/3180, CH/99/3182, CH/99/3183, CH/99/3184, CH/99/3185, CH/99/3188, CH/99/3189, CH/99/3201, CH/99/3202, CH/99/3203, CH/99/3206, CH/99/3208, CH/99/3209, CH/99/3210, CH/99/3211, CH/99/3215, CH/99/3220, CH/99/3221, CH/99/3223, CH/99/3228, CH/99/3233, CH/99/3239, CH/99/3240, CH/99/3242, CH/99/3243, CH/99/3244, CH/99/3247, CH/99/3251, CH/99/3253, CH/99/3255, CH/99/3260, CH/99/3264, CH/99/3265, CH/99/3266, CH/99/3267, CH/99/3271, CH/99/3272, CH/99/3275, CH/99/3276, CH/99/3277, CH/99/3281, CH/99/3282, CH/99/3285, CH/99/3292, CH/99/3298, CH/99/3307, CH/99/3308, CH/99/3311, CH/99/3312, CH/99/3313, CH/99/3315, CH/99/3318, CH/99/3319, CH/99/3320, CH/99/3321, CH/99/3323, CH/99/3324, CH/99/3326, CH/99/3328, CH/99/3334, CH/99/3335, CH/99/3337, CH/99/3338, CH/99/3340, CH/99/3344, CH/99/3347, CH/99/3348, CH/99/3349, CH/99/3350, CH/99/3351, CH/99/3358, CH/99/3364, CH/99/3377, CH/99/3379, CH/99/3380, CH/99/3381, CH/99/3382, CH/99/3383, CH/99/3386, CH/99/3400, CH/99/3421, CH/99/3422, CH/99/3424, CH/99/3428, CH/99/3432, CH/99/3434, CH/99/3435, CH/99/3436, CH/99/3439, CH/99/3442, CH/99/3447 i CH/99/3448 spoji u skladu s pravilom 33. Pravila procedure Komisije istoga dana kada je usvojila ovu odluku.

15. Prijave su podnesene Domu u periodu od 23. februara 1998. do 30. decembra 1999. godine.

16. Dom je 30. maja i 12. decembra 2003. godine proslijedio tuženim stranama, Bosni i Hercegovini i Federaciji Bosne i Hercegovine, dvije grupe predmetnih prijava radi dostavljanja pismenih zapažanja o prihvatljivosti i meritumu prema članu 6. Evropske konvencije i članu 1. Protokola broj 1 uz Evropsku konvenciju.

17. Tužena strana, Bosna i Hercegovina, je 13. juna 2003. godine dostavila Domu svoja pismena zapažanja. Federacija Bosne i Hercegovine je svoja pismena zapažanja dostavila Domu/Komisiji 30. jula 2003. i 13. februara 2004. godine i dodatne informacije 12. decembra 2003. i 8. decembra 2004. godine.

18. Dom/Komisija su podnosiocima prijava proslijedili zapažanja o prihvatljivosti i meritumu tuženih strana na pismena zapažanja.

19. Komisija je 27. januara 2005. godine proslijedila tuženim stranama, Bosni i Hercegovini i Federaciji Bosne i Hercegovine, preostali dio predmetnih prijava, radi dostavljanja pismenih zapažanja o prihvatljivosti i meritumu prema članu 1. Protokola broj 1 uz Evropsku konvenciju.

20. Komisija je 24. februara 2005. godine zaprimila pismena zapažanja tužene strane, Bosne i Hercegovine, i 25. februara 2005. godine je zaprimila pismena zapažanja Federacije Bosne i Hercegovine.

21. Komisija je podnosiocima prijava proslijedila zapažanja o prihvatljivosti i meritumu tuženih strana do dana donošenja ove Odluke.

22. Komisija je pismenim dopisom od 18. februara 2005. godine pozvala Ured visokog predstavnika za Bosnu i Hercegovinu da u postupku rješavanja predmeta devizne štednje pred Komisijom učestvuje u svojstvu *amicus curiae*. Komisija nije primila mišljenje Ureda visokog predstavnika 1. aprila 2005. godine.

23. Komisija je pismenim dopisom od 24. februara 2005. godine pozvala zastupnika Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini, da u postupku rješavanja predmeta devizne štednje pred Komisijom, učestvuje u svojstvu *amicus curiae*.

24. Komisija je 14. marta 2005. godine primila mišljenje Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini.

25. Mišljenje Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini je proslijeđeno tuženim stranama 23. i 25. marta 2005. godine.

III. ČINJENICE

A. Činjenice u pojedinačnim predmetima

1. Predmet broj CH/98/375, Đorđe BESAROVIĆ protiv Federacije Bosne i Hercegovine

26. Prijava je podnesena Domu 23. februara i registrovana 10. aprila 1998. godine.

27. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Podnosilac prijave je 20. avgusta 2003. godine obavijestio Dom da je na sekundarnom tržištu prodao 10.000 KM stare devizne štednje, te da ukupan iznos njegovog potraživanja kod Jugobanke iznosi 53.686,84 KM, sto potvrđuje i izvod sa Jedinstvenog računa građana Zavoda, od 4. aprila 2002. godine.

28. Podnosilac prijave je obavijestio Komisiju 11. februara 2005. godine da nije raspolagao sa preostalim dijelom deviznih sredstava.

29. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

2. Predmet broj CH/98/376, Muhamed GACKIĆ protiv Federacije Bosne i Hercegovine

30. Prijava je podnesena Domu 24. marta i registrovana 10. aprila 1998. godine.

31. Podnosilac prijave je polagao sredstva na štednoj knjižici kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovog pologa 69.618,96 DEM.

32. Podnosilac prijave je 13. februara 2005. godine obavijestio Komisiju da je opunomoćio gđu Amilu Omersoftić da zastupa njegova prava preko Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini kod Suda Bosne i Hercegovine i Evropskog suda za ljudska prava u Strazburu.

3. Predmet broj CH/98/380, Marko BAŠKARADA protiv Federacije Bosne i Hercegovine

33. Prijava je podnesena Domu 25. februara i registrovana 10. aprila 1998. godine.

34. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovog pologa 8.019,88 USD.

35. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

36. Svojim dopisom od 3. marta 2005. godine, podnosilaca prijave je obavijestio Komisiju da je iznos od 2.112 KM utrošio. Prema Izvodu sa jedinstvenog računa građana od 11. januara 2000. godine, čini se da je iznos njegove devizne štednje 11.408,11 KM.

4. Predmet broj CH/98/391, Nedžib ĐOZO protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

37. Prijava je podnesena Domu 26. februara i registrovana 10. aprila 1998. godine.

38. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 101.809,2 DEM, 8.365,27 USD i 1.099,23 LTG .

39. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

5. Predmet broj CH/98/393, Mehmed DALIPAGIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

40. Prijava je podnesena Domu 27. februara i registrovana 10. aprila 1998. godine.

41. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovog pologa 22.058,88 DEM, 119,78 USD i 1.396,37 ATS.

42. Podnosilac prijave je obavijestio Dom 6. novembra 2003. godine da je dio stare devizne štednje u iznosu od 655,60 DEM iskoristio u procesu privatizacije za otkup stana. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 14. oktobra 1999. godine preostala potraživanja podnosioca prijave po osnovu stare devizne štednje iznose 21.825,33 KM.

43. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

6. Predmet broj CH/98/397, Milena BOŠKOVIĆ protiv Federacije Bosne i Hercegovine

44. Prijava je podnesena Domu 3. marta i registrovana 10. aprila 1998. godine.

45. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 13.333,32 KM.

46. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

7. Predmet broj CH/98/398, Osman SAMARDŽIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

47. Prijava je podnesena Domu 4. marta i registrovana 10. aprila 1998. godine.

48. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovog pologa 2.696,48 ATS, 5.782,11 DEM i 15.441,39 CHF.

49. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

8. Predmet broj CH/98/399, Rahima ZILDŽIĆ protiv Federacije Bosne i Hercegovine

50. Prijava je podnesena Domu 4. marta i registrovana 10. aprila 1998. godine.

51. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa na jednoj štednoj knjižici 1.912,61 ATS, 4.560,99 CHF, 662,61 NLG, 53,87 CAD, 13.654,35 FRF i 97,44 DEM, a na drugoj štednoj knjižici 160,86 CHF i 9.612,83 DEM.

52. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

9. Predmet broj CH/98/409, Derviš SUBAŠIĆ protiv Federacije Bosne i Hercegovine

53. Prijava je podnesena Domu 5. marta i registrovana 10. aprila 1998. godine.

54. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njegovog pologa 1.071,79 DEM i 3.578,41 USD.

55. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

10. Predmet broj CH/98/412, Nikola VOJKIĆ protiv Federacije Bosne i Hercegovine

56. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 7.002,81 ATS, 2.862,19 DEM i 2.546,98 CHF. Prema kopiji izvoda sa Jedinstvenog računa građana Zavoda, od 21. aprila 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 6.766,75 KM.

57. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

11. Predmet broj CH/98/421, Milorad SAVIČIĆ protiv Federacije Bosne i Hercegovine

58. Prijava je podnesena Domu 6. marta i registrovana 10. aprila 1998. godine.

59. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Podnosilac prijave nije dostavio kopiju štedne knjižice.

60. Podnosilac prijave je 10. februara 2005. godine dostavio pismo Komisiji sa dodatnim informacijama. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 9. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 16.599,97 KM. Podnosilac prijave nije dostavio kopiju štedne knjižice.

61. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

12. Predmet broj CH/98/423, Halim BIČAKČIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

62. Prijava je podnesena Domu 9. marta i registrovana 10. aprila 1998. godine.

63. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Prema kopiji izvoda sa Jedinstvenog računa građana Zavoda, od 20. marta 2003. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 82.815,41 KM.

64. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

13. Predmet broj CH/98/425, Ahmet ALIKADIĆ protiv Federacije Bosne i Hercegovine

65. Prijava je podnesena Domu 10. marta i registrovana 10. aprila 1998. godine.

Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 34.729, 15 DEM, 727,6 FRF i 5.645,42 USD.

66. Podnosilac prijave je 13. februara 2005. godine obavijestio Komisiju da je kao član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine, opunomoćio gđu Amilu Omersoftić, koja je pokrenula postupke pred Sudom Bosne i Hercegovine i Evropskim sudom za ljudska prava u Strazburu.

14. Predmet broj CH/98/432, Behija MANDIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

67. Prijava je podnesena Domu 11. marta i registrovana 10. aprila 1998. godine.

68. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos pologa 17.192,52 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 2. maja 1999. godine, ukupna potraživanja po osnovu stare devizne štednje podnosioca prijave iznose 28.724,77 KM.

69. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

15. Predmet broj CH/98/434, Nadžija MAGLAJLIĆ protiv Federacije Bosne i Hercegovine

70. Prijava je podnesena Domu 11. marta 1998. i registrovana 10. aprila 1998. godine.

71. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo.

72. Podnosilac prijave je obavijestila Komisiju 18. februara 2005. godine da je polagala devizna sredstva kod Jugobanke Sarajevo. Iznos njenih pologa, prema kopiji štedne knjižice kod Jugobanke je bio 113.163,40 DEM, 24.499,16 CHF i 27.718,42 USD. Prema kopiji izvoda sa Jedinstvenog računa građana kod Zavoda od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 183.930,68 KM. Podnosilac prijave je u svom pismu obavijestila Komisiju da nije raspolagala sa sredstvima stare devizne štednje te da se nije obraćala domaćim ni međunarodnim institucijama.

16. Predmet broj CH/98/436, Nadira ĐURĐEVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

73. Prijava je podnesena Domu 11. marta 1998. i registovana 10. aprila 1998. godine.

74. Podnosilac priave je polagala sredstva na stare devizne knjižice kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa kod Privredne banke, prema kopiji štedne knjižice na dan 5. februar 1998. godine, bio 22.720,34 DEM i 434.916,32 ITL.

75. Podnosilac prijave je obavijestila Komisiju 21. februara 2005. godine da je dio svoje stare devizne štednje, u iznosu od 3.581 KM, iskoristila u otkup stana. Prema izvodu sa Jedinstvenog računa građana kod Zavoda od 23. decembra 1999. godine ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 22.221.57 KM. Podnosilac prijave je u svom pismu navela da su njena potraživanja kod Privredne banke Sarajevo 22.221,65 KM.

76. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

17. Predmet broj CH/98/437, Fadila MUŠINOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

77. Prijava je podnesena Domu 11. marta 1998. i regstrovana 10. aprila 1998. godine.

78. Podnosilac prijave je polagala sredstva na staroj deviznoj knjižici kod Privredne banke Sarajevo. Čini se da je iznos njenog pologa kod Privredne banke, prema kopiji štedne knjižice na dan 29. januar 1992. godine, bio 10.100,67 DEM.

79. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

18. Predmet broj CH/98/442, A.Dž. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

80. Prijava je podnesena Domu 13. marta 1998. i registrovana 10. aprila 1998. godine.

81. Podnosilac prijeve je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovog pologa kod Privredne banke, prema kopiji štedne knjižice na dan 24. oktobar 1996. godine, bio 1.619,61 USD.

82. Podnosilac prijave je obavijestio Komisiju 16. februara 2005. godine da nije raspolagao sa sredstvima stare devizne štednje, te da nije pretvarao svoja sredstva u certifikate.

83. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

19. Predmet broj CH/98/445, Husein HADŽISMAILOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

84. Prijava je podnesena Domu 17. marta i registrovana 10. aprila 1998. godine.

85. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i kod Jugobanke Sarajevo. Čini se da je iznos njegovog pologa kod Privredne banke 10.538,87 USD, a kod Jugobanke 28.324,88 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 9. novembra 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 45.241,72 KM.

86. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

20. Predmet broj CH/98/452, Nada PERKOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

87. Prijava je podnesena Domu 19. marta i registrovana 10. aprila 1998. godine.

88. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 16.188 DEM.

89. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

21. Predmet broj CH/98/458, Milada PANDŽO protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

90. Prijava je podnesena Domu 19. marta i registrovana 13. aprila 1998. godine.

91. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 13.571,98 DEM i 49,70 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 23. septembra 2004. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 13.912,71 KM.

92. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

22. Predmet broj CH/98/468, Draženka ČANKOVIĆ-JANKOVIĆ protiv Federacije Bosne i Hercegovine

93. Prijava je podnesena Domu 24. marta i registrovana 13. aprila 1998. godine.

94. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 2.329,15 DEM.

95. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

23. Predmet broj CH/98/470, Ubavka ĆOROVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

96. Prijava je podnesena Domu 25. marta i registrovana 10. aprila 1998. godine.

97. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo, u iznosu od 2.735,65 KM. Podnosilac prijave, međutim, nije dostavila kopiju devizne štedne knjižice.

98. Podnosilac prijave je 15. februara 2005. godine dostavila Komisiji dodatne informacije. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 2.735,65 KM. Podnosilac prijave, u dostavljenim materijalima, nije dostavila kopiju devizne štedne knjižice. Podnosilac

prijave navodi da je njena majka Draginja Savić (veza predmet broj: CH/98/484) prenijela cijeli iznos svoje devizne štednje na račun podnosioca prijave (9.445,37 DEM). U prilogu dostavlja kopiju izvoda sa Jedinstvenog računa građana Zavoda, od 15. maja 2000. godine, u kome je evidentirano njeno ukupno potraživanje po osnovu stare devizne štednje u iznosu od 11.982,89 KM.

99. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

24. Predmet broj CH/98/475, Zdravka VUKASOVIĆ protiv Bosne i Hercegovine

100. Prijava je podnesena Domu 26. marta i registrovana 13. aprila 1998. godine.

101. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Jugobanke Sarajevo. Čini se da je iznos njenih pologa kod Privredne banke 2.573,90 DEM, a kod Jugobanke 609,87 DEM, 998,46 USD i 81,30 FRF.

102. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

25. Predmet broj CH/98/476, Kemal ALIĆEHAJIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

103. Prijava je podnesena Domu 27. marta i registrovana 13. aprila 1998. godine.

104. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Jugobanke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke na jednoj knjižici 45.482,41 DEM, na drugoj knjižici 67.710,73 DEM, te na trećoj 16.785,77 DEM. Čini se da je iznos pologa kod Privredne banke na jednoj knjižici 20.882,56 USD i 15.799,02 DEM, a na drugoj knjižici kod iste banke 442,35 DEM i 5783,88 USD. Prema kopiji izvoda sa Jedinstvenog računa građana Zavoda, od 8. aprila 2000. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 193.049,71 KM.

105. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

26. Predmet broj CH/98/478, Smail ĆEMALOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

106. Prijava je podnesena Domu 27. marta i registrovana 10. aprila 1998. godine.

107. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 2.987,95 DEM.

108. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

27. Predmet broj CH/98/484, Draginja Savić protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

109. Prijava je podnesena Domu 30. marta 1998. i registrovana 11. aprila 1998. godine.

110. Podnositeljica prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke banke Sarajevo. Čini se da je iznos njenih pologa bio 9.445,37 DEM.

111. Podnositeljica prijave navodi da je udruženje deviznih štediša, čiji je ona član, podnijelo tužbu Ustavnom sudu Bosne i Hercegovine. Međutim, kako navodi, njihovim zahtjevima nije udovoljeno.

112. Komisija je 8. februara 2005. godine poslala pismo podnositeljici prijave, tražeći od nje informacije vezane za staru deviznu štenju. U svom pismu Komisiji od 15. februara 2005. godine, podnositeljica prijave je obavjestila da je izvršila prenos svoje cjelokupne devizne štednje na račun svoje kćerke U.Ć, čiji se predmet vodi kod Komisije pod brojem CH/98/470.

28. Predmet broj CH/98/495, N. M. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

113. Prijava je podnesena Domu 2. aprila i registrovana 12. maja 1998. godine.

114. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 57.771,61 DEM i 12.274,17 USD. Podnosilac prijave navodi da je cjelokupan iznos svoje devizne štednje pretvorio u certifikate.

115. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

29. Predmet broj CH/98/497, Mihajlo LOJPUR protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

116. Prijava je podnesena Domu 2. aprila i registrovana 12. maja 1998. godine.

117. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa, na jednoj knjižici, 75.655,92 DEM, a na drugoj knjižici 5.416,82 DEM.

118. Podnosilac prijave je naknadno naveo da ima i drugu štednu knjižicu u Jugobanci, sa ukupnim pologom od 5.416, 82 DEM, međutim, na izričito traženje Komisije nije dostavio kopiju iste. Podnosilac prijave navodi da iznos svoje devizne štednje nije pretvorio u certifikate.

119. Podnosilac prijave se obraćao Kantonalnom sudu u Sarajevu. Pismenim dopisom broj: R-57/98 od 25. marta 1998. godine, Kantonalni sud je obavijestio podnosioca prijave da je Union Banka d.d. Sarajevo pravni sljednik Jugobanke d.d. Sarajevo na području Federacije Bosne i Hercegovine, te da odgovara cjelokupnom svojom imovinom samo za obaveze stvorene na teritoriji Federacije Bosne i Hercegovine.

120. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

30. Predmet broj CH/98/501, M.Š. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

121. Prijava je podnesena Domu 3. aprila i registrovana 12. maja 1998. godine.

122. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Privredne banke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke 17.624,870 AUS i 87.543,34 DEM, a kod Privredne banke 36.209,35 DEM.

123. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

31. Predmet broj CH/98/502, S.Š. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

124. Prijava je podnesena Domu 3. aprila i registrovana 12. maja 1998. godine.

125. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa kod Privredne banke bio 24.079,61 DEM.

126. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

32. Predmet broj CH/98/508, I.Č. protiv Federacije Bosne i Hercegovine

127. Prijava je podnesena Domu 8. aprila i registrovana 12. maja 1998. godine.

128. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 13.087, 84 DEM.

129. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

33. Predmet broj CH/98/510, Nada POPOVIĆ Bosne i Hercegovine i Federacije Bosne i Hercegovine

130. Prijava je podnesena Domu 8. aprila i registrovana 12. maja 1998. godine.

131. Podnosilac prijave postavlja zahtjev za povrat svoje stare devizne štednje i štednje svoga umrlog supruga, ostvarene kod Jugobanke Sarajevo i Privredne banke Sarajevo. Čini se da je ukupan iznos njihovih pologa 24.764,67 KM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 11. novembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 24.764,67 KM.

132. Podnosilac prijave se nije obraćala domaćim institucijama radi rješavanja potraživanja stare devizne štednje. Podnosilac prijave je zajedno sa grupom štediša podnijela tužbu Evropskom sudu za ljudska prava u Strazburu.

34. Predmet broj CH/98/525, Dušan VIDOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

133. Prijava je podnesena Domu 13. aprila i registrovana 12. maja 1998. godine.

134. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 50.199,40 DEM. Izvodom sa Jedinstvenog računa građana Zavoda, od 10. februara 2005. godine je evidentirano da je podnosilac prijave iskoristio svoju staru deviznu štednju u iznosu od 6.374 KM u procesu privatizacije za otkup stana, tako da je preostali iznos potraživanja podnosioca prijave po osnovu stare devizne štednje 43.852,40 KM.

135. Podnosilac prijave je 11. februara 2005. godine obavijestio Komisiju da je iskoristio dio svojih deviznih sredstava u procesu privatizacije, te da ostaje pri zahtjevu za povrat preostalog dijela devizne štednje.

136. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

35. Predmet broj CH/98/528, N.D. protiv Bosne i Hercegovine

137. Prijava je podnesena Domu 13. aprila i registrovana 12. maja 1998. godine.

138. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 3.762,31 DEM i 1.310,07 USD.

139. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

36. Predmet broj CH/98/529, B.D. protiv Bosne i Hercegovine

140. Prijava je podnesena Domu 13. aprila i registrovana 13. maja 1998. godine.

141. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 885,94 DEM.

142. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

37. Predmet broj CH/98/541, Davor MIKA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

143. Prijava je podnesena Domu 17. aprila i registrovana 13. maja 1998. godine.

144. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa na jednoj knjižici 67.269,38 DM, 1.713,85 USD i 35.22 USD, a na drugoj knjižici 2.820,24 DM i 8,72 USD. Prema kopiji izvoda sa Jedinstvenog računa građana Zavoda, od 14. februara 2005. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 73.560 KM.

145. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

38. Predmet broj CH/98/564, Jela BJELJAC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

146. Prijava je podnesena Domu 22. aprila i registrovana 15. maja 1998. godine.

147. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 3.013,80 DEM i 218,49 ATS.

148. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

39. Predmet broj CH/98/569, Velija HADŽOVIĆ protiv Federacije Bosne i Hercegovine

149. Prijava je podnesena Domu 22. aprila i registrovana 15. maja 1998. godine.

150. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa na jednoj knjižici 50,00 DEM i 10,00 CHF, a na drugoj knjižici 28.267,00 DEM, 217,30 USD, 1504,43 ATS, 1000,52 FRF, 17.690,04 CHF i 429,95 SKR.

151. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

40. Predmet broj CH/98/570, Hasan HADŽOVIĆ protiv Federacije Bosne i Hercegovine

152. Prijava je podnesena Domu 22. aprila i registrovana 15. maja 1998. godine.

153. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 7.252,25 DEM, i 189,16 USD.

154. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

41. Predmet broj CH/98/577, Kojo JOVANOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

155. Prijava je podnesena Domu 23. aprila i registrovana 15. maja 1998. godine.

156. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo i Jugobanke Sarajevo. Čini se da je iznos njegovih pologa kod Privredne banke 644,08 DEM, 350.92 ATS i 8,05 USD, a kod Jugobanke 6.992,89 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 11 februara 2002. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne je 7.839,08 KM.

157. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

42. Predmet broj CH/98/580, Mirko JOVANOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

158. Prijava je podnesena Domu 23. aprila i registrovana 15. maja 1998. godine.

159. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 11.499,90 DEM i 368,40 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 5. januara 2001. godine, potraživanja podnosioca prijave po osnovu stare devizne štednje nisu evidentirana na ovom računu.

160. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

43. Predmet broj CH/98/581, Munira ĆATIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

161. Prijava je podnesena Domu 23. aprila i registrovana 15. maja 1998. godine.

162. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 216,18 DEM, 427,92 USD i 88.180,98 DM. U izvodu sa Jedinstvenog računa građana Zavoda, od 14. februara 2005. godine, nije evidentirano potraživanje podnosioca prijave po osnovu stare devizne štednje.

163. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

44. Predmet broj CH/98/590, Slavko MIJIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

164. Prijava je podnesena Domu 24. aprila i registrovana 15. maja 1998. godine.

165. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, filijale u Sarajevu i Konjicu. Čini se da je ukupan iznos njegovih pologa kod filijale u Sarajevu 66,48 USD i 10.305,54 DEM, te kod filijale u Konjicu 1.997,31 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 20. januara 2001. godine ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 12.492,75 KM.

166. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

45. Predmet broj CH/98/592, Husnija OSMANKOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

167. Prijava je podnesena Domu 24. aprila i registrovana 15. maja 1998. godine.

168. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa na prvom računu kod Privredne banke bio 5.434,58 DEM, 2.024,67 USD, 7,14 HFL, 13,94 ATS i 5.377,56 ŠFRS, a na na drugom računu 266,99 DEM. Kod Jugobanke 13.927,5907 DEM i 23.401,1337 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. novembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 52.874,74 KM.

169. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

46. Predmet br CH/98/596, Ivan VRLJIČAK protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

170. Prijava je podnesena Domu 24. aprila i registrovana 15. maja 1998. godine.

171. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 1.600,00 USD.

172. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

47. Predmet broj CH/98/601, J.O.R. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

173. Prijava je podnesena Domu 24. aprila i registrovana 15. maja 1998. godine.

174. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini da je ukupan iznos njenih pologa 40.186,26 DEM.

175. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

48. Predmet broj CH/98/602, Gabrijel PETRIC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

176. Prijava je podnesena Domu 24. aprila i registrovana 15. maja 1998. godine.

177. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Iznos njegovih pologa na jednoj knjižici je 20.000,00 DEM i 20.000,00 SFRS, a na drugoj knjižici 148,83 DEM i 11.239,24 SFRS. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 10. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 55.334,00 KM.

178. Podnosilac prijave navodi da je Udruženje za zaštitu deviznih štediša u Bosni i Hercegovini podnijelo tužbu Evropskom sudu za ljudska prava u Strazburu i Sudu Bosne i Hercegovine. Također, navodi da je kao član Udruženja potpisao punomoć Udruženju, zastupniku gđi Amili Omersoftić, te se na taj način priključio kolektivnoj tužbi štediša.

49. Predmet broj CH/98/606, Dragoslav RAŠEVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

179. Prijava je podnesena Domu 27. aprila i registrovana 15. maja 1998. godine.

180. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 4.779,72 DEM i 14,70 USD.

181. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

50. Predmet broj CH/98/607, Mićo VRLJIČAK protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

182. Prijava je podnesena Domu 27. aprila i registrovana 15. maja 1998. godine.

183. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 1.839,40 USD.

184. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

51. Predmet broj CH/98/608, Fahira HASANBEGOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

185. Prijava je podnesena Domu 27. aprila i registrovana 15. maja 1998. godine.

186. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 4.159 DEM i 1382,70 USD.

187. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

52. Predmet broj CH/98/610, Omer AGANOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

188. Prijava je podnesena Domu 27. aprila i registrovana 15. maja 1998. godine.

189. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Jugobanke Sarajevo. Čini se da je iznos njegovih pologa kod Privredne banke 33.911,6 DEM, a kod Jugobanke 24.142,4155 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 10. februara 2005. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 58.484,42 KM.

190. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

53. Predmet broj CH/98/612, Nebojša LOJPUR protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

191. Prijava je podnesena Domu 28. aprila i registrovana 15. maja 1998. godine.

192. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa na jednoj knjižici 10.274,38 DEM i 106,24 NLG, a na drugoj knjižici 16.678,06 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 5. juna 2000. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 27.046 KM.

193. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

54. Predmet broj CH/98/613, Vera LOJPUR protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

194. Prijava je podnesena Domu 28. aprila i registrovana 15. maja 1998. godine.

195. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa na jednoj knjižici 13.904,95 DEM, na drugoj 1.014,70 USD i 11.000 CHF, te na trećoj 9.196,90 DEM, 4.973,05 USD i 751,74 CHF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 11. februara 2005. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 46.514,53 KM.

196. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

55. Predmet broj CH/98/614, Meho VELEDAR protiv Federacije Bosne i Hercegovine

197. Prijava je podnesena Domu 28. aprila i registrovana 15. maja 1998. godine.

198. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 12.191,3225 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 6. novembra 2001. godine ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 12.410 KM

199. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

200. Supruga podnosioca prijave je 8. marta 2005. godine obavijestila Komisiju da je podnosilac prijave umro, te da ona želi da nastavi postupak pred Komisijom. U prilogu svog pisma ona je dostavila rješenje o nasljeđivanju Općinskog suda II Sarajevo, broj 0-2180/01, od 10. septembra 2001. godine kojim se ona proglašava zakonskim nasljednikom I nasljednog reda, sa dijelom 1/1.

56. Predmet broj CH/98/616, Šefko ODOBAŠIĆ protiv Federacije Bosne i Hercegovine

201. Prijava je podnesena Domu 28. aprila i registrovana 15. maja 1998. godine.

202. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 12.843,43 DEM.

203. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

57. Predmet broj CH/98/623, Šakir HENDA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

204. Prijava je podnesena Domu 4. maja i registrovana 15. maja 1998. godine.

205. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 6.533,3309 DEM.

206. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

58. Predmet broj CH/98/624, Semra HENDA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

207. Prijava je podnesena Domu 4. maja i registrovana 15. maja 1998. godine.

208. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 17.647,2228 DEM.

209. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

59. Predmet broj CH/98/625, N.K. protiv Federacije Bosne i Hercegovine

210. Prijava je podnesena Domu 4. maja i registrovana 15. maja 1998. godine.

211. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu Privredne banke Sarajevo. Čini se da je iznos njegovih pologa kod Privredne banke 42.034,96 DEM i 172,10 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 11. oktobra 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 42.143,99 KM.

212. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

213. Podnosilac prijave je 15. februara 2005. godine poslao dopis Komisiji u kom navodi da se učlanio u Udruženje za zaštitu deviznih štediša u Bosni i Hercegovini.

60. Predmet broj CH/98/631, Č.Š. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

214. Prijava je podnesena Domu 7. maja i registrovana 15. maja 1998. godine.

215. Podnosilac prijave je polagao sredstva na devizne štedne knjižice Jugobanke Sarajevo i Privredne banke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke 24.457,51 DEM na jednoj knjižici i 4278,92 DEM na drugoj knjižici. Iznos pologa kod Privredne banke je 20.095,44 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 10. februara 2005. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 47.624,26 KM.

216. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

61. Predmet broj CH/98/662, N.T. protiv Bosne i Hercegovine

217. Prijava je podnesena Domu 26. maja i registrovana 9. juna 1998. godine.

218. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 26.825,5043 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 27.117,71 KM.

219. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

62. Predmet broj CH/98/673, Murat SUDIĆ protiv Federacije Bosne i Hercegovine

220. Prijava je podnesena Domu 3. juna i registrovana 9. juna 1998. godine.

221. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 1.755,25 DEM.

222. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

63. Predmet broj CH/98/716, Azim PIRIJA protiv Bosne i Hercegovine

223. Prijava je podnesena Domu 24. juna 1998. godine i registrovana istog dana.

224. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke 24.266,35 DEM.

225. Podnosilac prijave je 8. aprila 1997. godine Općinskom sudu I Sarajevo podnio tužbu protiv Unionbanke Sarajevo. Općinski sud I je 13. marta 1998. godine donio presudu broj P-1270/97 kojom se tužbeni zahtjev podnosioca prijave odbija kao neosnovan. Podnosilac prijave nije naveo da li je koristio pravne lijekove protiv prvostepene presude.

64. Predmet broj CH/98/718, Nihad MEHMEDALIĆ protiv Bosne i Hercegovine

226. Prijava je podnesena Domu 25. juna i registrovana 25. juna 1998. godine.

227. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu Jugobanke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke 6.209,56 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 18. novembra 2004. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 6.255,37 KM.

228. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

65. Predmet broj CH/98/831, Fikret ZAHIDIĆ-KORUGIĆ protiv Federacije Bosne i Hercegovine

229. Prijava je podnesena Domu 3. avgusta 1998. godine i registrovana istog dana. Podnosilac prijave je podnio zahtjev za povrat stare devizne štednje koju je njegova supruga ulagala kod Privredne banke Sarajevo, s tim da je na deviznoj knjižici podnosilac prijave označen kao ovlašteno lice. Čini se da je iznos pologa 4.999,85 DEM.

230. Podnosilac prijave i njegova supruga su Općinskom sudu u Tešnju podnijeli tužbu protiv Privredne banke Sarajevo. Općinski sud je 9. februara 2005. godine donio rješenje broj, P-47/01 kojim se tužitelji pozivaju da dopune i urede tužbu. Međutim, čini se da podnosilac prijave i njegova supruga nisu postupili po pozivu suda. Podnosilac prijave se, također, obraćao Ministarstvu socijalne politike, raseljenih lica i izbjeglica Federacije Bosne i Hercegovine i Komisiji za zaštitu ljudskih prava Predsjedništva Bosne i Hercegovine. U oba slučaja je dobio negativan odgovor. U oba slučaja je njegov zahtjev odbijen zbog nenadležnosti.

231. Supruga podnosioca prijave je 15. februara 2005. godine obavijestila Komisiju da je podnosilac prijave umro, te da ona želi nastaviti postupak pred Komisijom.

66. Predmet broj CH/98/868, Ale BEĆIRBEGOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

232. Prijava je podnesena Domu 13. avgusta 1998. godine i registrovana istog dana.

233. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa na jednoj knjižici 31.406,6703 DEM; na drugoj 208,2794 DEM; te na trećoj knjižici 600,5462 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 8. januara 2005. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 32.787,10 KM.

234. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

67. Predmet broj CH/98/898, Šefik BUHIĆ protiv Federacije Bosne i Hercegovine

235. Prijava je podnesena Domu 24. avgusta 1998. godine. i registrovana istog dana.

236. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne Banke Sarajevo. Čini se da je iznos njegovih pologa 193 DEM.

237. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

68. Predmet broj CH/98/1081, Alija ČONGO protiv Bosne i Hercegovine

238. Prijava je podnesena Ombudsmenu za ljudska prava za Bosnu i Hercegovinu u 1998. godini. Ured Ombudsmena je proslijedio prijavu Domu 19. novembra, a prijava je registrovana 24. novembra 1998. godine.

239. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 16.759,23 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 11. februara 2005. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 16.981,78 KM.

240. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

69. Predmet broj CH/98/1082, Petar SAMARDŽIĆ protiv Bosne i Hercegovine

241. Prijava je podnesena Ombudsmenu za ljudska prava za Bosnu i Hercegovinu u 1998. godini. Ured Ombudsmena je proslijedio prijavu Domu 19. novembra, a prijava je registrovana 24. novembra 1998. godine.

242. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Dio devizne štednje podnosilac prijave je iskoristio u procesu privatizacije za otkup stana, tako da se čini da je iznos njegovih preostalih pologa kod Jugobanke 13.616,10 DEM.

243. Podnosilac prijave se nije obraćao drugim domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

70. Predmet broj CH/98/1083, J.Đ. protiv Federacije Bosne i Hercegovine

244. Prijava je podnesena Ombudsmenu za ljudska prava za Bosnu i Hercegovinu u 1998. godini. Ured Ombudsmena je proslijedio prijavu Domu 19. novembra, a prijava je registrovana 24. novembra 1998. godine.

245. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 28.516,86 DEM.

246. Podnosilac prijave se nije obraćao drugim domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

71. Predmet broj CH/98/1088, Ibrahim KOVAČEVIĆ protiv Bosne i Herecgovine i Federacije Bosne i Hercegovine

247. Prijava je podnesena Ombudsmenu za ljudska prava za Bosnu i Hercegovinu u 1998. godini. Ured Ombudsmena je proslijedio prijavu Domu 19. novembra, a prijava je registrovana 24. novembra 1998. godine.

248. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa na jednoj knjižici 19.832,5921 DEM, a na drugoj knjižici 298,48 DEM.

249. Podnosilac prijave se nije obraćao drugim domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

72. Predmet broj CH/98/1091, Trpimir JELIČIĆ protiv Federacije Bosne i Hercegovine

250. Prijava je podnesena Ombudsmenu za ljudska prava za Bosnu i Hercegovinu u 1998. godini. Ured Ombudsmena je proslijedio prijavu Domu 19. novembra, a prijava je registrovana 24. novembra 1998. godine.

251. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 1768,64 DEM.

252. Podnosilac prijave se nije obraćao drugim domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

73. Predmet broj CH/98/1093, LJ.I. protiv Federacije Bosne i Hercegovine

253. Prijava je podnesena Ombudsmenu za ljudska prava za Bosnu i Hercegovinu u 1998. godini. Ured Ombudsmena je proslijedio prijavu Domu 19. novembra, a prijava je registrovana 24. novembra 1998. godine.

254. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa bio 15.579,55 DEM na jednoj knjižici i 9.395,00 DEM na drugoj knjižici.

255. Podnosilac prijave je jedan dio svoje stare devizne štednje iskoristila u procesu privatizacije za otkup stana. Prema izvodu sa Jedinstvenog računa Zavoda, od 5. maja 1999. godine, preostalo potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 9.566,01 KM.

256. Podnosilac prijave se nije obraćala drugim domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

74. Predmet broj CH/98/1094, Halim VEJO protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

257. Prijava je podnesena Ombudsmenu za ljudska prava za Bosnu i Hercegovinu u 1998. godini. Ured Ombudsmena je proslijedio prijavu Domu 19. novembra, a prijava je registrovana 24. novembra 1998. godine.

258. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 10.718,93 USD. Prema izvodu sa Jedinstvenog računa Zavoda, od 5. januara 2004. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 17.868,87 KM.

259. Pismom od 14. februara 2005. godine podnosilac prijave je obavijestio Komisiju da se 21. juna 2004. godine obratio Federalnoj agenciji za privatizaciju radi rješavanja potraživanja stare devizne štednje.

75. Predmet broj CH/98/1096, Munira ALIŠAN protiv Federacije Bosne i Hercegovine

260. Prijava je podnesena Ombudsmenu za ljudska prava za Bosnu i Hercegovinu u 1998. godini. Ured Ombudsmena je proslijedio prijavu Domu 19. novembra, a prijava je registrovana 24. novembra 1998. godine.

261. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa 21.000 DEM. Prema izvodu sa Jedinstvenog računa građana, ukupan iznos potraživanja po osnovu stare devizne štednje iznosti 21.404,87 KM.

262. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

76. Predmet broj CH/98/1099, Miroslav i Milica MARKANOVIĆ protiv Federacije Bosne i Hercegovine

263. Prijava je podnesena Ombudsmenu za ljudska prava za Bosnu i Hercegovinu u 1998. godini. Ured Ombudsmena je proslijedio prijavu Domu 19. novembra, a prijava je registrovana 24. novembra 1998. godine.

264. Podnosilac prijave i njegova supruga su polagali sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos pologa podnosioca prijave 40.607,19 DEM, a iznos pologa njegove supruge 6.196,47 DEM.

265. Pismom od 15. januara 2004. godine podnosilac, Komisija je obavještana da podnosilac prijave i njegova supruga nisu koristili staru deviznu štednju.

266. Podnosilac prijave, niti njegova supruga, nisu se obraćali domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

77. Predmet broj CH/98/1300, Vera KRSTIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

267. Prijava je podnesena Ombudsmenu za ljudska prava za Bosnu i Hercegovinu u 1998. godini. Ured Ombudsmena je proslijedio prijavu Domu 16. novembra 1998. godine, koja je registrovana istog dana.

268. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa na jednoj knjižici 7.088,4985 DEM, a na drugoj knjižici 12.207,7042 DEM.

269. Podnosilac prijave je, također, dostavila fotokopiju tri devizne štedne knjižice kod Jugobanke, koja glasi na ime B.K. Međutim, nije dostavila punomoć, kojom je B.K. ovlašćuje za zastupanje u vezi devizne štednje pred Komisijom.

270. Komisija je 8. februara 2005. godine poslala pismo podnositeljici prijave tražeći od nje da u roku od sedam dana dostavi dodatne informacije u predmetu i punomoć kojom je B.K. ovlašćuje za zastupanje pred Komisijom. Komisiji je vraćena poštanska dostavnica, potpisana 15. februara 2005. godine, iz koje proizilazi da je podnosilac prijave primila pismo Komisije, na koje nije odgovorila.

271. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

78. Predmet broj CH/98/1301, V.P. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

272. Prijava je podnesena Ombudsmenu za ljudska prava za Bosnu i Hercegovinu u 1998. godini. Ured Ombudsmena je proslijedio prijavu Domu 19. novembra, a prijava je registrovana 24. novembra 1998. godine.

273. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke i Privredne banke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke 51,13 DEM i

5.886,68 CHF, dok je iznos njegovih pologa kod Privredne banke 4.289,23 DEM i 1.233,36 USD. Podnosilac prijave je, prema uplatnici od 14. oktobra 2000. godine, uložio 9.439,50 KM u Privatizacijsko-investicioni fond BIG-Investiciona grupa d.d. Sarajevo.

274. Podnosilac prijave, također, postavlja zahtjev za povrat devizne štednje njegove supruge M.P, ostvarene kod Jugobanke. Čini se da je ukupan iznos pologa M.P. u Jugobanci 1014,40 CHF i 8,600 DEM.

275. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

79. Predmet broj CH/99/1571, Haris OMERSOFTIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

276. Prijava je podnesena Domu 15. februara i registrovana 17. februara 1999. godine.

277. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 22. maja 2001. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 63.323,74 KM. Komisija uočava da podnosilac prijave ima još jednu prijavu kod Komisije, broj CH/98/424, koja se odnosi na položena devizna sredstva kod Ljubljanske banke. Iz toga razloga, sredstva sa izvoda sa Jedinstvenog računa građana Zavoda, od 22. maja 2001. godine, su znatno veća nego je utvrđeni iznos devizne štednje kod Jugobanke Sarajevo.

278. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

80. Predmet broj CH/99/1758, Rešad IBRAHIMSPAHIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

279. Prijava je podnesena Domu 23. marta i registrovana 25. marta 1999. godine.

280. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 2.831,16 USD. Međutim, podnosilac prijave navodi da je ukupan iznos njegovih pologa 3.146,60 USD i da je banka prilikom prenosa sredstava na Jedinstveni račun građana, protivno njegovoj volji, konvertovala USD u DEM, po nepovoljnom kursu. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 1. maja 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 4.711.38 KM.

281. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

81. Predmet broj CH/99/1769, Jusuf NIŠIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

282. Prijava je podnesena Domu 22. marta i registrovana 25. marta 1999. godine.

283. Podnosilac prijave je polagao sredstva na deviznu štednju kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 73.002,87 DEM, 4.490,49 CHF i 9.077,70 USD.

284. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

82. Predmet broj CH/98/2033, Ivanka KRNOJELAC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

285. Prijava je podnesena Domu 8. aprila 1999. godine i registrovana istog dana.

286. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 10.191,29 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 22. marta 2005. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 10.386,28 KM.

287. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

83. Predmet broj CH/98/2038, Omer SRNA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

288. Prijava je podnesena Domu 13. aprila 1999. godine i registrovana istog dana.

289. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 38.094,74 DEM.

290. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

84. Predmet broj CH/98/2052, Milovan ĐORDAN protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

291. Prijava je podnesena Domu 15. aprila 1999. godine i registrovana istog dana.

292. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 16.579,45 DEM.

293. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

85. Predmet broj CH/98/2059, Marija STANOKOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

294. Prijava je podnesena Domu 19. aprila 1999. godine i registrovana istog dana.

295. Podnosilac prijave postavlja zahtjev za povrat svoje stare devizne štednje ostvarene kod Jugobanke Sarajevo, kao i devizne štednje svog umrlog supruga, ostvarene kod Jugobanke Sarajevo i Privredne banke Sarajevo. Čini se da je iznos pologa podnosioca prijave 3.101,67 DEM na jednoj knjižici i 6.715,97 DEM na drugoj knjižici, a iznos pologa njenog umrlog supruga je 72.249,76 DEM.

296. Rješenjem Općinskog suda I Sarajevo broj O-945/99, od 9. novembra 1999. godine, podnosilac prijave se iza smrti svoga supruga, proglašava zakonskom nasljednicom I nasljednog reda, sa dijelom 1/2.

297. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

86. Predmet broj CH/99/2061, Josip KNEŽEVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

298. Prijava je podnesena Domu 19. aprila 1999. godine i registrovana istog dana.

299. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Privredne banke Sarajevo.

300. Čini se da je iznos njegovih pologa kod Jugobanke 5.937,22 USD, 26.354,53 DEM i 13,37 CHF, a kod Privredne banke iznos pologa je 279,88 USD.

301. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

87. Predmet broj CH/99/2071, Dara SEKULIĆ protiv Federacije Bosne i Hercegovine

302. Prijava je podnesena Domu 20. aprila i registrovana 26. aprila 1999. godine.

303. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 3.399,1300 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 20. marta 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 3.399,13 KM.

304. Podnosilac prijave je 3. avgusta 2004. godine Federalnoj agenciji za privatizaciju podnijela zahtjev za rješavanje potraživanja stare devizne štednje.

88. Predmet broj CH/99/2089, Dragan SALIHBEGOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

305. Prijava je podnesena Domu 23. aprila i registrovana 26. aprila 1999. godine.

306. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke. Čini se da je iznos njegovih pologa 580,98 DEM.

307. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

89. Predmet broj CH/99/2105, Živana PERIŠIĆ protiv Federacije Bosne i Hercegovine

308. Prijava je podnesena Domu 26. aprila 1999. godine i registrovana istog dana.

309. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo i kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa kod Privredne banke 2.531,21 DEM, a kod Jugobanke 146,2842 DEM.

310. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

90. Predmet broj CH/99/2134, Alija HAMZIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

311. Prijava je podnesena Domu 6. maja i registrovana 10. maja 1999. godine.

312. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Privredne banke Sarajevo.

313. Čini se da je ukupan iznos njegovih pologa kod Jugobanke na jednoj knjižici 2.655,31 DEM i 18.722,49 USD, a na drugoj 4.263,19 DEM i 22.286,46 USD, a kod Privredne banke 2.397,72 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 78.877,48 KM.

314. Čini se da se podnosilac prijave nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

91. Predmet broj CH/99/2135, Saliha HAMZIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

315. Prijava je podnesena Domu 6. maja i registrovana 10. maja 1999. godine.

316. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa na jednoj knjižici 11.439,81 DEM, a na drugoj 13.420,78 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 11. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 25.050,89 KM.

317. Čini se da se podnosilac prijave nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

92. Predmet broj CH/99/2162, B.C. protiv Bosne i Hercegovine

318. Prijava je podnesena Domu 12. maja i registrovana 13. maja 1999. godine.

319. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 32.997,92 DEM.

320. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

93. Predmet broj CH/99/2165, D.Z. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

321. Prijava je podnesena Domu 12. maja i registrovana 13. maja 1999. godine.

322. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke i Jugobanke Sarajevo. Čini se da je iznos njenih pologa kod Privredne banke 29.831,80 DEM, a kod Jugobanke 19.618,49 DEM i 10.146,65 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. decembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje iznosi 53.801,00 KM.

323. Podnosilac prijave je 21. februara 2005. godine obavijestila Komisiju da je dio stare devizne štednje iskoristila u procesu privatizacije za otkup stana, međutim, nije navela tačan iznos koji je iskoristila.

324. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

94. Predmet broj CH/99/2173, Ismet POLUTAK protiv Bosne i Hercegovine

325. Prijava je podnesena Domu 14. maja i registrovana 19. maja 1999. godine.

326. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovog pologa 29.153,12 DEM.

327. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

95. Predmet broj CH/99/2189, Hamdo SOKOLOVIĆ protiv Federacije Bosne i Hercegovine

328. Prijava je podnesena Domu 18. maja i registrovana 24. maja 1999. godine.

329. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovog pologa 32.052,05 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 5. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje iznosi 32.289,73 KM.

330. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

96. Predmet broj CH/99/2190, Sajma ZEBIĆ protiv Federacije Bosne i Hercegovine

331. Prijava je podnesena Domu 18. maja i registrovana 24. maja 1999. godine.

332. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa 11.881,72 DEM.

333. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

97. Predmet broj CH/99/2205, Vera BAMBURAĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

334. Prijava je podnesena Domu 20. maja i registrovana 27. maja 1999. godine.

335. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa na jednoj knjižici 19.522,83 DEM, a na drugoj 65,81 ATS, 125,75 DEM, 2.312,52 ITL, 37,39 NLG, 22,02 CHF, 431,39 GBP i 95,97 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje iznosi 20.079,06 KM.

336. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

98. Predmet broj CH/99/2206, Marija STANIVUK protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

337. Prijava je podnesena Domu 20. maja i registrovana 27. maja 1999. godine.

338. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenog pologa 1.683,78 DEM.

339. Podnosilac prijave je 21. jula 1997. godine podnijela tužbu Općinskom sudu I u Sarajevu protiv Bosne i Hercegovine, Federacije Bosne i Hercegovine i Central Profit banke d.d. Sarajevo, radi povrata devizne štednje. Nema dokaza da je taj sud odlučio po tužbi.

99. Predmet broj CH/99/2208, Božidar LAKIČEVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

340. Prijava je podnesena Domu 20. maja i registrovana 27. maja 1999. godine.

341. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 11.185,49 DEM.

342. Zastupnik podnosioca prijave je 15. februara 2005. godine dostavio Komisiji pismo u kojem navodi da je podnosilac prijave polagao sredstva i kod Privredne banke, ali da će štednu knjižicu dostaviti naknadno, što nije učinio do dana usvajanja ove odluke. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 9. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 12.091,63 KM.

343. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

100. Predmet broj CH/99/2209, Milenka FARKAŠ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

344. Prijava je podnesena Domu 20. maja i registrovana 27. maja 1999. godine.

345. Podnosilac prijave postavlja zahtjev za povrat svoje stare devizne štednje kod Privredne banke Sarajevo koju su ona i njena djeca I.F. i B.F. naslijedili iza smrti njenog supruga F.Z.

346. Rješenjem Osnovnog suda I u Sarajevu, broj O-1653/96, od 8. jula 1996. godine, podnosilac prijave i njena djeca I.F. i B.F. proglašavaju se za nasljednike I nasljednog reda iza umrlog F.Z, sa dijelom od po 1/3, što za svakog od njih iznosi po 6.620,24 DEM.

347. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 10. februara 2005. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 19.860,52 KM.

348. Podnosilac prijave je podnijela tužbu Općinskom sudu I u Sarajevu protiv Central Profit Banke d.d. Sarajevo, ali je istu povukla. Općinski sud I u Sarajevu je donio rješenje, broj P-1515/99, od 24. jula 2000. godine, kojim se tužba podnosioca prijave smatra povučenom.

101. Predmet broj CH/99/2210, Jasna MEMIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

349. Prijava je podnesena Domu 20. maja i registrovana 27. maja 1999. godine.

350. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 964,14 LIT, 126,34 ATS, 1.697,94 DEM, 89,36 CHF, 283,11 FRF, 3.035,12 USD.

351. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

102. Predmet broj CH/99/2212, Subha ISANOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

352. Prijava je podnesena Domu 20. maja i registrovana 27. maja 1999. godine.

353. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 21.709,43 DEM i 528,65 USD.

354. Zastupnik podnosioca prijave je 15. februara 2005. godine obavijestila Komisiju da je podnosilac prijave umrla 7. avgusta 2002. godine, te da je njena kćerka A.Č. naslijedila potraživanja podnosioca prijave po osnovu stare devizne štednje u ukupnom iznosu od 21.709,43 KM. Navodi da A.Č. želi nastaviti postupak pred Komisijom. U prilogu je dostavila rješenje Općinskog suda I u Sarajevu, broj O–1594/02, od 4. novembra 2002. godine kojim se A.Č. proglašava zakonskom nasljednicom podnosioca prijave I nasljednog reda, sa dijelom 1/1.

355. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

103. Predmet broj CH/99/2214, Dragomir DOPUĐA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

356. Prijava je podnesena Domu 20. maja i registrovana 27. maja 1998. godine.

357. Podnosilac prijave postavlja zahtjev za povrat svoje stare devizne štednje koju je ulagao kod Privredne banke i Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 43.387,21 DEM.

358. Također, podnosilac prijave postavlja zahtjev za povrat devizne štednje koju je naslijedio iza smrti V.V, u iznosu od 30.616,48 USD, uložene kod Jugobanke Sarajevo.

359. Rješenjem o nasljeđivanju Osnovnog suda I br. O. 893/95, od 8. novembra 1995. godine, podnosilac prijave se proglašava nasljednikom prvog nasljednog reda, umrle V.V, sa dijelom 1/1.

360. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 10. februara 2005. godine, ukupna potraživanja podnosioca prijave po osnovu stare devizne štednje iznose 92.399,57 KM.

361. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

104. Predmet broj CH/99/2216, Mirjana STIJAČIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

362. Prijava je podnesena Domu 20. maja i registrovana 27. maja 1999. godine.

363. Podnosilac prijave postavlja zahtjev za povrat svoje stare devizne štednje koju je ulagala kod Jugobanke Sarajevo. Čini se da su iznosi njenih pologa kod Jugobanke 897,00 USA, 22.224,12 DEM, 40.439,50 DEM, 111,18 USA i 249,55 BFRS.

364. Također, podnosilac prijave postavlja zahtjev za povrat devizne štednje koju je naslijedila iza smrti svog supruga, u iznosu od 40.439,50 DEM, uložene kod Jugobanke Sarajevo.

365. Rješenjem o nasljeđivanju Osnovnog suda u Sarajevu br. O-729/86, od 24. juna 1986. godine, podnosilac prijave se proglašava zakonskom nasljednicom svog umrlog supruga, sa dijelom 1/1.

366. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 65.254,02 KM.

367. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

105. Predmet broj CH/99/2217, Ljerka VILENICA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

368. Prijava je podnesena Domu 20. maja i registrovana 27. maja 1999. godine.

369. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da su iznosi njenih pologa kod Jugobanke 8.620,74 DEM, 10.138,53 ATS i 364,16 (valuta nije vidljiva iz priložene knjižice). Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupna potraživanja podnosioca prijave po osnovu stare devizne štednje iznose 10.844,58 KM.

370. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

106. Predmet broj CH/99/2225, Džemal POVLAKIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

371. Prijava je podnesena Domu 24. maja i registrovana 27. maja 1999. godine.

372. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Jugobanke Sarajevo. Čini se da je iznos njegovih pologa kod Privredne banke na jednoj knjižici 19.854,92 DEM i na drugoj knjižici 25.720,32 DEM, a kod Jugobanke 39.623,54 DEM i na drugoj knjižici 1.498,42 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 88.289,23 KM.

373. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

107. Predmet broj CH/99/2273, Ljeposava TODOROVIĆ - VUKAŠINOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

374. Prijava je podnesena Domu 20. maja i registrovana 27. maja 1999. godine.

375. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 6.679,7 DEM.

376. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

108. Predmet broj CH/99/2275, Milena VUKŠA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

377. Prijava je podnesena Domu 1. juna i registrovana 4. juna 1999. godine.

378. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenog pologa 3.486,48 DEM.

379. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

109. Predmet broj CH/99/2276, Mira VUKŠA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

380. Prijava je podnesena Domu 1. juna i registrovana 4. juna 1999. godine.

381. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 3.835,04 DEM.

382. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

110. Predmet broj CH/99/2286, Mara KELAVA-STOLIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

383. Prijava je podnesena Domu 4. juna i registrovana 9. juna 1999. godine.

384. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa 9.884,88 DEM.

385. Podnosilac prijave je 22. februara 2005. godine dostavila Komisiji dodatne informacije. Navodi da je dio svoje stare devizne štednje u iznosu od 1.083,29 DEM iskoristila u procesu privatizacije za otkup stana, a da je iza smrti muža naslijedila njegova potraživanja po osnovu stare devizne štednje u iznosu od 9.023,36 DEM, Prema izvodu sa Jedinstvenog računa građana Zavoda, od 30. juna 2000. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 17.824,95 KM.

386. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

111. Predmet broj CH/99/2288, Lj.M. protiv Bosne i Hercegovine

387. Prijava je podnesena Domu 4. juna godine i registrovana 9. juna 1999. godine.

388. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 17.582,51 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 17.582,51 KM.

389. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

112. Predmet broj CH/99/2514, Gvozden GRUJIĆ protiv Federacije Bosne i Hercegovine

390. Prijava je podnesena Domu 10. juna i registrovana 15. juna 1999. godine.

391. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovog pologa kod Jugobanke 33,937,78 ATS i 6.036,13 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 2. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje iznosi 11.027,82 KM

392. Podnosilac prijave je 8. februara 2005. godine dostavio pismo Komisiji u kojem navodi da se kao član Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini priključio kolektivnoj tužbi pred Evropskim sudom za ljudska prava u Strazburu, te da je potpisao punomoć zastupniku Udruženja gđi Amili Omersoftić.

113. Predmet broj CH/99/2533, Hasan MERKEZ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

393. Prijava je podnesena Domu 14. juna i registrovana 17. juna 1999. godine.

394. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje iznosi 104.088,08 KM.

395. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

114. Predmet broj CH/99/2534, Julijana BRADARIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

396. Prijava je podnesena Domu 14. juna i registrovana 17. juna 1999. godine.

397. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Podnosilac prijave navodi da je njen polog 500,00 DEM i 2,04 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 2. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje iznosi 651,24 KM.

398. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

115. Predmet broj CH/99/2541, Katica i Borislav PRALJAK protiv Federacije Bosne i Hercegovine

399. Prijava je podnesene Domu 16. juna i registrovana 17. juna 1999. godine.

400. Podnosioci prijava su polagali sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njihovog pologa 6.775,80 DEM i 6.567,60 DEM. Prema izvodima sa Jedinstvenog računa građana Zavoda, od 9. februara 2005. godine, ukupna potraživanja podnosilaca prijave po osnovu stare devizne štednje iznose 6.654,82 KM (B.P) i 6.865,79 KM (K.P.).

401. Podnosioci prijava se nisu obraćali ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

116. Predmet broj CH/99/2551, Petar SIMOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

402. Prijava je podnesena Domu 17. juna i registrovana 22. juna 1999. godine.

403. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 10.317,12 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 2. februara 1999. godine, ukupna potraživanja podnosioca prijave po osnovu stare devizne štednje iznose 10.501,05 KM.

404. Podnosilac prijave se 24. maja 2004. godine obratio Federalnoj agenciji za privatizaciju u Sarajevu sa zahtjevom za povrat stare devizne štednje, međutim, nije dobio odgovor po zahtjevu.

405. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

117. Predmet broj CH/99/2552, Pašan MEHMEDINOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

406. Prijava je podnesena Domu 17. juna i registrovana 22. juna 1999. godine.

407. Podnosilac prijave je sa svojom suprugom i djecom polagao sredstva na devizne štedne knjižice kod Tuzlanske banke. Čini se da su iznosi pologa podnosioca prijave 465,48 KM, njegove supruge 1.350 DEM, jedne kćerke 429,62 USD i 13.155,86 DEM, te druge kćerke 2.619,42 DEM, 2.192,39 USD, 6.585,57 DEM, 168,66 CHF, 976,86 AUD i 1.850,00 DEM. Uprkos zahtjevu Komisije, podnosilac prijave nije dostavio kopiju punomoći kojom ga ostali članovi porodice ovlašćuju za zastupanje pred Komisijom.

408. Podnosilac prijave je 10. februara 2005. godine dostavio pismo Komisiji u kojem navodi da je njegova supruga preminula, ali da je prije svoje smrti uspjela podići gore navedeni iznos stare devizne štednje. Također navodi da je dio svoje stare devizne štednje u iznosu od 261,53 KM iskoristio u procesu privatizacije za otkup stana. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 13. marta 2003. godine, ukupna potraživanja podnosioca prijave po osnovu stare devizne štednje iznose 203,95 KM.

409. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

118. Predmet broj CH/99/2606, Hermina GRABOVAC protiv Bosne i Hercegovine

410. Prijava je podnesena Domu 23. juna i registrovana 25. juna 1999. godine.

411. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 9.056,56 DEM i 72,19 USD.

412. Podnosilac prijave je 9. februara 2005. godine dostavila pismo Komisiji u kojem navodi da je preko Udruženja građana stare devizne štednje pokrenula postupak pred Sudom Bosne i Hercegovine i Evropskim sudom za ljudska prava u Strazburu.

119. Predmet broj CH/99/2630, Ana DUGONJIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

413. Prijava je podnesena Domu 28. juna i registrovana 30. juna 1999. godine.

414. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa 40.008,61 CHF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 30. juna 2000. godine, ukupna potraživanja podnosioca prijave po osnovu stare devizne štednje iznose 44.421,84 KM.

415. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

120. Predmet broj CH/99/2631, Anto DUGONJIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

416. Prijava je podnesena Domu 28. juna i registrovana 30. juna 1999. godine.

417. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovog pologa 3.629,03 CHF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 28. avgusta 2000. godine, ukupna potraživanja podnosioca prijave po osnovu stare devizne štednje iznose 4.029,34 KM.

418. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

121. Predmet broj CH/99/2632, Momčilo BRATIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

419. Prijava je podnesena Domu 28. juna i registrovana 30. juna 1999. godine.

420. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 15.568,46 DEM i 5.500,88 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 16. novembra 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 21.069,35 KM.

421. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

122. Predmet broj CH/99/2642, Božidar CURAVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

422. Prijava je podnesena Domu 30. juna i registrovana 6. jula 1999. godine.

423. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 20.455,25 DEM, 95.517,87 DEM i 55.789,20 USD.

424. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

123. Predmet broj CH/99/2663, Sadik HUSOMANOVIĆ protiv Bosne i Hercegovine

425. Prijava je podnesena Domu 8. jula godine i registrovana 9. jula 1999. godine.

426. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 425.772,78 FRF, 4.996,60 DEM i 305,02 USD.

427. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

124. Predmet broj CH/99/2664, Jelica HUSOMANOVIĆ protiv Bosne i Hercegovine

428. Prijava je podnesena Domu 8. jula i registrovana 9. jula 1999. godine.

429. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 30.231,83 DEM, 23.480,52 FRF i 1.469,53 USD.

430. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

125. Predmet broj CH/99/2678, Ibrahim BORAČIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

431. Prijava je podnesena Domu 12. jula i registrovana 14. jula 1999. godine.

432. Podnosilac prijave je tražio od Doma da izda naredbu za privremenu mjeru kojom će se zabraniti privatizacija banaka do isplate duga starim deviznim štedišama. Predsjednica Doma je 15. jula 1999. godine odlučila da ne izda naredbu za traženu privremenu mjeru.

433. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke 6.000 DEM na jednoj knjižici i 127,86 DEM na drugoj knjižici. Iznos njegovih pologa kod Privredne banke je 54.239,88 DEM.

434. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

126. Predmet broj CH/99/2679, Nazif ZAJKOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

435. Prijava je podnesena Domu 12. jula i registrovana 14. jula 1999. godine.

436. Podnosilac prijave je tražio od Doma da izda naredbu za privremenu mjeru kojom će se zabraniti privatizacija banaka do isplate duga starim deviznim štedišama. Predsjednica Doma je 15. jula 1999. godine odlučila da ne izda naredbu za traženu privremenu mjeru.

437. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 4.501,47 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 4.536,30 KM.

438. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

127. Predmet broj CH/99/2680, Bahra ŠUVALIJA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

439. Prijava je podnesena Domu 12. jula i registrovana 14. jula 1999. godine.

440. Podnosilac prijave je tražio od Doma da izda naredbu za privremenu mjeru kojom će se zabraniti privatizacija banaka do isplate duga starim deviznim štedišama. Predsjednica Doma je 15. jula 1999. godine odlučila da ne izda naredbu za traženu privremenu mjeru.

441. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 11,51 DEM i 2.231,83 DEM.

442. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

128. Predmet broj CH/99/2681, Ismet ŠUVALIJA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

443. Prijava je podnesena Domu 12. jula i registrovana 14. jula 1999. godine.

444. Podnosilac prijave je tražio od Doma da izda naredbu za privremenu mjeru kojom će se zabraniti privatizacija banaka do isplate duga starim deviznim štedišama. Predsjednica Doma je 15. jula 1999. godine odlučila da ne izda naredbu za traženu privremenu mjeru.

445. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo i Privredne banke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke 10.057,84 DEM, a kod Privredne banke 2.231,83 DEM.

446. Zastupnik podnosioca prijave je 15. februara 2005. godine obavijestio Komisiju da su supruga i sin podnosioca prijave, svoja potraživanja po osnovu stare devizne štednje prebacili na račun podnosioca prijave. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 19.913,96 KM.

447. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

129. Predmet broj CH/99/2686, Mirjana MARTIĆ protiv Bosne i Hercegovine

448. Prijava je podnesena Domu 12. jula i registrovana 26. jula 1999. godine.

449. Podnosilac prijave postavlja zahtjev za povrat devizne štednje koju je naslijedila iza smrti svog supruga S.M. Čini se da je iznos njegovih pologa kod Privredne banke 2.434,80 DEM.

450. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 30. novembra 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 2.434,80 KM.

451. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

130. Predmet broj CH/99/2690, Mato BOŠNJAK protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

452. Prijava je podnesena Domu 13. jula i registrovana 26. jula 1999. godine.

453. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 3.263,62 USD i 722,44 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 5. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 6.157,45 KM.

454. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

131. Predmet broj CH/99/2691, Sanja BOŠNJAK protiv Bosne i Hercegovine

455. Prijava je podnesena Domu 13. jula i registrovana 26. jula 1999. godine.

456. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 2.138,69 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 5. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 2.154,47 KM.

457. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

132. Predmet broj CH/99/2733, Enver KUDIĆ protiv Federacije Bosne i Hercegovine

458. Prijava je podnesena Domu 27. jula i registrovana 2. avgusta 1999. godine.

459. Podnosilac prijave navodi da je zajedno sa suprugom M.K. polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Jugobanke Sarajevo. Čini se da su iznosi njihovih pologa kod Privredne banke 54.469,42 DEM, 19.257,25 CHF, 81,12 FRF, 60.120,49 ATS, 185,61 CAN, 231,86 USD, 163,39 NLG i 22.217,60 LIT, a kod Jugobanke 192.451,32 DEM, 71.518,70 ATS, 1.879,60 NLG, 1.404,65 USD i 1.628,93 CHF. Podnosilac prijave se, također, žali da je njegov sin E.D. polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke 7.450,42 DEM.

460. Podnosilac prijave je 13. aprila 1992. godine podnio tužbu protiv Privredne banke Sarajevo, Glavna filijala Bihać pred Osnovnim sudom u Bihaću, radi isplate devizne štednje. Osnovni sud je donio presudu, broj P-289/92. od 3. decembra 1993. godine, kojom se tužbeni zahtjev podnosioca prijave usvaja. Navedena presuda postala je pravosnažna 12. juna 1994. godine.

461. Podnosilac prijave je 30. decembra 1996. godine podnio prijedlog za izvršenje pravosnažne presude od 3. decembra 1993. godine. Osnovni sud je donio rješenje, broj 19/1997 od 9. aprila 1997. godine, kojim je određeno predloženo izvršenje.

462. Općinski sud u Bihaću je, odlučujući po prigovoru dužnika protiv navedenog rješenja, donio rješenje, broj I-19/97 od 12. januara 1998. godine, kojim se dužnik upućuje da protiv povjerioca pokrene parnicu radi proglašenja da je izvršenje određeno rješenjem od 9. aprila 1997. godine nedopušteno.

463. Privredna banka je 20. januara 1998. godine podnijela tužbu Općinskom sudu protiv podnosioca prijave, radi proglašenja izvršenja nedopuštenim. Općinski sud je donio presudu, broj P-90/98 od 1. aprila 1998. godine, kojom se izvršenje određeno rješenjem od 9. aprila 1997. godine proglašava nedopuštenim.

464. Nezadovoljan navedenom presudom, podnosilac prijave je 22. juna 1998. godine podnio žalbu na navedenu presudu. Kantonalni sud u Bihaću (u daljnjem tekstu: Kantonalni sud) je donio rješenje, broj GŽ:206/98 od 9. novembra 1998. godine, kojim je uvažio žalbu, ukinuo prvostepenu presudu, te predmet vratio prvostepenom sudu na ponovni postupak.

465. Općinski sud je u ponovnom postupku donio presudu, broj P-70/99 od 2. juna 1999. godine, kojom je izvršenje određeno rješenjem od 9. aprila 1997. godine proglašeno nedopuštenim. Podnosilac prijave je podnio žalbu na navedenu presudu. Kantonalni sud je donio presudu, broj GŽ-172/01 od 12. septembra 2001. godine, kojom je uvažio žalbu i preinačio pobijanu presudu, tako da je tužbeni zahtjev tužitelja Privredne banke odbio kao neosnovan.

466. Privredna banka je izjavila reviziju protiv presude Kantonalnog suda od 12. septembra 2001. godine. Po izjavljenoj reviziji Vrhovni sud Federacije Bosne i Hercegovine je donio presudu, broj Rev-90/02 od 13. aprila 2004. godine, kojom je odbio reviziju.

467. Podnosilac prijave je 10. septembra 2002. godine Općinskom sudu podnio prijedlog za određivanje privremene mjere radi osiguranja svog novčanog potraživanja prema dužniku Privrednoj banci. Općinski sud je donio rješenje, broj I-3491/02 od 3. februara 2003. godine, kojim je usvojen prijedlog podnosioca prijave i određena privremena mjera zabranom dužniku bilo kakvog otuđenja ili opterećenja nekretnina u vlasništvu dužnika i to poslovnog prostora površine 261 m^2, u prizemlju objekta upisanog u zk.ul.br. 3762 k.o. Bihać.

468. Podnosilac prijave je 16. aprila 1992. godine podnio tužbu Osnovnom sudu protiv Union banke d.d. Sarajevo (u daljnjem tekstu: Union banka), radi isplate devizne štednje. Osnovni sud je donio presudu, broj P.295/92, od 15. aprila 1994. godine, kojom je tužbeni zahtjev podnosioca prijave usvojen.

469. Union banka je 28. oktobra 1996. godine podnijela žalbu na navedenu presudu. Kantonalni sud je donio presudu, broj Gž:37/97 od 19. septembra 1997. godine, kojom je žalba odbijena kao neosnovana i potvrđena prostepena presuda.

470. Podnosilac prijave je 3. novembra 1997. godine podnio prijedlog za izvršenje pravosnažne presude od 15. aprila 1994. godine. Osnovni sud je donio rješenje, broj I-91/1997 od 24. februara 1998. godine, kojim je određeno predloženo izvršenje.

471. Union banka je 4. marta 1998. godine podnijela prijedlog za odlaganje izvršenja, jer je u toku postupak po izjavljenoj reviziji na presudu Kantonalnog suda od 19. septembra 1997. godine. Općinski sud je donio rješenje, broj I:91/97 od 12. novembra 1998. godine, kojim se prijedlog Union banke za odlaganje izvršenja odbija.

472. Union banka je 20. novembra 1998. godine podnijela žalbu na rješenje od 12. novembra 1998. godine. Kantonalni sud je donio rješenje, broj Gž-1/99 od 23. februara 1999. godine, kojim je odbijena žalba i potvrđeno prvostepeno rješenje.

473. Po izjavljenoj reviziji, Vrhovni sud je donio presudu, broj Rev. 2/99, od 25. februara 1999. godine, kojom je revizija uvažena i nižestepene presude preinačene, tako da je tužbeni zahtjev podnosioca prijave odbijen.

474. Komisija je, 3. februara 2005. godine, podnosiocu prijave poslala preporučeno pismo tražeći da dostavi dodatne podatke u vezi sa potraživanjem stare devizne štednje. U pismu, koje je primljeno u Komisiju 22. februara 2005. godine, podnosilac prijave je naveo da je stanje njegove devizne štednje isto, kao i u vrijeme podnošenja prijave, te da nijedan dio svoje stare devizne štednje nije pretvorio u certifikate u procesu privatizacije, niti prodao na sekundarnom tržištu. On je, dalje, naveo da nije pokrenuo postupak pred Evropskim sudom za ljudska prava, radi rješavanja potraživanja stare devizne štednje.

133. Predmet broj CH/99/2749, Spasinka GRBIĆ protiv Federacije Bosne i Hercegovine

475. Prijava je podnesena Domu 4. avgusta i registrovana 5. avgusta 1999. godine.

476. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 17.614,39 DEM na jednoj knjižici i 1.617,30 DEM na drugoj knjižici.

477. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

134. Predmet broj CH/99/2750, Trifko BOLJANOVIĆ protiv Federacije Bosne i Hercegovine i Bosne i Hercegovine

478. Prijava je podnesena Domu 5. avgusta 1999. godine i registrovana istog dana.

479. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 43,61 USD, 297,04, LIT, 8,78 FF, 3,68 LSTG, 250,58S CH, 5.574,66 DEM.

480. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

135. Predmeti br. CH/99/2755 i CH/99/2756, Ahmed ČUTURIĆ i Marica ČUTURIĆ protiv Federacije Bosne i Hercegovine

481. Prijave su podnesene Domu 6. avgusta 1999. godine i registrovane istog dana.

482. Podnosioci prijava su polagali sredstva na tri devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njihovih pologa na jednoj knjižici 26.236,12 AUD i 45,4 YU dinara, na drugoj knjižici 167,9 GBP i 13.343,58 USD, te na trećoj knjižici 12.803,04 DEM.

483. Podnosioci prijave se nisu obraćali ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

136. Predmet broj CH/99/2768, Mira NADAŽDIN protiv Federacije Bosne i Hercegovine

484. Prijava je podnesena Domu 16. avgusta i registrovana 19. avgusta 1999. godine.

485. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 686,49 USD i 14.942,77 DEM na jednoj knjižici, te 2.424,75 USD i 6.408,49 DEM, 1.194,63 FRF na drugoj knjižici. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 15. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 27.205,54 KM.

486. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

137. Predmet broj CH/99/2769, Milivoje NADAŽDIN protiv Federacije Bosne i Hercegovine

487. Prijava je podnesena Domu 16. avgusta i registrovana 20. avgusta 1999. godine.

488. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 1.498,84 DEM, 1.125,49 CHF, 7,39 USD na jednoj knjižici, 3.104,51 ATS, 2.741,58 LIT, 1.954,66 CHF, 40.125,32 DEM na drugoj knjižici.

489. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

138. Predmet broj CH/99/2770, Danilo NADAŽDIN protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

490. Prijava je podnesena Domu 16. avgusta i registrovana 20. avgusta 1999. godine.

491. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 9.058,31 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 31. marta 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 9.125,14 KM.

492. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

139. Predmet broj CH/99/2773, Dušan MILIDRAGOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

493. Prijava je podnesena Domu 16. avgusta i registrovana 20. avgusta 1999. godine.

494. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke 69.313,96 DEM na jednoj knjižici i 18,924,40 ATS, 749,80 DEM i 1.079,23 USD na drugoj knjižici, a kod Privredne banke 14.444,67 DEM na jednoj knjižici i 681,80 ATS, 29.471,91 DEM, 396,05 USD na drugoj knjižici.

495. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

140. Predmet broj CH/99/2785, Vasva AGANOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

496. Prijava je podnesena Domu 17. avgusta i registrovana 20. avgusta 1999. godine.

497. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa kod Jugobanke 18.700,58 DEM, 20.382,11 ATS, 1.902,99 HFL, 99,46 ŠFRS, 927 ŠKR, a kod Privredne banke 4.017,09 DEM, 3.603,84 SEK, 1.027,45 USD.

498. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

141. Predmet broj CH/99/2794, Momčilo SAVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

499. Prijava je podnesena Domu 24. avgusta i registrovana 25. avgusta 1999. godine.

500. Podnosilac prijave je tražio od Doma da izda naredbu za privremenu mjeru kojom će se zabraniti prenos njegovih štednih uloga na certifikate. Dom je 8. septembra 1999. godine odlučio da ne izda naredbu za traženu privremenu mjeru.

501. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, filijale u Sarajevu i Tomislavgradu. Čini se da je iznos njegovih pologa 3.874,45 DEM na jednoj knjižici i 4.000 DEM na drugoj knjižici.

502. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

142. Predmet broj CH/99/2802, Ljerka TODOROVIĆ protiv Federacije Bosne i Hercegovine

503. Prijava je podnesena Domu 25. avgusta i registrovana 26. avgusta 1999. godine.

504. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 1.056,8581 DEM na jednoj knjižici, 9.643,3520 DEM na drugoj knjižici.

505. Podnosilac prijave je 7. februara 2005. godine dostavila pismo Komisiji sa dodatnim informacijama. Podnosilac prijave navodi da je dio svoje devizne štednje u iznosu od 4.198,59 KM iskoristila u procesu privatizacije za otkup stana. Prema izvodu sa Jedinstvenog računa građana

Zavoda, od 20. novembra 2002. godine, preostali iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 6.601,31 KM.

506. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

143. Predmet broj CH/99/2804, Ana DIVKOVIĆ protiv Federacije Bosne i Hercegovine

507. Prijava je podnesena Domu 26. avgusta i registrovana 27. avgusta 1999. godine.

508. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 12.564,11 DEM na jednoj knjižici i 192.351,45 DEM na drugoj knjižici.

509. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

144. Predmet broj CH/99/2837, Ilinka PRICA protiv Bosne i Hercegovine

510. Prijava je podnesena Domu 6. septembra i registrovana 13. septembra 1999. godine.

511. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 7.991,12 DEM, 118,10 CHF, 1.239,70 LIT, 729,42 FRF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 5. marta 2002. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 8.146,40 KM.

512. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

145. Predmet broj CH/99/2843, Nuraga SULJAGIĆ protiv Federacije Bosne i Hercegovine

513. Prijava je podnesena Domu 8. septembra i registrovana 13. septembra 1999. godine.

514. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 227,22 USD i 7.160,94 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 1. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 7.660,98 KM.

515. Podnosilac prijave je 4. septembra 1999. godine podnio tužbu Općinskom sudu u Tuzli protiv Tuzlanske banke d.d. Tuzla, države Bosne i Hercegovine, Vijeća ministara i Federacije Bosne i Hercegovine, Federalnog ministarstva finansija, radi isplate deviznog štednog uloga. Općinski sud u Tuzli je 29. oktobra 2002. godine donio rješenje broj P. 1455/99 kojim je postupak prekinut u ovoj pravnoj stvari.

516. Podnosilac prijave je 28. novembra 2002. godine podnio žalbu Kantonalnom sudu u Tuzli protiv rješenja Općinskog suda. Kantonalni sud je 7. avgusta 2003. godine donio rješenje broj: Gž. 272/03, kojim se žalba uvažava, prvostepeno rješenje ukida i predmet vraća prvostepenom sudu na ponovni postupak.

146. Predmeti br. CH/99/2846, CH/99/2847 i CH/99/2848, Zlata NUHBEGOVIĆ, Amra NUHBEGOVIĆ i Leila LOPEZ NUHBEGOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

517. Prijave su podnesene Domu 9. septembra i registrovane 13. septembra 1999. godine.

518. Podnosioci prijava postavljaju zahtjev za povrat devizne štednje koju su naslijedile iza smrti svog supruga i oca H.N.

519. H.N. je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Privredna banka je 14. marta 1996. godine na štednoj knjižici stavila zabilježbu o prenosu deviznih sredstava iza smrti H.N. u korist tri podnosioca prijava, a na osnovu pravosnažnog rješenja o nasljeđivanju, broj O-530/94, od 26. decembra 1994. godine. Prenosom sredstava na osnovu navedenog rješenja, podnosioci prijava su stekle potraživanje po osnovu stare devizne štednje u iznosu od po 139.716,5 DEM.

520. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 2. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave Zlate Nuhbegović po osnovu stare devizne štednje je 139.716,50 KM.

521. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 2. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave Amre Nuhbegović po osnovu stare devizne štednje je 154.256,77 KM.

522. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 15. februara 1999. godine, ukupan iznos potraživanja podnosioca prijave Leile Lopez Nuhbegović po osnovu stare devizne štednje je 143.351 KM.

523. Podnosioci prijava se nisu obraćale ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

147. Predmet broj CH/99/2851, Osman SULJAGIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

524. Prijava je podnesena Domu 9. septembra i registrovana 13. septembra 1999. godine.

525. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Tuzla. Čini se da je iznos njegovih pologa kod Privredne banke Sarajevo na jednoj knjižici 73.657,11 DEM, na drugoj knjižici 8.425,31 DEM, a kod Privredne banke Tuzla 5.116,96 DEM. Prema izvodu sa jedinstvenog računa građana od 7. februara 2005. godine, podnosilac prijave nije prebacivao deviznu štednju na jedinstveni račun.

526. Podnosilac prijave se obraćao Ombudsmenu Bosne i Hercegovine, Ured u Tuzli, radi rješavanja potraživanja stare devizne štednje.

148. Predmet broj CH/99/2858, Muhamed JAŠAREVIĆ protiv Federacije Bosne i Hercegovine

527. Prijava je podnesena Domu 13. septembra i registrovana 21. septembra 1999. godine.

528. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 34.232,37 DEM.

529. Podnosilac prijave se obraćao Ombudsmenu Bosne i Hercegovine, ured u Tuzli radi rješavanja potraživanja stare devizne štednje.

149. Predmet broj CH/99/2860, Mensur ADEMOVIĆ protiv Federacije Bosne i Hercegovine

530. Prijava je podnesena Domu 13. septembra i registrovana 21. septembra 1999. godine.

531. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 364,93 USD i 13.539,27 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 16. maja 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 14.247,65 KM.

532. Podnosilac prijave se obraćao Ombudsmenu Bosne i Hercegovine, ured u Tuzli radi rješavanja potraživanja stare devizne štednje.

150. Predmet broj CH/99/2861, Bajazit JAŠAREVIĆ protiv Federacije Bosne i Hercegovine

533. Prijava je podnesena Domu 13. septembra i registrovana 21. septembra 1999. godine.

534. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 700,05 DEM na jednoj knjižici i 14.887,37 DEM na drugoj knjižici. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 27. marta 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 15.790,12 KM, s tim što potražuje dodatni iznos od 34.615,16 KM, što ukupno iznosi 50.405,28 KM (veza: predmet CH/99/2858)..

535. Podnosilac prijave se obraćao Ombudsmenu Bosne i Hercegovine, ured u Tuzli radi rješavanja potraživanja stare devizne štednje.

151. Predmet broj CH/99/2864, Zlatko CRNKOVIĆ protiv Bosne i Hercegovine

536. Prijava je podnesena Domu 13. septembra i registrovana 21. septembra 1999. godine.

537. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 1.599,90 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 10. marta 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 1.619,62 KM.

538. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

152. Predmet broj CH/99/2866, M.M. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

539. Prijava je podnesena Domu 13. septembra i registrovana 21. septembra 1999. godine.

540. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa 227,58 USD, 1,39 GBP, 40,01 NLG i 364,40 DEM.

541. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

153. Predmet broj CH/99/2875, Toma AMIDŽIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

542. Prijava je podnesena Domu 16. septembra i registrovana 21. septembra 1999. godine.

543. Podnosilac prijave postavlja zahtjev za povrat stare devizne štednje koju su on i njegova supruga polagali kod Privredne banke Sarajevo i Jugobanke Sarajevo. Čini se da je ukupan iznos pologa podnosioca prijave kod Privredne banke 29.689,04 CHF, 36,04 DEM i 1.031,65 CHF, a kod Jugobanke 35.348,55 DEM i 3.276,73 DEM.

544. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 17. septembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 34.501,76 KM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 30. aprila 1999. godine, ukupan iznos potraživanja supruge podnosioca prijave po osnovu stare devizne štednje je 1.115,01 KM.

545. U svojoj prijavi podnosilac prijave navodi da se obraćao Ombudsmanu Bosne i Herecegovine radi rješavanja potraživanja stare devizne štednje.

154. Predmet broj CH/99/2883, Šefik NUHBEGOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

546. Prijava je podnesena Domu 17. septembra i registrovana 21. septembra 1999. godine.

547. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 16.841,0123 DEM i 1.110,16 DEM.

548. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

155. Predmet broj CH/99/2886, Draško ŠOŠIĆ protiv Federacije Bosne i Hercegovine

549. Prijava je podnesena Domu 20. septembra i registrovana 21. septembra 1999. godine.

550. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa kod Jugobanke 5.656,5679 DEM i 30.744,6874 DEM, a kod Privredne banke 44.464,95 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 26. decembra 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 70.277,45 KM.

551. Supruga podnosioca prijave je 7. februara 2005. godine obavijestila Komisiju da je njen suprug preminuo, te da je rješenjem o nasljeđivanju Općinskog suda I Sarajevo, broj O-1245/2000 od 18. jula 2000. godine, ona proglašena za zakonskog nasljednika drugog nasljednog reda, sa dijelom 1/1.

552. Supruga podnosioca prijave navodi da je pokrenula postupak pred Evropskim sudom za ljudska prava u Strazburu, radi rješavanja potraživanja stare devizne štednje, ali da nije dobila nikakav odgovor.

156. Predmet broj CH/99/2890, Zdravko VOBORNIK protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

553. Prijava je podnesena Domu 21. septembra i registrovana 27. septembra 1999. godine.

554. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa bio 25.216,9559 DEM.

555. Podnosilac prijave je 10. februara 2005. godine dostavio Komisiji dodatne informacije. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje podnosioca prijave je 13,6 KM. Međutim, podnosilac prijave navodi da u izvodu od 7. februara 2005. godine nije evidentiran ukupan iznos njegovog potraživanja po osnovu stare devizne štednje.

556. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

157. Predmet broj CH/99/2892, Živko RAPAIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

557. Prijava je podnesena Domu 21. septembra i registrovana 27. septembra 1999. godine.

558. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 10.714,4748 DEM.

559. Podnosilac prijave navodi da je Udruženju za zaštitu štediša dao ovlaštenje za zastupanje pred Evropskim sudom za ljudska prava u Strazburu radi rješavanja potraživanja stare devizne štednje. Podnosilac prijave je, također, naveo da je 18. avgusta 2004. godine Službi za zajedničke poslove organa i tijela Federacije Bosne i Hercegovine podnio zahtjev za prenos stare devizne štednje sa certifikata na deviznu knjižicu.

158. Predmet broj CH/99/2893, Mladen KORAĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

560. Prijava je podnesena Domu 21. septembra i registrovana 27. septembra 1999. godine.

561. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 2.178,52 DEM i 78,29 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 6. januara 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 2.324,84 KM.

562. Podnosilac prijave je naveo da je 18. avgusta 2004. godine Kantonalnoj agenciji za privatizaciju Sarajevo podnio zahtjev za povrat stare devizne štednje sa Jedinstvenog računa građana na devizne štedne knjižice.

159. Predmet broj CH/99/2894, Mustafa SULJAGIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

563. Prijava je podnesena Domu 22. septembra i registrovana 27. septembra 1999. godine.

564. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 264.611,043 DEM.

565. U svojoj prijavi podnosilac prijave je naveo da se radi rješavanja potraživanja stare devizne štednje obraćao Komisiji za zaštitu ljudskih prava, Predsjedništva Bosne i Hercegovine, Ustavnom sudu Bosne i Hercegovine, te Ombudsmenu Federacije Bosne i Hercegovine. Komisija za zaštitu ljudskih prava i Ustavni sud su svojim dopisima od 25. februara i 16. aprila 1998. obavijestili podnosioca prijave da nisu nadležni da odlučuju o njegovom zahtjevu.

566. Podnosilac prijave dalje navodi da je 8. jula 1999. godine Privrednoj banci Sarajevo podnio pismeni zahtjev za isplatu stare devizne štednje. Privredna banka Sarajevo je 15. jula 1999. godine obavijestila podnosioca prijave da je u skladu sa Uputstvom o realizaciji potraživanja građana sa Jedinstvenog računa („Službene novine Federacije Bosne i Hercegovine“, broj 1/98), podatke o deviznoj štednji građana sa stanjem na dan 31. marta 1992, godine dostavila Zavodu kako bi sredstva devizne štednje bila unesena na Jedinstveni račun građana.

567. Federacija Bosne i Hercegovine je dopisom od 23. novembra 2004. godine obavijestila Komisiju da se podnosilac prijave obratio Evropskom sudu za ljudska prava u Strazburu radi ostvarenja svog zahtjeva za isplatu stare devizne štednje.

568. Podnosilac prijave navodi da je podnio tužbu Evropskom sudu za ljudska prava u Strazburu radi ostvarenja zahtjeva za isplatu stare devizne štednje.

160. Predmet broj CH/99/2901, Sead DURAKOVIĆ protiv Federacije Bosne i Hercegovine

569. Prijava je podnesena Domu 23. septembra i registrovana 27. septembra 1999. godine.

570. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo, filijala Sarajevo i filijala Mostar. Čini se da je ukupan iznos njegovih pologa 1.666,17 DEM i 11.429,73 DEM.

571. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

161. Predmet broj CH/99/2904, Alija TANČICA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

572. Prijava je podnesena Domu 23. septembra i registrovana 27. septembra 1999. godine.

573. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 1.966,52 DEM.

574. Supruga podnosioca prijave je 22. februara 2005. godine obavijestila Komisiju da je njen suprug umro, te da je ona rješenjem o nasljeđivanju Općinskog suda u Sarajevu, broj O-567/04 od 24. avgusta 2004. godine, proglašena za zakonskog nasljednika prvog nasljednog reda, sa dijelom 1/1.

575. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

162. Predmet broj CH/99/2905, Milan MIHOLJČIĆ protiv Federacije Bosne i Hercegovine

576. Prijava je podnesena Domu 23. septembra i registrovana 27. septembra 1999. godine.

577. Podnosilac prijave je polagao devizna sredstva na štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 11.745,83 KM. Prema Izvodu sa Jedinstvenog računa građana Zavoda, od 21. oktobra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 11.487 KM.

578. Supruga podnosioca prijave je 8. februara 2005. godine obavijestila Komisiju da je njen suprug umro, te da je ona rješenjem o nasljeđivanju Općinskog suda Sarajevo, broj O-521/04, od 26. maja 2004. godine, proglašena zakonskom nasljednicom prvog nasljednog reda, sa dijelom 1/1.

579. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

163. Predmet broj CH/99/2906, Branka MIHOLJČIĆ protiv Federacije Bosne i Hercegovine

580. Prijava je podnesena Domu 23. septembra i registrovana 27. septembra 1999. godine.

581. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 7.597,7082 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 13. maja 2004. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 7.692,04 KM.

582. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

164. Predmet broj CH/99/2908, S.E. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

583. Prijava je podnesena Domu 23. septembra i registrovana 27. septembra 1999. godine.

584. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 4.237,28 DEM.

585. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

165. Predmet broj CH/99/2918, Fadil HODŽIĆ protiv Federacije Bosne i Hercegovine

586. Prijava je podnesena Domu 27. septembra 1999. godine i registrovana istog dana.

587. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 14.418,43 DEM i 2.020,5908 DEM. Prema Izvodu sa Jedinstvenog računa građana Zavoda, od 16. septembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 16.574,34 KM.

588. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

166. Predmet broj CH/99/2922, Jovan MARKOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

589. Prijava je podnesena Domu 27. septembra i registrovana 28. septembra 1999. godine.

590. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 3.046,8 DEM i 1.806,07 CHFR.

591. Podnosilac prijave je naveo da je preko Udruženja deviznih štediša, Sarajevo pokrenuo postupak (ne navodi pred kojim organom) radi rješavanja potraživanja stare devizne štednje, te da je postupak u toku.

167. Predmet broj CH/99/2923, Mladen LAPTOŠEVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

592. Prijava je podnesena Domu 27. septembra i registrovana 28. septembra 1999. godine.

593. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 3.591,34 DEM, 399,85 USD, 1.049,99 CHFR i 518,11 ATS.

594. Podnosilac prijave je naveo da je preko Udruženja deviznih štediša, Sarajevo pokrenuo postupak (ne navodi pred kojim organom) radi rješavanja potraživanja stare devizne štednje, te da je postupak u toku.

168. Predmet broj CH/99/2939, Vela VELJIĆ protiv Bosne i Hercegovine

595. Prijava je podnesena Domu 29. septembra i registrovana 30. septembra 1999. godine.

596. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa 20,06 CHFR, 566,59 DEM i 856,48 USD.

597. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

169. Predmet broj CH/99/2944, Bogdan GALIĆ protiv Federacije Bosne i Hercegovine

598. Prijava je podnesena Domu 30. septembra i registrovana 4. oktobra 1999. godine.

599. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i Jugobanke Sarajevo. Čini se da je iznos njegovih pologa kod Privredne banke 1.000,19 DEM, a kod Jugobanke 13.275,2921 DEM i 12,549,8999 DEM. Prema izvodu sa Jedinstvenog

računa građana Zavoda, od 7. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 27.238,64 KM.

600. Podnosilac prijave navodi da je 20. maja 2004. godine Federalnoj agenciji za privatizaciju podnio zahtjev za vraćanje devizne štednje u matične banke.

170. Predmet broj CH/99/2945, Slavojka GALIĆ protiv Federacije Bosne i Hercegovine

601. Prijava je podnesena Domu 30. septembra i registrovana 4. oktobra 1999. godine.

602. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa 3.318,97 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 8. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 3.358,83 KM.

603. Podnosilac prijave navodi da je 20. maja 2004. godine Federalnoj agenciji za privatizaciju podnijela zahtjev za vraćanje devizne štednje u matičnu banku.

171. Predmet broj CH/99/2946, Svjetlana GALIĆ-ŠOLA protiv Federacije Bosne i Hercegovine

604. Prijava je podnesena Domu 30. septembra i registrovana 4. oktobra 1999. godine.

605. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 652,5181 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 8. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 667,26 KM.

606. Podnosilac prijave je navodi da je 20. maja 2004. godine Federalnoj agenciji za privatizaciju podnijela zahtjev za vraćanje devizne štednje u matičnu banku.

172. Predmet broj CH/99/2956, Erna MIJIĆ protiv Federacije Bosne i Hercegovine

607. Prijava je podnesena 4. oktobra 1999. godine i registrovana istog dana.

608. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa 3.973,40 DEM i 266,48 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 9. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 4.282,98 KM.

609. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

173. Predmet broj CH/99/2962, Ivica KATALINIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

610. Prijava je podnesena Domu 4. oktobra 1999. godine i registrovana istog dana.

611. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 1.171,56 DEM, 5.826,9 DEM, 1.060,86 USD, 46,68 USD, 8.451,83 ITL i 3,61 FRF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 27. decembra 2001. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 8.975,94 KM.

612. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

174. Predmet broj CH/99/2966, Ljiljana VUKOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

613. Prijava je podnesena 5. oktobra 1999. godine i registrovana istog dana.

614. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke u Sarajevu. Čini se da je ukupan iznos njenih pologa 809,64 DEM.

615. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

175. Predmet broj CH/99/2967, Marica ĐURKOVIĆ protiv Federacije Bosne i Hercegovine

616. Prijava je podnesena Domu 5. oktobra 1999. godine i registrovana istog dana.

617. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 578,29 CAD, 2,37 USD i 54,24 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 9. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 877,53 KM.

618. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

176. Predmet broj CH/99/2969, Mugdim MESIHOVIĆ. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

619. Prijava je podnesena Domu 5. oktobra 1999. godine i registrovana istog dana.

620. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 8.063,578 DEM i 11.249,8499 DEM.

621. U svojoj prijavi podnosilac prijave je naveo da se obraćao Ustavnom sudu Bosne i Hercegovine, Ustavnom sudu Federacije Bosne i Hercegovine i Ombudsmenu Federacije Bosne i Hercegovine radi rješavanja potraživanja stare devizne štednje.

622. Ustavni sud Bosne i Hercegovine je 2. februara 2005. godine obavijestio Komisiju da ni u upisniku, ni u bazi podataka suda nije registrovana apelacija podnosioca prijave u vezi stare devizne štednje.

177. Predmet broj CH/99/2976, Toni ŽAGOVEC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

623. Prijava je podnesena Domu 6. oktobra 1999. godine i registrovana istog dana.

624. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njegovog pologa 4.193,20 DEM i 15,68 USD na jednoj štednoj knjižici, i na drugoj štednoj knjižici 119,37 DEM i 784,39 USD.

625. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

178. Predmet broj CH/99/2979, Kasim ĆATIĆ protiv Federacije Bosne i Hercegovine

626. Prijava je podnesena Domu 6. oktobra 1999. godine i registrovana istog dana.

627. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupni iznos njegovog pologa 11.142,86 DEM.

628. E. i K. Ćatić su 11. februara 2005. godine obavijestili Komisiju da je podnosilac prijave umro, te da oni, kao njegovi nasljednici žele da nastave postupak pred Komisijom. U prilogu pisma su dostavili i rješenje o nasljeđivanju Općinskog suda u Sarajevu broj:0-1788/04, od 7. septembra 2004. godine, kojim se oni proglašaju zakonskim nasljednicima I nasljednog reda, sa dijelom od po 1/2.

629. Podnosilac prijave nije se obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

179. Predmet broj CH/99/2983, Zaim OMEROVIĆ protiv Federacije Bosne i Hercegovine

630. Prijava je podnesena Domu 7. oktobra i registrovana 8. oktobra 1999. godine.

631. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovog pologa 67.106,96 DEM.

632. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

180. Predmet broj CH/99/2992, Ivan PRIMORAC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

633. Prijava je podnesena Domu 8. oktobra i registrovana 12. oktobra 1999. godine.

634. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 15.363,07 DEM.

635. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

181. Predmet broj CH/99/3001, Marija TOMAŽIN protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

636. Prijava je podnesena Domu 12. oktobra i registrovana 15. oktobra 1999. godine.

637. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 471.204,32 LIT i 1.699.10 DEM.

638. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

182. Predmet broj CH/99/3006, M.K. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

639. Prijava je podnesena Domu 13. oktobra 1999. godine i registrovana 15. oktobra 1999. godine.

640. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke u Sarajevu. Čini se da je iznos njenog pologa na jednoj deviznoj knjižici 505,84 DEM, a na drugoj 31,56 USD. Podnosilac prijave je, također, imala pravo raspolaganja na deviznim štednim knjižicama S.K (veza: predmet broj CH/99/3008) i T.E.S. (veza: predmet broj CH/99/3007). Iznos pologa na deviznoj štednoj knjižici S.K. je 1.064,24 DEM, 316,84 USD i 497,07 CHF, a na deviznoj štednoj knjižici T.E.S. je 19.498,32 DEM. Prema Izvodu sa jedinstvenog računa građana, od 1. avgusta 2001. godine, iznos stare devizne štednje podnosioca prijave bio je 12.355,17 KM. Podnosilac prijave navodi da je iznos na jedinstvenom računu građana nastao prenosom 10.332,77 DEM sa devizne štedne knjižice T.E.S. i 2.022,40 DEM sa devizne štedne knjižice S.K.

641. Podnosilac prijave je u pismu od 8. februara 2005. godine obavijestila Komisiju da staru deviznu štednju koja joj je pretvorena u certifikate nije uložila u procesu privatizacije.

642. Podnosilac prijave u svom pismu Komisiji navodi da se obraćala Agenciji za Privatizaciju Federacije Bosne i Hercegovine, sa zahtjevom da se sredstva stare devizne štednje vrate sa jedinstvenog računa na devizne štedne knjižice i da do danas nije dobila nikakvo obavještenje.

183. Predmet broj CH/99/3007, T.E.S. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

643. Prijava je podnesena Domu 13. oktobra 1999. godine i registrovana 15. oktobra 1999. godine.

644. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke u Sarajevu. Čini se da je ukupni iznos njenog pologa kod Jugobanke 1.420,6437 DEM i 19.388,6651 DEM.

645. Iz prijave se čini da se podnosilac prijave nije obračala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

646. Komisiji je 8. februara 2005. godine dostavljeno pismo M.K (veza poredmet: CH/99/3006), kćerke podnositeljice prijave, u kome navodi da je jedan dio stare devizne štednje iskorišten u procesu privatizacije za kupovinu stana, a ostatak pologa u iznosu od 10.332,77 DEM prenesen je na jedinstveni račun M.K, tako da više nema potraživanja po osnovu stare devizne štednje.

184. Predmet broj CH/99/3008, S.K. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

647. Prijava je podnesena Domu 13. oktobra 1999. godine i registrovana 15. oktobra 1999. godine.

648. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke u Sarajevu. Prema priloženoj fotokopiji štedne knižice, čini se da je na prvom računu, iznos sredstava stare devizne štednje bio 437,59 CHF. Prema dokumentu Union banke od 10. februara 1998. godine, iznos sredstava stare devizne štednje na drugom računu bio je 1.986,63 DEM. Prema izvodu sa jedinstvenog računa građana od 3. maja 1999. godine, iznos sredstava devizne štednje podnosioca prijave bio je 2.022.40 KM. U svom pismu Komisiji, podnosilac prijave naveo da je 1. avgusta 2001. godine iznos od 2.022,40 KM prenesen na jedinstveni račun njegove supruge M.K (veza: predmet broj CH/99/3006), i da njegova preostala potraživanja po osnovu stare devizne štednje iznose 437,59 CHF.

649. Podnosilac prijave se nije obračao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

185. Predmet broj CH/99/3011, Srećko KLARIĆ protiv Bosne i Hercegovine

650. Prijava je podnesena Domu 13. oktobra i registrovana 15. oktobra 1999. godine.

651. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 26.474,0812 DEM.

652. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

186. Predmet broj CH/99/3018, Dobrila PAŠTAR protiv Bosne i Hercegovine

653. Prijava je podnesena Domu 18. oktobra i registrovana 19. oktobra 1999. godine.

654. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 4.214,3189 DEM.

655. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

187. Predmet broj CH/99/3020, Mehmed PREVLJAK protiv Bosne i Hercegovine

656. Prijava je podnesena Domu 18. oktobra i registrovana 20. oktobra 1999. godine.

657. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke 264,18 USD i 17.274,47 DEM, a kod Privredne banke 300,54 DEM i 6.634,29 DEM.

658. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

188. Predmet broj CH/99/3027, Marela ČELIKOVIĆ protiv Federacije Bosne i Hercegovine

659. Prijava je podnesena Domu 20. oktobra 1999. godine i registrovana istog dana.

660. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 2. februara 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 15.170,53 KM. Podnosilac prijave nije dostavila kopiju štednje knjižice.

661. Podnosilac prijave se 5. aprila 1999. godine obraćala Agenciji za privatizaciju Federacije Bosne i Hercegovine radi poništenja verifikacije devizne štednje koju je izvršila u banci. Agencija za privatizaciju Federacije Bosne i Hercegovine je 12. aprila 1999. godine odbila zahtjev podnosioca prijave uz obrazloženje da je verifikaciju izvršila slobodnom voljom i dala saglasnost da se štednja prenese na Jedinstveni račun građana kod Zavoda.

662. Uprkos izričitom traženju Komisije od 3. februara 2005. godine, podnosilac prijave nije dostavila kopiju štedne knjižice.

189. Predmet broj CH/99/3037, Sulejman HADŽIAHMETOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

663. Prijava je podnesena Domu 21. oktobra i registrovana 25. oktobra 1999. godine.

664. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 17.941,1285 DEM.

665. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

190. Predmet broj CH/99/3043, Blažo ĆIPOVIĆ protiv Federacije Bosne i Hercegovine

666. Prijava je podnesena Domu 22. oktobra i registrovana 25. oktobra 1999. godine.

667. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 160,68 USD i 7.271,42 DEM.

668. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

669. Dopisom od 8. februara 2005. godine, podnosilac prijave je obavijestio Komisiju da je sva svoja potraživanja po osnovu stare devizne štednje prebacio na drugog nosioca stare devizne štednje, što je potvrđeno Izvodom sa jedinstvenog računa građana od 23. septembra 2003. godine.

191. Predmet broj CH/99/3045, Halima ĆIPOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

670. Prijava je podnesena Domu 22. oktobra i registrovana 25. oktobra 1999. godine.

671. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 3.079,94 DEM.

672. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

192. Predmet broj CH/99/3057, Desanka MILETIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

673. Prijava je podnesena Domu 25. oktobra i registrovana 26. oktobra 1999. godine.

674. Podnosilac prijave postavlja zahtjev za povrat devizne štednje njenog umrlog supruga.

675. Suprug podnosioca prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i kod Jugobanke Sarajevo. Čini se da je iznos njegovog pologa kod Privredne banke 8.381,71 DEM, a kod Jugobanke 21.398.9879 DEM i 17.056,4524 DEM.

676. Rješenjem o nasljeđivanju Općinskog suda I u Sarajevu broj 0-609/82, od 4. juna 1982. godine, podnosilac prijave se proglašava zakonskim nasljednikom drugog nasljednog reda, sa dijelom 1/1.

677. Podnosilac prijave je 8. februara 2005. godine obavijestila Komisiju da je dio stare devizne štednju u iznosu od 1.401,87 KM iskoristila u procesu privatizacije za otkup stana, tako da je preostali iznos njenog potraživanja 46.050,15 KM.

678. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

193. Predmet broj CH/99/3063, Hajrudin INSANIĆ protiv Federacije Bosne i Hercegovine

679. Prijava je podnesena Domu 26. oktobra i registrovana 27. oktobra 1999. godine.

680. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa kod Privredne banke 4.887,45 DEM.

681. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

194. Predmet broj CH/99/3066, Mirjana OVČINA protiv Federacije Bosne i Hercegovine

682. Prijava je podnesena Domu 26. oktobra i registrovana 27. oktobra 1999. godine.

683. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa kod Privredne banke 10.188,66 DEM, a kod Jugobanke 2668,18 USD, 4.072,93 CHF i 18.134,38 ATS. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 26.348,17 KM.

684. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

195. Predmet broj CH/99/3068, Munevera KAPIDŽIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

685. Prijava je podnesena Domu 27. oktobra i registrovana 28. oktobra 1999. godine.

686. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenog pologa 110.632,06 DEM.

687. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

196. Predmet broj CH/99/3074, Nada MIJATOVIĆ protiv Bosne i Hercegovine

688. Prijava je podnesena Domu 28. oktobra 1999. godine i registrovana istog dana.

689. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa na jednoj knjižici 367,46 DEM i na drugoj knjižici 2.168,35 DEM.

690. Podnosilac prijave se obraćala Agenciji za privatizaciju Federacije Bosne i Hercegovine sa zahtjevom za povrat stare devizne štednje.

197. Predmet broj CH/99/3076, Dušan SAVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

691. Prijava je podnesena Domu 28. oktobra i registrovana 28. oktobra 1999. godine.

692. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 14.862,69 DEM.

693. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

198. Predmet broj CH/99/3082, Radovan SIMIĆ protiv Federacije Bosne i Hercegovine

694. Prijava je podnesena Domu 29. oktobra i registrovana 1. novembra 1999. godine.

695. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovog pologa 3.912 USD.

696. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

199. Predmet broj CH/99/3085, Salko MAHMUZIĆ protiv Federacije Bosne i Hercegovine

697. Prijava je podnesena Domu 29. oktobra i registrovana 1. novembra 1999. godine.

698. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugoslovenske izvozno kreditne banke, poslovna jedinica Tuzla. Čini se da je iznos njegovih pologa 3.216,79 DEM.

699. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

200. Predmet broj CH/99/3086, Vidosava LAZIĆ protiv Federacije Bosne i Hercegovine

700. Prijava je podnesena Domu 1. novembra i registrovana 2. novembra 1999. godine.

701. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 2.595,41 DEM.

702. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

201. Predmet broj CH/99/3089, Hajrija KAPO protiv Bosne i Hercegovine

703. Prijava je podnesena Domu 1. novembra i registrovana 2. novembra 1999. godine.

704. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 25.485,79 DEM.

705. Podnosilac prijave navodi da je član Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini, te da se pridružila kolektivnoj tužbi Udruženja pred Sudom za ljudska prava u Strazburu i Sudom Bosne i Hercegovine.

202. Predmet broj CH/99/3096, Emina ŠEHOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

706. Prijava je podnesena Domu 2. novembra i registrovana 3. novembra 1999. godine.

707. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 2.108,52 KM.

708. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

203. Predmet broj CH/99/3098, Osman DŽEMALIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

709. Prijava je podnesena Domu 2. novembra i registrovana 3. novembra 1999. godine.

710. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 27.712,3 DEM.

711. Podnosilac prijave navodi da je član Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini, te da se pridružio kolektivnoj tužbi Udruženja pred Sudom za ljudska prava u Strazburu i Sudom Bosne i Hercegovine.

204. Predmet broj CH/99/3114, Veselinka KOVAČEVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

712. Prijava je podnesena Domu 5. novembra i registrovana 8. novembra 1999. godine.

713. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 16.677,65 DEM i 219.288 DEM.

714. J.K, kćerka podnosioca prijave, je 8. februara 2005. godine obavijestila Komisiju da je njena majka umrla, te da ona kao nasljednica želi nastaviti postupak pred Komisijom. U prilogu pisma je dostavila rješenje o nasljeđivanju Općinskog suda u Sarajevu, broj O-5076/04 od 14. decembra 2004. godine, kojim se ona proglašava zakonskom nasljednicom prvog nasljednog reda

iza smrti podnosioca prijave, sa dijelom 1/2. Kćerka podnosioca prijave je dostavila kopiju navedenog rješenja o nasljeđivanju i izvod iz matične knjige umrlih.

715. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

205. Predmet broj CH/99/3117, Marija TRUMIĆ–KISIĆ protiv Bosne i Hercegovine

716. Prijava je podnesena Domu 5. novembra i registrovana 8. novembra 1999. godine.

717. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 82,20 ATS, 18,56 ITL, 11,63 CHF, 6,82 BEL, 4.208,20 DEM, 0,39 GBP i 132,08 USD.

718. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

206. Predmet broj CH/99/3118, Čedomir KISIĆ protiv Bosne i Hercegovine

719. Prijava je podnesena Domu 5. novembra i registrovana 8. novembra 1999. godine.

720. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 239,78 FRF, 131,71 CHF i 312,76 DEM.

721. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

207. Predmet broj CH/99/3122, Mladen BOJANIĆ protiv Federacije Bosne i Hercegovine

722. Prijava je podnesena Domu 5. novembra i registrovana 8. novembra 1999. godine.

723. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 7.270,52 DEM.

724. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

208. Predmet broj CH/99/3135, Helena ŠIMŠIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

725. Prijava je podnesena Domu 8. novembra i registrovana 9. novembra 1999. godine.

726. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Privredne banke Sarajevo. Čini se da je iznos njenih pologa kod Jugobanke 107,57 DEM i 355.249,18 ITL, a kod Privredne banke 4.260,34 DEM, 1.201,04 USD i 28.426,89 ATS. Prema izvodu sa Jedinstvenog računa građana Zavoda od 9. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 10.948,28 KM.

727. Podnosilac prijave je član Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini, te se pridružila kolektivnoj tužbi pred Evropskim sudom za ljudska prava.

209. Predmet broj CH/99/3137, Refija HAJDAR protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

728. Prijava je podnesena Domu 9. novembra i registrovana 11. novembra 1999. godine.

729. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 21.811,92 DEM. Po izvodu sa jedinstvenog računa građana Federacije Bosne i Hercegovine od 2. maja 1999. godine, iznos sredstava stare devizne štednje podnosioca prijave je 22.067,12 KM.

730. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

210. Predmet broj CH/99/3138, Servet KORKUT protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

731. Prijava je podnesena Domu 9. novembra i registrovana 11. novembra 1999. godine.

732. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 2.083,34 DM na jednoj knjižici, na drugoj knjižici 9.073,51 CHF, te na trećoj knjižici 6.896,94 DM, 2.436,02 USD i 805,62 CHF.

733. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

211. Predmet broj CH/99/3140, Milojka MUČIBABIĆ protiv Bosne i Hercegovine

734. Prijava je podnesena Domu 9. novembra i registrovana 11. novembra 1999. godine.

735. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa kod Privredne banke 1.600 DEM.

736. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

212. Predmet broj CH/99/3146, Krunoslav MAJER protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

737. Prijava je podnesena Domu 10. novembra i registrovana 11. novembra 1999. godine.

738. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 2.029 DEM, 203,55 USD i 3.553,65 CHF.

739. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje. Po izvodu sa jedinstvenog računa građana Federacije Bosne i Hercegovine od 12. oktobra 1999. godine, iznos sredstava stare devizne štednje podnosioca prijave je 6.398,86 KM.

213. Predmet broj CH/99/3157, Ivona ŠOŠIĆ protiv Bosne i Hercegovine

740. Prijava je podnesena Domu 11. novembra i registrovana 12. novembra 1999. godine.

741. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 4. 591,77 DEM, 618,33 USD i 1.722,93 ATS. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 5.956,52 KM.

742. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

214. Predmet broj CH/99/3158, Senka ŠOŠIĆ protiv Bosne i Hercegovine

743. Prijava je podnesena Domu 11. novembra i registrovana 12. novembra 1999. godine.

744. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 560,30 DEM, 107,10 USD i 4,61 ATS i 24.959,15 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 16. septembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 26.156,61 KM.

745. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

215. Predmet broj CH/99/3159, Ivan ŠOŠIĆ protiv Bosne i Hercegovine

746. Prijava je podnesena Domu 11. novembra i registrovana 12. novembra 1999. godine.

747. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 8.342,17 DEM, 280,70 USD i 50,15 ATS. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 8.877,91 KM.

748. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

216. Predmet broj CH/99/3167, Ilija ĆORIĆ protiv Federacije Bosne i Hercegovine

749. Prijava je podnesena Domu 12. novembra 1999. godine i registrovana istog dana.

750. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 1.915 DM i 4.673,46 USD.

751. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

217. Predmet broj CH/99/3176, Vedat PAŠIĆ protiv Bosne i Hercegovine

752. Prijava je podnesena Domu 16. novembra i registrovana 17. novembra 1999. godine.

753. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Podnosilac prijave nije dostavio kopiju štedne knjižice. Prema izvodu sa računa Zavoda, čini se da je iznos njegovih pologa 12.453,48 DEM.

754. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

755. Uprkos izričitom traženju Komisije od 3. februara 2005. godine, podnosilac prijave nije dostavio kopiju štednje knjižice.

218. Predmet broj CH/99/3177, Nejra PAŠIĆ protiv Bosne i Hercegovine

756. Prijava je podnesena Domu 16. novembra i registrovana 17. novembra 1999. godine.

757. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Podnosilac prijave nije dostavila kopiju štedne knjižice. Prema izvodu sa računa Zavoda, čini se da je iznos njenih pologa 2.311,55 DEM.

758. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

759. Uprkos izričitom traženju Komisije od 3. februara 2005. godine, podnosilac prijave nije dostavila kopiju štednje knjižice.

219. Predmet broj CH/99/3178, Enver HAVERIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

760. Prijava je podnesena Domu 16. novembra i registrovana 17. novembra 1999. godine.

761. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Privredne banke Sarajevo. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. aprila 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 59.393,73 KM.

762. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

220. Predmet broj CH/99/3180, Bogdan BOŽOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

763. Prijava je podnesena Domu 17. novembra i registrovana 18. novembra 1999. godine.

764. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 7.803,52 DM, 1.740,08 USD, 127,80 CHF i 226,86 LSTG. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 5. marta 1998. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 11.448,57 KM.

765. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

221. Predmet broj CH/99/3182, Dženana KORJENIĆ protiv Bosne i Hercegovine

766. Prijava je podnesena Domu 18. novembra i registrovana 18. novembra 1999. godine.

767. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 6.875,86 DEM i 954,96 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 29. decembra 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 8.515,35 KM.

768. Podnosilac prijave navodi da je član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine koje je podnijelo tužbu pred Evropskim sudom za ljudska prava u Strazburu, radi povrata devizne štednje.

222. Predmet broj CH/99/3183, Nadežda DAVIDOVIĆ protiv Bosne i Hercegovine

769. Prijava je podnesena Domu 18. novembra 1999. godine i registrovana istog dana.

770. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 13.228,43 DEM i 6.246,88 USD.

771. Podnosilac prijave navodi da je dio svoje devizne štednje u iznosu od 2.798 DEM iskoristila u procesu privatizacije. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 1. februara 2000. godine, preostalo potraživanje podnosioca prijave po osnovu stare devizne štednje je 20.920,96 KM.

772. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

223. Predmet broj CH/99/3184, Sofija POPARA–ZAJOVIĆ protiv Bosne i Hercegovine

773. Prijava je podnesena Domu 18. novembra 1999. godine i registrovana istog dana.

774. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa kod Jugobanke 452,72 CAD, 9.098,19 DEM i 273,40 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 16. septembra 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 10.261,28 KM.

775. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

224. Predmet broj CH/99/3185, Martin RADMAN protiv Bosne i Hercegovine i Fedracije Bosne i Hercegovine

776. Prijava je podnesena Domu 18. novembra 1999. godine i registrovana istog dana.

777. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 1.741,06 DEM, 11.634,20 USD i 126,42 ATS na jednoj i 168,23 USD na drugoj knjižici. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 6. marta 2000. godine, ukupno potraživanja podnosioca prijave po osnovu stare devizne štednje iznosi 21.407,77 KM.

778. Podnosilac prijave navodi da je član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine koje ga zastupa pred nadležnim organima u postupcima povrata devizne štednje.

225. Predmet broj CH/99/3188, Pero ČIRKOVIĆ protiv Fedracije Bosne i Hercegovine

779. Prijava je podnesena Domu 18. novembra 1999. godine i registrovana istog dana.

780. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa na jednoj štednoj knjižici 8.500,00 CHF, a na drugoj knjižici 8.802,67 CHF.

781. Podnosilac prijave se obraćao Ombudsmenu Federacije Bosne i Hercegovine, ured u Tuzli. Ombudsman je donio odluku broj: T:1017/99 – II, od 30. avgusta 1999. godine, kojom se podnosilac prijave upućuju da podnese prijavu Domu.

226. Predmet broj CH/99/3189, Paša OSMIĆ protiv Bosne i Hercegovine

782. Prijava je podnesena Domu 18. novembra 1999. godine i registrovana istog dana.

783. Predmet prijave je zahtjev podnosioca prijave za povrat devizne štednje njenog umrlog supruga.

784. Suprug podnosioca prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa na jednoj knjižici 69.772,64 DEM i na drugoj knjižici 7.890,88 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 17. maja 2004. godine, ukupno potraživanja podnosioca prijave po osnovu stare devizne štednje iznosi 78.897,14 KM.

785. Rješenjem Osnovnog suda u Tuzli broj: 70/92 S.M, od 1. aprila 1992. godine, podnosilac prijave i njeno četvoro djece se proglašavaju nasljednicima iza umrlog A.O, sa dijelom od po 1/5.

786. Podnosilac prijave je podnijela zahtjev za zaštitu imovine Ombudsmenima Federacije Bosne i Hercegovine, ured u Tuzli, koji su po zahtjevu podnosioca prijave donijeli odluku broj:

T:1020/99 – II od 30. avgusta 1999. godine kojom podnosioca prijave upućuju da podnese prijavu Domu.

227. Predmet broj CH/99/3201, Mihajlo ČUČKOVIĆ protiv Bosne i Hercegovine

787. Prijava je podnesena Domu 19. novembra i registrovana 20. novembra 1999. godine.

788. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupni iznos njegovih pologa 9.958,3319 DEM.

789. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

228. Predmet broj CH/99/3202, Fatima ISAK protiv Bosne i Hercegovine

790. Prijava je podnesena Domu 19. novembra i registrovana 20. novembra 1999. godine.

791. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa na jednoj štednoj knjižici 1.589,27 DEM,140,35 CHF i 137,30 USD, na drugoj štednoj knjižici 49.761,55 ITL, 3.591,99 ATS i 77,70 CAD i na trećoj knjižici 27.516,53 DEM i 9.058,83 DEM.

792. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

229. Predmet broj CH/99/3203, Sabaha ISAK protiv Bosne i Hercegovine

793. Prijava je podnesena Domu 19. novembra i registrovana 20. novembra 1999. godine.

794. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo i Privredne banke Sarajevo. Čini se da je iznos njenih pologa kod Jugobanke na jednom računu 3.873,46 DEM i 31,08 ATS, na drugom računu 11,48 DEM i 2.188,60 USD i na trećem računu 10.816,37 USD, a kod Privredne banke 3.215,62 DEM, 653,57 USD, 31.439,57 ITL, 4.866,51 ATS i 29,68 CAD.

795. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

230. Predmet broj CH/99/3206, Ivan MILANOVSKI protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

796. Prijava je podnesena Domu 22. novembra i registrovana 23. novembra 1999. godine.

797. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 374,02 DEM i 431,42 NLG.

798. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

231. Predmet broj CH/99/3208, Mario JARANOVIĆ protiv Bosne i Hercegovine

799. Prijava je podnesena Domu 22. novembra i registrovana 23. novembra 1999. godine.

800. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 1.315,77 DEM.

801. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

232. Predmet broj CH/99/3209, Žana JARANOVIĆ protiv Bosne i Hercegovine

802. Prijava je podnesena Domu 22. novembra i registrovana 23. novembra 1999. godine.

803. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 1.705,54 DEM.

804. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

233. Predmet broj CH/99/3210, Marija JARANOVIĆ protiv Bosne i Hercegovine

805. Prijava je podnesena Domu 22. novembra i registrovana 23. novembra 1999. godine.

806. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa 6.573,96 DEM.

807. M.J, brat podnosioca prijave, je 8. februara 2005. godine obavijestio Komisiju da je podnosilac prijave umrla, te da on želi da nastavi postupak pred Komisijom. U prilogu pisma je dostavio rješenje o nasljeđivanju Osnovnog suda u Jajcu, broj: O.205/92, od 25. marta 1992. godine, kojim se on proglašava zakonskim nasljednikom drugog nasljednog reda, iza smrti podnosioca prijave, s dijelom 1/1.

234. Predmet broj CH/99/3211, Senka VALJEVAC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

808. Prijava je podnesena Domu 22. novembra i registrovana 23. novembra 1999. godine.

809. Podnosilac prijave je maloljetna, zastupana po majci, A.V., na čije ime su polagana sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos pologa podnosioca prijave 1.801,28 DEM.

810. Zastupnik podnosioca prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

235. Predmet broj CH/99/3215, Ivan DUSPARA protiv Bosne i Hercegovine

811. Prijava je podnesena Domu 23. novembra 1999. godine i registrovana istog dana.

812. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 6.790,21 DEM.

813. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

236. Predmet broj CH/99/3220, Sakib VRABAC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

814. Prijava je podnesena Domu 23. novembra i registrovana 24. novembra 1999. godine.

815. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 12.781,81 DEM i 3.550,99 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 8.805,91 KM.

816. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

237. Predmet broj CH/99/3221, Vera DRINOVAC protiv Bosne i Hercegovine

817. Prijava je podnesena Domu 24. novembra 1999. godine i registrovana istog dana.

818. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 31.086,60 KM.

819. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

238. Predmet broj CH/99/3223, Munira SADIKOVIĆ protiv Bosne i Hercegovine

820. Prijava je podnesena Domu 24. novembra 1999. godine i registrovana istog dana.

821. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je iznos njenih pologa na jednoj knjižici 1.117,08 DEM, 3.713,80 ITL, 1.369,77 ATS i 47,92 USD, na drugoj knjižici 17,56 CAD, 60,54 USD, 961,91 ATS i 2.528,75 DEM i na trećoj knjižici 6.660,43 DEM.

822. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

239. Predmet broj CH/99/3228, Hamed VELAGIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

823. Prijava je podnesena Domu 24. novembra 1999. godine i registrovana istog dana.

824. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 18. februara 2005. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 26.252,86 KM.

825. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

240. Predmet broj CH/99/3233, Drago JARANOVIĆ Bosne i Hercegovine

826. Prijava je podnesena Domu 26. novembra 1999. godine i registrovana istog dana.

827. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 2.560,87 DEM.

828. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

241. Predmet broj CH/99/3239, Ljubica JARANOVIĆ protiv Bosne i Hercegovine

829. Prijava je podnesena Domu 29. novembra i registrovana 30. novembra 1999. godine.

830. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 3.526,85 DEM.

831. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

242. Predmet broj CH/99/3240, Petar PETRONIO protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

832. Prijava je podnesena Domu 29. novembra i registrovana 30. novembra 1999. godine.

833. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 14.530,61 DEM.

834. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 21. oktobra 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 14.056,9 KM.

835. Podnosilac prijave navodi da se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

243. Predmet broj CH/99/3242, Novak POTPARA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

836. Prijava je podnesena Domu 29. novembra i registrovana 30. novembra 1999. godine.

837. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 29.797,50 DEM.

838. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

244. Predmet broj CH/99/3243, Sida FINCI-PAPO protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

839. Prijava je podnesena Domu 29. novembra i registrovana 30. novembra 1999. godine.

840. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 29.676,17 DEM.

841. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

245. Predmet broj CH/99/3244, Iso PAPO protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

842. Prijava je podnesena Domu 29. novembra i registrovana 30. novembra 1999. godine.

843. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 5.203,70 DEM.

844. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

246. Predmet broj CH/99/3247, Ismet ALIČKOVIĆ protiv Bosne i Hercegovine

845. Prijava je podnesena Domu 29. novembra i registrovana 30. novembra 1999. godine.

846. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 8. 629,99 DEM i 877,91 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 16. septembra 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 10.160,53 KM. Podnosilac prijave navodi da je njegova devizna štednja konvertirana u KM bez njegovog znanja i saglasnosti i da je pretvorena u certifikate.

847. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

247. Predmet broj CH/99/3251, Savka TEŠIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

848. Prijava je podnesena Domu 30. novembra i registrovana 1. decembra 1999. godine.

849. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 1.612,78 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 25. aprila 1999. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 1.624,60 KM.

850. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

248. Predmet broj CH/99/3253, Ostoja NINIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

851. Prijava je podnesena Domu 30. novembra i registrovana 1. decembra 1999. godine.

852. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 3.973,03 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupno potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 4.019,44 KM.

853. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

249. Predmet broj CH/99/3255, Kenan POROBIĆ protiv Bosne i Hercegovine

854. Prijava je podnesena Domu 30. novembra i registrovana 1. decembra 1999. godine.

855. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 616,12 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 601,54 KM.

856. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

250. Predmet broj CH/99/3260, Kadro ATIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

857. Prijava je podnesena Domu 30. novembra i registrovana 1. decembra 1999. godine.

858. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 6.173,9 DEM i 108,56 (u kopiji devizne knjižice nije označena valuta).

859. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

251. Predmet broj CH/99/3264, Ramiza LJUBOVIĆ protiv Bosne i Hercegovine

860. Prijava je podnesena Domu 1. decembra i registrovana 6. decembra 1999. godine.

861. Podnosilac je polagala sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i kod Jugobanke Sarajevo. Iznos njenih pologa kod Privredne banke je 8.524,17 USD, a kod Jugobanke 3.319,15 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje prema Privrednoj banci Sarajevo iznosi 14.181,07 KM a prema Jugobanci 5.644,80 KM.

862. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

252. Predmet broj CH/99/3265, Ibrahim KORO protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

863. Prijava je podnesena Domu 1. decembra i registrovana 6. decembra 1999. godine.

864. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 4.409,14 DEM.

865. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

253. Predmet broj CH/99/3266, Samija KORO protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

866. Prijava je podnesena Domu 1. decembra i registrovana 6. decembra 1999. godine.

867. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 5.013,7 DEM.

868. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

254. Predmet broj CH/99/3267, Obrad RADLOVIĆ protiv Federacije Bosne i Hercegovine

869. Prijava je podnesena Domu 1. decembra i registrovana 6. decembra 1999. godine.

870. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo i Privredne banke Sarajevo. Čini se da je iznos njegovih pologa kod Jugobanke na jednoj knjižici 255,88 CAD, 34,25 ATS, 106,19 USD, 34,07 DEM i 3,46 ŠFRS dok na druge dvije nije jasno vidljiv. Iznos pologa kod Privredne banke je 3,86 USD i 9,46 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 10. februara 2005. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 2.700,17 KM.

871. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

255. Predmet broj CH/99/3271, Seadeta JANJIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

872. Prijava je podnesena Domu 2. decembra i registrovana 6. decembra 1999. godine.

873. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa na tri knjižice 7.689,16 DEM, 23.332,56 DEM i 19.938,11 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 11. marta 2004. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 33.118,11 KM.

874. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

256. Predmet broj CH/99/3272, Vera ŠUNJIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

875. Prijava je podnesena Domu 2. decembra i registrovana 6. decembra 1999. godine.

876. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 201.210,77 DEM i 13.952,11 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 26. februara 2004. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 206.717,17 KM.

877. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

257. Predmet broj CH/99/3275, Jakub MAHMUTOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

878. Prijava je podnesena Domu 2. decembra i registrovana 6. decembra 1999. godine.

879. Podnosilac prijave navodi da je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 31. avgusta 2004. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 58.181,66 KM.

880. Podnosilac prijave navodi da je pokrenuo postupak "pred domaćim sudom".

258. Predmet broj CH/99/3276, Ferida VRAŽALICA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

881. Prijava je podnesena Domu 3. decembra i registrovana 6. decembra 1999. godine.

882. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 10.160,85 DEM.

883. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

259. Predmet broj CH/99/3277, Sabahudin VRAŽALICA protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

884. Prijava je podnesena Domu 3. decembra i registrovana 6. decembra 1999. godine.

885. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 9.983,44 USD.

886. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

260. Predmet broj CH/99/3281, Salih ALIREJSOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

887. Prijava je podnesena 3. decembra i registrovana 6. decembra 1999. godine.

888. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 4.525,9034 DEM.

889. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

261. Predmet broj CH/99/3282, Reuf BEĆIROVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

890. Prijava je podnesena 3. decembra i registrovana 6. decembra 1999. godine.

891. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 7.147,2825 DEM.

892. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

262. Predmet broj CH/99/3285, Fevzija BEĆIROVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

893. Prijava je podnesena 3. decembra i registrovana 6. decembra 1999. godine.

894. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 980,8047 DEM.

895. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

263. Predmet broj CH/99/3292, Ž.Š. protiv Federacije Bosne i Hercegovine

896. Prijava je podnesena 3. decembra i registrovana 6. decembra 1999. godine.

897. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa 22.718,42 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 18. novembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 23.173,77 KM.

898. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

264. Predmet broj CH/99/3298 Muhamed ATIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

899. Prijava je podnesena 6. decembra i registrovana 7. decembra 1999. godine.

900. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo i kod Tuzlanske banke. Čini se da je ukupan iznos pologa kod Privredne banke 8.630,19 DEM, a kod Tuzlanske banke 902,75 DEM.

901. Podnosilac prijave navodi da mu je 21. jula 1994. godine Privredna banka odobrila isplatu 50 DEM zbog bolesti, ali da poslije toga više nije mogao podići svoj novac.

902. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

265. Predmet broj CH/99/3307, Spomenka ALIREJSOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

903. Prijava je podnesena 8. decembra i registrovana 10. decembra 1999. godine.

904. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Jugobanka je 26. marta 1998. godine izdala izvod sa deviznog štednog računa podnosioca prijave na ukupan iznos od 2.941,9843 DEM, tako što je iznose izražene u USD

konvertovala u DEM. Podnosilac prijave se žali da je banka izvršila konverziju USD u DEM po nepovoljnom kursu zbog čega je u izvodu evidentiran znatno niži iznos njene devizne ušteđevine.

905. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 1. maja 1999. godine, potraživanje podnosioca prijave po osnovu devizne štednje iznosi 2.980,31 KM.

906. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

266. Predmet broj CH/99/3308, Enver ALIREJSOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

907. Prijava je podnesena 8. decembra i registrovana 10. decembra 1999. godine.

908. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Jugobanka je 26. marta 1998. godine izdala izvod sa deviznog štednog računa podnosioca prijave na ukupan iznos od 7.178,3359 DEM, tako što je iznose izražene u USD i CHF konvertovala u DEM. Podnosilac prijave se žali da je znatno oštećen konverzijom USD i CHF u DEM jer je izvršena po nepovoljnom kursu.

909. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 1. maja 1999. godine potraživanje podnosioca prijave po osnovu stare devizne ušteđevine iznosi 7.262,28 KM.

910. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

267. Predmet broj CH/99/3311, Kornelija ĐUMIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

911. Prijava je podnesena 8. decembra i registrovana 10. decembra 1999. godine.

912. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa 13.063,00 DEM i 1.000 USD na VISA čekovima. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 16. septembra 1999. godine, potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 13.166,33 KM.

913. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

268. Predmet broj CH/99/3312, Milan LATINOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

914. Prijava je podnesena 8. decembra i registrovana 10. decembra 1999. godine.

915. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa na jednoj knjižici 10.299,636 DEM i na drugoj knjižici 801,89 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine potraživanje podnosioca prijave po osnovu stare devizne štednje iznosi 11.242,56 KM.

916. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

269. Predmet broj CH/99/3313, Erna LATINOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

917. Prijava je podnesena 8. decembra i registrovana 10. decembra 1999. godine.

918. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 742,0448 DEM na jednoj i 4.672,9323 DEM na drugoj knjižici. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 5.461,91 KM.

919. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

270. Predmet broj CH/99/3315, Marko RODIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

920. Prijava je podnesena 8. decembra i registrovana 10. decembra 1999. godine.

921. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 3.486,08 DEM, 1.256,10 USD, 123,93 GBP i 15,41 CHF.

922. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

271. Predmet broj CH/99/3318, Džemal DAUTOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

923. Prijava je podnesena 8. decembra i registrovana 10. decembra 1999. godine.

924. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Prema izvodu sa Jedinstvenog računa građana Zavoda od 29. aprila 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 21.294,69 KM.

925. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

272. Predmet broj CH/99/3319, Mitar PETKOVIĆ protiv Federacije Bosne i Hercegovine

926. Prijava je podnesena 8. decembra i registrovana 10. decembra 1999. godine.

927. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo i kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa kod Privredne banke 1.799,23 DEM, a kod Jugobanke 4.047,66 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 19. septembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 5.892,60 KM.

928. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

273. Predmet broj CH/99/3320, Snežana PETKOVIĆ protiv Federacije Bosne i Hercegovine

929. Prijava je podnesena 8. decembra i registrovana 10. decembra 1999. godine.

930. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo i kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa kod Privredne banke 3.706,08 DEM, a kod Jugobanke 1.542,87 DEM, 219,78 CHF i 113,66 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 1. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 5.720,80 KM.

931. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

274. Predmet broj CH/99/3321, Milka PETKOVIĆ protiv Federacije Bosne i Hercegovine

932. Prijava je podnesena 8. decembra i registrovana 10. decembra 1999. godine.

933. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa 1.612,42 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 17. septembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 1.628,01 KM.

934. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

275. Predmet broj CH/99/3323, Zlatko LANGOF protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

935. Prijava je podnesena 9. decembra i registrovana 10. decembra 1999. godine.

936. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 23.235,91 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 16. septembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 23.452,09 KM.

937. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

276. Predmet broj CH/99/3324, Goran ŠOŠIĆ protiv Bosne i Hercegovine

938. Prijava je podnesena 9. decembra i registrovana 10. decembra 1999. godine.

939. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 5.020,8083 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 16. septembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 5.110,73 KM.

940. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

277. Predmet broj CH/99/3326, Bencion PINTO protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

941. Prijava je podnesena 9. decembra i registrovana 10. decembra 1999. godine.

942. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo i kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa kod Privredne banke 58.865,14 DEM, a kod Jugobanke 3.101,6207 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 62.852,99 KM.

943. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

278. Predmet broj CH/99/3328, Medin ĆUDIĆ protiv Bosne i Hercegovine

944. Prijava je podnesena 9. decembra i registrovana 10. decembra 1999. godine.

945. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 28.948,15 DEM.

946. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

279. Predmet broj CH/99/3334, Bogomir BARBALIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

947. Prijava je podnesena 10. decembra i registrovana 11. decembra 1999. godine.

948. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je iznos njegovih pologa 10.696,3082 DEM.

949. Podnosilac prijave navodi da je putem Udruženja za zaštitu deviznih štediša Bosne i Hercegovine pokrenuo postupak za povrat stare devizne štednje.

280. Predmet broj CH/99/3335, Idriz ZAHIROVIĆ protiv Federacije Bosne i Hercegovine

950. Prijava je podnesena 2. decembra i registrovana 15. decembra 1999. godine.

951. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa na jednoj knjižici 32.219,90 DEM i na drugoj 4.518,01 DEM.

952. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

281. Predmet broj CH/99/3337, Koviljka PETKOVIĆ protiv Federacije Bosne i Hercegovine

953. Prijava je podnesena 13. decembra i registrovana 15. decembra 1999. godine.

954. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa 1.314,67 DEM i 65,55 CHF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 17. septembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 1.397,89 KM.

955. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje

282. Predmet broj CH/99/3338, Milenko PETKOVIĆ protiv Federacije Bosne i Hercegovine

956. Prijava je podnesena 13. decembra i registrovana 15. decembra 1999. godine.

957. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 13.122,04 DEM i 587,92 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 17. septembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 14.198,00 KM.

958. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

283. Predmet broj CH/99/3340, Ferid MEHANOVIĆ protiv Federacije Bosne i Hercegovine

959. Prijava je podnesena 13. decembra i registrovana 15. decembra 1999. godine.

960. Podnosilac prijave je polagao sredstva u YU dinarima na deviznu štednu knjižicu kod Poštanske štedionice Tuzla. Čini se da je ukupan iznos njegovih pologa 40.346,20 YU dinara.

961. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

284. Predmet broj CH/99/3344, D.P. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

962. Prijava je podnesena 13. decembra i registrovana 15. decembra 1999. godine.

963. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je iznos njenih pologa na jednoj knjižici 44.197,9134 DEM i na drugoj 6,369,3111 DEM.

964. Podnosilac prijave navodi da je dio svoje devizne štednje iskoristila u procesu privatizacije za otkup stana, tako da je preostali dio devizne štednje u iznosu od 14.855,69 DEM ostao neiskorišten.

965. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 19. novembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 14.855,69 KM.

966. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

285. Predmet broj CH/99/3347, Sead TUZLIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

967. Prijava je podnesena 14. decembra i registrovana 15. decembra 1999. godine.

968. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovog pologa 10.945,2994 DEM na jednoj knjižici i na drugoj 1.545,8981 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 26. novembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 12.664,11 KM.

969. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

286. Predmet broj CH/99/3348, Razija KOSOVAC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

970. Prijava je podnesena Domu 14. decembra i registrovana 15. decembra 1999. godine.

971. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njenih pologa 2.988,62 DEM, 2.450,22 FRF, 32,17 CHF, 26,90 ATS i 55,81 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 3.842,03 KM.

972. Podnosilac prijave navodi da je kao član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine podnijela tužbu Evropskom sudu za zaštitu ljudskih prava u Strazburu.

287. Predmet broj CH/99/3349, Rijad KOSOVAC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

973. Prijava je podnesena Domu 14. decembra i registrovana 15. decembra 1999. godine.

974. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 2.588,62 DEM, 2.450,22 FRF, 32,17 CHF,

26,90 ATS i 55,81 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 3.442,03 KM.

975. Podnosilac prijave navodi da je kao član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine podnio tužbu Evropskom sudu za zaštitu ljudskih prava u Strazburu.

288. Predmet broj CH/99/3350, Ivica KORDIĆ protiv Federacije Bosne i Hercegovine

976. Prijava je podnesena Domu 14. decembra i registrovana 15. decembra 1999. godine.

977. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 3.847,02 DEM, 0,44 FRF, 17,19 ITL, 201,55 CHF, i 2.068,03 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 7.539,92 KM.

978. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

289. Predmet broj CH/99/3351, Vida Marija KORDIĆ protiv Federacije Bosne i Hercegovine

979. Prijava je podnesena Domu 14. decembra i registrovana 15. decembra 1999. godine.

980. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 13.276,84 DEM, 36.664,31 ITL, i 345,46 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 13.997,99 KM.

981. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

290. Predmet broj CH/99/3358, Marko ŠKORIĆ protiv Bosne i Hercegovine

982. Prijava je podnesena Domu 15. decembra i registrovana 16. decembra 1999. godine.

983. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa na jednoj knjižici 4.630,51 USD, a na drugoj 8.265,63 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 29. avgusta 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 21.461,4 KM.

984. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

291. Predmet broj CH/99/3364, Mediha KALEM protiv Bosne i Hercegovine

985. Prijava je podnesena Domu 16. decembra i registrovana 17. decembra 1999. godine.

986. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 21.482,48 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 11. maja 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 21.772,71 KM.

987. Podnosilac prijave navodi da je kao član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine podnijela tužbu Evropskom sudu za zaštitu ljudskih prava u Strazburu.

292. Predmet broj CH/99/3377, Žarko DAMJANAC protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

988. Prijava je podnesena Domu 21. decembra 1999. godine i registrovana istog dana.

989. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 5.800 DEM i 1.540,83 CHF.

990. Podnosilac prijave navodi da je kao član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine podnio tužbu Evropskom sudu za zaštitu ljudskih prava u Strazburu.

293. Predmet broj CH/99/3379, Anto STJEPIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

991. Prijava je podnesena Domu 21. decembra 1999. godine i registrovana istog dana.

992. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 485.180,59 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 15. maja 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 485.180,6 KM.

993. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

294. Predmet broj CH/99/3380, Mika SOFIJANOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

994. Prijava je podnesena Domu 21. decembra 1999. godine i registrovana istog dana.

995. Predmet prijave je zahtjev podnosioca prijave za povrat devizne štednje njenog umrlog supruga S.S.

996. S.S. je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 9.627,77 DEM.

997. Rješenjem Osnovnog suda I u Sarajevu broj: 0:970/95, od 21. novembra 1995. godine, podnosilac prijave i njena kćerka S.S. se proglašavaju nasljednicima prvog nasljednog reda, iza smrti S.S, sa nasljedničkim dijelom od po 1/2.

998. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 4.851,05 KM.

999. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

295. Predmet broj CH/99/3381, Ante LOZANČIĆ protiv Federacije Bosne i Hercegovine

1000. Prijava je podnesena Domu 22. decembra 1999. godine i registrovana istog dana.

1001. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 4.735, 77 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 7. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 7.915,92 KM.

1002. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

296. Predmet broj CH/99/3382, Matilda FINCI protiv Bosne i Hercegovine

1003. Prijava je podnesena Domu 22. decembra 1999. godine i registrovana istog dana.

1004. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 3.599,59 DEM, 6.381,59 ATS, 78,83 DKR, 5.725,63 FRF, 5.429,25 SKR, 1.471,50 CHF, 141,69 GBP i 1.975,95 USD.

1005. Podnosilac prijave navodi da je kao član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine podnijela tužbu Evropskom sudu za zaštitu ljudskih prava u Strazburu.

297. Predmet broj CH/99/3383, Erna ESTER-FINCI protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

1006. Prijava je podnesena Domu 22. decembra 1999. godine i registrovana istog dana.

1007. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 18.049,72 DEM, 4.072,93 SFRS, 18.134,38 ATS, 1.436,56 SKR, 384.289,68 LIT i 2.668,18 USD.

1008. M.F, kćerka podnosioca prijave, je 9. februara 2005. godine obavijestila Komisiju da je podnosilac prijave umrla, te da ona kao njena zakonska nasljednica želi da nastavi postupak pred Komisijom. U prilogu pisma je dostavila rješenje o nasljeđivanju Općinskog suda u Sarajevu broj: O-2090/04, od 16. juna 2004. godine, kojim se ona proglašava zakonskom nasljednicom prvog nasljednog reda, iza smrti podnosioca prijave, sa dijelom 1/2.

1009. Podnosilac prijave je bila član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine.

298. Predmet broj CH/99/3386, Anka ŽIGIĆ protiv Bosne i Hercegovine

1010. Prijava je podnesena Domu 22. decembra 1999. godine i registrovana istog dana.

1011. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 30,22 DEM i 8.674,46 USD.

1012. Podnosilac prijave navodi da je kao član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine podnijela tužbu Evropskom sudu za zaštitu ljudskih prava u Strazburu.

299. Predmet broj CH/99/3400, Huskić HUSO protiv Bosne i Hercegovine

1013. Prijava je podnesena Domu 22. decembra 1999. godine i registrovana istog dana.

1014. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 5.244,40 CHF. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 1. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 8.865,89 KM.

1015. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

300. Predmet broj CH/99/3421, M.M. protiv Federacije Bosne i Hercegovine

1016. Prijava je podnesena Domu 27. decembra i registrovana 28. decembra 1999. godine.

1017. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 4.302,07 DEM. Prema izvodu sa

Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 4.339,16 KM.

1018. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

301. Predmet broj CH/99/3422, A.M. protiv Federacije Bosne i Hercegovine

1019. Prijava je podnesena Domu 27. decembra i registrovana 28. decembra 1999. godine.

1020. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 4.598,88 DEM i 417,27 ATS. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 4.579,33 KM.

1021. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

302. Predmet broj CH/99/3424, Mustafa AHMETBAŠIĆ protiv Bosne i Hercegovine

1022. Prijava je podnesena Domu 27. decembra i registrovana 28. decembra 1999. godine.

1023. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je ukupan iznos njegovih pologa 1.000 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 13. decembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 1.664,26 KM.

1024. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

303. Predmet broj CH/99/3428, Bahrudin BIJEDIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

1025. Prijava je podnesena Domu 28. decembra i registrovana 30. decembra 1999. godine.

1026. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 21.501,68 USD. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 9. februara 2005. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 34.977,70 KM.

1027. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

304. Predmet broj CH/99/3432, Zdenka MIŠKOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

1028. Prijava je podnesena Domu 29. decembra i registrovana 30. decembra 1999. godine.

1029. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 13.751,75 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 15. marta 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 13.855 KM.

1030. Podnosilac prijave navodi da je kao član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine podnijela tužbu Evropskom sudu za zaštitu ljudskih prava u Strazburu.

305. Predmet broj CH/99/3434, Vera VERBIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

1031. Prijava je podnesena Domu 29. decembra i registrovana 30. decembra 1999. godine.

1032. Podnosilac prijave je polagala sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa 2. 339,46 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 12. februara 1998. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 2.676,47 KM.

1033. Podnosilac prijave se nije obraćala ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

306. Predmet broj CH/99/3435, Branislav VERBIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

1034. Prijava je podnesena Domu 29. decembra i registrovana 30. decembra 1999. godine.

1035. Podnosilac prijave je polagao sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa na jednoj knjižici 9.332,01 DEM, na drugoj 1.347,08 DEM i na trećoj knjižici 2.545,81 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 10. februara 1998. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 14.448,27 KM.

1036. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

307. Predmet broj CH/99/3436, Perica JANJIĆ protiv Bosne i Hercegovine

1037. Prijava je podnesena Domu 29. decembra i registrovana 30. decembra 1999. godine.

1038. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 15.353,69 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 14. marta 1998. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 15.634,16 KM.

1039. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

308. Predmet broj CH/99/3439, Maja FULANOVIĆ protiv Bosne i Hercegovine

1040. Prijava je podnesena Domu 29. decembra i registrovana 30. decembra 1999. godine.

1041. Podnosilac prijave je polagala sredstva na devizne štedne knjižice kod Jugobanke Sarajevo. Čini se da je ukupan iznos njenih pologa na jednoj knjižici 3.738,52 DEM, a na drugoj 3.185,40 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 3. maja 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 7.014,8 KM.

1042. Podnosilac prijave navodi da je kao član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine podnijela tužbu Evropskom sudu za zaštitu ljudskih prava u Strazburu.

309. Predmet broj CH/99/3442, Stjepan IVAKOVIĆ protiv Federacije Bosne i Hercegovine

1043. Prijava je podnesena Domu 29. decembra i registrovana 30. decembra 1999. godine.

1044. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Privredne banke Sarajevo. Čini se da je iznos njegovih pologa bio 47.162,26 DEM.

1045. Podnosilac prijave je 10. februara 2005. godine dostavio pismo Komisiji sa dodatnim informacijama. Navodi da je dio svoje devizne štednje u iznosu od 11,218,00 KM iskoristio u procesu privatizacije za otkup stana.

1046. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 24. novembra 1999. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 36.298,77 KM.

1047. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

310. Predmet broj CH/99/3447, Milorad M. BAŠIĆ protiv Bosne i Hercegovine

1048. Prijava je podnesena Domu 29. decembra i registrovana 30. decembra 1999. godine.

1049. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 17.702,18 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 4. februara 1998. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 17.702,18 KM.

1050. Podnosilac prijave navodi da je kao član Udruženja za zaštitu deviznih štediša Bosne i Hercegovine podnio tužbu Evropskom sudu za zaštitu ljudskih prava u Strazburu.

311. Predmet broj CH/99/3448, Husein JESENKOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine

1051. Prijava je podnesena Domu 30. decembra 1999. godine i registrovana istog dana.

1052. Podnosilac prijave je polagao sredstva na deviznu štednu knjižicu kod Jugobanke Sarajevo. Čini se da je ukupan iznos njegovih pologa 1.308,5864 DEM. Prema izvodu sa Jedinstvenog računa građana Zavoda, od 13. marta 2000. godine, ukupan iznos potraživanja podnosioca prijave po osnovu stare devizne štednje je 1.325,97 KM.

1053. Podnosilac prijave se nije obraćao ni domaćim ni međunarodnim institucijama radi rješavanja potraživanja stare devizne štednje.

B. Usmeni i pismeni nalaz i mišljenje vještaka prof. dr. Dragoljuba Stojanova, iz odluke *Poropat i drugi.*

1054. S obzirom na značaj u rješavanju predmeta, Komisija ponavlja stav Dragoljuba Stojanova, profesora na Ekonomskom fakultetu Univerziteta u Sarajevu, u predmetu *Poropat i drugi*. Profesor dr. Stojanov je u periodu od 1993. do 1994. godine bio član Vlade Republike Bosne i Hercegovine, a u periodu od 1996. do 1997. godine i član Vlade Federacije Bosne i Hercegovine. U vrijeme donošenje odluke *Poropat i drugi,* Dom je imenovao prof. dr. Stojanova za vještaka, koji je podnio 8. oktobra 1999. godine pismeno mišljenje. Na javnoj raspravi od 7. decembra 1999. godine, prof. dr. Stojanov je saslušan u svojstvu vještaka.

(a) Pismeno mišljenje

1055. Gosp. Stojanov je potvrdio da je interes naroda u SFRJ da ulažu novac na devizne štedne račune – za koji je vlada nudila garancije – bio potican stalnim padom vrijednosti dinara. Vlada je pokušala da stabilizira državnu ekonomiju i tokom godina – posebno 1991. godine – pravo raspolaganja tom ušteđevinom bilo je znatno ograničeno i limitirano na male iznose. Međutim, štednja nije u potpunosti zamrznuta. Od 1990. godine bilo je moguće ulagati i raspolagati sa takozvanom "novom" deviznom štednjom bez ograničenja.

1056. Komercijalne banke u jugoslovenskim republikama deponovale su svoje devize kod Narodne banke Jugoslavije na dobrovoljnoj bazi i po osnovu ugovora. Za uzvrat su im davani

beskamatni krediti u dinarima koje su oni onda mogli, uz kamatu, pozajmljivati svojim klijentima. Kamate ostvarene na taj način bile su svakako veće od profita koje bi banke mogle ostvariti da su deponovale devize na račune u inostranstvu. Banke su koristile svoje dinarske kredite na teritoriji odgovarajućih republika uz direktno znanje i uključenost narodne banke republike, koja je *de facto* obezbjeđivala kredite iz svoje kvote deviza kod Narodne banke Jugoslavije. Ovo deponovanje deviza kod Narodne banke bilo je inače samo *pro forma* ili knjigovodstvena transakcija. Tako je veliki dio deviza ostao kod komercijalnih banaka. Gosp. Stojanov nije znao šta se desilo sa tim novcem nakon što je Republika Bosna i Hercegovina postala nezavisna.

1057. Gosp. Stojanov je bio mišljenja da komercijalne banke u Federaciji imaju obaveze prema privatnim licima koja su uložila novac na stare devizne štedne račune. Osim toga, usvajanjem zakona koji se odnose na ovu štednju Republika Bosna i Hercegovina, Bosna i Hercegovina i Federacija Bosne i Hercegovine su također preuzele obaveze prema štedišama. Međutim, s obzirom na iznos neisplaćene stare devizne štednje – koji iznosi oko 1,8 milijardi KM (konvertibilnih maraka) u bankama Federacije – ni Federacija Bosne i Hercegovine, niti Država Bosna i Hercegovina nemaju ekonomski potencijal da isplate staru štednju štedišama. Takođe, zbog nedostatka sredstava i postojanja drugih obaveza, banke bi bankrotirale ako bi bile obavezne da isplate staru štednju. Unatoč tome, bilo bi nemoguće stornirati zahtjeve ulagača pošto bi nepovjerenje u bankarski sistem, koje bi rezultiralo, imalo ozbiljne posljedice na ukupnu domaću privredu.

1058. Međutim, rješenje koje je odabrano za stare devizne štedne račune, odnosno njihovo pretvaranje u certifikate koji bi se koristili u postupku privatizacije, postavlja nekoliko problema: time se sigurna štednja, koja je uživala povjerenje javnosti, pretvara u oblike imovine – prvo certifikate, a onda možda dionice preduzeća - čija je vrijednost nesigurna, a građani se tako prisiljavaju da postanu investitori, bez obzira da li to žele ili ne. Isto tako, ljudi bez stanarskog prava neće moći kupiti stan po sadašnjim pravilima. Dalje, oni koji su u položaju da kupe stan certifikatima neće uživati popust koji se daje onima koji plaćaju gotovinom. Ovo pokazuje da se certifikati ne tretiraju kao jednaka sredstva plaćanja u odnosu na gotovinski novac. Ograničena dvogodišnja vrijednost certifikata postavlja novi problem. S obzirom na ove i druge poteškoće i razočaravajuće rezultate sličnih programa u drugim državama u tranziciji – na primjer u Sloveniji, gdje jednostavno ne postoji nikakvo tržište na kom se certifikati mogu investirati – gosp. Stojanov smatra da je vjerovatno da imaoci certifikata neće biti u stanju da realizuju njihovu nominalnu vrijednost. Mnogi ljudi će prije prodati svoje certifikate na sekundarnom tržištu po krajnje smanjenoj cijeni.

1059. Gosp. Stojanov je zaključio da bi bilo mnogo bolje usvojiti kombinovane metode rješavanja problema deviznih štednih računa. On je sugerisao da bi svaki štediša trebao imati pravo da pretvori, po svojoj slobodnoj volji, dio svoje ušteđevine u privatizacijske certifikate. Ostatak bi trebao biti zadržan u svom starom obliku, tj. na starim računima, i mogao bi biti pokriven javnim dugom Federacije Bosne i Hercegovine. Nadalje, napominjući da u Federaciji postoji oko 470.000 štediša čiji su pojedinačni devizni ulozi 200 KM ili manje, te da ukupan iznos ovih depozita odgovara sumi od 25 miliona KM, on smatra da bi ovu "malu" štednju Federacija trebala isplatiti ulagačima. S obzirom na konvertibilnost, trebalo bi prihvatiti plaćanje u KM. Po mišljenju gosp. Stojanova, ove metode bi pomogle da se povrati povjerenje u bankarski sistem i javne institucije.

(b) Dokazi dati na javnoj raspravi

1060. U Kantonalnom sudu u Sarajevu je 7. decembra 1999. godine održana dodatna javna rasprava u predmetima *Poropat i drugi,* na kojoj je svoj nalaz i mišljenje dao i prof. dr. Stojanov. Tom prilikom, prof. dr. Stojanov je ustvrdio da se pitanje deviznih štednih računa mora rješavati zajedno sa pitanjima koja se odnose na restituciju društvene imovine, vanjski dug Bosne i Hercegovine i ekonomski razvoj zemlje. Ovako usklađeno djelovanje je neophodno pošto rješenje izabrano za jedan od problema može uticati na druge.

1061. On je dalje naveo da rizik da banke bankrotiraju ne bi bio jedini problem ako bi one morale isplatiti novac deviznim štedišama. Ako bi se isplate morale izvršiti u devizama, to bi moglo izazvati značajnu nesolventnost, a moglo bi narušiti i funkcionisanje Valutnog odbora u Bosni i Hercegovini. U svakom slučaju, dalje je teško procijeniti do koje će mjere svoja potraživanja pojedinačne štediše moći realizovati kod banaka u stečajnom postupku. Završni računi banaka često bilježe nominalnu vrijednost sredstava i potraživanja prema preduzećima. Ne može se predvidjeti da li bi se takva potraživanja banaka kod dužnika mogla realizovati i šta bi se moglo dobiti prodajom imovine banke.

1062. Gosp. Stojanov je izrazio znatnu bojazan kad je u pitanju izabrani obrazac privatizacije. Iskustva drugih zemalja u tranziciji i mišljenja brojnih stručnjaka ukazuju da će tranzicija u Bosni i Hercegovini biti težak, dugoročan proces. Problematična politička situacija u zemlji i opći posljeratni uslovi će takođe vjerovatno odložiti i komplikovati taj proces. Dalje, vrijednost privatizacijskih certifikata i raspoložive imovine u postupku privatizacije zavisi, u velikoj mjeri, od ekonomskog razvoja zemlje. Razne institucije i eksperti daju kontradiktorna predviđanja u tom pogledu. Dok Svjetska banka predviđa porast stope ukupnog društvenog prihoda od 14 posto u 2000. i 2001. godini, druge procjene predviđaju spori rast, ili čak pad ukupnog društvenog prihoda. Drugi faktor, koji utiče na vrijednost certifikata i imovine, je povjerenje javnosti. Činjenica da se certifikati prodaju na sekundarnom tržištu po veoma niskim cijenama pokazuje da ljudi ne vjeruju u taj sistem. Iz ovih razloga veoma je teško predvidjeti tržišnu vrijednost imovine koja se sada nudi ili koja će se nuditi u postupku privatizacije. U vezi sa izjavom drugog svjedoka u postupku Poropat i drugi, nominalna vrijednost ove imovine iznosi 26 milijardi DEM, a gosp. Stojanov je naglasio da ne treba miješati nominalnu i stvarnu vrijednost. Stvarna vrijednost, tj. tržišna vrijednost, će se otkriti tek u postupku privatizacije.

IV. RELEVANTNE ZAKONSKE ODREDBE

1063. Zbog rastuće nestašice deviznih sredstava i drugih ekonomskih problema u bivšoj SFRJ, podizanje novca sa starih deviznih štednih računa je bilo strogo ograničeno zakonima koji su doneseni tokom 1980-tih i početkom 1990-tih godina. Poslije oružanog sukoba u Bosni i Hercegovini, bilo je pokušaja da se kroz legislativu privatizacije riješi nedostupnost stare devizne štednje. Međutim, nakon što su pokušaji ostvarenja potraživanja po osnovu stare devizne štednje u procesu privatizacije ostali uglavnom bezuspješni, Federacija Bosne i Hercegovine je usvojila novi zakon na osnovu kojeg stara devizna štednja postaje dio unutrašnjeg duga Federacije Bosne i Hercegovine.

A. Zakoni Republike Bosne i Hercegovine i Bosne i Hercegovine

1064. Dana 11. aprila 1992. godine, nakon sticanja nezavisnosti Republike Bosne i Hercegovine, usvojena je **Uredba sa zakonskom snagom o deviznom poslovanju** iz 1992. godine ("Službeni list Republike Bosne i Hercegovine", broj 2/92). Relevantnim odredbama ove Uredbe predviđeno je sljedeće:

Član 9, u relevantnom dijelu, glasi:

> 3. Za devize na deviznim računima i deviznim štednim ulozima jamči Republika.

1065. Uredba iz 1992. godine je kasnije zamijenjena **Uredbom sa zakonskom snagom o deviznom poslovanju** iz 1994. godine ("Službeni list Republike Bosne i Hercegovine", broj 10/94; kasnije usvojena kao zakon, "Službeni list Republike Bosne i Hercegovine", broj 13/94).

Sljedeće odredbe Uredbe iz 1994. godine su relevantne:

Član 3:

> Devize se mogu koristiti samo za plaćanje prema inozemstvu osim ako ovom uredbom nije drugačije određeno.

Član 12:

> Domaća i strana fizička lica mogu devize držati na računu kod banke i slobodno ih koristiti.

Član 44:

> Devizne rezerve čine potraživanja na računima u inostranstvu, efektivni strani novac i vrijednosni papiri izdati u inozemstvu [deponovani] kod Narodne banke [Bosne i Hercegovine] i [ovlaštenih] banaka.

1066. **Odluka o ciljevima i zadacima monetarno kreditne politike**, objavljena je 9. aprila 1995. godine ("Službeni list Republike Bosne i Hercegovine", broj 11/95). Tačka 12. Odluke glasi:

> Deponovana devizna štednja građana trajno će se riješiti donošenjem zakona o javnom dugu Republike do kraja prvog polugodišta 1995. godine.

1067. Ova Odluka je kasnije izmijenjena i dopunjena sa stupanjem na snagu 2. juna 1995. godine ("Službeni list Republike Bosne i Hercegovine", broj 19/95). Izmijenjena i dopunjena tačka 12. predviđa da treba donijeti zakon o javnom dugu prije kraja septembra 1995. godine. Dalje se dodaje da, do donošenja tog zakona, Narodna banka Bosne i Hercegovine može, uz saglasnost Ministarstva finansija, isplaćivati deviznu štednju u odgovarajućem iznosu u dinarima pripadnicima Armije Republike Bosne i Hercegovine za pokrivanje troškova njihovog liječenja i liječenja članova njihovih porodica.

1068. **Odluka o ciljevima i zadacima devizne politike** donijeta je 10. aprila 1996. godine ("Službeni list Republike Bosne i Hercegovine", broj 13/96). Potvrđujući uglavnom Odluku iz 1995. godine, tačka 7. Odluke iz 1996. godine predviđala je bez posebnog određivanja datuma slijedeće:

> Devizna štednja građana deponovana kod bivše Narodne banke Jugoslavije zajedno sa kamatama na ovu štednju, rješavaće se donošenjem zakona o javnom dugu Bosne i Hercegovine, ili na drugi način u sklopu ukupne konsolidacije duga Bosne i Hercegovine zajedno sa međunarodnom zajednicom.

1069. Visoki predstavnik u Bosni i Hercegovini donio je 22. jula 1998. godine **Okvirni zakon o privatizaciji preduzeća i banaka u Bosni i Hercegovini**. On je stupio na snagu sljedećeg dana kao privremeni zakon ("Službeni list Bosne i Hercegovine", broj 14/98). Konačno, Parlamentarna skupština Bosne i Hercegovine ga je usvojila 19. jula 1999. godine ("Službeni list Bosne i Hercegovine", broj 12/99).

B. Odluka o ratifikaciji sporazuma o pitanjima sukcesije Socijalističke Federativne Republike Jugoslavije ("Službeni glasnik BiH", br. 10/01)

1070. U sporazumu o sukcesiji SFRJ, Aneks C, u relevantnom dijelu, predviđa sljedeće:

Član 2, stav 3.

> […]
>
> Ostala finansijska dugovanja (SFRJ) uključuju:
>
> (a) jamstva SFRJ ili njene narodne banke Jugoslavije za štednju u čvrstoj valuti položenu kod komercijalnih banaka ili njihovih filijala u bilo kojoj državi sljednici prije datuma kojeg je ona proglasila neovisnost;
>
> […]

Član 7.

> Jamstva bivše SFRJ ili njene NBJ za štednju čvrste valute položenu kod komercijalne banke ili neke od njenih filijala u bilo kojoj državi sljednici prije datuma kada je ta država proglasila neovisnost predmet se pregovara bez odlaganja, vodeći naročito računa o potrebi zaštite štednje čvrste valute pojedinaca. Ovi pregovori će se odvijati pod pokroviteljstvom Banke za međunarodna poravnanja.

C. Zakoni Federacije Bosne i Hercegovine o privatizaciji i izmjene i dopune

1071. Osnovne pravne odredbe kojima se omogućava prenos stare devizne štednje na Jedinstveni račun građana radi korištenja u procesu privatizacije sadržane su u članovima 3, 7, 11. i 18. **Zakona o utvrđivanju i realizaciji potraživanja građana u postupku privatizacije** (u daljnjem tekstu: Zakon o potraživanjima građana), koji je stupio na snagu 28. novembra 1997. godine, a počeo se primjenjivati 27. februara 1998. godine, sa izmjenama i dopunama od 5. marta 1999. godine ("Službene novine Federacije Bosne i Hercegovine", br. 27/97 i 8/99). Ti članovi su propisivali:

Član 3:

> Lice koje ima deviznu štednju u bankama ili poslovnim jedinicama sa sjedištem na teritoriji Federacije Bosne i Hercegovine iznad 100 KM, a bilo je državljanin bivše Socijalističke Republike Bosne i Hercegovine i na dan 31. marta 1991. godine imalo prebivalište na teritoriji koja sada pripada Federaciji Bosne i Hercegovine stiče potraživanja prema Federaciji sa stanjem na dan 31. marta 1992. godine.

> Realizacija potraživanja građana koji su na dan 31. marta 1991. godine imali državljanstvo bivše Socijalističke Republike Bosne i Hercegovine, a koji nemaju prebivalište na teritoriji Federacije, kao i drugih lica, koja imaju devizna potraživanja u bankama na teritoriji Federacije, u smislu ovog zakona, uredit će se posebnim propisom.
>
> Licima iz stava 1. ovog člana s deviznom štednjom do 100 DEM banke će na njihov zahtjev isplatiti iznos štednje.
>
> Potraživanja iz stava 3. ovog člana su isplativa nakon isteka perioda od tri mjeseca od dana primjene ovog Zakona.

Član 7:

> Potraživanja iz člana 3. ovog zakona banka prenosi na Jedinstveni račun štediše.
>
> Način prenosa potraživanja građana … čiji se računi vode u bankama kod kojih su organizacione jedinice na teritoriji Federacije prestale s radom, uredit će se posebnim propisom Federalnog ministarstva finansija.

Član 11:

> Otvaranje Jedinstvenih računa vrši se po službenoj dužnosti na osnovu Jedinstvenog matičnog broja građana-nosilaca potraživanja iz ovog zakona.
>
> Jedinstveni račun predstavlja certifikat građanina.

Član 18:

> Potraživanja sa Jedinstvenog računa mogu se koristiti u postupku privatizacije u roku od dvije godine od dana izdavanja izvoda sa Jedinstvenog računa, a nakon upisa potraživanja po pojedinim vrstama.
>
> Istekom roka iz stava 1. ovog člana, potraživanja na Jedinstvenom računu se gase.

1072. Nakon odluke Doma u predmetu *Poropat i drugi* u junu 2000. godine, Federacija je donijela razne izmjene i dopune ovih odredbi.

1073. **Zakon o izmjenama i dopunama Zakona o utvrđivanju i realizaciji potraživanja građana u procesu privatizacije** ("Službene novine Federacije Bosne i Hercegovine", broj 45/00) stupio je na snagu 2. novembra 2000. godine. Ovim Zakonom član 18. je izmijenjen i dopunjen na taj način da je nosiocu stanarskog prava iz člana 8a.[1] Zakona o prodaji stanova na kojima postoji stanarsko pravo omogućeno da može koristiti svoja potraživanja sa Jedinstvenog računa građana u roku od tri mjeseca od dana ovjere potpisa na ugovoru o kupovini pred nadležnim sudom. Izmjenama i dopunama je dodat treći stav u članu 18, koji predviđa:

> Izuzetno od odredbe st. 1. i 2. ovog člana nosioci stanarskog prava iz člana 8a. Zakona o prodaji stanova na kojima postoji stanarsko pravo ("Službene novine Federacije BiH", br. 27/97, 11/98, 22/99 i 7/00) mogu koristiti potraživanja sa Jedinstvenog računa u roku od tri mjeseca od dana ovjere potpisa na kupoprodajnom ugovoru kod nadležnog suda.

1074. Dodatne izmjene i dopune stava 1. člana 18. su stupile na snagu 8. februara 2002. godine. Tim izmjenama i dopunama opći rok za korištenje certifikata izmijenjen je sa dvije godine na četiri godine, tako da cijeli član, sa izmjenama i dopunama, glasi:

[1] Navedenim članom 8a. je regulisana kupovina napuštenih stanova od strane nosilaca stanarskih prava.

Član 18.

> Potraživanja sa Jedinstvenih računa građana mogu se upotrijebiti u procesu privatizacije u roku od četiri godine od dana izdavanja izvoda sa Jedinstvenog računa građana, nakon registracije svakog pojedinog potraživanja.
>
> Po isteku roka navedenog u stavu 1. ovog člana, potraživanja sa Jedinstvenih računa se gase.
>
> Izuzetno od odredbi stavova 1. i 2. ovog člana, nosioci stanarskog prava iz člana 8a. Zakona o prodaji stanova na kojima postoji stanarsko pravo ("Službene novine Federacije Bosne i Hercegovine", br. 27/97, 11/98, 22/99 i 7/00) mogu koristiti potraživanja sa Jedinstvenog računa u roku od tri mjeseca od dana ovjere potpisa sa kupoprodajnim ugovorom kod nadležnog suda.

1075. Pored ovih izmjena Zakona o potraživanjima građana, Federacija je donijela dodatne izmjene i dopune procesa privatizacije kako bi ublažila položaj vlasnika stare devizne štednje. **Zakon o izmjenama i dopunama Zakona o privatizaciji preduzeća** ("Službene novine Federacije Bosne i Hercegovine", br. 45/00) je stupio na snagu 2. novembra 2000. godine. Ovim Zakonom je izmijenjen i dopunjen član 28. kako bi se certifikati po osnovu stare devizne štednje izjednačili sa gotovinom. Starom verzijom je propisano:

> Prodaja iz člana 26.[2] ovog zakona vrši se uz obavezno plaćanje u novcu najmanje 35 posto ugovorene prodajne cijene.
>
> Za svaki iznos plaćen u novcu preko 35% može se odobriti popust od 8%.

Novom verzijom je propisano:

> Prodaja iz člana 26. ovog zakona vrši se uz obavezno plaćanje u novcu ili certifikatima iz temelja stare devizne štednje najmanje 35 posto ugovorene prodajne cijene.
>
> Za svaki iznos plaćen u novcu ili ceritifikatom po osnovu stare devizne štednje preko 35% može se odobriti popust od 8%.

1076. **Zakonom o izmjenama i dopunama Zakona o privatizaciji preduzeća** ("Službene novine Federacije Bosne i Hercegovine", broj 61/01) izmijenjen je član 27. stav 1. Starom verzijom je propisano:

> Mala privatizacija u smislu člana 26. ovog zakona provodi se javnom prodajom, koju je preduzeće dužno pripremiti i prijaviti nadležnoj agenciji (za privatizaciju) u roku od 12 mjeseci od dana početka primjene ovog zakona.

Novom verzijom je propisano:

> Mala privatizacija u smislu člana 26. ovog zakona provodi se javnom prodajom, koju je preduzeće dužno pripremiti i prijaviti nadležnoj agenciji (za privatizaciju) u roku koji odredi Agencija Federacije, i u roku važenja potraživanja građana iz Zakona o utvrđivanju i realizaciji potraživanja građana u postupku privatizacije (certifikati itd).

1077. **Zakon o izmjenama i dopunama Zakona o prodaji stanova na kojima postoji stanarsko pravo** stupio je na snagu 8. januara 2002. godine (nakon datuma odluke Ustavnog suda Federacije). Novi član 24. tog zakona je izjednačio certifikate iz osnova stare devizne štednje sa novcem. Starom verzijom je propisano:

[2] Navedenim članom 26. regulisana je prodaja preduzeća u procesu male privatizacije.

> Plaćanje otkupne cijene stana vrši se jednim od platežnih sredstava i to:
>
> a) gotovinom
>
> b) certifikatima na temelju tražbine građana, a koji su utvrđeni posebnim propisima
>
> Kada se plaćanje vrši novcem cijena stana se umanjuje za 20% utvrđene otkupne cijene.

Novom verzijom je propisano:

> Plaćanje otkupne cijene stana vrši se jednim od platežnih sredstava i to:
>
> a) novcem
>
> b) certifikatima na temelju tražbine građana, a koji su utvrđeni posebnim propisima.
>
> Kada se plaćanje vrši novcem ili certifikatom iz osnova stare devizne štednje cijena stana se umanjuje za 20% utvrđene otkupne cijene.

1078. U pismu Domu za ljudska prava od 8. decembra 2000. godine, u vezi sa implementacijom odluke *Poropat i drugi*, Federacija navodi da ona, "preko nadležnih Ministarstava i agencija, vodi aktivnosti informisanja građana o važnosti posjeta bankama kako bi dali Jedinstveni matični broj s ciljem da omoguće prenos svoje stare devizne štednje na Jedinstveni račun građana i izdavanje certifikata kojim bi im omogućila da učestvuju u procesu privatizacije koji je u postupku jer nema drugog načina na koji bi građani Bosne i Hercegovine – imaoci stare devizne štednje, realizovali svoja potraživanja po tom osnovu na bilo koji drugi način osim putem procesa privatizacije.“

1079. Federacija Bosne i Hercegovine je **Zakonom o izmjenama i dopunama Zakona o potraživanju građana** ("Službene novine Federacije Bosne i Hercegovine", broj 57/03) izmijenila član 7. koji je glasio:

> Potraživanja iz člana 3. ovog zakona banka prenosi na Jedinstveni račun štediše.

Novom verzijom je propisano:

> Potraživanja iz člana 3. ovog zakona banka, na zahtjev štediše koji se podnosi u roku do šest mjeseci od dana usvajanja ovog zakona, prenosi na Jedinstveni račun štediše.

Također, izmijenjen je i član 11. koji je glasio:

> Otvaranje Jedinstvenih računa vrši se po službenoj dužnosti na osnovu matičnog broja građana-nosilaca potraživanja iz ovog zakona.

Novom verzijom je propisano:

> Otvaranje Jedinstvenih računa vrši se po službenoj dužnosti na osnovu matičnog broja građana-nosilaca potraživanja iz ovog zakona, a otvaranje Jedinstvenog računa po osnovu stare devizne štednje vrši se na zahtjev štediše.

1080. Također, došlo je do izmjene i člana 18. koji se odnosio na rok upotrebe certifikata u procesu privatizacije, u smislu da je rok od 4 godine produžen na 6 godina, tako da član 18. sa izmjenama sada glasi:

Potraživanja sa Jedinstvenog računa mogu se koristiti u postupku privatizacije u roku od šest godina od dana izdavanja izvoda sa Jedinstvenog računa, a nakon upisa potraživanja po pojedinim vrstama.

1081. Član 20. Zakona o potraživanju građana je dopunjen sa dva nova stava 20a. i 20b. koji regulišu neiskorištena potraživanja podnosilaca prijava po osnovu stare devizne štednje koja su prenijeta na Jedinstveni račun, kao i sredstva koja su štediše utrošili u privatizacijske investicione fondove. Član 20. je glasio:

Direktor Agencije za privatizaciju u Federaciji Bosne i Hercegovine će u roku od 30 dana od stupanja na snagu ovog zakona donijeti Uputstvo o evidenciji i realizaciji potraživanja sa Jedinstvenog računa.

Novi stavovi su:

20a. Agencija za privatizaciju u Federaciji BiH će neiskorištena potraživanja po osnovu stare devizne štednje koja su prenijeta na Jedinstveni račun vratiti na račun imaoca u roku od 30 dana od dana podnošenja zahtjeva štediše.

20b. Štediše koje su izvršile prijenos potraživanja iz osnova stare devizne štednje u privatizacijske investicione fondove, koja žele povratiti na svoje Jedinstvene račune, mogu podnijeti zahtjev privatizacijskim investicionim fondovima za povrat potraživanja u roku do šest mjeseci od dana stupanja na snagu ovog zakona.

1082. Federacija Bosne i Hercegovine je usvojila nove izmjene i dopune Zakona o potraživanju objavljene u "Službenim novinama Federacije Bosne i Hercegovine", broj 20/04, tako da je član 5. dopunjen sa novim članom 5a. koji glasi:

Član 5a. Izuzetno od člana 5. ovog Zakona potraživanje po osnovu stare devizne štednje postaje unutrašnji dug Federacije Bosne i Hercegovine koji se izmiruje u skladu sa posebnim zakonom, osim ako lice koje ima potraživanje na osnovu stare devizne štednje ne da izjavu da se ta potraživanja koriste za namjene iz člana 18. ovog Zakona.

Izjava iz stava 1. ovog člana je neopoziva i podnosi se Federalnom ministarstvu finansija u roku od tri mjeseca od dana stupanja na snagu ovog Zakona.

1083. Također, izmijenjen je i član 18. koji je regulisao način korištenja certifikata, i sada glasi:

Potraživanja sa Jedinstvenog računa mogu se koristiti u procesu privatizacije:

- za kupovinu dionica preduzeća, imovine preduzeća i druge imovine koja se bude prodavala u procesu privatizacije do 30. juna 2006. godine, pod uvjetom da učešće pojedinačne ponude ne prelazi 10% od ukupne kupovne cijene;

- za kupovinu stanova na kojima postoji stanarsko pravo do 30. juna 2007. godine u visini do 100% od ukupne cijene.

Istekom rokova iz stava 1. ovog člana potraživanja na Jedinstvenom računu se gase.

Izuzetno od odredbe stava 2. ovog člana rok za kupovinu stanova na kojima postoji stanarsko pravo može se mijenjati zavisno od donošenja i promjena propisa o restituciji.

1084. Posljednjim izmjenama i dopunama Zakona o potraživanju obuhvaćen je i član 20. koji sada glasi:

Agencija za privatizaciju u Federaciji Bosne i Hercegovine dostavit će Federalnom ministarstvu finansija bazu podataka o stanju neiskorištenih potraživanja po osnovu stare devizne štednje na Jedinstvenom računu u roku od 30 dana od dana stupanja na snagu ovog Zakona.

Član 20b. koji je davao štedišama koji su uložili svoja sredstva u PIF-ove mogućnost da traže povrat uloženih sredstava se novim zakonom briše.

1085. Parlament Federacije Bosne i Hercegovine je 20. novembra 2004. godine usvojio **Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine** ("Službene novine Federacije Bosne i Hercegovine", broj 64/04), koji u relevantnom dijelu glasi:

Član 1.

Ovim Zakonom utvrđuju se unutrašnje obaveze Federacije Bosne i Hercegovine prema fizičkim i pravnim licima, nastale na osnovu: neisplaćenih invalidnina, neisplaćenih penzija, neisplaćenih naknada prema dobavljačima za robe, materijale i usluge, obaveze nastale na osnovu neisplaćenih plaća i dodataka, te ostale obaveze (u daljnjem tekstu: unutrašnji dug), odnosno način pojedinačne verifikacije utvrđenih potraživanja, kao i način njihovog izmirenja.

Član 2.

Ovim Zakonom utvrđuje se sveobuhvatno izmirenje unutrašnjeg duga na način koji osigurava i podržava makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine (u daljnjem tekstu: Federacija).

Unutrašnji dug Federacije procjenjuje se u iznosu od 1.858,9 miliona KM. Ova procjena isključuje iznos obaveza za staru deviznu štednju, s obzirom na to da će se oni utvrditi u postupku verifikacije.

Obaveze unutrašnjeg duga iz stava 1. ovog člana izmiruju se isplatom u gotovini, putem izdavanja obveznica (u daljnjem tekstu: obveznice) i otpisivanjem, prema odredbama ovog Zakona.

Izmirenje svih kategorija unutrašnjeg duga, uključujući i staru deviznu štednju, neće prelaziti iznos od 10% GDP za 2003. godinu i to u neto sadašnjoj vrijednosti za sve planirane isplate svih kategorija unutrašnjeg duga.

Član 3.

Unutrašnji dug Federacije iznosi 1.858,9 miliona KM, isključujući iznos obaveze za staru deviznu štednju koji će se utvrditi u postupku verifikacije, a čine ga:

- opće obaveze u iznosu od 947,9 miliona KM,

- obaveze na osnovu kredita komercijalnih banaka u iznosu od 11 miliona KM,

- obaveze za staru deviznu štednju u iznosu koji će se utvrditi prema verifikaciji obaveza na način propisan u članu 12. ovog Zakona.

Član 9.

Federacija preuzima obaveze na osnovu stare devizne štednje ostvarene u najnižim poslovnim jedinicama banaka (ekspozitura i/ili agencija) na teritoriji Federacije. Ukoliko banka nema poslovnih jedinica onda se smatra da je sjedište banke najniža poslovna jedinica.

Obaveze na osnovu stare devizne štednje, definirane stavom 1. ovog člana, ne obuhvataju obaveze na osnovu stare devizne štednje deponovane u Ljubljanskoj banci i Invest banci, s obzirom na to da će se one rješavati u procesu sukcesije imovine bivše SFRJ.

Obaveze na osnovu stare devizne štednje iz člana 3. ovog Zakona Federacija će izmiriti isplatom u gotovini i izdavanjem obveznica.

Kamate na staru deviznu štednju od 01. januara 1992. godine otpisuju se.

Član 10.

Kad se izvrši verifikovanje potraživanja za staru deviznu štednju, na način predviđen članom 12. ovog Zakona, Vlada Federacije će posebnim propisom utvrditi metod i visinu isplate u gotovini za staru deviznu štednju svakom fizičkom licu, nosiocu stare devizne štednje, do iznosa propisanog u članu 2. ovog Zakona.

Član 11.

Gotovinske isplate za staru deviznu štednju iz člana 10. ovog Zakona izvršit će se iz budžeta Federacije u periodu od četiri godine počevši od fiskalne godine kada se završi postupak verifikovanja stare devizne štednje.

Član 12.

Verifikovanje svih potraživanja za staru deviznu štednju vršit će se na osnovu baze podataka koja je ustanovljena Zakonom o utvrđivanju i ostvarivanju potraživanja građana u postupku privatizacije ("Službene novine Federacije BiH", br. 27/97, 8/99, 45/00, 54/00, 32/01, 57/03, 20/04) i drugim propisima donesenim na osnovu zakona i baza podataka koje posjeduju banke.

Proces verifikacije potraživanja za staru deviznu štednju završit će se u roku od devet mjeseci od dana stupanja na snagu ovog Zakona.

Federalni ministar finansija donijet će podzakonske akte o verifikaciji svih potraživanja za staru deviznu štednju u roku od 90 dana od dana stupanja na snagu ovog Zakona.

Član 13.

Za obaveze za staru deviznu štednju koje ne budu izmirene isplatom u gotovini, u skladu sa čl. 9. i 10. ovog Zakona, izdat će se obveznice do iznosa koji je potreban za izmirenje kumulativnih potraživanja.

Član 14.

Kad se izvrši verifikovanje potraživanja za staru deviznu štednju na način predviđen članom 12. ovog Zakona, Vlada Federacije će posebnim propisom utvrditi model izdavanja obveznica propisujući rok dospijeća obveznica, visinu kamate na obveznice i dužinu grace perioda, a do iznosa koji se utvrdi kao glavnica u procesu verifikovanja potraživanja na osnovu stare devizne štednje do iznosa propisanog u članu 2. ovog Zakona.

Kako bi osigurala dodatna finansijska sredstva nosiocima obveznica iz člana 13. ovog Zakona, Vlada Federacije, u svojstvu dioničara a prema važećim propisima, svojom Odlukom rasporedit će do 15% dividende iz privrednih društava sa državnim kapitalom kako bi otkupljivala javne obveznice putem ponude po tržišnoj

cijeni, isplaćujući ih kako je predviđeno godišnjim budžetom, počevši od obveznica sa najnižom nominalnom vrijednosti i progresivno krenuvši ka obveznicama sa višom nominalnom vrijednosti.

Član 15.

Vlada Federacije će tri posto iznosa koji se ostvari od prodaje preduzeća JP „BH Telecom“, JP „Elektroprivrede BiH“ d.d., JP „Elektroprivrede HZHB'“ d.d. i „Hrvatske telekomunikacije” d.o.o. Mostar uplatiti na poseban račun.

Sredstva ostvarena na posebnom računu iz stava 1. ovog člana koristit će se u svrhu prijevremenog otkupa obveznica na osnovu stare devizne štednje po tržišnoj cijeni i to uključujući prioritet u isplati - otkupu obveznica vlasnika stare devizne štednje i to ponudom otkupljenja obveznica sa najnižom nominalnom vrijednosti, a potom obveznica sa višom nominalnom vrijednosti.

Federalni ministar finansija donijet će podzakonske akte o načinu raspolaganja sredstvima deponovanim na računu iz prethodnog stava, odnosno o modalitetima isplate vlasnika obveznica, shodno ostvarenju sredstava iz ovog člana.

Član 21.

Obveznice za izmirenje obaveza za staru deviznu štednju i ratnih potraživanja su vrijednosni papiri koje izdaje u cijelosti ili djelimično Bosna i Hercegovina (u daljnjem tekstu: vrijednosni papiri BiH) u ime Federacije, ili Federacija (u daljnjem tekstu: vrijednosni papiri Federacije) prema posebnom propisu.

Obveznice izdate za izmirenje obaveza za staru deviznu štednju i ratna potraživanja su utržive i prenosive i izdaju se i vode samo u elektronskoj formi.

Svi uvjeti vezani za obveznice utvrđuju se odlukom Vlade Federacije i posebnim propisom.

Za predračun obaveza na osnovu stare devizne štednje i ratnih potraživanja u KM koristi se srednji zvanični kurs Centralne banke Bosne i Hercegovine koji važi na dan donošenja odluke Vlade Federacije o emisiji obveznica u smislu ovog Zakona.

Obveznice izdate za izmirenje obaveza iz stava 2. ovog člana predstavljaju unutrašnji dug Federacije u skladu sa posebnim propisom.

Federalno ministarstvo finansija upravljat će računima sa kojih se sredstva koja su položena mogu podizati u svrhu isplate obveznice.

Član 22.

Obveznice Federacije ne podliježu propisima i odobrenju Komisije za vrijednosne papire Federacije Bosne i Hercegovine.

Član 24.

Federacija garantuje za obveznice izdate u skladu sa odredbama ovog Zakona za izmirenje unutrašnjeg duga.

Član 26.

Vlada Federacije će u roku od 30 dana od dana stupanja na snagu ovog Zakona donijeti podzakonske akte za utvrđivanje prioriteta među kategorijama obaveza za

izmirenje potraživanja u skladu sa stavom 2. člana 7., članom 8. i članom 11. ovog Zakona.

D. Odluka Ustavnog suda Federacije Bosne i Hercegovine

1086. Ustavni sud Federacije Bosne i Hercegovine je 8. januara 2001. godine utvrdio da članovi 3, 7, 11. i 18. Zakona o potraživanjima građana nisu u skladu sa Ustavom Federacije Bosne i Hercegovine. Ustanovio je da su ti članovi u suprotnosti sa članom 1. Protokola broj 1 uz Evropsku konvenciju i time u suprotnosti sa članom II.A.2(1)(k) Ustava Federacije Bosne i Hercegovine i Amandmanom 5. Navedeni Sud, u svojoj odluci, nije pomenuo prethodne izmjene i dopune zakona od 2. novembra 2000. godine. Ustavni sud Federacije Bosne i Hercegovine nije naredio nikakve posebne izmjene i dopune ili na neki drugi način propisao prelazne odredbe po kojima bi relevantni članovi trebali biti primijenjeni.

1087. Odluka Ustavnog suda Federacije Bosne i Hercegovine, u relevantnom dijelu, glasi:

> Ustavom Federacije Bosne i Hercegovine članom II A. 2. (1)(k) i Amandmanom V utvrđeno je da će Federacija osigurati primjenu najvišeg nivoa međunarodno priznatih prava i sloboda utvrđenih u dokumentima navedenim u Aneksu ovog ustava [...].
>
> Utvrđujući ustavnost članova 3., 7., 11. i 18. Zakona o utvrđivanju i realizaciji potraživanja građana u procesu privatizacije sa navedenim ustavnim odredbama i članom 1. stav 1. Protokola br. 1 uz Evropsku konvenciju o ljudskim pravima i osnovnim slobodama, Sud je utvrdio da odredbe članova 3., 7., 11. i 18. Zakona o utvrđivanju i realizaciji potraživanja građana u postupku privatizacije nisu u skladu sa Ustavom Federacije Bosne i Hercegovine.

1088. Odluka Ustavnog suda Federacije objavljena je 9. marta 2001. godine u "Službenim novinama Federacije Bosne i Hercegovine", broj 7/01.

1089. Članom 12(b) dijela IV(c) Ustava Federacije predviđa se da ako Ustavni sud Federacije *utvrdi da zakon, usvojeni ili predloženi zakon ili drugi propis Federacije ili bilo kojeg kantona ili općine nije u skladu sa ovim Ustavom, taj zakon ili drugi propis neće se primjenjivati, odnosno stupiti na snagu, osim ukoliko se izmijeni na način koji propiše Sud ili ukoliko Sud ne utvrdi prijelazna rješenja, koja ne mogu biti na snazi duže od šest mjeseci.*

1090. Federacija Bosne i Hercegovine je 14. maja 2001. godine podnijela apelaciju Ustavnom sudu Bosne i Hercegovine protiv presude Ustavnog suda Federacije, zavedenu kao *U 57/01*. Ustavni sud Bosne i Hercegovine je, na svojoj sjednici od 20. decembra 2003. godine, rješenjem odbacio apelaciju iz formalnih razloga.

V. ŽALBENI NAVODI

1091. Podnosioci prijava se generalno žale da je povrijeđeno njihovo pravo na mirno uživanje imovine, zagarantovano članom 1. Protokola broj 1 uz Evropsku konvenciju. Jedan dio podnosilaca prijava se, također, žali da je povrijeđeno njihovo pravo na pravičnu raspravu u razumnom roku pred nezavisnim i nepristrasnim sudom, zagarantovano članom 6. Evropske konvencije. Nekoliko podnosilaca prijava navode povrede raznih članova Univerzalne deklaracije o ljudskim pravima.

1092. Svi podnosioci prijava traže punu isplatu cjelokupne devizne štednje, a mnogi posebno traže isplatu kamata. Također traže kompenzaciju za duševne patnje, troškove postupka pred domaćim sudovima i Domom, te ostale troškove. Neki od podnosilaca prijava traže od Doma da naredi donošenje zakona po kojem će stara devizna štednja biti proglašena neotuđivom privatnom imovinom bez ikakvih ograničenja.

VI. PODNESCI STRANA

A. Bosna i Hercegovina

1. U pogledu činjenica

1093. Tužena strana navodi da je, nakon dobijanja samostalnosti, odmah počela sa pravnim regulisanjem u oblasti deviznog poslovanja. To je učinjeno iz razloga što su sva devizna sredstva, među kojima je bila i devizna štednja građana, činila ukupne rezerve bivše SFRJ. Zna se da je stanje deviznih rezervi bivše SFRJ na dan 31. decembar 1990. godine iznosilo 13 milijardi USD, a na dan 31. decembar 1991. godine oko 1,5 milijardi USD. Iz ovoga proizilazi da je bivša SFRJ putem Narodne banke Jugoslavije, gdje je vršeno deponovanje svih deviznih rezervi bivše SFRJ, svjesno sklonila sve devize i na taj način onemogućila bivše republike, među kojima je bila i Bosna i Herceovina, da raspolažu sa deviznim rezervama koje su sa njenog područja bile deponovane kod Narodne banke Jugoslavije.

1094. Tužena strana ističe da, u skladu sa gore navedenim, Bosna i Hercegovina do sada ni na koji način nije preuzela garanciju za deviznu štednju građana koja je deponovana kod bivše Narodne banke Jugoslavije, niti postoji njena obaveza da tu štednju isplaćuje građanima.

2. U pogledu prihvatljivosti

1095. Tužena strana navodi da, s obzirom da podnosioci prijava nisu uopće koristili domaća pravna sredstva koja su im stajala na raspolaganju, nisu ispunjeni uslovi za prihvatljivost prijava i razmatranje merituma spora od strane uvažene Komisije do okončanja tih postupaka pred domaćim organima uprave i pravosuđa po raspoloživim pravnim lijekovima saglasno odredbama člana 26. Evropske konvencije i člana 8. stav 2a. Aneksa 6. Općeg okvirnog sporazuma za mir u Bosni i Hercegovini.

1096. Tužena strana ističe da iz prijava proizilazi da je ljudsko pravo podnosilaca prijava povrijeđeno u mjesecu junu 1992. godine i da je ta navodna povreda trajala čitav rat, a da su prijave podnesene više godina poslije rata. Naime, Dom/Komisija može razmatrati predmete, između ostalog, samo nakon što su iscrpljena domaća pravna sredstva i ako je zahtjev podnesen u roku od šest mjeseci od dana donošenja konačne odluke.

1097. Tužena strana smatra da Komisija, u svim predmetima gdje građani potražuju isplatu stare devizne štednje mora donijeti identičnu odluku (da imaju, ili nemaju pravo na naplatu stare devizne štednje) po kojoj bi bilo utvrđeno da li Bosna i Hercegovina preuzima garancije na staru deviznu štednju od bivše SFRJ.

1098. Tužena strana predlaže Komisiji da, iz gore navedenih razloga, prijave odbaci kao neprihvatljive.

3. U pogledu merituma

1099. Tužena strana traži od Komisije, ukoliko ocijeni da za sada nisu ispunjeni uslovi za odbacivanje prijava, da se sačeka sa odlučivanjem o prihvatljivosti prijava do konačnog ishoda u navedenim postupcima koji se trebaju pokrenuti pred domaćim nadležnim sudovima.

1100. Tužena strana navodi da je, prema njenim saznanjima do kojih se došlo u konsultacijama sa Vijećem ministara Bosne i Hercegovine, Uredom visokog predstavnika za Bosnu i Hercegovinu i dr, trenutno našla najcjelishodnija rješenja ovog problema. U takvoj situaciji, a u punoj saradnji sa Uredom Visokog predstavnika za Bosnu i Hercegovinu, Država Bosna i Hercegovina je kao jedino moguće rješenje iznašla soluciju da kroz proces privatizacije državne imovine omogući deviznim štedišama obeštećenja kroz otkup te imovine kako devizne štediše ne bi ostale bez ikakve naknade. U tom cilju, Država Bosna i Hercegovina-Vijeće ministara Bosne i Hercegovine, u saradnji sa Uredom visokog predstavnika za Bosnu i Hercegovinu, priprema paket zakona o privatizaciji državne imovine kako na nivou države, tako i na nivou entiteta Bosne i Hercegovine.

1101. Tužena strana ističe da nisu povrijeđena ljudska prava podnosilaca prijava kroz soluciju koja im se nudi predviđenim zakonskim rješenjima kao načinom punog obeštećenja, a u smislu koja su im zagarantovana Evropskom konvencijom.

1102. Tužena strana predlaže Komisiji, ukoliko ne odbaci prijave kao neprihvatljive, da odbije prijave u meritumu spora u odnosu na tuženu stranu, Bosnu i Hercegovinu, kao i da se odbiju zahtjevi podnosilaca prijava za kompenzaciju i naknadu troškova postupka.

B. Federacija Bosne i Hercegovine

1. U pogledu činjenica

1103. Tužena strana ističe činjenicu, da je od dana podnošenja prijava Domu/Komisiji, preduzela regulativne mjere s ciljem da spriječi kolaps platnog sistema javnog duga i bankovnog sistema, a u svrhu zaštite vlasnika sredstava na deviznim štednim knjižicama. Naime, nakon pravosnažne presude Ustavnog suda Federacije Bosne i Hercegovine broj: U-10/00 od 8. januara 2001. godine, tužena strana je donijela Zakon o izmjenama i dopunama Zakona o utvrđivanju i realizaciji potraživanja građana u postupku privatizacije (u daljnjem tekstu: Zakon o realizaciji potraživanja) objavljen u "Službenim novinama Federacije Bosne i Hercegovine", broj: 45/00 od 25. oktobra 2000. godine; broj: 54/00 od 26. decembra 2000. godine; broj: 32/01 od 24. jula 2001. godine; broj: 27/02 od 28. juna.2002. godine; broj: 57/03 od 21. novembra .2003. godine i broj: 44/04 od 21. avgusta 2004. godine, kojim su uređena pitanja utvrđivanja i ostvarivanja potraživanja u postupku privatizacije. Zakonom su definirane vrste potraživanja građana prema Federaciji Bosne i Hercegovine, načini evidentiranja i postupka ostvarivanja ovih potraživanja u postupku privatizacije. Zakonom su definirane vrste potraživanja te između ostalog i potraživanja na osnovu stare devizne štednje.

1104. Naime, u međuvremenu, tužena strana, konkretno Vlada Federacije Bosne i Hercegovine na sjednici od 15. decembra 2003. godine, donijela je Odluku o usvajanju strateškog plana za izmirenje unutrašnjih potraživanja prema Federaciji Bosne i Hercegovine ("Službene novine Federacije Bosne i Hercegovine ", broj: 63/03 od 16. decembra 2003. godine – u daljnjem tekstu: Odluka). Odlukom je utvrđeno da unutrašnja potraživanja prema Federaciji Bosne i Hercegovine ukupno iznose 3.263,4 miliona KM, a obuhvataju između ostalog i obaveze za staru deviznu štednju u iznosu od 1.110 miliona KM, te da će se način isplate i dinamika isplate i izvor finansiranja neisplaćenih potraživanja prema Federaciji Bosne i Hercegovine, regulirati posebnim zakonima. Tako je članom 4. Odluke određen način izmirenja obaveza prema kojem Vlada Federacije Bosne i Hercegovine planira gotovinsku isplatu vlasnicima stare devizne štednje u

iznosu od 105 miliona KM, izdavanje obveznica sa nominalnom vrijednošću u iznosu od 1.005 miliona KM, sa rokom dospijeća od 20 godina, 10 godina, grace perioda i kamatom od 0,5%, koja će imati neto sadašnju vrijednost u iznosu od 452 miliona KM.

1105. Nadalje, Parlament Federacije Bosne i Hercegovine je donio Zakon o utvrđivanju i načinu izmirenja unutranjih obaveza Federacije Bosne i Hercegovine ("Službene novine Federacije Bosne i Hercegovine", broj: 66/2004 od 27. novembra 2004. godine), koji je stupio na snagu narednog dana od dana objavljivanja. Ovim zakonom utvrđuje se sveobuhvatno izmirenje unutarnjeg duga na način koji osigurava i podržava makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine (član 2. Zakona o utvrđivanju). Unutarnji dug Federacije Bosne i Hercegovine prema članu 3. navedenog zakona, između ostalog čine i obavezu za staru deviznu štednju u iznosu koji će biti utvrđen po verificiranju obaveza. Obaveze po osnovu stare devizne štednje definisane članom 3. Zakona o utvrđivanju, Federacija Bosne i Hercegovine će izmiriti isplatom u gotovini i izdavanjem obveznica.

> Proces verificiranja tražbina za staru deviznu štednju okončat će se u roku od devet mjeseci od stupanja na snagu ovog Zakona.
>
> Federalni ministar finansija donijeće podzakonske akte o verificiranju svih tražbina za staru deviznu štednju u roku od 90 dana od dana stupanja na snagu ovog Zakona.
>
> Kako bi osigurala dodatna finansijska sredstva nositeljima obveznica iz članka 13. ovog Zakona, Vlada Federacije Bosne i Hercegovine u svojstvu dioničara, a sukladno važećim propisima, svojom će Odlukom rasporediti do 15% dividende iz gospodarskih društava s državnim kapitalom kako bi otkupljivala javne obveznice putem ponude po tržišnoj cijeni, isplaćujući ih kako je predviđeno godišnjim proračunom, počevši od obveznica s najnižom nominalnom vrijednošću i progresivno krenuši s obveznicama s višom nominalnom vrijednošću.

1106. Dakle, slijedom navedenih činjenica, tužena strana ističe da je, primjenom odredbi Zakona o realizaciji potraživanja i Zakona o izmirenju obaveza, utvrđena unutarnja obaveza Federacije Bosne i Hercegovine prema fizičkim licima i pravnim licima, kao i način njihovog izmirenja. Naime, izradom podzakonskog akta će biti izvršene verifikacije svih potraživanja za staru deviznu štednju, pa tako i potraživanja za staru deviznu štednju podnosilaca prijava.

2. U pogledu prihvatljivosti

1107. Tužena strana smatra nespornim da je putem navedene legislative i propisa dat jasan okvir kojim su stare devizne štediše dobile konkretne pouzdane informacije u vezi sa budućim tretmanom njihove stare devizne štednje, na način koji uzima u obzir opće interese, i istovremeno ne predstavlja pretjeran pojedinačan teret na podnosioce prijava.

1108. Naime, tužena strana opravdano sumnja, a imajući u vidu vremenski period od dana podnošenja prijave do danas, da su pojedini podnosioci prijava, *uložili svoju deviznu štednju putem certifikata*, tako što su ih prodali. S tim u vezi, tužena strana podsjeća Komisiju na njenu Odluku o brisanju u predmetu broj: CH/99/2211 *Olga Terpin* protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine od 9. februara 2004. godine.

1109. U prilog naprijed navedenom, tužena strana ističe činjenicu da podnosioci prijava od dana podnošenja prijava Domu/Komisiji, odnosno od dana pravosnažnosti presude Ustavnog suda Federacije Bosne i Hercegovine broj: U-10/00, nisu dostavili nove informacije – dokumentaciju: da li su pokušali da podignu svoju staru deviznu štednju – zatražili pomoć kod domaćeg suda.

1110. Dakle, u ovakvoj konstelaciji preduzetih radnji, odnosno radnji koje će preduzeti tužena strana, unutarnji dug Federacije Bosne i Hercegovine, kojim se obaveze za staru deviznu štednju u

iznosu koji će biti utvrđen po verificiranju obaveza, na način propisan u članu 12. Zakona o izmirenju obaveza, a u vezi sa odredbom stava 1. tačka 3. člana 3. Zakona o izmirenju obaveza, izmirit će se isplatom u gotovini, odnosno za obaveze za staru deviznu štednju koje ne budu izmirene u gotovini i sukladno čl. 9. i 10. Zakona o izmirenju obaveza, izdat će se obveznice do iznosa koji je potreban za izmirenje kumulativnih tražbina (član 13. Zakona o izmirenju obaveza). Kad su u pitanju obveznice za izdavanje obaveza za staru deviznu štednju, tužena strana podsjeća Komisiju na poglavlje III – Obveznice – odredbe članova od 21. do 25. Zakona o izmirenju obaveza – kojim je između ostalog utvrđen način – metod – uvjeti izmirenja obaveza za staru deviznu štednju, u vidu obveznica, za koje Federacija Bosne i Hercegovine jamči sukladno odredbama ovog Zakona za izmirenje obaveza.

1111. Slijedom izloženog, tužena strana smatra da su se stekli uslovi da Komisija, primjenom odredbi člana VIII Sporazuma, prijave u rubriciranim predmetima proglasi neprihvatljivim, prema članu 1. Protokola broj 1 uz Evropsku konvenciju u pogledu tužene strane Federacije Bosne i Hercegovine.

1112. Slijedom navedenoga, tužena strana predlaže Komisiji da prijave podnosilaca odbaci, primjenom člana VIII(3)(b) Sporazuma, jer je predmetna stvar već riješena, na način i u skladu sa naredbama iz ranijih odluka Doma koje se tiču pitanja "stare" devizne štednje, kao i sa Odlukom Ustavnog suda Federacije Bosne i Hercegovine.

3. U pogledu merituma

1113. Nesporno je da potraživanja podnosilaca prijava po osnovu njihove devizne štednje predstavljaju imovinu u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju.

1114. U skladu sa stavom 2. člana 1. Protokola broj 1 uz Evropsku konvenciju, s obzirom na ekonomske poteškoće Federacije i banaka, a da bi se spriječio kolaps bankovnog sistema, tužena strana je zakonom regulisala korištenje potraživanja građana po osnovu njihove devizne štednje. Prema ranijim zakonskim rješenjima, nije bila postignuta pravična ravnoteža između općeg interesa i imovinskih prava imalaca stare devizne štednje, a što je utvrđeno odlukama Doma za ljudska prava.

1115. Tužena strana ne osporava da potraživanja podnosilaca prijava prema bankama lociranim na području Federacije Bosne i Hercegovine po osnovu njihove devizne štednje predstavljaju *imovinu* u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju. Međutim tužena strana podsjeća Komisiju da član 1. Protokola broj 1 uz Evropsku konvenciju uključuje i tri posebna pravila, na osnovu kojih Država ima pravo da se miješa u pravo na imovinu u skladu sa javnim interesom.

1116. Dakle, tužena strana je našla, u okviru svoje slobode odlučivanja, odgovarajući način i postigla traženu *pravičnu ravnotežu* interesa. Naime, u trenutnoj fazi, podnosioci prijava ili druge devizne štediše, imaju mogućnost da ostvare svoja imovinska prava u određenim iznosima za staru deviznu štednju na teritoriji Federacije Bosne i Hercegovine, s obzirom da su potraživanja po osnovu stare devizne štednje postala unutrašnji dug Federacije Bosne i Hercegovine, koji se izmiruje u skladu sa posebnim zakonom, osim ako lica – podnosioci prijava koji imaju potraživanja na osnovu stare devizne štednje nisu dali izjavu da se ta potraživanja koriste za namjene iz člana 18. Zakona o izmjenama i dopunama Zakona o utvrđivanju i realizaciji potraživanja građana u procesu privatizacije. Tužena strana navodi da će, na osnovu utvrđenog metoda i visine, isplatiti u gotovini, odnosno ukoliko se obaveze za staru deviznu štednju, koje ne budu izmirene isplatom u gotovini, u skladu utvrđenim modelom, rokom, visinom, izdati obveznice do iznosa koji je potreban za izmirenje kumulativnih tražbina.

1117. S obzirom na gore navedeno, tužena strana smatra da je u vezi stare devizne štednje podnosilaca prijava, Federacija Bosne i Hercegovine opravdala uplitanje u prava podnosilaca prijava, jer je kontrola korištenja imovine *u skladu sa općim interesom* i ima osnova u Zakonu. U

prilog naprijed navedenom je i činjenica da će se konkretnim programom sukcesije i unutarnjeg duga, stara devizna štednja riješiti uspostavljanjem *pravične ravnoteže* između zahtjeva općeg interesa zajednice i zahtjeva zaštite osnovnih prava podnosilaca prijava, te istim je otklonjena neizvjesnost u pogledu statusa deviznih potraživanja koja nisu registrovana na Jedinstvenom računu građana i potraživanja koja su registrovana, ali nisu upotrijebljena u procesu privatizacije.

1118. Pored naprijed navedenog, tužena strana obavještava Komisiju, da je Parlament Federacije Bosne i Hercegovine dana 31. decembra 2004. godine donio Zakon o izvršenju proračuna Federacije Bosne i Hercegovine za 2005. godinu ("Službene novine Federacije Bosne i Hercegovine", broj: 78/04), kojim su uređeni: *način izvršenja Proračuna Federacije Bosne i Hercegovine za 2005. godinu (u daljem tekstu: Proračun), upravljanja prihodima i izdacima Proračuna, te pravo i obaveze korisnika proračunskih sredstava*. Opći dio Proračuna sastoji se od bilance prihoda i izdataka te računa finansiranja, a posebni dio sadrži detaljan raspored izdataka po proračunu korisnika i vrsti izdataka.

1119. Tako je Federalno ministarstvo finansija, u računu finansiranja, iskazalo zaduženja i otplate dugova *stare devizne štednje – isplate pojedincima*, sve u cilju uravnoteženja salda bilance prihoda i rashoda Proračuna.

1120. Tužena strana, konkretno Federalno ministarstvo finansija, kao budžetski korisnik, je utvrdilo sredstva u Razdijelu 16 Proračuna, pozicija – Tekući Transferi; za *staru deviznu štednju – isplata pojedincima 61420*: proračuni za 2004. godinu u iznosu 6.050.000 KM – Proračuni za 2005. godinu u iznosu od 8.000.000 KM.

1121. Dakle, odgovarajućim izmjenama i dopunama Zakona o izmjenama i dopunama Zakona o utvrđivanju i realizaciji potraživanja građana u procesu privatizacije i donošenjem Zakona o utvrđivanju, tužena strana je stvorila pravnu sigurnost u pogledu stare devizne štednje, tim više što je Zakonom o izvršenju proračuna Federacije Bosne i Hercegovine za 2005. godinu, planirala određena sredstva za *staru deviznu štednju – isplata pojedincima*, što je Sporazum o sukcesiji stupio na snagu 2. juna 2004. godine, iz kojih neupitno proizilazi da se *stara devizna štednja* rješava putem unutrašnjeg duga Federacije Bosne i Hercegovine, odnosno sredstvima sukcesije.

1122. Imajući u vidu naprijed navedeno, tužena strana smatra da nije prekršila prava podnosilaca prijava na mirno uživanje imovine po članu 1. Protokola broj 1 uz Evropsku konvenciju.

1123. Izneseni argumenti potvrđuju stav tužene strane da ne postoje uvjeti za prihvatljivost prijava, te tužena strana predlaže Komisiji da prijave podnosilaca proglasi neprihvatljivim, iz razloga iznesenih u ovim pismenim zapažanjima o prihvatljivosti, odnosno da primjenom odredbi člana VIII Sporazuma donese odluke o odbijanju žalbi podnosilaca prijava kao očito neutemeljenih.

C. Mišljenje *amicus curiae* – Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini

1124. Udruženje za zaštitu deviznih štediša u Bosni i Hercegovini stoji na stanovištu da su svi problemi i evidentna i flagrantna kršenje ljudskih prava u vezi sa *starom deviznom štednjom*, položenom u bankama sa sjedištem u Bosni i Hercegovini ili filijalama banaka sa sjedištem u drugim republikama na teritoriji Bosne i Hercegovine prije 31. decembra 1990. godine, proistekla iz razloga što Bosna i Hercegovina, kao pravni sljednik Republike Bosne i Hercegovine i kao jedna od pravnih sljednica SFRJ, nije poduzela potrebne radnje kojima bi zaštitila prava građanskih lica – imaoce deviznih računa i deviznih štednih uloga kod banaka odnosno filijala na dan 31. decembra 1990. godine. Štaviše, donošenjem relevantnih zakona stvorila je pravnu nesigurnost za devizne štediše u pogledu ostvarivanja prava na imovinu.

1125. Republika Bosna i Hercegovina je činom izlaska iz SFRJ, prihvatanjem Ustava Socijalističke Republike Bosne i Hercegovine i zakona Socijalističke Republike Bosne i Hercegovine i donošenjem Uredbe sa zakonskom snagom o preuzimanju i primjenjivanju saveznih zakona, koji se u Bosni i Hercegovini primjenjuju kao republički zakoni (“Službeni list Republike

Bosne i Hercegovine“, broj 2/92), znala da preuzima i dio obaveza i odgovornosti za deviznu štednju građana za koju je garancije dala SFRJ, pa je ovom pitanju morala posvetiti posebnu pažnju jer su je ustavne odredbe iz člana 39. Ustava Republike Bosne i Hercegovine, kojim se građanima zajamčuje pravo svojine i člana 85, kojim se zajamčuje pravo građanina da bude obaviješten, na to obavezivale.

1126. Republika Bosna i Hercegovina je donijela Uredbu sa zakonskom snagom o deviznom poslovanju ("Službeni list Republike Bosne i Hercegovine“, broj 2/92), kojom je stavila van snage savezni Zakon o deviznom poslovanju ("Službeni list Socijalističke Federativne Republike Jugoslavije“, broj 66/85 i 82/90). U članu 144. navedene Uredbe, Republika je utvrdila da će se pitanje dijela stare devizne štednje, u dijelu koji se odnosi na redeponovanu štednju kod Narodne banke Jugoslavije, urediti posebnim propisom. Članom 9. iste Uredbe, preuzela je jemstvo za devize građana koje su se nalazile u posjedu banaka i na računima u inostranstvu ovlaštene banke za poslove sa inostranstvom čije je sjedište bilo u Bosni i Hercegovini.

1127. Ako Republika Bosna i Hercegovina nije mogla obezbijediti pravo raspolaganja deviznom štednjom redeponovanom kod Narodne banke Jugoslavije, propustila je donijeti zakon kojim utvrđuje deviznu štednju građana u posjedu banaka na cijeloj teritoriji Bosne i Hercegovine i način raspolaganja ovim deviznim sredstvima građana uz zaštitu prava građana sa teritorija koje nisu bile pod njenom kontrolom.

1128. Propuštajući da donese ovakav zakon, Bosna i Hercegovina je ostavila na volju bankama da same odlučuju o ovoj imovini građana. Banke su samovoljno odbile isplaćivati štednju i kamatu po deviznoj štednji. Jedino su visoki političari i funkcioneri uspjeli dobiti svoja sredstva nazad.

1129. Potpisivanjem Okvirnog mirovnog sporazuma, Bosna i Hercegovina je preuzela ustavnu obavezu da osigura najviši standard ljudskih prava, pa time da osigura i pravo raspolaganja deviznim štedišama deviznom štednjom (Ustav Bosne i Hercegovine, član II/3.k), kao i pravo na pravično suđenje II/3.e). Treba imati na umu da je Opći okvirni sporazum za mir u Bosni i Hercegovini, sa svojim aneksima, obezbijedio Bosni i Hercegovini pravni milje da ispuni ovu obavezu.

1130. Odluka Bosne i Hercegovine o ciljevima i zadacima devizne politike u 1996. godini ("Službeni list Republike Bosne i Hercegovine“, broj 33/94), u tačci 7, propisuje da Bosna i Hercegovina preuzima obavezu da će staru deviznu štednju deponovanu kod Narodne banke Jugoslavije, zajedno sa kamatom na štednju, rješavati donošenjem zakona o javnom dugu Bosne i Hercegovine ili na drugi način, u sklopu ukupne konsolidacije duga Bosne i Hercegovine zajedno sa međunarodnom zajednicom.

1131. Odgovornost Bosne i Hercegovine sastoji se u tome što nakon donošenja ove odluke ("Službeni list Republike Bosne i Hercegovine“, broj 13/96) nije poduzela daljnje operativne korake u realizaciji odluke o zaštiti prava štediša i interesa države, a morala je to učiniti.

1132. Bosna i Hercegovina je odgovorna i za donošenje Okvirnog zakona o privatizaciji preduzeća i banaka u Bosni i Hercegovini ("Službeni glasnik Bosne i Hercegovine, broj 14/98), kojim je dala izričito pravo entitetima da privatiziraju preduzeća i banke smještene na njihovom teritoriju koje nisu u privatnom vlasništvu.

1133. Nadalje, Udruženje za zaštitu deviznih štediša u Bosni i Hercegovini smatra da su sudski organi propustili da zaštite građane tako što nisu donosili ili izvršavali pravomoćne presude u pogledu devizne štednje, čime su prekršili član 6. Evropske konvencije.

1134. Odgovornost Bosne i Hercegovine je i u tome što se oglušila na stavove Doma za ljudska prava, koji je, svojom Odlukom u predmetima *Poropat i drugi,* od 10. maja 2000. godine, ukazao na ozbiljna kršenja ljudskih prava proisteklih iz odbijanja odgovornosti Bosne i Hercegovine. Osim

toga, Udruženje smatra da u pogledu devizne štednje, Država nije napravila niti jedan pozitivan pomak od donošenja relevantnih odluka Doma.

1135. Činjenica je da je Bosna i Hercegovina ostala pasivna i po pitanju pregovora o preuzimanju obaveza po jemstvu SFRJ za staru deviznu štednju, koji se vode pod pokroviteljstvom Banke za međunarodna poravnanja (Anex C Sporazuma o sukcesiji, član 7. stav 1). Bosna i Hercegovina je imala obavezu za pokretanje ovog pitanja putem Visokog predstavnika i Vijeća za implementaciju mira, čije su članice i 5 sljednica SFRJ.

1136. Stupanjem na snagu Sporazuma po pitanju sukcesije, Bosna i Hercegovina i entiteti imaju obaveze po pitanju stare devizne štednje u iznosima u kojima banke nosioci obaveza po deviznoj štednji utvrde da su Bosna i Hercegovina i entiteti koristili devizna sredstva za svoje potrebe.

1137. Donešeni zakoni (Zakon o utvrđivanju i načinu izmirenja unutrašnjeg duga Bosne i Hercegovine; Zakon o utvrđivanju i načinu izmirenja unutrašnjeg duga Republike Srpske; Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine; Zakon o unutrašnjem dugu Brčko distrikta Bosne i Hercegovine) su prema Sporazumu o sukcesiji ništavni, a po Ustavu Bosne i Hercegovine su neustavni sa aspekta kršenja ljudskih prava. Obaveza po staroj deviznoj štednji svodi se isključivo na ugovoreni odnos banke, koja je pravni sljednik banke na dan 31. decembra 1991. godine, i štediše te po zakonu o obligacijama ne može se prenijeti na trećeg bez pristanka povjerioca – štediše u konkretnom slučaju.

1138. Umjesto trošenja silnih novaca i sati u daljim zakonskim i podzakonskim manipulacijama deviznom štednjom, entiteti su dužni dati naloge bankama da aktiviraju stavke po deviznoj štednji isknjižene u pasivnu podbilancu, tj. da ih vrate u aktivu i počnu vraćati štedišama novac. Država i entiteti će vratiti onaj dio sredstava devizne štednje koji su povukli, ili koristili, za vlastite potrebe.

1139. Za potraživanja devizne štednje položene kod Narodne banke Jugoslavije sa pravom reotkupa, banke moraju pokrenuti sudske postupke protiv 5 država sljednica, budući da nije postignut dogovor pred Bankom za međunarodna poravnanja.

1140. Odgovornost Bosne i Hercegovine i entiteta postoji u odnosu na donošenje zakonskih mjera kojima će se stare devizne štediše zaštiti od eventualnih zloupotreba od strane banaka. Naime, politike i način isplate devizne štednje od strane banaka moraju biti jasne, transparentne i u funkciji nediskriminacije štediša.

1141. Donešeni entitetski zakoni kojima se devizna štednja pretvara u javni dug, ne omogućavaju deviznim štedišama procesne garancije u smislu člana 6. Evropske konvencije.

1142. U mišljenju je istaknut stav da Država nema javni interes u pogledu opravdanosti miješanja u pravo na imovinu vlasnika stare devizne štednje. U tom smislu, navodi se da Država ne raspolaže podacima o svojoj imovini, te da je miješanje u ovo pravo neopravdano pošto Država ne vodi savjesno proces privatizacije. Na taj način, Država gubi veliki dio sredstava, koja bi pomogla u rješavanju problema stare devizne štednje.

1143. Budući da se radi o kršenju ljudskih prava građana Bosne i Hercegovine, a isključivo u interesu organiziranog kriminala koji dolazi iz redova međunarodne zajednice i domaćih političkih oligarhija, *amici curiae* je mišljenja da bi Komisija trebala:

- obavijestiti i pozvati članove Predsjedništva Bosne i Hercegovine da podnesu Ustavnom sudu Bosne i Hercegovine zahtjev za preispitivanje ustavnosti zakona koji se odnose na privatizaciju banaka i preduzeća, zakona o javnom dugu i zakona o zabrani izvršenja sudskih presuda;

- zatražiti i izricanje mjere zabrane dalje privatizacije preduzeća i banaka dok se ne utvrdi i usvoji program konsolidacije i vraćanja *ino* duga koji su preuzeli entiteti i

pitanje isplate stare devizne štednje građanima u Bosni i Hercegovini uključujući i izbjegla lica;

- sugerisati Predsjedništvu Bosne i Hercegovine da traže hitno sazivanje sjednice Vijeća za implementaciju mira s ciljem dobivanja stručne i političke podrške u zaštiti prava građana Bosne i Hercegovine.

D. Mišljenje *amicus curiae* – Ured Visokog predstavnika za Bosnu i Hercegovinu

1144. Ured Visokog predstavnika za Bosnu i Hercegovinu, u svom mišljenju od 1. aprila 2005. godine, smatra da treba odustati od stavova Doma, izraženih u odlukama *Poropat i drugi* i *Đurković i drugi*, iz razloga što je Država prenijela tu nadležnost na entitete i Brčko Distrikt. Time je Država iskoristila svoju diskrecionu moć. Štaviše, Ured Visokog predstavnika za Bosnu i Hercegovinu smatra da je nerealno očekivati da poddržavne jedinice mogu imati iste standarde za isplatu stare devizne štednje, jer se, uključujući privatizaciju, nalaze u različitim pozicijama.

1145. U pogledu obaveza entiteta i Brčko Distrikta, Ured Visokog predstavnika za Bosnu i Hercegovinu je, uz upućivanje na podatke Međunarodnog monetarnog fonda, dao statistički pregled obaveza Države po pitanju unutarnjeg duga i pojedinih njegovih elemenata. Time je Ured Visokog predstavnika za Bosnu i Hercegovinu ukazivao na ozbiljnost situacije.

1146. U pogledu procesnih prava, naglašeno je da se *pravo pristupa sudu* u smislu člana 6. Evropske konvencije može ograničiti u javnom interesu, što bi bilo opravdano u slučajevima *stare devizne štednje.* U tom smislu, ukazano je na određenu praksu Evropskog suda za ljudska prava (presuda *National & Privincial Building Society et al. protiv Velike Britanije*, od 23. oktobra 1997. godine, broj 117/1996/736/933-935, stav 105). Osim toga, naglašeno je da se podzakonski propisi tek trebaju donijeti, tako da je ocjena zakona preuranjena.

1147. Na kraju je istaknuto da postojeći zakonski okvir predstavlja proporcionalan odnos između prava pojedinca i interesa Države, pri čemu Država uživa široko polje procjene.

VII. MIŠLJENJE KOMISIJE

A. Prihvatljivost

1148. Komisija podsjeća da su prijave podnesene Domu u skladu sa Sporazumom. S obzirom da Dom o njima nije odlučio do 31. decembra 2003. godine, Komisija je, u skladu sa članom 2. Sporazuma iz septembra 2003. godine i članom 3. Sporazuma iz 2005. godine, sada nadležna da odlučuje o ovim prijavama. Pri tome, Komisija će uzimati u obzir kriterije za prihvatljivost prijave sadržane u članu VIII(2) i (3) Sporazuma. Komisija, također, zapaža da se Pravila procedure kojima se uređuje njeno postupanje ne razlikuju, u dijelu koji je relevantan za predmete podnosilaca prijava, od Pravila procedure Doma, izuzev u pogledu sastava Komisije.

1. Nadležnost *ratione personae*

1149. Općenito, Komisija podsjeća da se njena nadležnost, prema članu II(2) Sporazuma, proteže na navodne ili očigledne povrede ljudskih prava gdje je takvu povredu navodno ili očigledno počinila jedna ili više strana u Sporazumu. Imajući na umu kompleksnost pravnih i ustavnih aranžmana Bosne i Hercegovine, Komisija smatra da bi bilo nerazumno očekivati od podnosilaca prijava da su u stanju u svim okolnostima tačno imenovati tuženu stranu. Iz ovog razloga, Dom je uvijek smatrao da nije ograničen izborom tužene strane podnosioca prijave. Dom je, u nekoliko prilika, ispitao prijave u vezi sa tuženom stranom onako kako je to odredio sam Dom (vidi, npr., *Poropat i drugi*, tačke, *loc. cit*, 132-33).

1150. S obzirom na gore navedeno, Komisija će razmotriti sve ove prijave i protiv Bosne i Hercegovine i protiv Federacije Bosne i Hercegovine.

(a) Odgovornost Bosne i Hercegovine

1151. Komisija će razmotriti da li je i u kojoj mjeri rješavanje pitanja relevantnih za predmetne prijave odgovornost svake od tuženih strana.

1152. Komisija podsjeća da, prema članu I Ustava, Bosna i Hercegovina nastavlja svoje pravno postojanje po međunarodnom pravu kao država i tako nasljeđuje status bivše Republike Bosne i Hercegovine. U tom svojstvu, Bosna i Hercegovina uzima učešće u pregovorima koji se tiču sukcesije imovine SFRJ. Međutim, ne može se smatrati da samo taj status stvara odgovornost za bivše unutrašnje obaveze SFRJ, uključujući i onu koja proizilazi iz deponovanja deviza u Narodnoj banci Jugoslavije i garancija koje je SFRJ dala u vezi sa štednjom. Ipak, Republika Bosna i Hercegovina je usvojila zakone i propise u vezi sa deviznom štednjom (vidi CH/97/48, *loc. cit,* tačke 88-91 gore). Član 9. Uredbe iz 1992. godine predviđao je da Republika daje garanciju za deviznu štednju, a član 12. Uredbe iz 1994. godine glasi da građani mogu koristiti svoju štednju slobodno. Imajući u vidu da je članom 144. Uredbe iz 1992. godine određeno da isplate devizne štednje građana uložene kod Narodne banke Jugoslavije treba odrediti posebnim propisom, Dom je zaključio da je ustanovljeno da se izričita garancija i obećanje da se štednja može slobodno koristiti nisu odnosili na staru deviznu štednju nego samo na nove štedne uloge koje su građani počeli ulagati u vrijeme kada je usvojena zakonska regulativa Republike. Ipak, ostavljajući rješavanje stare devizne štednje za poseban propis, Republika je implicitno priznala odgovornost za ovu štednju. Odluke iz 1995. i 1996. godine ne samo da su pojačale ovo implicitno priznanje, već je jasno navedeno da će se pitanje stare štednje rješavati usvajanjem državnog zakona o javnom dugu ili na neki drugi način u okviru ukupne konsolidacije javnog duga države (*Poropat i drugi*, tačka 142. ff, *Todorović i drugi*, tačka 96, *Đurković i drugi*, tačka 202. ff). Iz ovoga je jasno vidljiv kontinuitet obaveze Države od perioda raspada bivše SFRJ, pa sve do 14. decembra 1995. godine, kada su Sporazum i Ustav Bosne i Hercegovine stupili na snagu.

1153. Komisija, prije svega, napominje da je Aneksom II/2 Ustava Bosne i Hercegovine propisan kontinuitet pravnih propisa, prema kojem *[s]vi zakoni, propisi i sudski poslovnici, koji su na snazi na teritoriji Bosne i Hercegovine u trenutku kada Ustav stupi na snagu, ostaće na snazi u onoj*

mjeri u kojoj nisu u suprotnosti sa Ustavom dok drugačije ne odredi nadležni organ vlasti Bosne i Hercegovine. Na taj način su svi normativni akti, koji su navedeni u prethodnoj tački ove Odluke, ostali na snazi. Nakon toga datuma, Država je prema novom Ustavu dobila nove obaveze, koje su se primjenjivale/se primjenjuju na pitanje imovinskih prava u smislu člana 1. Protkola broj 1 uz Evropsku konvenciju. U alineji 4. Preambule Ustava, koja ima normativni karakter, u skladu sa III. djelimičnom odlukom Ustavnog suda Bosne i Hercegovine u predmetu 5/98 (od 30. juna i 1. jula 2000. godine, tač. 17. ff), propisano je da je država obavezna da *podstakn[e] opšte blagostanje i ekonomski razvoj kroz zaštitu privatnog vlasništva i unapređenje tržišne privrede*. Članom I/4 Ustava Bosne i Hercegovine, stipulisana je, između ostalog, sloboda kretanja kapitala širom Bosne i Hercegovine, dok je članom II/1, *Bosna i Hercegovina i oba entiteta [obavezna] osigurati najviši nivo međunarodno priznatih ljudskih prava i osnovnih sloboda. U tu svrhu postoji Komisija za ljudska prava za Bosnu i Hercegovinu, kao što je predviđeno u Aneksu 6 Opšteg okvirnog sporazuma.* Osim toga, članom II/6. Ustava Bosne i Hercegovine, *Bosna i Hercegovina, i svi sudovi, ustanove, organi vlasti, te organi kojima posredno rukovode entiteti ili koji djeluju unutar entiteta podvrgnuti su, odnosno primjenjuju ljudska prava i osnovne slobode na koje je ukazano u stavu 2*. Konačno, *[p]rava i slobode predviđeni u Evropskoj konvenciji za zaštitu ljudskih prava i osnovnih sloboda i u njenim protokolima se direktno primjenjuju u Bosni i Hercegovini. Ovi akti imaju prioritet nad svim ostalim zakonima*. Na kraju, Komisija napominje da je Država, u skladu sa članom III/1(d) Ustava Bosne i Hercegovine, direktno odgovorna za monetarnu politiku. Štaviše, član VII. Ustava označava Centralnu banku Bosne i Hercegovine kao jedini nadležni organ za monetarnu politiku u cijeloj zemlji. Tačno je da Centralnoj banci nije dato ovlaštenje da reguliše rad banaka uopšte, ili posebno deviznu štednju. Međutim, isplata štednje sa predmetnih bankovnih računa ima reperkusije na protok deviza i tako utiče na monetarnu politiku za koju je Centralna banka, kao državna institucija, odgovorna.

1154. Iz ovih odredbi jasno proizilazi da je pravo na imovinu, kao jedno od fundamentalnih prava modernog demokratskog društva, obaveza Države. Država se ne može osloboditi garantovanja poštivanja ovog prava činjenicom da je, na primjer, prenijela regulisanje i implementaciju ovih oblasti na entitetske institucije. U tom smislu, Komisija napominje da je Dom, u svojoj Odluci CH/97/48 (*loc. cit*, tačka 93) zapazio da je Okvirni zakon o privatizaciji preduzeća i banaka, koji priznaje pravo entitetima da privatiziraju imovinu preduzeća i banaka na njihovoj teritoriji koja nije u privatnom vlasništvu i predviđa da će entiteti usvojiti zakone u tom smislu pokrivajući sredstva i obaveze tako ustanovljene**,** usvojila Parlamentarna skupština Bosne i Hercegovine 19. jula 1999. godine, nakon što je Visoki predstavnik, 22. jula 1998. godine, donio privremeni zakon. Po mišljenju Doma, činjenica da je Parlamentarna skupština usvojila ovaj Zakon - koji se indirektno tiče i stare devizne štednje – je indikacija o nadležnosti Države da reguliše ove stvari, bar u formulisanju općih principa koje treba primijeniti. Komisija smatra da, i danas, činjenica da je Federacija Bosne i Hercegovine usvojila Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine, ne može osloboditi Državu obaveze da se ovo pitanje ne riješi, barem principijelno, na državnom nivou i u skladu sa članom 1. Protokola broj 1 uz Evropsku konvenciju, za koji je Država direktno odgovorna.

1155. Time Komisija odbija prigovore tužene strane, Bosne i Hercegovine, da Država nije *preuzela garanciju za deviznu štednju građana koja je deponovana kod bivše Narodne banke Jugoslavije, niti postoji njena obaveza da tu štednju isplaćuje građanima*. Komisija napominje da je pitanje deponovanja novca kod bivše Narodne banke Jugoslavije faktičko pitanje, koje je Bosna i Hercegovina trebala uzeti u obzir kada je zakonski, znači, formalno preuzimala obaveze u pogledu devizne štednje. S druge strane, Država (ni Republika Bosna i Hercegovina, niti Bosna i Hercegovina) nije nikada garantovala štedne uloge imovinom i sredstvima Narodne banke Republike Bosne i Hercegovine (vidi dio Odluke vis á vis zakonodavstva Države). Iz tog razloga, likvidacija Narodne banke Republike Bosne i Hercegovine (Odluka Narodne banke Republike Bosne i Hercegovine u likvidaciji, broj 01-111/03, od 26. juna 2003. godine), i javni poziv kreditorima po osnovu potraživanja (vidi, na primjer, Obavijest o likvidaciji Narodne banke Bosne i Hercegovine, "Službene novine Federacije Bosne i Hercegovine", broj 39/98), ne može uticati na poziciju vlasnika stare devizne štednje, bez obzira što se imovina ove države imovine mogla separatisati i likvidirati

1156. Komisija zaključuje da Bosna i Hercegovina ostaje odgovorna za pronalaženje zajedničkog rješenja za problem starih bankovnih računa, te smatra da su prijave prihvatljive *ratione personae* protiv Bosne i Hercegovine u vezi sa članom 1. Protokola broj 1 uz Evropsku konvenciju.

1157. Što se tiče sudskih postupaka koje su pokrenuli neki od podnosilaca prijava i navoda o nemogućnosti drugih da pristupe sudu, Komisija zapaža da se to isključivo tiče sudstva Federacije Bosne i Hercegovine. Komisija, zbog toga, nalazi da su prijave neprihvatljive protiv Bosne i Hercegovine u vezi sa članom 6. Evropske konvencije.

(b) Odgovornost Federacije Bosne i Hercegovine

1158. Federacija Bosne i Hercegovine tvrdi da se ne može smatrati odgovornom za moguće povrede u ovim predmetima.

1159. Komisija podsjeća da je sve zakone primjenjive na teritoriji Federacije Bosne i Hercegovine, koji se bave bankarstvom, potraživanjima građana, privatizacijom i unutrašnjim dugom, donijela Federacija Bosne i Hercegovine i da su svi organi određeni za implementaciju zakona institucije Federacije Bosne i Hercegovine. Nadalje, žalbe podnosilaca prijava i drugih tužilaca u vezi sa deviznom štednjom su ispitali sudovi koji su nadležni samo na teritoriji Federacije. Federacija Bosne i Hercegovine je odgovorna u ovim predmetima za regulatorne mjere, odluku Ustavnog suda Federacije i druge postupke koje je preduzela u dijelu u kome su oni uticali na položaj podnosilaca prijava u odnosu na banke, a posebno, u odnosu na štedne uloge u bankama.

1160. Komisija zaključuje da je nadležna *ratione personae* da razmatra predmetne prijave u odnosu na Federaciju Bosne i Hercegovine.

2. Stvar već riješena

1161. Federacija Bosne i Hercegovine također tvrdi da predmetne prijave treba odbaciti na osnovu toga što je Dom već riješio stvar u odluci *Poropat i drugi*, *Todorović i drugi* i *Đurković i drugi* naknadnim izvršenjem tih odluka od strane Federacije putem postojećih izmjena i dopuna zakona, te mogućih budućih radnji.

1162. Međutim, podnosioci prijava ne misle da je stvar riješena. Komisija smatra da usvajanje novog Zakona o unutrašnjim obavezama i dalje ostavlja otvorenim mnoga pitanja, propisujući da će se model i visina isplata regulisati naknadno posebnim propisom. Naročito, Komisija zapaža da su novim zakonskim rješenjima propisana određena ograničenja koja se tiču iznosa u kome će se vršiti gotovinske isplate, a koji bi trebao da podrži fiskalnu održivost Federacije Bosne i Hercegovine. Prema tome, podnosioci prijava i dalje ne mogu da dobiju isplatu sa svojih računa, niti je trenutno u potpunosti izvjesno na koji način i do koje visine će to biti moguće. Dakle, uplitanje se nastavlja, a stvar nije riješena.

1163. Ukratko, Komisija dalje smatra da trenutni status zakona koji utiče na staru deviznu štednju pokreće pitanja koja još nisu riješena. Komisija, zbog toga, neće odbiti predmetne prijave po članu VIII(3)(b) Sporazuma.

3. *Res iudicata*

1164. Federacija Bosne i Hercegovine tvrdi da je Komisija, u skladu sa članom VIII(2)(b), spriječena da ispita ove predmete zbog toga što su oni u suštini isti kao stvar koju je Dom već ispitao. Federacija posebno tvrdi da odluke Doma po istom pitanju u predmetu *Poropat i drugi*, *Todorović i drugi i Đurković i drugi* sprječavaju razmatranje ovih prijava.

1165. Komisija podsjeća da princip *res iudicata* predviđa da je konačna presuda koju donese nadležni sud o meritumu predmeta konačna u odnosu na prava uključenih strana i predstavlja

apsolutnu zabranu kasnijih postupaka koji se tiču istog potraživanja. Taj princip je izražen u članu VIII(2)(b) Sporazuma kojim je propisano da Dom *neće razmatrati prijavu koja je u suštini ista kao i stvar koju je Dom već ispitao, ili je već podnesena na drugi postupak međunarodne istrage ili rješavanja*. Međutim, nijedan od ovih podnosilaca prijava nije uključen u odluke Doma u predmetima *Poropat i drugi*, *Todorović i drugi* i *Đurković i drugi*; dakle, princip *res iudicata* se ne može odnositi na njih.

1166. Član VIII(2)(b) Sporazuma nije primjenjiv u ovom slučaju kako bi se Komisiji uskratila ovlaštenja da razmatra prijave bez obzira na slične ranije prijave pred Domom.

4. Očigledno neosnovane

1167. Federacija tvrdi da ove prijave treba odbaciti kao očigledno neosnovane.

1168. Federacija ne navodi nikakve dokaze za ovaj argument i Komisija smatra da ove prijave pokreću legitimna pitanja spojiva sa Sporazumom i u okviru njene nadležnosti. Prema tome, Komisija odbacuje prijedlog da se prijave moraju odbaciti kao očigledno neosnovane prema članu VIII(2)(c).

5. Iscrpljivanje domaćih pravnih lijekova i pravilo 6 mjeseci

1169. U skladu sa članom VIII(2)(a), Komisija će razmotriti da li postoje efikasni pravni lijekovi i, ako je tako, da li su podnosioci prijava dokazali da su ih iscrpili, te da li su podnosioci prijava dokazali da su prijave podnesene u roku od šest mjeseci od dana kada je donesena konačna odluka. Komisija podsjeća da pravilo iscrpljivanja pravnih lijekova zahtijeva da podnosioci prijava dođu do konačne odluke. Konačna odluka predstavlja odgovor na zadnji pravni lijek, koji je djelotvoran i adekvatan da ispita nižestepenu odluku kako u činjeničnom tako i u pravnom pogledu. Odluka kojom je djelotvoran pravni lijek odbačen zato što apelanti nisu ispoštovali formalne zahtjeve pravnog lijeka (rok, plaćanje taksi, forma ili ispunjenje zakonskih uvjeta i sl), ne može se smatrati konačnom. S druge strane, korištenje nedjelotvornog pravnog lijeka ne prekida rok od 6 mjeseci za podnošenje prijave Komisiji.

1170. Bosna i Hercegovina tvrdi da podnosioci prijava nisu iscrpili domaće pravne lijekove, jer nisu iskoristili sva raspoloživa pravna sredstva pred domaćim sudovima. Takva sredstva uključuju određene redovne i vanredne pravne lijekove predviđene Zakonom o parničnom postupku. Bosna i Hercegovina je, nadalje, navela da je *u svojoj dosadašnjoj praksi Evropska komisija prihvatila predmete u kojima nisu bila iskorištena sva raspoloživa efikasna sredstva, samo u dva slučaja*, smatrajući time da je ovakav pristup izrazito rijedak. Navodi da *samo sumnja u uspjeh u domaćem postupku podnosice prijava ne oslobađa obaveze da iscrpe domaća pravna sredstva*.

1171. Komisija, na prvom mjestu, napominje da pri primjeni principa iscrpljivanja pravnih lijekova nije potrebno uzimati u obzir kvantitet odluka Evropske komisije za ljudska prava u pogledu određene problematike (čak i da nema niti jednog predmeta u relevantnom smislu), već je potrebno ispitivati u svakom pojedinom slučaju da li je pravni lijek djelotvoran, ili ne prema relevantnim zakonima države.

1172. Na pojedinca se ne može staviti pretjerani teret u otkrivanju koji je najefikasniji put kojim bi se došlo do ostvarivanja svojih prava (Odluka Ustavnog suda Bosne i Hercegovine, *U 18/00,* od 10. maja 2002. godine, tačka 40, "Službeni glasnik Bosne i Hercegovine", broj 30/02). Djelotvornost pravnog lijeka se ne ogleda samo u činjenici da je on pravno i formalno predviđen, već i da je u praksi djelotvoran. Osnovna ljudska prava, koja štiti Evropska konvencija i Ustav Bosne i Hercegovine, moraju biti stvarna i djelotvorna kako u zakonu tako i u praksi, a ne iluzorna i teoretska. Pravni lijekovi koji su predviđeni za zaštitu prava moraju biti fizički dostupni, ne smiju biti ometani aktima, propustima, odlaganjima ili nemarom vlasti, te moraju biti u stanju štititi predmetna prava (Odluka Ustavnog suda Bosne i Hercegovine, *U 36/02*, od 30. januara 2004. godine, tačka 25, "Službeni glasnik Bosne i Hercegovine", broj 9/04).

1173. U vezi s tim, Komisija podsjeća da je u Bosni i Hercegovini već etablirana praksa da se podnosioci prijava mogu obratiti direktno Ustavnom sudu Bosne i Hercegovine ili Domu, danas Komisiji, u slučaju kada nema djelotvornih pravnih lijekova u vezi sa određenim ustavnim pravom, odnosno pravom iz Sporazuma. Tako je u svim slučajevima nerazumnog trajanja postupka zaključeno da u Bosni i Hercegovini ne postoji pravni lijek protiv tvrdnje da je u određenom slučaju povrijeđeno pravo na odlučivanje u razumnom roku. Iz toga razloga, apelanti, tj. podnosioci prijava nisu se morali obratiti niti jednom domaćem organu, već direktno Ustavnom sudu Bosne i Hercegovine ili Domu, tj. Komisiji, i tvrditi povredu citiranog prava (vidi, nedavno usvojene predmete Ustavnog suda Bosne i Hercegovine, *AP 769/04*, od 30. novembra 2004. godine, tačka 23, sa uputom na daljnju praksu Evropskog suda za ljudska prava). Nadalje, Dom je jasno naveo da činjenica da postupak još traje neće spriječiti Dom da ispita žalbene navode podnosioca prijave u vezi sa dužinom postupka (Odluka o prihvatljivosti i meritumu, CH/99/1972, *M.T. protiv Republike Srpske*, od 3. jula 2003. godine, tačka 27). Isti slučaj je bio sa pravom pristupa sudu, gdje je zaključeno da Bosna i Hercegovina i njene poddržavne teritorijalne cjeline nisu predvidjeli pravni lijek protiv povrede prava pristupa sudu (vidi, na primjer, Odluku o prihvatljivosti i meritumu Komisije, Dmitar Arula protiv Federacije Bosne i Hercegovine, od od 8. i 9. marta 2005. godine, tačka 55; Odluka Ustavnog suda Bosne i Hercegovine, *U 19/00* od 4. maja 2001. godine, tačka 12. ff, "Službeni glasnik Bosne i Hercegovine", broj 27/01).

1174. Komisija navodi da je prva indicija nedjelotvornog pravnog sistema u pogledu isplate stare devizne štednje činjenica da Bosna i Hercegovina ni dan danas nije počela da isplaćuje deviznu štednju. Osim toga, podsjeća da su neki od podnosilaca prijava pokrenuli domaće sudske postupke kako bi im se isplatila gotovina sa njihovih računa. Nijedan od podnosilaca prijava nije do sada u tome uspio. Osim toga, Komisija uzima u obzir da su brojni postupci u toku i nakon više od pet godina. Konačno, sama zakonska rješenja ne dozvoljavalju trenutno da se pravomoćne presude iz oblasti ove problematike izvršavaju, jer su predviđeni drugi modaliteti isplate stare devizne štednje.

1175. S obzirom na gore navedeno, Komisija smatra da ne postoje efikasni pravni lijekovi koji su dostupni podnosiocima prijava, a koje bi trebali iscrpiti. U ovim okolnostima, Komisija nije spriječena da razmatra prijave.

1176. Bosna i Hercegovina tvrdi da su prijave neprihvatljive prema članu VIII(2)(a) Sporazuma, jer nisu podnesene u roku od šest mjeseci od dana donošenja bilo koje konačne odluke u predmetima podnosilaca prijava. Međutim, sadržaj svake od navedenih povreda je nastavljena situacija, a rok od šest mjeseci se ne može primijeniti sve dok se situacija ne okonča, a što ovdje nije slučaj. Treba napomenuti da je zahtjev za isplatom pravni zahtjev koji se formalno, ali i faktički, proteže od samog početka nemogućnosti isplate štedišama njihove devizne štednje. Prema tome, iako je situacija nastala prije 14. decembra 1995. godine, pravna situacija je nepromijenjena i do danas, kada je Sporazum, bez daljnjeg, na snazi. Radi se, znači, o klasičnom slučaju tvrdnje kontinuirane povrede (vidi, između ostalih, odluke o prihvatljivosti i meritumu Doma, CH/99/1900 i 1901, *D.S. i N.S. protiv Federacije Bosne i Hercegovine*, od 6. marta 2002. godine, tačka 49; Odluku Ustavnog suda Bosne i Hercegovine, *U 23/00,* "Službeni glasnik Bosne i Hercegovine", broj 10/01).

1177. Komisija, zbog toga, zaključuje da prijave nisu neprihvatljive prema članu VIII(2)(a).

(c) Ostalo

1178. U skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, Komisija briše dio prijave, u predmetu broj CH/98/1300, *Vera KRSTIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u vezi sa deviznim štednim knjižicama kod Jugobanke, koje glase na ime B.K, jer uprkos izričitom traženju Komisije, podnosilac prijave nije dostavila punomoć, kojom je B.K. ovlašćuje na zastupanje u vezi devizne štednje pred Komisijom.

1179. U skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, Komisija briše dio prijave, u predmetu broj CH/99/2208, *Božidar LAKIČEVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u vezi sa položenim sredstvima kod Privredne banke. Naime, uprkos izričitom traženju, podnosilac prijave nije dostavio kopiju knjižica, čime bi potkrijepio svoje navode. Osim toga, podnosilac prijave nije naveo razloge nedostavljanja knjižice.

1180. U skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, Komisija briše dio prijave *broj CH/98/470, Ubavka ĆOROVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, za svoja potraživanja u iznosu od 2.735,65 KM i prijave br. *CH/98/421*, *Milorad SAVIČIĆ protiv Federacije Bosne i Hercegovine, CH/99/3027, Marela ČELIKOVIĆ protiv Federacije Bosne i Hercegovine*, *CH/99/3176, Vedat PAŠIĆ protiv Bosne i Hercegovine* i *CH/99/3177, Nejra PAŠIĆ protiv Bosne i Hercegovine*. Naime, uprkos izričitom traženju, podnosioci prijava nisu dostavili kopiju štednjih knjižica, čime bi potkrijepili svoje navode. Osim toga, podnosioci prijava nisu naveli razloge nedostavljanja knjižice.

1181. U skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, Komisija briše dio prijave, u predmetu broj CH/99/2552, *Pašan MEHMEDINOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, koji se odnosi na štedne pologe kćerki podnosioca prijave, jer, uprkos izričitom traženju Komisije, nije dostavio kopiju punomoći kojom ga ovi članovi porodice ovlašćuju za zastupanje pred Komisijom.

1182. U skladu sa pravilom 50. stavom 2e. Pravila procedure Komisije, Komisija briše prijave br. *CH/98/484, Draginja SAVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine, CH/99/3007, T.E.S. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine* i *CH/99/3043, Blažo ĆIPOVIĆ protiv Federacije Bosne i Hercegovine,* jer podnosiloci prijava ne posjeduju više deviznu štednju, zbog čega više nije opravdano da se nastavi postupak pred Komisijom. Naime, Komisija smatra da se ovi podnosioci prijava ne mogu smatrati više „žrtvama“ navodnih povreda ljudskih prava i sloboda.

8. Zaključak u pogledu prihvatljivosti

1183. Pošto nije utvrđen bilo koji osnov za proglašavanje prijava neprihvatljivim, Komisija proglašava sve prijave prihvatljivim prema članu 1. Protokola broj 1 uz Evropsku konvenciju u pogledu Bosne i Hercegovine, i u cijelosti prihvatljive u pogledu Federacije Bosne i Hercegovine.

1184. Komisija, u skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, briše dio prijava u predmetima br. *CH/98/470, Ubavka ĆOROVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine,* CH/98/1300, *Vera KRSTIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, CH/99/2208, *Božidar LAKIČEVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, CH/99/2552, *Pašan MEHMEDINOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*. Komisija, u skladu sa pravilom 50. stavom 2b. Pravila procedure Komisije, briše prijave br. *CH/98/421*, *Milorad SAVIČIĆ protiv Federacije Bosne i Hercegovine, CH/99/3027, Marela ČELIKOVIĆ protiv Federacije Bosne i Hercegovine*, *CH/99/3176, Vedat PAŠIĆ protiv Bosne i Hercegovine* i *CH/99/3177, Nejra PAŠIĆ protiv Bosne i Hercegovine.*

1185. U skladu sa pravilom 50. stavom 2e. Pravila procedure Komisije, Komisija briše prijave br. *CH/98/484, Draginja SAVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine***,** *CH/99/3007, T.E.S. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine* i *CH/99/3043, Blažo ĆIPOVIĆ protiv Federacije Bosne i Hercegovine,* jer podnosiloci prijava ne posjeduju više deviznu štednju.

B. Meritum

1186. Po članu XI Sporazuma Dom će potom razmotriti pitanje da li gore utvrđene činjenice otkrivaju da su tužene strane prekršile svoje obaveze prema Sporazumu. Prema članu I Sporazuma, strane su obavezne da *obezbijede svim licima pod svojom nadležnošću najviši stepen*

međunarodno priznatih ljudskih prava i osnovnih sloboda, uključujući prava i slobode predviđene Evropskom konvencijom i njenim Protokolima.

B.1. Član 1. Protokola broj 1 uz Evropsku konvenciju

1187. Podnosioci prijava se žale da je povrijeđeno njihovo pravo na imovinu prema članu 1. Protokola broj 1 uz Evropsku konvenciju. Ova odredba glasi:

> *Svako fizičko i pravno lice ima pravo uživati u svojoj imovini. Niko ne može biti lišen imovine, osim u javnom interesu i pod uvjetima predviđenim zakonom i općim načelima međunarodnog prava.*
>
> *Prethodne odredbe, međutim, ne utiču ni na koji način na pravo države da primjenjuje zakone koje smatra potrebnim da bi se regulisalo korištenje imovine u skladu sa općim interesima ili da bi se obezbijedila naplata poreza ili drugih dadžbina i kazni.*

1188. Podnosioci prijava se žale da su njihova prava povrijeđena odbijanjem banaka, tj. tuženih strana, da im isplate deviznu štednju, i konverzijom te štednje u certifikate za privatizaciju, bez njihovog znanja i saglasnosti. Dalje, podnosioci prijava tvrde da radnjama koje je preduzela Federacija nije uspostavljena pravična ravnoteža između javnog i privatnog interesa, a rezultat toga je nastavljena povreda njihovih prava na imovinu.

1189. Tužene strane navode da su postupci u pogledu stare devizne štednje bili opravdani i da nije došlo do povrede ljudskih prava. Bosna i Hercegovina se pozvala na saradnju sa Uredom Visokog predstavnika za Bosnu i Hercegovinu, te navela da Država priprema paket zakona o privatizaciji državne imovine, čija je vrijednost znatno veća od duga po staroj deviznoj štednji građana. Bosna i Hercegovina je navela da trenutna zakonska rješenja ne vrijeđaju pravo podnosilaca prijava na imovinu. Federacija Bosne i Hercegovine navodi da je nesporno da se radi o imovini podnosilaca prijava, ali da je ovo pitanje zakonski regulisano u skladu sa pravom na imovinu. Ističe, da je postignuta pravična ravnoteža između interesa Države i podnosilaca prijava, te da je otklonjena buduća nesigurnost u pogledu devizne štednje.

1190. Prema jurisprudenciji Evropskog suda za ljudska prava, član 1. Protokola broj 1 uz Evropsku konvenciju obuhvata tri različita pravila. Prvo, koje je izraženo u prvoj rečenici prvog stava i koje je opće prirode, izražava princip mirnog uživanja u imovini. Drugo pravilo, u drugoj rečenici istog stava, pokriva lišavanje imovine i podvrgava ga izvjesnim uvjetima. Treći, sadržan u drugom stavu, dozvoljava da države potpisnice imaju pravo, između ostalog, da kontrolišu korištenje imovine u skladu sa općim interesom, sprovođenjem onih zakona koje smatraju potrebnim za tu svrhu (vidi Odluku Ustavnog suda Bosne i Hercegovine, *U 3/99*, od 17. marta 2000. godine, "Službeni glasnik Bosne i Hercegovine", broj 21/00).

1191. Uzimajući u obzir gornju tačku ove Odluke, slijedi da Komisija mora odgovoriti na tri pitanja. Prvo, da li se prava u vezi sa starom deviznom štednjom mogu smatrati *imovinom* u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju? Drugo, ako se smatraju imovinom, da li se postojećom zakonskom regulativom ili nedostatkom regulative Bosna i Hercegovina, tj. Federacija Bosne i Hercegovine miješa u ta prava tako da uključuje zaštitu člana 1. Protokola broj 1 uz Evropsku konvenciju? Treće, ako je član 1. Protokola broj 1 uz Evropsku konvenciju uključen, da li je miješanje opravdano prema tom članu?

B.1.a. Da li se radi o imovini podnosilaca prijava?

1192. Prema ustanovljenoj praksi riječ imovina uključuje širok obim imovinskih interesa koje treba štititi (vidi presudu bivše Evropske komisije za ljudska prava, *Wiggins protiv Ujedinjenog Kraljevstva*, aplikacija broj 7456/76, Odluke i izvještaji (OI) 13, st. 40-46 (1978)), a koji predstavljaju ekonomsku vrijednost. Koncept imovine ima autonomno značenje, a dokazivanje utvrđenog ekonomskog interesa može biti dovoljno ako se ustanovi pravo zaštićeno Evropskom konvencijom, pri čemu pitanje da li su imovinski interesi priznati kao zakonsko pravo u domaćem pravnom sistemu nije od značaja (vidi presudu Evropskog suda za ljudska prava, *Tre Traktörer Aktibolag protiv Švedske*, iz 1984. godine, serija A, broj 159, stav 53).

1193. Dom je u svojoj ranijoj praksi, u nekoliko prilika, ustanovio da stara devizna štednja predstavlja imovinu u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju. Dom je utvrdio da, bez obzira na finansijsku situaciju banaka i opću ekonomsku situaciju u Državi i Federaciji Bosne i Hercegovine, te ograničenja u podizanju stare devizne štednje ili *de facto* blokiranje te štednje, novac koji je deponovan na računima podnosilaca prijava predstavlja ekonomsku vrijednost. Potraživanja podnosilaca prijava kod banaka po osnovu njihove devizne štednje tako predstavljaju *vlasništvo* u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju (vidi odluku *Poropat i drugi*, *loc. cit,* tačka 161). Konačno, tužene strane u postupku nisu negirale ovu činjenicu. Štaviše, Federacije Bosne i Hercegovine je afirmativno potvrdila ovaj navod podnosilaca prijava.

B.1.b. Navodne povrede od strane Bosne i Hercegovine

B.1.b.1. Da li se Bosna i Hercegovina nastavila miješati u pravo na imovinu podnosilaca prijava?

1194. Komisija, prije svega, napominje da je u predmetu *Poropat i dr* (loc. cit, tač. 164. ff), Dom jasno utvrdio da se Bosna i Hercegovina miješala u pravo na imovinu podnosilaca prijava zbog činjenice da je propustila da *osigura štedišama stare devizne štednje njihovo pravo na mirno uživanje njihovog vlasništva. Ovo znači uplitanje u to pravo*. Preko tri godine kasnije, u odluci *Đurković i dr.* (*loc. cit*, tačka 269. ff), Dom je potvrdio miješanje Bosne i Hercegovine u isto pravo podnosilaca prijave.

1195. Od ove odluke, koja je uručena 7. novembra 2003. godine, Država nije donijela niti jedan pravni akt kojim bi regulisala ovo pitanje. S druge strane, isplata stare devizne štednje nije izvršena u bilo kojem smislu. Iz ovog razloga, Komisija smatra da je Bosna i Hercegovina nastavila da se miješa u pravo podnosilaca prijava, zbog čega je neophodno da se ispita opravdanje ovakvog *propuštanja* Države da reguliše pitanje stare devizne štednje.

B.1.b.2. Da li je miješanje opravdano?

1196. Prije stupanja na snagu Općeg okvirnog sporazuma za mir u Bosni i Hercegovini, Država je bila zakonodavno aktivna u pogledu stare devizne štednje. Naime, Republika Bosna i Hercegovina je usvojila zakone i propise u vezi sa deviznom štednjom (vidi CH/97/48, *loc. cit,* tač. 88-91; tačka 1064. ff ove Odluke). Član 9. stav 3. Uredbe iz 1992. godine predviđao je da Republika daje garanciju za deviznu štednju, a član 12. Uredbe iz 1994. godine stipulisao je da građani mogu koristiti svoju štednju slobodno. Imajući u vidu da je članom 144. Uredbe iz 1992. godine određeno da isplate devizne štednje građana uložene kod Narodne banke Jugoslavije treba odrediti posebnim propisom, Komisija smatra da je ustanovljeno da se izričita garancija i obećanje da se štednja može slobodno koristiti nisu odnosili na staru deviznu štednju nego samo na nove štedne uloge koje su građani počeli ulagati u vrijeme kada je usvojena zakonska regulativa Republike. Ipak, ostavljajući rješavanje stare devizne štednje za poseban propis, Republika je implicitno priznala odgovornost za ovu štednju. Odlukom od 9. aprila 1995. godine, ne samo da je pojačano ovo implicitno priznanje, već je jasno navedeno da će se pitanje stare štednje rješavati usvajanjem državnog zakona o javnom dugu Republike.

1197. Iako je Opći okvirni sporazum za mir u Bosni i Hercegovini stupio na snagu nakon datuma koji su navedeni u prethodnoj tački, Komisija ponavlja da, prema članu I Ustava Bosne i Hercegovine, Bosna i Hercegovina nastavlja svoje pravno postojanje po međunarodnom pravu kao država i tako nasljeđuje status bivše Republike Bosne i Hercegovine. Komisija se, nadalje, poziva na Aneks II/2 Ustava Bosne i Hercegovine, kojim je propisan kontinuitet pravnih propisa, prema kojem *[s]vi zakoni, propisi i sudski poslovnici, koji su na snazi na teritoriji Bosne i Hercegovine u trenutku kada Ustav stupi na snagu, ostaće na snazi u onoj mjeri u kojoj nisu u suprotnosti sa Ustavom dok drugačije ne odredi nadležni organ vlasti Bosne i Hercegovine*. *In conclusio*, svi opći akti, koji su usvojeni do stupanja na snagu Ustava Bosne i Hercegovine, ostaju na snazi u punom kapacitetu, sve dok drugačije ne odredi nadležni organ vlasti Bosne i Hercegovine. Time su i obaveze, koje je imala Republika Bosna i Hercegovina, a koje su opisane u prehodnoj tački, prešle na Državu, bez ikakvih ograničenja. Drugim riječima, jasno je vidljiv kontinuitet obaveze Države od perioda raspada bivše SFRJ pa sve do 14. decembra 1995. godine, kada je Sporazum i Ustav Bosne i Hercegovine stupio na snagu. U tom svojstvu, Bosna i Hercegovina uzima učešće u pregovorima koji se tiču sukcesije imovine SFRJ.

1198. Nakon stupanja na snagu Ustava Bosne i Hercegovine, Država je dobila nove obaveze koje se odnose na pitanja imovinskih prava u smislu člana 1. Protkola broj 1 uz Evropsku konvenciju. Prije svega, Komisija napominje da tumačenje nadležnosti Države i njenih teritorijalnih cjelina treba biti, prije svega, u okviru jezičkog značenja ustavnih odredbi, a na način da se najdjelotvornije ostvari cilj koji je propisan – u konkretnom slučaju, pravo na imovinu. U alineji 4. Preambule Ustava, koja ima normativni karakter, u skladu sa odlukom Ustavnog suda Bosne i Hercegovine III. djelimičnu odluku u predmetu 5/98 (od 30. juna i 1. jula 2000. godine, tač. 17. ff), propisano je da je država obavezna da *podstakn[e] opšte blagostanje i ekonomski razvoj kroz zaštitu privatnog vlasništva i unapređenje tržišne privrede*. Članom I/4 Ustava Bosne i Hercegovine, stipulisana je, između ostalog, sloboda kretanja kapitala širom Bosne i Hercegovine i garantovanje jedinstvenog tržišta, dok je članom II/1, *Bosna i Hercegovina i oba entiteta [obavezna] osigurati najviši nivo međunarodno priznatih ljudskih prava i osnovnih sloboda*. Osim toga, članom II/6. Ustava Bosne i Hercegovine, *Bosna i Hercegovina, i svi sudovi, ustanove, organi vlasti, te organi kojima posredno rukovode entiteti ili koji djeluju unutar entiteta podvrgnuti* su, *odnosno primjenjuju ljudska prava i osnovne slobode na koje je ukazano u stavu 2*. Konačno, *[p]rava i slobode predviđeni u Evropskoj konvenciji za zaštitu ljudskih prava i osnovnih sloboda i u njenim protokolima se direktno primjenjuju u Bosni i Hercegovini. Ovi akti imaju prioritet nad svim ostalim zakonima.* Na kraju, Komisija napominje da je Država, u skladu sa članom III/1(d) Ustava Bosne i Hercegovine, direktno odgovorna za monetarnu politiku. Štaviše, član VII. Ustava označava Centralnu banku Bosne i Hercegovine kao jedini nadležni organ za monetarnu politiku u cijeloj zemlji. Tačno je da Centralnoj banci nije dato ovlaštenje da reguliše rad banaka uopšte ili posebno deviznu štednju. Međutim, isplata štednje sa predmetnih bankovnih računa ima reperkusije na protok deviza i tako utiče na monetarnu politiku za koju je Centralna banka, kao državna institucija, odgovorna.

1199. S druge strane, u pogledu problema devizne štednje, Država je nastavila sa zakonodavnim aktivnostima nakon stupanja na snagu Sporazuma i Ustava Bosne i Hercegovine. Tako je Odlukom od 10. aprila 1996. godine potvrđena Odluka od 9. aprila 1995. godine, a kojom je propisano da *[d]evizna štednja građana deponovana kod bivše Narodne banke Jugoslavije zajedno sa kamatama na ovu štednju, rješavaće se donošenjem zakona o javnom dugu Bosne i Hercegovine ili na drugi način u sklopu ukupne konsolidacije duga Bosne i Hercegovine zajedno sa međunarodnom zajednicom.* Država je 22. jula 1998. godine, odnosno 19. jula 1999. godine, usvojila Okvirni zakon o privatizaciji banaka i preduzeća, koji je samo formulisao određene opće principe u privatiziciji. Uprkos ovoj zakonodavnoj aktivnosti, a u skladu sa ustavnim obavezama Države, Dom je, u svojoj odluci o deviznoj štednji građana, *CH/97/48* (*loc. cit,* tač. 164.ff), zaključio da je Država odgovorna za povredu člana 1. Protokola broj 1 uz Evropsku konvenciju, jer je propustila da preduzme određenu radnju i tako ostavila *štediše u situaciji u kojoj nije bilo pravne osnove po kojoj su oni mogli tražiti isplatu svoje štednje, bilo direktno od banaka ili indirektno od Države kroz plaćanje javnog duga*. Ovakva situacija je nastavljena sve do oktobra 2003. godine,

kada je Dom, u svojoj zadnjoj odluci CH/98/377 i dr. (*loc. cit*, tačka 204) u vezi sa štednim ulozima građana, zaključio:

> *[...] da Bosna i Hercegovina ostaje odgovorna za nalaz zajedničkog rješenja za problem starih bankovih računa. Bosna i Hercegovina je uključena u državne pregovore u vezi sa pitanjima kao što su odgovornosti banaka iz inostranstva (kao što su Ljubljanska banka i Unionbanka, bivša Jugobanka), prava ekonomske sukcesije, i druga pitanja koja utiču na imaoce deviznih štednih računa, uključujući i podnosioce ovih prijava. Dom, radi toga, nalazi da su te prijave prihvatljive protiv Bosne i Hercegovine u vezi sa članom 1 Protokola br. 1 uz Konvenciju.*

1200. Od 22. jula 1998. godine, odnosno 19. jula 1999. godine, zakonodavno stanje na terenu se nije mijenjalo. Država nije donosila nikakve zakone u vezi sa unutarnjim dugom ili štednjom građana. Jedini zakon, koji je regulisao pitanje *državnog* duga, je Zakon o utvrđivanju i načinu izmirenja unutarnjeg duga Bosne i Hercegovine ("Službeni glasnik Bosne i Hercegovine", broj 44/04), iz kojeg očigledno proizilazi da Bosna i Hercegovina, tj. Država, ne podrazumijeva štednju građana kao svoj dug, već dug entiteta. Drugim riječima, sva aktivnost u pogledu *stare devizne štednje* građana prenesena je na entitete i Distrikt Brčko, koji su pitanje stare devizne štednje regulisali kroz relevantne zakone o unutarnjem dugu. Na ovaj način, jasno je da se Država *de facto* i *de jure* odrekla obaveza koje su proizilazile iz legislative donesene od 1992-1999. godine, uključujući i obaveze iz Ustava Bosne i Hercegovine i Sporazuma.

1201. Što se tiče samih obaveza Države, koje proizilaze iz legislative donesene od 1992-1999. godine, Država nije donijela niti jedan akt, kojim bi stavila van snage postojeću legislativu, a kojom je, u to vrijeme, direktno preuzela obaveze po osnovu stare devizne štednje. Problem bi mogao biti riješen primjenom principa *lex posterior derogat lex priori*, čime bi entiteti i Distrikt Brčko mogli preuzeti obavezu samostalnog garantovanja imovinskih prava po osnovu stare devizne štednje. Međutim, u ovom slučaju ne radi se samo o obavezi koja proizilazi iz *državnih* pozitivno-pravnih propisa, koji su derogirani donošenjem novih zakona, a koji regulišu istu materiju. Stara devizna štednja, nakon 14. decembra 1995. godine, predstavlja konstituisano imovinsko pravo u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju, člana II/2/k) Ustava Bosne i Hercegovine, tj. člana 1. tačka 11. Sporazuma. Znači, radi se o pravima, koja su, s jedne strane, jasno definisana obaveza Države, a s druge strane, o pravima koja ne mogu biti derogirana i na niži teritorijalni nivo, na način na koji je to učinjeno. Iz navedenih razloga, potpuna derogacija bi mogla biti moguća da pravna pozicija podnosilaca prijava nije zaštićena Sporazumom i Ustavom Bosne i Hercegovine. Drugim riječima, Država se ne može osloboditi garantovanja poštivanja ovog prava njegovim prenosom, u smislu regulisanja i implementacije, na entitetske institucije, bez da obezbijedi dovoljno garanta za adekvatno rješavanje ovog pitanja na nižem nivou u skladu sa, između ostalog, standardima iz člana 1. Protokola broj 1 uz Evropsku konvenciju.

1202. Zašto je bitno da Država načelno reguliše pitanje stare devizne štednje? Komisija primjećuje da je Federacija Bosne i Hercegovine regulisala pitanje stare devizne štednje Zakonom o utvđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine. Tim Zakonom, članom 2, *utvrđuje se sveobuhvatno izmirenje unutrašnjeg duga na način koji osigurava i podržava makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine*. Republika Srpska je pitanje devizne štednje regulisala u Zakonu o utvrđivanju i načinu izmirenja unutrašnjeg duga Republike Srpske ("Službeni glasnik Republike Srpske", broj 63/04). U članu 2. je navedeno da *[i]zmirenje unutrašnjeg duga vrši se u skladu sa odredbama ovog zakona na način koji obezbjeđuje i podržava makroekonomsku stabilnost i fiskalnu održivost Republike Srpske*. Konačno, Distrikt Brčko je sopstvenim Zakonom o podmirenju obaveza po osnovu stare devizne štednje ("Službeni glasnik Brčko Distrikta BiH", broj 27/04) regulisao pitanje isplate devizne štednje u gotovom novcu i obavezama, vodeći računa o makroekonomskoj stabilnosti Distrikta. Prema procjenama poddržavnih zakonodavaca, ukupan dug na ime stare devizne štednje u Distriktu Brčko iznosi 94 miliona konvertibilnih maraka, u Republici Srpskoj 774 miliona konvertibilnih maraka, dok se u Federaciji ukupan unutarnji dug procjenjuje na 1.858,9 miliona konvertibilnih maraka, od čega sigurno veliki dio otpada na staru deviznu štednju. Komisija je svjesna da je

pitanje unutarnjeg duga veliko opterećenje za entitete. Njihova solventnost je interes Države, jer od toga direktno zavisi i moć Države, njena makroekonomska stabilnost. Država, s druge strane, ima obavezu da poštuje i brani princip državnog suvereniteta, što podrazumijeva i finansijsku samostalnost prema vani, ali i prema unutra. Odbrana suvereniteta Države (od čega zavisi i faktička moć prava na imovinu u konkretnim slučajevima) je takva obaveza, da Ustav Bosne i Hercegovine predviđa ne samo preduzimanje mjera u okviru datih joj nadležnosti, nego i sve ostale mjere, bez obzira čija je to konkretno nadležnost u Državi (član III/5.a) Ustava Bosne i Hercegovine. Drugim riječima, Država, u cilju odbrane forme i vrste svog političkog postojanja, može i mora preduzeti sve potrebne mjere. Prema tome, Država mora obezbijediti bezbjedno funkcionisanje svih nadležnih teritorijalnih cjelina u smislu budućih, uređenih dijelova finansijske privrede, koji će biti izloženi i u budućnosti velikim problemima i rizicima (na primjer, najava rješavanja problema restitucije). To se može postići samo na način da Država, zakonskim aktom, utvrdi principe za sve poddržavne teritorijalne cjeline, a koji bi bili rezultat ekonomske analize makroekonomske stabilnosti Države u konktekstu postojećeg problema.

1203. U vezi s tim, član III/1(d) Ustava Bosne i Hercegovine nadležno obavezuje Državu na polju monetarne politike. Štaviše, član VII. Ustava označava Centralnu banku Bosne i Hercegovine kao jedini nadležni organ za monetarnu politiku u cijeloj zemlji. Tačno je da Centralnoj banci nije dato ovlaštenje da reguliše rad banaka uopšte ili posebno deviznu štednju. Međutim, isplata štednje sa predmetnih bankovnih računa ide danas ne preko banaka, već direktno iz entitetskih budžeta, što ima reperkusije na protok novca i deviza i tako utiče na monetarnu politiku za koju je Centralna banka, kao državna institucija, odgovorna. Prema tome, bankovni sistem, osim Centralne banke Bosne i Hercegovine, nema ulogu u pitanju stare devizne štednje.

1204. Član I/4. Ustava Bosne i Hercegovine obavezuje Državu da reguliše pitanje jedinstvenog tržišta u Bosni i Hercegovini, u koje spada, između ostalog, promet kapitala. Jedinstveno tržište i liberaliziacija tržišta kapitala obuhvata isključenje svakog ograničenja, tj. ne samo diskriminirajućih mjera, nego i svih drugih mjera, koje bez obzira što nemaju diskriminirajući karakter opterećuju određene grupe više nego druge. Za Komisiju je neprihvatljivo da isto pitanje, za koje je Država odgovorna, i koje je bilo na isti način tretirano sve do donošenja entitetskih zakona o regulisanju ovog problema, uključujući Distrikt Brčko, postane regulisano na sasvim nejednak način. Tako, na primjer, Federacija Bosne i Hercegovine predviđa isplaćivanje, *inter alia*, u novcu u periodu od četiri godine (član 11. Zakona), dok dospjeće obveznica još nije regulisano. Republika Srpska je predvidjela druge modalitete novčane isplate (član 15. Zakona), dok obveznice imaju rok dospjeća 30 godina (član 16. stav 1. tačka 1). Distrikt Brčko predvidio je rok od tri godine za novčanu isplatu (član 2. stav 1. Zakona), dok obveznice imaju rok dospjeća 25 godina (člana 2. stav 2a. Zakona). Nejednako tretiranje je posljedica derogacije problema sa Države na poddržavne teritorijalne cjeline. Na taj način, različito zakonsko tretiranje će, pored zakona slobodnog tržišta, bitno i direktno uticati na tržište obveznicama u Bosni i Hercegovini, kao jedinstvenom tržišnom prostoru. S druge strane, stara devizna štednja je bila, i principijelno ostala, državni problem. U vezi s tim, Komisija napominje da je država obavezna poštovati opći princip jednakosti u pravima, kako to propisuje Ustav Bosne i Hercegovine, i to ne samo naspram ustavnih prava, već svih prava koja su propisana zakonom. Pravo na jednakost je ustavno pravo i odnosi se na sva zakonska prava. Nijedan zakonodavac ne može biti oslobođen te obaveze. Komisija uvažava stav Države da je rješavanje ovog problema na poddržavnom nivou optimalno riješenje. Međutim, Država mora dati garancije da su različita zakonska rješenja na poddržavnim nivoima neophodne mjere radi zaštite funkcionisanja financijske privrede, monetarnog sistema, itd. Drugim riječima, Komisija uvažava stav Države da je opća ravnoteža u privredi veoma važan cilj Države. Međutim, različite mjere i različito tretiranje, koji utiču na jedinstveno tržište kapitala, su dozvoljeni ukoliko ispunjavaju pretpostavke principa proporcionalnosti (vidi presudu Suda za pravdu, predmet C-423/98, *Alfredo Albore*, Zbirka 2000, str. I-5965).

1205. Država, dozvolivši da poddržavne cjeline preuzmu operacionalizaciju i odgovornost za isplatu stare devizne štednje, nije dala niti jednu garanciju da će isplata, kako u novcu tako i u formi obveznica, biti realizovana. Komisija smatra da je neophodno da Država da određene garancije u tom smislu. Naime, po teoriji identiteta strana, Republike Bosne i Hercegovine i Bosne i

Hercegovine, a koja jasno proizilazi iz člana I Ustava Bosne i Hercegovine, prema kojem Bosna i Hercegovina nastavlja svoje pravno postojanje po međunarodnom pravu kao država i tako nasljeđuje status bivše Republike Bosne i Hercegovine, Bosna i Hercegovina ima poziciju dužnika. Ne bi bilo u skladu sa principom pravne države, da se Država, kao dužnik, oslobodi u potpunosti svoje obaveze tako što bi se, preko svoje moći nadležnosti derogacije, oslobodila davanja garancija za ispunjenje obaveza u koje je ušla. Iz toga razloga, Komisija ne može prihvatiti garanciju koju daju entiteti, a pogotovo ne garanciju obezbjeđenja novca putem privatizacije javnih preduzeća, uzimajući u obzir dosadašnje rezultate iste. Konačno, davanje garancije bi omogućilo da se jača osjećaj postojanja principa kontinuiteta u smislu člana I Ustava Bosne i Hercegovine i dobre vjere u njega. Naime, podnosioci prijava, kao vjerovnici, u trenutku sklapanja pravnog posla sa državnim bankama, nisu bili opterećeni rizikom da će isplata njihove devizne štednje kad-tad propasti ili postati neutuživa. Stoga, Komisija smatra da je Država odgovorna da se ojača taj osjećaj dobre vjere u kontinuitet pravnog sistema postojanja.

1206. Zbog svega navedenog, Komisija smatra da Država mora na određeni način regulisati navedenu problematiku, od čega će direktno zavisiti i uspjeh predviđenog modaliteta isplate stare devizne štednje. Komisija smatra da Država nije obavezna u potpunosti regulisati ova pitanja. Ipak, načelno regulisanje ovih pitanja, a prije svega, pitanje davanja garancije za isplatu od strane određene relevantne međunarodne institucije kapitala, ujednačavanje standarda na teritoriji cijele Države, vodeći računa o ostvarivanju jedinstvenog tržišta u Bosni i Hercegovini i makroekonomskoj stabilnosti Države, će voditi ka tome da pravo na imovinu ne bude ugroženo u budućem periodu, tj. da zakonska regulativa ispuni standarde koji su nametnuti pozitivnom obavezom za Državu, a koja proizilazi iz člana 1. Protokola broj 1 uz Evropsku konvenciju. Komisija napominje da je zakonodavac najkompetentniji, uzimajući u obzir praktična stanovišta, da odluči koja su to pitanja na terenu, koja se načelno moraju uzeti u obzir.

1207. S obzirom da Država, Bosna i Hercegovina, nije donijela određeni okvirni zakon, kojim bi načelno regulisala ova pitanja, Komisija smatra da je Bosna i Hercegovina propustila da djelotvorno zaštiti pravo na imovinu podnosilaca prijava, čime je povrijedila svoje pozitivne obaveze koje proizilaze iz člana 1. Protokola broj 1 uz Evropsku konvenciju.

B.1.c. Navodne povrede od strane Federacije Bosne i Hercegovine

1208. Pri razmatranju merituma ovih predmeta u odnosu na Federaciju Bosne i Hercegovine, Komisija mora odlučiti da li, u svjetlu najnovijih zakonskih promjena, koje su nastupile nakon odluke *Đurković i drugi,* pravna situacija u Federaciji u vezi sa starom deviznom štednjom nastavlja kršiti član 1. Protokola broj 1 uz Evropsku konvenciju.

1209. Komisija, prije svega, ponavlja da se u predmetnim slučajevima radi o imovini podosilaca prijava. Prema tome, Komisija mora utvrditi da li se postojećom zakonskom regulativom Federacija Bosne i Hercegovine miješa u ta prava tako da uključuje zaštitu člana 1. Protokola broj 1 uz Evropsku konvenciju? Osim toga, Komisija mora ispitati, ako se radi o miješanju u to pravo, da li je miješanje opravdano prema tom članu?

B.1.c.1. Da li se radi o miješanju Federacije Bosne i Hercegovine u pravo na imovinu podnosilaca prijava i, ako je odgovor afirmativan, da li se ono sastoji u *kontroli* ili *lišenju* prava na imovinu?

1210. Prema stanju spisa, a uzimajući u obzir postojeću zakonsku regulativu, zahtjev podnosilaca prijava odnosi se na isplatu iznosa stare devizne štednje, uključujući pripadajuće kamate. Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine predviđa poseban modalitet isplate stare devizne štednje, dok je članom 9. stavom 4. predviđeno da se kamate od 1. januara 1992. godine otpisuju.

1211. U odluci *Đurković i drugi* (*loc. cit*, tačka 244. ff), Dom je naveo:

U odlukama Poropat i drugi i Todorović i drugi, Dom je utvrdio da je došlo do uplitanja u prava podnosilaca prijava po članu 1 Protokola br. 1 uz Konvenciju na osnovu zakona koji su oslobodili banke njihovih ugovornih obaveza prema podnosiocima prijava i da je podnosiocima prijava onemogućeno da podignu svoj novac. (Poropat i drugi, tačke 170-77; Todorović i drugi, tačke 130-33). Praktično, ista situacija je ostala do danas. Dom zapaža da, u skladu sa izmjenama i dopunama, ne postoje odredbe u Zakonu o potraživanjima građana po osnovu kojih je građanin slobodan da raspolaže svojom štednjom na bilo koji drugi način osim da je pretvori u privatizacijske certifikate. Zakoni, kako su izmijenjeni i dopunjeni, nastavljaju da propisuju obavezni prenos devizne štednje iz banaka na Jedinstveni račun građana. Podnosioci prijava, a vjerovatno i druge štediše, nisu mogli i još uvijek ne mogu podignuti novac sa svojih računa. Dakle, uplitanje ustanovljeno u odluci Poropat i drugi se nastavlja barem de facto, iako de jure relevantni zakoni nisu više na snazi.

246. Uplitanje je pogoršano nemogućnošću podnosilaca prijava da dobiju obeštećenje na sudovima (vidi tačku 27 gore).

1212. Komisija navodi da se od vremena donošenja ovih zaključaka situacija utoliko promijenila što je na snazi novi zakonski okvir, koji reguliše pitanje stare devizne štednje. Međutim, vlasnici stare devizne štednje još uvijek nisu dobili isplatu svoje stare devizne štednje. Novi Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine ne predviđa isplatu stare devizne štednje, iako bi *normalna* situacija kod štednih uloga bila, ispunjenje ugovornih obaveza po ugovoru o štednji u skladu sa pojedinačnim ugovorima ili važećim zakonskim normama. Umjesto toga, novi Zakon je otpisao kamatu od 1. januara 1992. godine, a isplatu stare devizne štednje predvidio u sasvim drugom modalitetu – kao dio unutarnjeg duga Federacije Bosne i Hercegovine. Konačno, Komisija uviđa da izvršenje pravosnažnih presuda, donesenih u vezi stare devizne štednje još nije počelo.

1213. Na osnovu izloženog, Komisija zaključuje da je Federacija Bosne i Hercegovine nastavila sa uplitanjem u imovinska prava pojedinih štediša, uključujući i konkretne podnosioce prijava.

1214. Za Komisiju ostaje da preispita kakva je priroda ovog miješanja u pravo na imovinu. S jedne strane, Komisija primjećuje da nikada nije bilo *de iure* lišenja ovog imovinskog prava (vidi, na primjer, CH/97/48 i dr, *loc. cit*, tačka 78 – mišljenje OHR-a, kao *amicus curiae*; zakonsku regulativu Republike Bosne i Hercegovine i Bosne i Hercegovine, tačku 88. ff iste Odluke). Međutim, Evropski sud za ljudska prava je u svojoj dugogodišnjoj praksi naglasio da *de facto* lišenje imovine ne pretpostavlja, tj. ne uslovljava bilo koji formalni akt lišenja imovine. Ono obuhvata državne mjere, koje zbog svojih teških reperkusija na pravo na imovinu, imaju istu posljedicu kao i formalni akt lišenja imovine (na primjer, eksproprijacija). Jurisprudencija, pri tome, stavlja akcent na pitanje da li postoji bilo kakva korist od *preostalog* prava na imovinu nakon takvih državnih mjera. U razgraničenju prema *kontroli korištenja prava na imovinu* (stav 2. člana 1. Protokola broj 1 uz Evropsku konvenciju), postavlja se pitanje da li postoji opravdana vjera u mogućnost daljnjeg korištenja prava na imovinu, bez miješanja države u bilo kojoj formi (vidi, na primjer, presude Evropskog suda za ljudska prava, *Sporrong i Lönnroth protiv Švedske*, od 23. septembra 1982. godine, Serija A, broj 52, st. 70-73; *Allan Jacobson protiv Švedske,* od 25. oktobra 1989. godine, Serija A, broj 163, stav 54; *Fredin protiv Švedske*, od 18. februara 1991. godine, Serija A, broj 192, stav 46. i 52. ff, itd).

1215. Gledajući retrospektivno konkretnu situaciju oko stare devizne štednje, Komisija bi mogla zaključiti da se radi o *de facto* lišenju imovine. Naime, dugogodišnja nemogućnost da vlasnici stare devizne štednje dođu do realizacije svoga prava na imovinu, s jedne strane, a propali pokušaji Države da donese i implementira određene zakone, s druge strane, vode ka ovakvom zaključku (uporedi presudu Evropskog suda za ljudska prava, *Papmichalopoulus protiv Grčke*, od 24. juna 1993. godine, Serija A, broj 260-B, tač. 43-45). Ipak, u svjetlu novih zakonskih riješenja, Komisija smatra da se može opravdano očekivati da Federacija Bosne i Hercegovine isplati deviznu štednju

u okvirima predviđenog modaliteta. Iz toga razloga, Komisija smatra da ovaj slučaj, nakon donošenja novog Zakona, pokreće pitanje *kontrole* prava na imovinu u smislu stava 2. člana 1. Protokola broj 1 uz Evropsku konvenciju.

1216. Na ovaj zaključak ne utiče ni činjenica da Zakon različito tretira pitanje kamata od pitanja glavnice. Naime, Zakon ne lišava podnosioce prijava glavnice, već predviđa određene modalitete njene isplate. Komisija zaključuje da zakonski *modus operandi* u vezi glavnice jasno pokreće pitanje kontrole prava na imovinu. Kamate, s druge strane, iako mogu biti predmet pojedinačnog utuženja, te uprkos činjenici da kamate dospijevaju i zastarjevaju sa posebnim rokovima, one se moraju principijelno posmatrati kao sporedni zahtjev u odnosu na zahtjev za isplatu glavnice, te zajedno čine cjelinu (čl. 372, 399. ff, 1045. Zakona o obligacionim odnosima). Komisija je svjesna da se radi o periodu od 1. januara 1992. godine. Prema tome, lišavanje prava na kamatu, za period duži od 12 godina, sigurno predstavlja značajno ograničenje navedenog prava. Ipak, u svjetlu rečenog, Komisija će tretirati ovo pitanje zajedno sa pravom na glavnicu kao pitanje miješanja u pravo na imovinu od strane Federacije Bosne i Hercegovine u smislu njegove kontrole – član 1. stav 2. Protokola broj 1 uz Evropsku konvenciju. Komisija napominje da ovaj zaključak nema suštinskog uticaja na konačni ishod predmeta.

B.1.c.2. Da li je miješanje opravdano?

1217. Kao što je navedeno, prema jurisprudenciji Evropskog suda za ljudska prava, član 1. Protokola broj 1 uz Evropsku konvenciju obuhvata tri različita pravila. Prvo, koje je izraženo u prvoj rečenici prvog stava i koje je generalne prirode, izražava princip mirnog uživanja u imovini. Drugo pravilo, u drugoj rečenici istog stava, pokriva lišavanje imovine i podvrgava ga izvjesnim uslovima. Treće, sadržano u drugom stavu, dozvoljava da države potpisnice imaju pravo, među ostalim, da kontrolišu korištenje imovine u skladu sa općim interesom, sprovođenjem takvih zakona koje smatraju potrebnim za tu svrhu (vidi, *inter alia,* presude Evropskog suda za ljudska prava, *Sporrong i Lönnroth protiv Švedske*, od 23. septembra 1982. godine, Serija A, broj 52, stav 61 i *Scollo protiv Italije*, od 28. septembra 1995. godine, Serija A, broj 315-C, stav 26. sa daljnjim uputama). Svako miješanje u pravo prema drugom ili trećem pravilu mora biti predviđeno zakonom, mora služiti legitimnom cilju, mora uspostavljati pravičnu ravnotežu između prava nosioca prava i javnog i općeg interesa. Drugim riječima, opravdano miješanje se ne može nametnuti samo zakonskom odredbom koja ispunjava uslove vladavine prava i služi legitimnom cilju u javnom interesu, nego mora, također, održati razuman odnos proporcionalnosti između upotrijebljenih sredstava i cilja koji se želi ostvariti. Miješanje u pravo ne smije ići dalje od potrebnog da bi se postigao legitiman cilj, a nosioci imovinskih prava se ne smiju podvrgavati proizvoljnom tretmanu i od njih se ne smije tražiti da snose prevelik teret u ostvarivanju legitimnog cilja (vidi Odluku Ustavnog suda Bosne i Hercegovine, U 83/03, od 22. septembra 2004. godine, "Službeni glasnik Bosne i Hercegovine", broj 60/04, tačka 49).

<u>B.2.c.2.a. Miješanje predviđeno zakonom?</u>

1218. Miješanje je zakonito samo ako je zakon koji je osnova miješanja (a) dostupan građanima, (b) toliko precizan da omogućava građanima da odrede svoje postupke, (c) u skladu sa principom pravne države, što znači da sloboda odlučivanja koja je zakonom data izvršnoj vlasti ne smije biti neograničena, tj. zakon mora obezbijediti građanima adekvatnu zaštitu protiv proizvoljnog miješanja (vidi presudu Evropskog suda za ljudska prava, *Sunday Times,* od 26. aprila 1979. godine, Serija A, broj 30, stav 49; vidi, također, presudu Evropskog suda za ljudska prava, *Malone,* od 2. augusta 1984. godine, Serija A, broj 82, st. 67. i 68). Sud je istakao da su u mnogim zakonima neizbježno upotrijebljeni termini koji su, u većem ili manjem opsegu, dvosmisleni ili neodređeni i čija je interpretacija i primjena pitanje prakse (vidi presudu Evropskog suda za ljudska prava, *Silver i drugi protiv Ujedinjenog Kraljevstva*, od 25. marta 1983, serija A, broj 18, stav 89).

1219. Komisija ne sumnja da Zakon vezan za ovaj predmet ispunjava standarde u smislu Evropske konvencije (vidi Odluku o prihvatljivosti i meritumu Doma, *M.P. i ostali,* CH/02/8202, stavovi 144 i dalje).

B.1.c.2.b. Miješanje u javnom interesu

1220. Podnosioci prijava, iako nisu *explicite* naveli, smatraju da je miješanje, tj. kontrola njihovog prava na imovinu, neproporcionalno. Udruženje za zaštitu deviznih štediša u Bosni i Hercegovini, u svojstvu *amicus curia*e, smatra da Država nema interes, niti ga je navela u svojim aktima. Osim toga, ovo Udruženje smatra da se Federacija Bosne i Hercegovine, nesavjesnim ponašanjem prema vlastitoj imovini, ne može pozivati na javni interes. Federacija Bosne i Hercegovine, u svom odgovoru, navodi da je donošenje ovakvih zakonskih rješenja neophodno da se spriječi kolaps bankovnog sistema, te da je Entitet morao voditi računa o makroekonomskoj stabilnosti i fiskalnoj održivosti Entiteta.

1221. Komisija smatra da su ciljevi postojećih zakonskih rješenja opravdani – sprječavanje kolapsa bankovnog sistema, makroekonomska stabilnost i fiskalna održivost Entiteta. Komisija smatra da su ovi interesi postojali i bili opravdani i ranije, kada je Dom dao, u tom smislu, afirmativno mišljenje (vidi CH/97/48, *loc. cit*, tačka 180, CH/98/377, *loc. cit*, tačka 249). Komisija zaključuje da je ovaj interes ostao aktuelan i danas.

B.1.c.2.c. Uspostavljanje pravične ravnoteže između prava nosioca prava i javnog interesa (proporcionalnost)

1222. U odlukama *Poropat i drugi, Todorović i drugi* i *Đurković i drugi,* Dom je utvrdio da je došlo do uplitanja u prava podnosilaca prijava po članu 1. Protokola br. 1 uz Evropsku konvenciju na osnovu zakona koji su oslobodili banke njihovih ugovornih obaveza prema podnosiocima prijava i da je podnosiocima prijava onemogućeno da podignu svoj novac (*Poropat i drugi*, *loc. cit*, tač. 170-77; *Todorović i drugi*, *loc. cit*, tač. 130-133). Dom je, nadalje, našao da propisanim zakonskim mjerama nije uspostavljena *pravična ravnoteža* između općeg interesa i zaštite prava na imovinu podnosilaca prijava i da one tako spadaju van slobode odlučivanja Federacije (*Poropat i drugi*, *loc. cit,* tačka 192). Dom je u svojim odlukama istakao nekoliko nedostataka procesa privatizacije, koji su se odnosili na ograničeno važenje certifikata, jednak tretman gotovine i certifikata i sl. Dom je ustanovio da su ovo pitanja koja je Federacija morala riješiti izmjenom i dopunom programa privatizacije. Dom je smatrao da je Federacija trebala da nađe, u okviru svoje slobode odlučivanja, odgovarajuće načine da postigne traženu *pravičnu ravnotežu* interesa (*Poropat i drugi*, *loc. cit,* tačka 204).

1223. Komisija priznaje da je od 2000. godine do 2003. godine Federacija izmijenila i dopunila različite odredbe Zakona o potraživanjima građana pokušavajući da nađe rješenje za pitanje nedostataka procesa privatizacije i da izvrši odluku Doma u predmetu *Poropat i drugi*. Međutim, odlukom Ustavnog suda Federacije dalja efikasnost ovih zakona dovedena je u pitanje, s obzirom da je ovom odlukom utvrđeno da ključne odredbe Zakona o potraživanjima građana nisu u skladu sa Ustavom Federacije Bosne i Hercegovine.

1224. Tužena strana, Federacija Bosne i Hercegovine, istakla je da prijašnja zakonska regulativa nije uspostavljala pravičnu ravnotežu. Međutim, Komisija zapaža da je Federacija Bosne i Hercegovine usvojila novi Zakon o unutrašnjem dugu, kojim je preuzela obaveze po osnovu stare devizne štednje ostvarene u najnižim poslovnim jedinicama banaka na teritoriji Federacije Bosne i Hercegovine, kao dio svog unutrašnjeg duga. Zakonom je izričito propisano da će se metod i visina isplata u gotovini vršiti na način koji osigurava i podržava makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine. Tužena strana je navela da nova zakonska rješenja uspostavljaju u potpunosti princip proporcionalnosti kontrole prava na imovinu.

1225. Komisija priznaje napore Federacije Bosne i Hercegovine da, u pokušajima da izvrši ranije naredbe Doma, nastoji da Zakonom o unutrašnjem dugu iznađu rješenja prihvatljiva za podnosioce prijava, odnosno, da nastoji postići pravičnu ravnotežu između općeg interesa i pojedinačnog tereta podnosilaca prijava. Međutim, Komisija zapaža da nova zakonska rješenja predstavljaju samo okvir na osnovu kojeg treba utvrditi jasan model isplata devizne štednje podnosilaca prijava. Prema tome, u svjetlu novih zakonskih promjena, koje su nastupile nakon odluke *Đurković i drugi,*

postojeći zakonski okvir još uvijek ne daje jasnu i dovoljno izvjesnu pravnu situaciju u pogledu konačnog rješenja problema, što dovodi do miješanja u prava podnosilaca prijava od strane Federacije Bosne i Hercegovine.

1226. Komisija je došla do ovog zaključaka iz sljedećih razloga:

1227. Prvo pitanje, koje se nameće u ovom kontekstu, jeste pitanje verifikacije iznosa stare devizne štednje. Drugim riječima, radi se o verifikaciji *građanskog prava*. Zakon je predvidio da *[v]erifikovanje svih potraživanja za staru deviznu štednju vršit će se na osnovu baze podataka koja je ustanovljena Zakonom o utvrđivanju i ostvarivanju potraživanja građana u postupku privatizacije ("Službene novine Federacije BiH", br. 27/97, 8/99, 45/00, 54/00, 32/01, 57/03, 20/04) i drugim propisima donesenim na osnovu zakona i baza podataka koje posjeduju banke*. Komisija napominje da od postupka verifikacije direktno zavisi postojanje ili nepostojanje prava na imovinu.

1228. Svaki vlasnik stare devizne štednje mora imati obezbijeđeno pravo da aktivno učestvuje u tom postupku. U tom smislu, Zakon mora jasno predvidjeti koje tijelo će vršiti verifikaciju. Ono ne mora biti sudsko tijelo. Verifikacija se može vršti i od strane upravnih organa. Međutim, u tom slučaju, postupak verifikacije mora, barem u jednoj instanci, imati karakter sudskog postupka pred *tribunalom*, u smislu člana 6. Evropske konvencije. To, dalje, znači da verifikacija mora biti okončana, u slučaju spora oko faktičkih ili pravnih pitanja, pred nezavisnim i nepristranim tijelom, koje bi dalo konačno mišljenje u smislu postojanja ili nepostojanja, visine i drugih važnih pitanja oko stare devizne štednje. Tu spada i pitanje konverzije deviza (vidi predmete CH/99/3307, Spomenka ALIREJSOVIĆ, CH/99/3308, Enver ALIREJSOVIĆ). Pored toga, *tribunal* ne smije biti vezan utvrđenim činjenicama upravnog organa, već mora imati mogućnost da sam preispita činjenice relevantne za svaki pojedini slučaju (u pogledu obaveze sudske zaštite u vezi sa starom deviznom štednjom i nadležnostima takvog tijela vidi *mutatis mutandis* Odluku Ustavnog suda Bosne i Hercegovine, *U 19/00* od 4. maja 2001. godine, tačka 23, "Službeni glasnik Bosne i Hercegovine", broj 27/01; predmete Evropskog suda za ljudska prava, *Iatridis protiv Grčke*, od 25. marta 1999. godine, stav 58, Izvještaji o presudama i odlukama 1999-II; *Hentrich protiv Francuske*, od 22. septembra 1994. godine, Serija A, broj 296-A, stav 42; u pogledu karaktera *tribunala*, pojmu nezavisnosti i nepristrasnosti, vidi Odluku Ustavnog suda Bosne i Hercegovine, *U 47/03*, od 15. juna 2004. godine, tačka 23, sa daljnjim uputama na praksu Evropskog suda za ljudska prava). U vezi sa institucionalnom zaštitom u postupku verifikacije, Komisija preporučuje, u cilju zaštite djelotvornog sudskog sistema, da se formira posebno tijelo na nivou Entiteta, koje bi ispunjavalo kriterije navedene u ovoj tački Odluke, a kako se redovni sudovi ne bi opterećivali sa eventualnim problemima mnogobrojnih imaoca stare devizne štednje.

1229. Drugo pitanje se odnosi na procesna prava u postupku verifikacije. Komisija je, prije svega, zabrinuta, a što je u svom mišljenju *amicus curiae*, Udruženje za zaštitu štediša u Bosni i Hercegovini, također, istakao, za eventualne probleme oko utvrđivanja stare devizne štednje. Kao što je već istaknuto u prethodnim odlukama Doma (vidi, na primjer, CH/97/48, *loc. cit*, tač. 171. ff), ali i primijećeno u radu na aktuelnim predmetima, mnogi imaoci stare devizne štednje nemaju evidenciju iste na Jedinstvenom računu građana. S druge strane, turbulentnim promjenama u bankovnom sistemu, podaci o imaocima stare devizne štednje mogu biti nedostupni. Ovo, štaviše, zbog činjenice da su komercijalne banke, u principu, oslobođene izmirenja duga po osnovu stare devizne štednje, čime se kod njih gubi osjećaj odgovornosti prema obavezi čuvanja podataka. Konačno, ne smije se zanemariti činjenica da su mnogim vlasnicima stare devizne štednje nestale, izgorile ili na drugi način uništene štedne knjižice, kao osnovni dokument i *ugovor* u obligaciono-pravnom smislu. Zbog toga, Entitet, s jedne strane, mora jasno predvidjeti pozitivnu obavezu banaka u tom smislu, a pravo pristupa informacijama imalaca stare devizne štednje, s druge strane. Komisija napominje da se radi o posebno osjetljivoj grupi građana, u velikom broju, penzionerima lošeg imovnog stanja, koji se u postupku verifikacije ne smiju dodatno opteretiti administrativnim troškovima. Osim toga, ratna događanja u Bosni i Hercegovini doveli su do toga da je veliki broj građana napustio domicilni entitet ili, štaviše, Državu. Iz toga razloga, veoma je važan medijski istup nedležnih u Entitetu, transparentnost i reduciranje troškova na minimum kod postupka verifikacije. Što se tiče samih procesnih prava, za Komisiju nije sporno da *verifikaciono*

tijelo predvidi *ex offo* postupak verifikacije, čak i bez procesnog učešća imaoca devizne štednje. Međutim, ono mora promptno obavijestiti vlasnika devizne štednje o rezultatu verifikacije, kako bi se vlasnik stare devizne štednje mogao aktivno uključiti u odbranu svojih imovinskih prava pred *tribunalom* u smislu ranijih tačaka ove Odluke. Samo na taj način, neće doći do povrede prava na djelotvoran pristup sudu u smislu člana 6. Evropske konvencije (u tom smislu vidi presudu Evropskog suda u predmetu *Airey protiv Irske* od 9. oktobra 1979. godine, serija A, broj 32, stav 25; Odluku o prihvatljivosti i meritumu Komisije, CH/98/240, od 8. februara 2005. godine, tačka 113. ff).

1230. Komisija smatra da je institucionalna i procesno-pravna pitanja u smislu prethodnih tačaka ove Odluke, moguće riješiti podzakonskim aktima iz člana 12. stav 3. Zakona. Međutim, Komisija smatra da je Federacija Bosne i Hercegovine, prekoračivanjem roka iz člana 12. stava 3. Zakona, već prekršila princip zakonitosti, kao element inherentan članu 1. Protokola broj 1 uz Evropsku konvenciju. Na taj način, opravdano se stvara osjećaj pravne nesigurnosti kod podnosilaca prijava, jer on ima svoju pozadinu u dugogodišnjem nerješavanju ovog problema.

1231. Komisija pozdravlja zakonsku obavezu tužene strane da verifikaciju izvrši u roku od 9 mjeseci od dana donošenja Zakona, što je, u svjetlu cjelokupne situacije, a posebno broja imalaca stare devizne štednje, opravdan rok.

1232. Na kraju, a u vezi sa pravima nosilaca prava na staroj deviznoj štednji, kojima su nadležni sudovi utvrdili pravosnažno njihova prava, Komisija napominje da je Entitet u obavezi da izvrši sve takve presude. Ovo je imperativ vladavine prava, u smislu člana I/2 Ustava Bosne i Hercegovine. Ovaj princip ima prednost nad činjenicom da su pojedini sudovi odbili da procesuiraju određene zahtjeve imalaca prava na staroj deviznoj štednji, čime se stvorio različit tretman kod iste grupe nosilaca prava. U tom smislu, Komisija podržava stav Ustavnog suda Bosne i Hercegovine u svom predmetu (odluke Ustavnog suda Bosne i Hercegovine, *U 21/02*, od 26. marta 2004. godine, tač. 40, "Službeni glasnik Bosne i Hercegovine", broj 18/04; *AP 288/04*, od 17. decembra 2004. godine, tačka 27. ff).

1233. Treće pitanje se odnosi na otpis kamata od 1. januara 1992. godine (člana 9. stav 4. Zakona) i na modalitet isplate stare devizne štednje. Komisija je već navela da je dio unutarnjeg duga, koji se odnosi na staru deviznu štednju, veliko opterećenje za Državu i njene teritorijalne cjeline. Komisija ponavlja da je u tom smislu opravdan javni interes Države.

1234. Evropski sud za ljudska prava je ustanovio da domaće vlasti uživaju široko polje procjene prilikom donošenja odluka koje su vezane za lišavanje imovinskih prava pojedinaca zbog neposrednog poznavanja društva i njegovih potreba. Odluka da se oduzme imovina često uključuje razmatranje političkih, ekonomskih i socijalnih pitanja o kojima će se mišljenja u okviru demokratskog društva bitno razlikovati. Stoga će se presuda domaćih vlasti poštivati, osim ako je očigledno bez opravdanog osnova (vidi Odluku o prihvatljivosti i meritumu Doma, CH/98/1311 i CH/01/8542*, Kurtišaj i M.K. protiv Federacije Bosne i Hercegovine*, od 2. septembra 2002. godine, tačka 87; vidi presudu Evropskog suda za ljudska prava, *James i drugi*, od 21. februara 1986. godine, Serija A, broj 98, stav 46). U predmetu *Lithgow i drugi protiv Ujedinjenog Kraljevstva* (presuda od 8. jula 1986. godine, Serija A, broj 102, stav 122), koja se tiče nacionalizovanja imovine, Sud je izjavio:

> *Odluka da se usvoji zakon o nacionalizaciji će obično uključiti razmatranje raznih pitanja o kojima se mišljenja u demokratskom društvu mogu, što je i razumljivo, široko razlikovati. Zbog toga, što one direktno poznaju svoje društvo i njegove potrebe i resurse, domaće vlasti su u principu u boljem položaju od međunarodnog sudije da procijene koje mjere su odgovarajuće u toj oblasti i prema tome sloboda procjene koju oni imaju treba biti široka.*

1235. Pri tome će pomoći i stav Evropskog suda za ljudska prava, u njegovoj odluci *Lithgow i dr. protiv Velike Britanije* (od 8. jula 1986. godine, Serija A, broj 102, st. 121. f), u kojoj je naglasio da

oduzimanje imovine uz naknadu, koja ne predstavlja tržišnu vrijednost, u principu, ne predstavlja proporcionalno miješanje u pravo na imovinu nosioca prava. Međutim, pravo na imovinu iz člana 1. Protokola broj 1 uz Evropsku konvenciju ne garantuje pravo na punu kompenzaciju u svim okolnostima, s obzirom da legitimni ciljevi javnog interesa, koji služe da se izvrši određena ekonomska reforma ili ostvari veća socijalna pravda, mogu imati takav značaj da opravdavaju davanje manjeg iznosa od tržišne vrijednosti. Štaviše, Evropski sud za ljudska prava je naglasio da nije nedozvoljeno, pri lišavanju imovine nosilaca prava, da se ne naknadi izgubljena dobit ili nerealizirana mogućnost upotrebe – *ususfructus* (vidi Odluku o dopustivosti bivše Evropske komisije za ljudska prava, *X. protiv Austrije*, od 13. decembra 1979. godine, aplikacija broj 7978/7, Odluke i izvještaji (OI), broj 18, tačka 3, str. 47). U citiranoj odluci je nadalje navedeno da se izgubljena korist ili dobit može naknaditi samo ako je, *lišenje* imovine direktan uzrok tome. Konačno, Komisija smatra da se ne može primijeniti isti pristup u rješavanju problema *kontrole i lišenja* prava na imovinu, koji pogađa jednu veliku skupinu ljudi, a zakonodavac predviđa globalnu soluciju, od situacije kada se država miješa u individualni slučaj. Komisija, zbog toga, smatra da je na Državi mnogo veća obaveza naknade pune vrijednosti lišenog prava na imovinu ili naknade zbog miješanja u imovinu u individualnim slučajevima, nego kada se radi o generalnom rješavanju slučajeva. Ovakve stavove Komisija podržava iz razloga što je imovina socijalna kategorija i ne može se, u pravno-filozofskom smislu, separatno, apstraktno posmatrati, već ona mora podlijegati društvenim zakonima, koji će, s jedne strane, odražavati interese pojedinca, a s druge strane, interese društvene zajednice. Upravo zbog veze društva i imovine, od pojedinca, kao vlasnika imovinskog prava, očekuje se, već od trenutka sticanja imovinskog prava, da prihvati određenu mjeru *žrtvovanja*, ako je potrebno. Samo preko ove granice, postoji obaveza za državu da se naknadi vrijednost lišene imovine, tj. *kontrole* imovine. Gdje leži ova granica, zavisi od obrazloženja iz prethodnih tačaka ove Odluke.

1236. Polazeći od gore navedenog, Komisija uvažava ekspertne napore Države, da riješi problem stare devizne štednje na najdjelotvorniji način. Komisija napominje da su pravo na imovinu, pravna sigurnost i pravna jasnoća principi na kojima se mora temeljiti pravni sistem Bosne i Hercegovine u rješavanju postojećeg problema unutarnjeg duga, tj. stare devizne štednje. Samo na taj način se može postići pravni mir u budućnosti Države. Komisija je svjesna da se problem stare devizne štednje mora rješavati u svjetlu cjelokupne situacije u kojoj se Država nalazi. Država ne može apstraktno posmatrati ovaj problem, ne uzimajući u obzir sistem i hijerarhiju vrijednosti koje je stvorio Ustav Bosne i Hercegovine. Pri tome, Komisija posebnu pažnju polaže na princip socijalne države (Preambula Ustava Bosne i Hercegovine).

1237. Bosna i Hercegovina je doživjela katastrofu i razaranja, politički i privredni krah. Jedna od posljedica ovih događaja je, sigurno, neriješeno pitanje unutarnjih obaveza Države. Bivša Republika Bosna i Hercegovina, uprkos svome kontinuitetu prema Ustavu Bosne i Hercegovine, doživjela je određenu vrstu privrednog i financijskog sloma. Obzirom da država, kao pravno lice, ne može doživjeti formalni bankrot i nesolventnost, niti je moguće na nju primijeniti opće stečajno pravo, država mora predvidjeti druge mjere, kako bi gradila budući, siguran privredni i financijski sistem. Pri tome je zakonodavac *prirodni* organ za zakonodavstvo, koji ima zadatak da zakonski obradi pitanje aktive i pasive države, vodeći računa o budućnosti.

1238. Pri stvaranju buduće države, zakonodavac mora voditi računa o cjelokupnoj budućoj državnoj politici i financijskoj privredi, što je velika razlika u poređenju sa stečajnim postupkom privatnog pravnog lica. Prema tome, u tom postupku ne radi se o *obračunu* sa prošlošću, već o stvaranju osnova za budućnost. Sanacija države i stvaranje zdravog sistema je osnova uređenog razvoja socijalnog i političkog života.

1239. Pri tome, zakonodavac nije obavezan niti ima zadatak da uspostavi određeni odnos između ispunjenja starih obaveza i ispunjenja tekućih obaveza, niti da suprostavi ove vrijednosti. Prema tome, pri *sanaciji* države, ne postoji obaveza zakonodavca da uspostavi pravno-obavezujuću skalu obaveza. Ona ne postoji uprkos činjenici da su određene obaveze nastale ranije, a druge obaveze tek nastaju. Isto tako, država, pri stvaranju novog poretka, ne mora da ima obavezu ispunjavanja

novonastalih obaveza u onoj mjeri u kojoj to dozvoljavaju stare obaveze. Ovo važi posebno u situaciji kada se država, zbog kolateralne štete, obnavlja u svakom svom aspektu.

1240. Komisija napominje da *šteta*, koju su imaoci stare devizne štednje pretrpili, nije jedina koja postoji. Od početka 1990-tih, a zbog ukupnih događanja u Bosni i Hercegovini, stradali su mnogi životi, zdravlje i sloboda ljudi, druga materijalna dobra, radna mjesta, profesionalni napredak ljudi, itd. U tom smislu govore i statistički podaci koje je prezentirao Ured Visokog predstavnika za Bosnu i Hercegovinu, a koji su odraz ukupnih događanja u Državi. Prema njima, Bosna i Hercegovina ima zajednički procijenjeni dug koji premašuje sumu od 9,2 milijardi konvertibilnih maraka, od čega 4,8 milijardi otpada na obaveze nastale prije 31. decembra 2005. godine. Procijenjeno je da spoljni i unutrašnji dug iznosi u decembru 2003. godine 75% bruto godišnjeg proizvoda, što je razlog za tešku ekonomsku krizu Države (str. 2. mišljenja). Prema tome, zakonodavac, pri pomirenju svih interesa, mora voditi računa da država ima zadatak stvarati prosperitetnu državu, a ne samo popravljati uništeno i ispravljati nepravdu. Drugim riječima, u vanrednim okolnostima, država mora pomiriti prošlost i budućnost u granicama mogućeg. Prema tome, država se odgovarajućim mjerama ne nastavlja miješati u pravo, jer to nije dozvoljeno, nego preduzima mjere, kojima se usmjerava razvoj već učinjenog miješanja u pravo (uporedi odluke Saveznog ustavnog suda Savezne Republike Njemačke nakon raspada nacionalsocijalističkog sistema *Državni bankrot* (Staatsbankrott), (BVerGE 15, 126, od 23. maja 1962. godine) i spajanja Savezne Republike i Demokratske Republike Njemačke, *Zemaljska reforma* (Bodenreform), (BVerfGE 84, 90, od 23. aprila 1991. godine; vidi i presudu Evropskog suda za ljudska prava, *Wittek protiv Savezne Republike Njemačke*, od 12. decembra 2002. godine, stav 50. ff).

1241. Naravno, država se mora pridržavati principa zabrane proizvoljnosti i prava na jednakost. Pri tome, moraju se forsirati određene vrijednosti, kao što je vjera u bankarski sistem. Bankarski sistem je toliko važan da je čak i Savezna Republika Njemačka priznala sve štedne uloge koji su bili ulagani u banke za vrijeme *Njemačkog Rajha*, uprkos činjenici da je ovaj nacionalsocijalistički sistem u potpunosti propao (čl. 10-30 Zakona o općim ratnim štetama, "Službeni glasnik" I, str. 1747, od 1. januara 1958. godine). Osim toga, Komisija smatra da isplata stare devizne štednje ima svoju socijalnu ulogu u podizanju općeg blagostanja građanstva. Konačno, realizacija isplate stare devizne štednje jačala bi vjeru u slovo zakona, pravnu državu i jednakost pred zakonom. Pravna sigurnost, koja proizilazi iz principa vladavine prava, nadopunjuje princip proporcionalnosti u vezi sa miješanjem države u pravo na imovinu. Komisija upućuje na jedan primjer Ustavnog suda Češke Republike (Odluka broj IV.US 215/94, od 8. juna 1995. godine), u pogledu zahtjeva za restitucijom slovačkog državljanina u Češkoj. Naime, pravno valjan zahtjev za restitucijom za vrijeme postojanja jedne države, postao je zakonski irelevantan disolucijom Čehoslovačke i tumačenjem istih zakona na novi način u novoj državi. Ustavni sud Češke Republike je, u svojoj odluci, pozivajući se na navedene principe pravne države i vjere u jednakost, naveo:

> *[...] Ustavni sud polazi od činjenice da je svrha kompletne restitucije da se olakšaju posljedice određenih imovinskih nepravdi, koje su se desile za vrijeme relevantnog perioda. Iako je zakonodavac bio svjestan da je nerealno pokušati da se izliječe sve nepravde, tako da je neophodno biti zadovoljan samo sa ispravljanjem nekih od njih, ovi akti [restitucije] ne mogu biti tumačeni dogmatski i neustavno, tako da u pogledu određenih ljudi stvaraju nove nepravde.*

1242. U konkretnim slučajevima, Komisija zapaža da je, u skladu sa novim Zakonom, Federacija Bosne i Hercegovine preuzela obaveze na osnovu stare devizne štednje, te da je predvidjela da ove obaveze izmiri isplatom u gotovini i izdavanjem obveznica nakon verifikacije potraživanja. Komisija, prije svega, uočava da je kamata otpisana za period od 1. januara 1992. godine. U odnosu na gotovinske isplate propisano je da će Vlada Federacije posebnim propisom utvrditi metod i visinu isplate i to do iznosa koji bi trebao osigurati i podržati makroekonomsku stabilnost i fiskalnu održivost Federacije Bosne i Hercegovine, što znači da ni u kom slučaju, još uvijek, nije izvjestan ni način, ni visina budućih gotovinskih isplata (član 10, u vezi sa članom 2. Zakona). Također, u odnosu na gotovinske isplate predviđeno je da će se isplate izvršiti iz budžeta Federacije Bosne i Hercegovine u periodu od četiri godine počevši od fiskalne godine kada se

završi postupak verifikovanja stare devizne štednje (član 11). S druge strane, u pogledu obaveza koje ne budu izmirene isplatom u gotovini, predviđeno je da će se izdavati obveznice do iznosa koji je potreban za izmirenje kumulativnih potraživanja. Svi uvjeti za obveznice, također, tek treba da se utvrde posebnim propisom Vlade Federacije (član 21. stav 3), a naročito u vezi roka dospijeća obveznica, visine kamate na obveznice i dužine *grace* perioda.

1243. Što se tiče kamata, novi Zakon ih je otpisao, i to za period od 1. januara 1992. godine. Komisija smatra da je ovakav pristup razuman, objektivan i opravdan. Naime, kamata se mora shvatiti i razmatrati u predmetnim slučajevima, upravo, u duhu ovog instituta. Kamata je vrsta naknade onome koji je dao kapital na raspolaganje – naknada za upotrebu. Uzimajući u obzir da nije u potpunosti jasno u kojoj mjeri i na koji način je Država raspolagala deviznim sredstvima (Poropat i dr, *loc. cit*, stav 58, *amici curiae* mišljenje Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini, strana 25, stav 2), a zbog činjenice da postoji snažan javni interes i potreba da se Država ne optereti u budućnosti, Komisija smatra da je otpis kamata opravdan. Ovaj otpis je opravdan čak i pod pretpostavkom da su komercijalne banke raspolagale sa jednim dijelom deviznih sredstava, jer bi, u današnjim okolnostima, reaktiviranje pasive kod banaka sigurno vodilo ka narušavanju bankarskog sistema, što nije interes Bosne i Hercegovine. Konačno, Evropski sud za ljudska prava naglasio je da Država ima šire polje procjene da li je naknada za izgubljenu dobit potrebna i opravdana, nego je to slučaj sa osnovnim imovinskim zahtjevom – u konkretnim slučajevima, glavnicom (presuda *X. protiv Austrije*, *loc. cit*). Ovo iz razloga što se izgubljena dobit mora naknaditi samo ako je miješanje u pravo na imovinu direktan uzrok gubitku te dobiti, prema tome, podliježe mnogo strožim kriterijima. Prevedeno na konkretne slučajeve, Komisija zaključuje da razlog gubitku kamate nije neopravdano neisplaćivanje stare devizne štednje, već događaji koji su se desili u Bosni i Hercegovini nakon 1992. godine. Nadležnost Komisije u ovakvim slučajevima bila bi da ocijeni da li je došlo do proizvoljnosti Države u lišenju ovoga prava, što u konkretnim slučajevima Komisija ne može da potvrdi (uporedi presudu Evropskog suda za ljudska prava, *James i dr. protiv Velike Britanije*, od 21. februara 1986. godine, Serija A, broj 98, st. 46. i 54).

1244. Što se tiče modaliteta isplate, Komisija smatra da novo zakonsko rješenje, nije opravdano iz više razloga. Naime, novi Zakon nije još uvijek sasvim izvjesno propisao model i obim izmirenja obaveza prema podnosiocima prijava, i to na način, na koji bi podnosioci prijava mogli, s jedne strane, ostvariti svoja imovinska prava, a s druge strane, izdefinisati svoju imovinsko-pravnu poziciju za budućnost. To se odnosi, prije svega, na obveznice. Zakon mora sadržavati osnovna načela u vezi sa uvjetima, pod kojima će obveznica biti izdata. Naime, ovi uvjeti, a prije svega, vrijeme dospjeća, su okosnica miješanja u pravo na imovinu. Iz toga razloga, neopravdano je derogirati definisanje ovog prava izvršnoj vlasti. Izvršna vlast nema taj demokratski supstrat, niti nadležnost donositi demokratske zakone, kao što ima zakonodavac. Komisija ponavlja da je miješanje u pravo na imovinu, u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju, moguće samo na osnovu zakona. Zato svaki zakon, koji iskorištava pravo, dato, *inter alia*, u stavu 2. člana 1. Protokola broj 1 uz Evropsku konvenciju, mora sadržavati barem načelna i okvirna rješenja, koja upravni organi mogu, podzakonskim aktima, razrađivati unutar jasno definisanih granica zakona. U protivnom, rješenja nisu donesena u smislu vladavine prava, jer se upravnim organima dozvoljava da predviđaju granice miješanja u imovinska prava, umjesto da izaberu najbezbolniju varijantu unutar datih zakonskih granica. Takvi zakoni ne ispunjavaju standard i kriterij *predvidivosti*, zbog čega nisu u skladu sa pravom na imovinu. Čak i kada bi se pretpostavljalo da je ta granica *makroekonomska stabilnost* Federacije Bosne i Hercegovine (član 2. stav 1. Zakona), ovaj pojam, sa tačke gledišta jednog prosječnog građanina, je pravno nedefinisan pojam i otvara mogućnost zloupotrebe od strane izvršne vlasti. S druge strane, upotreba ovako nejasnih pojmova je dozvoljena pod uslovom da je omogućena sudska kontrola, koja bi dala konačnu riječ u pogledu toga da li je u individualnom slučaju izvršni organ pravilno subsumirao činjenično stanje pod pravno nejasan pojam. U konkretnim slučajevima, postojeći Zakon daje mogućnost ne da se takav pojam primjenjuje na individualne slučajeve, već da se na osnovu njega rješava globalna situacija, što je van kontrole suda u pojedinčanim slučajevima (u tom smislu vidi presudu Evropskog suda za ljudska prava, *Kruslin protiv Francuske*, od 24. aprila 1990. godine, Serija A, broj 176-A, stav 24. f).

1245. S druge strane, Komisija preventivno ukazuje da bi rok za dospjeće obveznica preko 15 godina bio neopravdan iz sljedećih razloga. Cilj isplate stare devizne štednje je omogućavanje njihovim vlasnicima, u opravdanim granicama moći Države, da raspolažu svojom imovinom po ovom osnovu. Vlasnici devizne štednje su, po podacima iz podnesenih prijava, ali i po navodima *amicus curiae*, Udruženja za zaštitu deviznih štediša u Bosni i Hercegovini (str. 30), većinom starija populacija, slabe ekonomske moći i socijalno ugrožena kategorija stanovništva. Iz ovih razloga, vlasnici stare devizne štednje će biti, većinom, iz socio-ekonomskih razloga i starosne dobi, prisiljeni trgovati sa obveznicama. Velika ponuda, a predug rok dospijeća, uticati će da njihova realna vrijednost bude znatno manja od nominalne vrijednosti. Na taj način, ne bi se postigao cilj izdavanja obveznica – isplata uložene vrijednosti, dok bi puna vrijednost, po dospijeću obveznica, prešla na ekonomski jaču populaciju, što nije cilj Zakona. Komisija smatra da je maksimalan rok do 15 godina opravdan, te da čuva, s jedne strane, interes države da se ne optereti budžet u prevelikom iznosu, a s druge strane, da omogući vlasnicima obveznica po osnovu stare devizne štednje da im vrijednost ne padne ispod razumne granice. Komisija napominje da će 4-godišnja isplata stare devizne štednje u gotovom novcu, u granicama predviđenim članom 2. Zakona, pomoći da se prebrode socio-ekonomske poteškoće u kriznom i inicijalnom periodu. Ovo štaviše zbog činjenice da je 70% deviznih štediša u posjedu knjižice koja glasi na iznos ispod 1000 konvertibilnih maraka, tj. 470.000 štediša čiji su pojedinačni devizni ulozi 200 konvertibilnih maraka ili manje (mišljenje Ureda Visokog predstavnika za Bosnu i Hercegovinu, str. 9, tačka 13; mišljenje eksperta, prof. dr. Dragoljuba Stojanova u Odluci Poropat i drugi, tačka 1054. ove Odluke).

1246. Na kraju Komisija upozorava da Zakon mora predvidjeti pravičnu kamatu na obveznice. U trenutku dospijeća istih, obveznice moraju imati vrijednost koja bi oslikavala realnu vrijednost uloženih deviza, uključujući prosječnu inflacionu stopu (član 14. stav 1. Zakona). Komisija, u tom smislu, ukazuje na praksu Evropskog suda za ljudska prava, koji je u predmetu *Küçük protiv Turske* (od 10. jula 2001. godine, stav 25) naglasio da država-članica vrijeđa član 1. Protokola broj 1 uz Evropsku konvenciju u slučaju da duži period ne ispunjava svoje imovinske obaveze, dok vrijednost istih, zbog uticaja inflacije, opada.

1247. Iz svega nevedenog, Komisija smatra da je Federacija Bosne i Hercegovine, neproporcionalnim, nepotpunim zakononskim rješenjima nastavila da se miješa u pravo podnosilaca prijava na njihovu imovinu. Time je tužena strana, Federacija Bosne i Hercegovine, propustila pozitivne obaveze koje proističu iz principa zakonitosti, kao inherentnog elementa članu 1. Protokola broj 1 uz Evropsku konvenciju.

B.2. Član 6. Evropske konvencije

1248. Komisiji ostaje još da ispita da li je podnosiocima prijava povrijeđeno pravo na pravično suđenje u smislu člana 6. Evropske konvencije. Član 6. stav 1. Evropske konvencije glasi:

> Prilikom utvrđivanja građanskih prava i obaveza ili osnovanosti bilo kakve krivične optužbe protiv njega, svako ima pravo na pravično suđenje i javnu raspravu u razumnom roku pred nezavisnim i nepristrasnim, zakonom ustanovljenim sudom.

1249. Komisija smatra da predmetne prijave pokreću pitanje prava na pravično suđenje u smislu prava na pristup sudu iz člana 6. Evropske konvencije. Naime, podnosioci prijava se žale da se ne mogu obratiti niti jednoj instituciji, koja bi zaštitila njihova prava na imovinu. S druge strane, neki podnosioci prijava, kako iz ove Odluke, tako i iz ranijih odluka, se žale da ne mogu da izvrše pravomoćne odluke u vezi sa starom deviznom štednjom. Prema tome, Komisija zaključuje da postoje dvije vrste problema – s jedne strane nemogućnost institucionalne zaštite usljed uskraćivanja prava na *pristup sudu*, a, s druge strane, nemogućnost izvršenja pravosnažnih presuda u vezi sa starom deviznom štednjom.

1250. Komisija je u svojoj nedavno usvojenoj praksi još jednom ukazala na značaj prava pristupa sudu (vidi Odluku o prihvatljivosti i meritumu, CH/99/1888, od 8. i 9. marta 2005. godine, tačka 77). U tom smislu, Komisija je navela:

> *Nema sumnje, što je potvrđeno dugogodišnjom praksom sudskih organa u BiH, da je pravo pristupa sudu elemenat inherentan pravu iskazanom u članu 6. stavu 1. Evropske konvencije (vidi odluku Ustavnog suda Bosne i Hercegovine, U 3/99, od 17. marta 2000. godine, "Službeni glasnik Bosne i Hercegovine", broj 21/00). Pravo na pristup sudu iz člana 6. stava 1. Evropske konvencije podrazumijeva, prije svega, široke proceduralne garancije i zahtjev za hitni i javni postupak (neobjavljena odluka Ustavnog suda Bosne i Hercegovine, U 107/03, od 19. novembra 2004. godine, tač. 7. i 21). Pravo pristupa sudu ne znači samo formalni pristup sudu, već efikasan pristup sudu. Da bi nadležni organ bio efikasan, on mora obavljati svoju funkciju na zakonit i djelotvoran način. Obaveza obezbjeđivanja efikasnog prava na pristup nadležnim organima spada u kategoriju dužnosti, tj. pozitivne obaveze države (vidi presudu Evropskog suda za ljudska prava, Airey protiv Irske, od 9. oktobra 1979. godine, Serija A, broj 32, stav 25).*

1251. U dijelu o prihvatljivosti prijava (vidi tačku 1169. ff), Komisija je zaključila da podnosioci prijava, većinom, nisu iscrpljivali pravne lijekove, što nije ni potrebno jer Entitet, kao nadležan u tom smislu, nije predvidio djelotvoran pravni sistem. Samim tim, Komisija smatra da podnosioci prijava, uprkos činjenici da stara devizna štednja nije isplaćivana, kao ugovorna obaveza, nisu imali nikakvu institucionalnu zaštitu niti mogućnost da se obrate bilo kojem sudu ili drugom organu. Ovakvo stanje traje još od samog početka problema, znatno ranije nego je Sporazum stupio na snagu. Situacija se nije promijenila do danas, uprkos odlukama Doma (prije svega, *Poropat i dr*, *loc. cit.* tač 152-156; *Đurković i dr*, *loc. cit.* tač. 220-222), u kojima je *explizite* navedeno da u pravnom sistemu Bosne i Hercegovine ne postoji djelotvorni pravni lijekovi, te je nađeno flagrantno kršenje prava na imovinu vlasnika stare devizne štednje. Tužena strana nije nikada ispoštovala oduke Doma u vezi s tim. Konačno, Komisija primjećuje da tek donošenjem najnovijeg zakona o regulisanju problema unutrašnjeg duga, vlasnici stare devizne štednje imaju formalno-pravno (tj., zakonsko) ograničenje prava *pristupa sudu*. Do tada, niti jedan akt nije ograničavao ovo pravo, što je Ured Visokog predstavnika, štaviše, izričito naveo u svom mišljenju, izraženom kao *amicus curiae,* u Odluci Poropat i drugi (tačka 79). Međutim, Komisija napominje da su prijave podnijete u toku 1998. i 1999. godine, znači, 6-7 godina prije stupanja na snagu navedenog zakona, te da cijelo vrijeme postoji *de facto* frustracija podnosilaca prijava oko prava *pristupa sudu*. Ova činjenica se ne može zanemariti. Konačno, uzimajući u obzir zaključke ove Odluke u vezi prava na imovinu, gdje je nađena povreda, Komisija smatra da pravo pristupa sudu još uvijek nije opravdano i izbalansirano. Iz ovih razloga, Komisija ne može prihvatiti uputu na presudu Evropskog suda za ljudska prava u predmetu *National & Privincial Building Society et al. protiv Velike Britanije*, od 23. oktobra 1997. godine. Naime, u ovom predmetu se radilo o *izbalansiranom* ograničenju prava *pristupa sudu* u vezi povrata poreza. S druge strane, Komisija naglašava da država ima veće diskreciono pravo u pogledu javnih obaveza (bez obzira što se one u konkretnom slučaju definišu kao imovina u smislu člana 1. Protokola broj 1 uz Evropsku konvenciju), nego je to slučaj sa čistim privatno-pravnim imovinskim pozicijama, kao što je pravo na uložena devizna sredstva. U oblasti javnog prava, kontrola se svodi na zabranu arbitrarnosti, te je dovoljno da javna obaveza bude zasnovana na zakonu i da ne bude proizvoljna (vidi, na primjer, Odluku Ustavnog suda Bosne i Hercegovine, *U 27/01* od 28. septembra 2001. godine, "Službeni gasnik Bosne i Hercegovine", broj 8/02). Samim tim, u oblasti javnog prava je mogućnost ograničenja prava na *pristup sudu* veća nego u čistim obligaciono-pravnim odnosima (ugovor o štednji).

1252. Na ovakav zaključak ne može uticati ni činjenica da određena lica imaju pravosnažne presude, jer se, s jedne strane, radi o izuzecima, a, s druge strane, o činjenici da niti jedna odluka nikada nije izvršena (vidi *Poropat i dr, loc. cit,* tač. 155, 156, 195). Komisija je, u svojoj nedavnoj jurisprudenciji (vidi Odluku o prihvatljivosti i meritumu, CH/03/14913, od 8. i 9. marta 2005. godine, tač. 38. i 39), navela:

Izvršenje presude, koju donese bilo koji sud, mora biti posmatrano kao integralni dio „suđenja“ u smislu člana 6. Evropske konvencije (vidi presudu Evropskog suda za ljudska prava, Golder protiv Ujedinjenog Kraljevstva, od 7. maja 1974. godine, Serija A, broj 18, st. 34-36). To će biti slučaj ako ne postoji izvršenje u razumnom zakonskom roku ili ako neopravdanost neizvršenja povlači ponovnu povredu tog građanskog prava. Komisija podržava i stav Ustavnog suda Bosne i Hercegovine u vezi sa ovim problemom, koji je naveo da u slučaju neizvršenja bilo kojeg pravosnažno utvrđenog građanskog prava, to pravo ima karakter iluzornog prava (op.cit, AP-288/03, tačka 27). Naime, ako se pravosnažno utvrdi građansko pravo, a nadležni organ neće da ga izvrši, pravo na pravičan postupak u postupku utvrđivanja građanskog prava bi postalo bespredmetno i bez adekvatnog dejstva. Na taj način, negira se pravo na pristup sudu. Nema sumnje, što je potvrđeno dugogodišnjom praksom sudskih organa u Bosni i Hercegovini, da je pravo pristupa sudu elemenat inherentan pravu iskazanom u članu 6. stavu 1. Evropske konvencije (vidi odluku Ustavnog suda Bosne i Hercegovine, U 3/99, od 17. marta 2000. godine, "Službeni glasnik Bosne i Hercegovine", broj 21/00). Pravo na pristup sudu iz člana 6. stava 1. Evropske konvencije podrazumijeva, prije svega, široke proceduralne garancije i zahtjev za hitni i javni postupak (neobjavljena odluka Ustavnog suda Bosne i Hercegovine, U 107/03, od 19. novembra 2004. godine, tač. 7. i 21). Pravo pristupa sudu ne znači samo formalni pristup sudu, već efikasan pristup sudu. Da bi nadležni organ bio efikasan, on mora obavljati svoju funkciju na zakonit i djelotvoran način. Obaveza obezbjeđivanja efikasnog prava na pristup nadležnim organima spada u kategoriju dužnosti, tj. pozitivne obaveze države (vidi presudu Evropskog suda za ljudska prava, Airey protiv Irske, od 9. oktobra 1979. godine, Serija A, broj 32, stav 25). Ipak, pravo pristupa sudu traje sve dok se ne realizira utvrđeno građansko pravo. U protivnom, djelotvoran postupak prilikom utvrđivanja građanskih prava i obaveza bi bio iluzoran, ako u naknadnom, izvršnom postupku, to građansko pravo ne može zaživjeti.

Komisija, također, podsjeća i na niz odluka Doma, koje se tiču nepoštivanja odluka sudova u Bosni i Hercegovini. Na primjer, u odluci CH/96/17, Blentić protiv Republike Srpske (vidi Odluku o prihvatljivosti i meritumu Doma za ljudska prava, od 5. novembra 1997. godine, tačka 35) Dom je našao povredu prava na pravično suđenje zato "što je policija bila pasivna usprkos svojoj obavezi da pomogne u izvršenju sudske odluke“. Također, Komisija podsjeća i na praksu Ombudsmana za ljudska prava za Bosnu i Hercegovinu (u daljnjem tekstu: Ombudsman za ljudska prava), u sličnim predmetima. Tako, u predmetu B. D. protiv Federacije Bosne i Hercegovine (vidi predmet (B) 746/97, Izvještaji od 24. marta 1999. godine) Omudsman za ljudska prava našao je povredu člana 6. Evropske konvencije zbog činjenice da "vlasti nisu, više od dvije godine, izvršile presudu i nalog za izvršenje koje je izdao Osnovni sud u Tuzli u korist podnosioca prijave“. Također, u predmetu A. O. protiv Republike Srpske (vidi predmet broj (B) 60/96, Izvještaji od 13. aprila 1999. godine) Ombudsman za ljudska prava našao je povredu člana 6. stav 1. Evropske konvencije u "propustu Osnovnog suda iz Banja Luke da izvrši konačnu i obavezujuću odluku, koju je donijela Komisija osnovana prema Aneksu 7 u korist podnosioca žalbe“. Iz navedenog je vidljivo da postoji izgrađena praksa u pogledu toga da neizvršavanje pravosnažnih sudskih odluka predstavlja povredu prava na pravično suđenje.

1253. U vezi sa citiranom Odlukom, Komisija primjećuje da je podnosilac prijave, u predmetu broj CH/99/2733, *Enver KUDIĆ protiv Federacije Bosne i Hercegovine*, došao do pravosnažne presude Osnovnog suda, broj P-289/92 od 3. decembra 1993. godine, koja nikada nije izvršena.

1254. Komisija napominje da do donošenja Zakona o privremenom odlaganju od izvršenja potraživanja na osnovu izvršnih odluka na teret budžeta Federacije Bosne i Hercegovine ("Službeni glasnik Federacije Bosne i Hercegovine", broj 9/04, od 16. februara 2004. godine) nije

postojala pravna osnova koja bi zabranila izvršenje pravosnažnih presuda po osnovu stare devizne štednje u Bosni i Hercegovini. Član 2, stav 1, alineja 1. ovog Zakona propisuje privremeno odlaganje izvršenja potraživanja nastalih na osnovu izvršnih dokumenata, donesenih u upravnom i sudskom postupku, a koja se odnose na staru deviznu štednju. Član 3. stav 5. Zakona o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine je propisao da *na izvršne akte koji su uređeni Zakonom o privremenom odlaganju od izvršenja potraživanja na osnovu izvršnih odluka na teret budžeta Federacije Bosne i Hercegovine ("Službeni glasnik Federacije Bosne i Hercegovine", broj 9/04), primjenjuju se odredbe ovog Zakona*. Obzirom na zaključke Komisije u vezi sa pravom na imovinu podnosilaca prijava iz člana 1. Protokola broj 1 uz Evropsku konvenciju, Komisija smatra da je neopravdano privremeno odlaganje izvršenja potraživanja nastalih na osnovu pravosnažnih izvršnih presuda. Komisija, iz ovog razloga, napominje da sve dok se pitanje stare devizne štednje ne uredi na način saglasan sa standardima iz člana 1. Protokola broj 1 uz Evropsku konvenciju, odlaganje izvršenja pravosnažnih presuda neće biti opravdano.

1255. Iz svega navedenog, Komisija zaključuje da je došlo do povrede prava podnosilaca prijava prema članu 6. stavu 1. Evropske konvencije, za što je odgovorna tužena strana, Federacija Bosne i Hercegovine. Tužena strana nije obezbijedila podnosiocima prijava pravo pristupa sudu i nema opravdan razlog za neizvršenje pravosnažnih presuda u vezi sa starom deviznom štednjom.

B.3. Zaključak o meritumu

1256. Komisija zaključuje da su Bosna i Hercegovina i Federacija Bosne i Hercegovine povrijedile pravo podnosilaca prijava na imovinu koje štiti član 1. Protokola broj 1 uz Evropsku konvenciju.

1257. Komisija zaključuje da je Federacija Bosne i Hercegovine povrijedila prava podnosilaca prijava na pravično suđenje, u smislu prava pristupa sudu, koje štiti član 6. Evropske konvencije.

VIII. PRAVNI LIJEKOVI

1258. Prema članu XI(1)(b) Sporazuma, a u vezi sa pravilom 58. stavom 1(b) Pravila procedure Komisije, Komisija mora razmotriti pitanje o koracima koje Bosna i Hercegovina i Federacija Bosne i Hercegovine mora preduzeti da ispravi kršenja Sporazuma koja je Komisija utvrdila, uključujući naredbe da sa kršenjima prestane i od njih odustane.

1259. U pogledu Bosne i Hercegovine, neophodno je da Država, po hitnom postupku, a najkasnije u roku od 6 mjeseci od dana prijema ove Odluke, donese okvirni zakon ili drugi zakonski okvir, koji bi, u skladu sa obrazloženjem i zaključcima ove Odluke, principijelno riješio postojeći problem u vezi sa starom deviznom štednjom na teritoriji cijele Bosne i Hercegovine. U vezi s tim, Komisija nalaže Bosni i Hercegovini da odmah, a najkasnije u roku od dva mjeseca, od dana prijema ove Odluke, formira ekspertni tim, u saradnji sa entitetima i Distriktom Brčko, koji će, najkasnije u roku 2 mjeseca od dana formiranja tima, u skladu sa parlamentarnom procedurom, predložiti nacrt okvirnog zakona ili drugog zakonskog okvira.

1260. U pogledu Federacije Bosne i Hercegovine, Komisija smatra da je neophodno da naredi tuženoj strani da u roku od 6 mjeseci od dana prijema ove Odluke izmijeni i dopuni postojeći Zakon o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine u skladu sa obrazloženjem i zaključcima ove Odluke. Izmjene i dopune odnose se, prije svega, na propisivanje pozitivnih obaveza banaka u vezi sa podacima, pristupom informacijama vlasnika stare devizne štednje, institucionalnom i procesno-pravnom zaštitom vlasnika stare devizne štednje, i drugim pitanjima u vezi sa modalitetom isplate devizne štednje, a u vezi sa obrazloženjem iz ove odluke.

1261. Federaciji Bosne i Hercegovine se nalaže da po hitnom postupku, u roku od 3 mjeseca od dana prijema ove Odluke, donese podzakonske akte o verifikaciji, vodeći računa o budućim zakonskim rješenjima.

1262. Federaciji Bosne i Hercegovine se nalaže da javno istupi u medijima i na odgovarajući način, transparentno i jasno, ukaže na prava i obaveze vlasnika stare devizne štednje.

1263. Federaciji Bosne i Hercegovine se nalaže da izvrši verifikaciju potraživanja podnosilaca prijava u zakonom predviđenom roku, poštujući institucionalnu i procesno-pravnu zaštitu u postupku verifikacije potraživanja.

1264. Federaciji Bosne i Hercegovine se nalaže da ispoštuje zakonske rokove u vezi sa čl. 10. i 11. Zakona o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine, vodeći računa o datom roku iz prethodne tačke ove Odluke.

1265. U slučaju nepoštivanja rokova, datih u prethodnim tačkama ove Odluke, Federaciji Bosne i Hercegovine se nalaže da od 1. marta 2006. godine, podnosiocima prijava isplaćuje iznos od 100 (sto) konvertibilnih maraka mjesečno, ili puni iznos njene ili njegove stare devizne štednje (za iznose ispod 100 konvertibilnih maraka), sve do ispunjenja obaveza iz zaključaka ove Odluke.

1266. Komisija nalaže da se u predmetu broj CH/99/2733, Enver KUDIĆ protiv Federacije Bosne i Hercegovine, u roku od dva mjeseca od dana prijema ove Odluke, izvrši presuda Osnovnog suda, broj P-289/92. od 3. decembra 1993. godine.

1267. Komisija smatra da bi bilo opravdano da naloži Federaciji Bosne i Hercegovine da svakom podnosiocu prijave, na ime nematerijalne štete i eventualnih procesnih troškova, isplati paušalni iznos od po 500 (petstotina) konvertibilnih maraka u roku od tri mjeseca od dana prijema ove Odluke.

IX. ZAKLJUČAK

1268. Iz ovih razloga, Komisija odlučuje,

1. jednoglasno, da prijave proglasi prihvatljivim protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine u dijelu koji se odnosi na navodne povrede ljudskih prava nakon 14. decembra 1995. godine u vezi sa pravom na imovinu iz člana 1. Protokola broj 1 uz Evropsku konvenciju;

2. jednoglasno, da prijave proglasi prihvatljivim protiv Federacije Bosne i Hercegovine u dijelu koji se odnosi na navodne povrede ljudskih prava nakon 14. decembra 1995. godine u vezi sa pravom na pravično suđenje iz člana 6. Evropske konvencije;

3. jednoglasno, da briše dio prijave, u predmetu broj *CH/98/1300, Vera KRSTIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u vezi sa deviznim štednim knjižicama kod Jugobanke, koje glase na ime B.K, jer podnosilac prijave nije dostavila punomoć, kojom je B.K. ovlašćuje za zastupanje u vezi devizne štednje pred Komisijom;

4. jednoglasno, da briše dio prijava, u predmetu broj *CH/99/2208, Božidar LAKIČEVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, u vezi sa navodima podnosioca prijave koji se odnose na položena sredstva kod Privredne banke, i u predmetu broj *CH/98/470, Ubavka ĆOROVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovi*ne, u vezi svojih potraživanja u iznosu od 2.735,65 KM, jer podnosioci prijava nisu dostavili kopiju knjižica, čime bi potkrijepili svoje navode, kao i prijave br. *CH/98/421*, *Milorad SAVIČIĆ protiv Federacije Bosne i Hercegovine, CH/99/3027, Marela ČELIKOVIĆ protiv Federacije Bosne i Hercegovine*, *CH/99/3176, Vedat PAŠIĆ protiv Bosne i Hercegovine* i *CH/99/3177, Nejra PAŠIĆ protiv Bosne i Hercegovine*, jer podnosioci prijava nisu dostavili kopiju knjižica;

5. jednoglasno, da briše dio prijave, u predmetu broj CH/99/2552, *Pašan MEHMEDINOVIĆ protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine*, koji se odnosi na štedne pologe kćerki podnosioca prijave, jer podnosilac prijave nije dostavio kopiju punomoći kojom ga ovi

članovi porodice ovlašćuju za zastupanje pred Domom/Komisijom;

6. jednoglasno, da briše prijave, u predmetima br. *CH/98/484, Draginja Savić protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine, CH/99/3007, T.E.S. protiv Bosne i Hercegovine i Federacije Bosne i Hercegovine* i *CH/99/3043, Blažo ĆIPOVIĆ protiv Federacije Bosne i Hercegovine,* jer podnosioci prijava ne posjeduju više staru deviznu štednju;

7. jednoglasno, da je Bosna i Hercegovina prekršila prava podnosilaca prijava na mirno uživanje imovine po članu 1. Protokola broj 1 uz Evropsku konvenciju, ne preduzevši odgovarajuće radnje u vezi sa njihovom starom deviznom štednjom kako bi osigurala prava podnosilaca prijava zagarantovana tom odredbom, čime je Bosna i Hercegovina prekršila član I Sporazuma;

8. jednoglasno, da je Federacija Bosne i Hercegovine prekršila prava podnosilaca prijava na mirno uživanje imovine po članu 1. Protokola broj 1 uz Evropsku konvenciju, ne preduzevši odgovarajuće radnje u vezi sa njihovom starom deviznom štednjom, čime je stavila pojedinačan i prevelik teret na podnosioce prijava, čime je Federacija Bosne i Hercegovine prekršila član I Sporazuma;

9. jednoglasno, da je Federacija Bosne i Hercegovine prekršila pravo podnosilaca prijava na pravično suđenje iz člana 6. Evropske konvencije, čime je Bosna i Hercegovina prekršila član I Sporazuma;;

10. jednoglasno, da naredi Bosni i Hercegovini da odmah, a najkasnije u roku od dva mjeseca, od dana prijema ove Odluke, formira ekspertni tim, u saradnji sa entitetima i Distriktom Brčko, koji će, najkasnije u roku 2 mjeseca od dana formiranja tima, u skladu sa parlamentarnom procedurom, predložiti nacrt okvirnog zakona ili drugog zakonskog okvira;

11. jednoglasno, da naredi Bosni i Hercegovini da po hitnom postupku, a najkasnije u roku od 6 mjeseci od dana prijema ove Odluke, donese okvirni zakon ili drugi zakonski okvir, koji bi, u skladu sa obrazloženjem i zaključcima ove Odluke, principijelno riješio postojeći problem u vezi sa starom deviznom štednjom na teritoriji cijele Bosne i Hercegovine;

12. jednoglasno, da naredi Federaciji Bosne i Hercegovine da po hitnom postupku, u roku od 3 mjeseca od dana prijema ove Odluke, donese podzakonske akte o verifikaciji iznosa stare devizne štednje, vodeći računa o budućim zakonskim rješenjima;

13. jednoglasno, da naredi Federaciji Bosne i Hercegovine da izvrši verifikaciju potraživanja podnosilaca prijava u zakonom predviđenom roku, poštujući institucionalnu i procesno-pravnu zaštitu u postupku verifikacije potraživanja;

14. jednoglasno, da naredi Federaciji Bosne i Hercegovine da ispoštuje zakonske rokove u vezi sa čl. 10. i 11. Zakona o utvrđivanju i načinu izmirenja unutrašnjih obaveza Federacije Bosne i Hercegovine, vodeći računa o datom roku iz zaključka broj 13. ove Odluke;

15. jednoglasno, da naredi Federaciji Bosne i Hercegovine, u slučaju nepoštivanja rokova, datih u prethodnim zaključcima ove Odluke, da od 1. marta 2006. godine, podnosiocima prijava isplaćuje iznos od 100 (sto) konvertibilnih maraka mjesečno, ili puni iznos njene ili njegove stare devizne štednje (za iznose ispod 100 konvertibilnih maraka), sve do ispunjenja obaveza iz zaključaka ove Odluke;

16. jednoglasno, da naredi Federaciji Bosne i Hercegovine da javno istupi u medijima i na odgovarajući način, transparentno i jasno, ukaže na prava i obaveze vlasnika stare devizne štednje;

17. jednoglasno, da naredi Federaciji Bosne i Hercegovine, da, u vezi predmeta broj CH/99/2733, Enver KUDIĆ protiv Federacije Bosne i Hercegovine, u roku od dva mjeseca od dana

prijema ove Odluke, izvrši presuda Osnovnog suda, broj P-289/92 od 3. decembra 1993. godine;

18. jednoglasno, da naredi Federaciji Bosne i Hercegovine da isplati svim podnosiocima prijava paušalni iznos od 500 (petstotina) konvertibilnih maraka na ime nematerijalne štete i eventulanih troškova postupka pred nadležnim institucijama, uključujući Dom/Komisiju, zbog povrede prava na pravično suđenje i prava na imovinu, najkasnije u roku od tri mjeseca od dana prijema ove Odluke;

19. jednoglasno, da naredi Federaciji Bosne i Hercegovine da podnosiocima prijava isplati zateznu godišnju kamatu od 10 (deset) posto na iznose koji su im dosuđeni u zaključcima br. 15, 17. i 18, ili svaki njihov neisplaćeni dio od dana isteka roka određenog za takvu isplatu do dana pune isplate svih iznosa podnosiocima prijava u skladu sa tim zaključcima; i

20. jednoglasno, da naredi Federaciji Bosne i Hercegovine i Bosni i Hercegovini da izvijesti Komisiju, svaka tri mjeseca od dana prijema ove Odluke, pa sve do izvršenja zaključaka ove Odluke, o koracima preduzetim u sprovođenju gore spomenutih naredbi.

(potpisao)
Nedim Ademović
Arhivar Komisije

(potpisao)
Miodrag Pajić
Predsjednik Komisije