



**REPUBLIKA SLOVENIJA
USTAVNO SODIŠČE**

Dissenting opinion of Judge Dr. Lojze Ude in case No. Up78/00

1. I could not vote in favour of Paragraphs 3 - 5 of the disposition of the cited decision of the Constitutional Court of the RS that proceedings to review the constitutionality of Article 40.2.2 of ZAzil be initiated, which provide that the procedure for the recognition of asylum is final when the decision of the Administrative Court is served. The cited provision of ZAzil does not explicitly exclude an appeal against a decision of the Administrative Court issued in a judicial review of administrative acts. In my opinion, in the reasoning of the provision of Article 40.2.2 of ZAzil it is necessary to consider the general regulation of Article 70.1 of ZUS that against a ruling issued in a judicial review of administrative acts in the first instance an appeal is allowed, provided that this Act (ZUS) does not determine otherwise. ZUS, however, does not exclude an appeal in the procedure for the recognition of asylum.

2. In my opinion, the Constitutional Court could, on the basis of the interpretation itself, adopt the position that in procedures for the recognition of asylum, an appeal against decisions of the Administrative Court is allowed as well, and that proceedings to review the constitutionality of Article 40.2.2 of ZAzil are unnecessary.

Dr. Lojze Ude
Judge