REPUBLIKA SLOVENIJA
USTAVNO SODIŠČE

Up-78/00
29 June 2000

D E C I S I O N

At the session held on 29 June 2000 in proceedings to decide the constitutional complaint of A.A.A. of Ž., Z. V., represented by B.B., attorney in U., the Constitutional Court

decided as follows:

1. The judgment of Ljubljana Administrative Court No. U 168/00 dated 23 February 2000 is overturned.

2. The case is remanded to Ljubljana Administrative Court.

3. Proceedings to review the constitutionality of Article 40.2.2 of the Asylum Act (Official Gazette RS, No. 61/99) are to be initiated.

4. Until a final decision is reached in proceedings determined in Paragraph 3 of this disposition, the implementation of Article 40.2.2 of the Asylum Act is stayed.

5. Until a final decision is reached in the proceedings determined in Paragraph 3 of this disposition, the appeal is allowed against the decision of the Administrative Court which decided on the legal action against the decision issued in the procedure for obtaining asylum.

Reasoning

A.

1. The complainant challenged decision of the Ministry of the Interior (hereinafter MNZ) No. 0301-15/07.XVII-210.802/99, dated 13 January 2000, by which MNZ had dismissed his application for the recognition of asylum in the Republic of Slovenia, and decided that he must leave the country within three days of the final decision being issued. With judgment No. U 168/00, dated 23 February 2000, the Administrative Court dismissed the legal action against the decision of MNZ. Provisions of Articles 5, 13, 14, 22, 34, and 35 of the Constitution were allegedly violated by the challenged decisions. The complainant stated that despite his explicit request an asylum adviser was not assigned to him in the proceedings, which is assured in Articles 9 and 16 of the Asylum Act (hereinafter ZAzil). The challenged decisions allegedly did not address the evidence which should support the complainant's statement that the criminal procedure, owing to which his extradition to Z. V. has been approved, was falsly constructed.

The standpoint of the administrative authority that the complainant did not demonstrate that if he were to be extradited to Z. V. his safety and integrity within the meaning of Article 3 of the Convention on Protection of Human Rights and Fundamental Freedoms (Official Gazette RS, No. 33/94, IT, No. 7/94 - hereinafter EKČP) would be threatened, was allegedly unfounded.

Allegedly he has documents supporting his statements in Ž., where he cannot go because there he is in danger of his life. His allegations on the irregularities in the election campaign of Mr. C. were allegedly confirmed by the article "Black Cash Boxes of the Governors," which he received on the day the Administrative Court handed down its decision. The fact that there is allegedly no agreement on extradition between the Republic of Slovenia and Z. V. was also a reason that there were no grounds for his extradition. He also thought that he should be released from the detention to which he was ordered in the extradition procedure.

The complainant suggested that the Constitutional Court inspect the files of Krško Circuit Court, MNZ, and the Administrative Court, and form an opinion whether there are enough reasons for the ruling on the existence of a danger to his life. The complainant suggested the annulment of the challenged ruling of MNZ, or alternatively that it be overturned and remanded.

2. The Constitutional Court has on the basis of Article 52.3 of the Rules of Procedure of the Constitutional Court of the Republic of Slovenia (Official Gazette RS, No. 49/98), reviewed the case with priority. The panel accepted the constitutional complaint for consideration with the ruling dated 10 March 2000, and withheld the implementation of the challenged decisions. Pursuant to Article 56 of the Constitutional Court Act (Official Gazette RS, No. 15/94 - hereinafter ZUstS), the constitutional complaint and the ruling on its acceptance were served to the Administrative Court. The Administrative Court did not reply to the constitutional complaint.

3. The Constiutional Court examined file No. Ks 152/99 of Krško Circuit Court, the files Nos. U 168/00 and U 521/00 of the Administrative Court, and the MNZ file of the case in which the challenged decision was issued.

B. - I.

4. The complainant filed a request for asylum in the Republic of Slovenia while he was in detention because of proceedings pending against him concerning his extradition to Z. V. The ruling of the competent court that the conditions for the complainant"s extradition were fulfilled became final on 3 December 1999. The decisions issued in the asylum procedure are challenged by the constitutional complaint. MNZ rejected the application because it established that neither the reasons determined in the Convention on the Status of Refugees and the Protocol on the Status of Refugees (Official Gazette RS, No. 35/92, IT, No. 9/92, Official Gazette FLRJ, IT, No. 7/60 and 17/67 - hereinafter the Geneva Convention) nor the reasons which follow from Article 3 of the EKČP (Articles 1.2 and 1.3 of ZAzil) are stated. The complainant"s statements given in the proceedings are allegedly contradictory, and do not prove that his life would be seriously threatened in the case of his return to Z. V. The administrative authority concluded on such basis that the complainant had filed the application for the purpose of postponing the extradition and avoiding trial in Z. V. The Administrative Court confirmed the standpoint of the administrative authority on the non-existence of the reasons for the recognition of asylum as determined in Articles 1.2 and 1.3 of ZAzil. Furthermore, the recognition of asylum is allegedly also not allowed because there are substantiated reasons for suspicion that the complainant, before coming to Slovenia, committed a serious criminal offence of an apolitical nature outside the State, which, according to Article 4 of ZAzil, excludes the granting of asylum.

5. Due to the fact that the complainant has challenged the decisions issued in an asylum procedure, the subject of review in the proceedings for deciding on the constitutional complaint cannot be his allegations of the lengthy duration of detention ordered in the extradition procedure nor allegations of the lack of a legal basis for the extradition.

6. The allegations regarding the appointing of an adviser for refugees are not founded. Article 9 of ZAzil gives an applicant for asylum the right to choose their own legal adviser, or an adviser for refugees who assists them during proceedings. Pursuant to Article 16, advisers for refugees acquaint applicants with the substantive and procedural regulation of asylum, render help with the application for the request for asylum, provide general legal aid, and represent the applicant in proceedings. On 14 November 1999 the complainant applied for the appointment of an adviser for refugees. MNZ replied that the three-month time limit for appointing advisers had not yet expired, and that the Minister had not yet appointed any. The court dismissed the complainant"s allegations of the material violation of the procedural provisions due to the fact that the complainant had chosen a legal adviser, and thus legal aid was provided.

7. From the viewpoint of the guarantee of the equal protection of rights (Article 22 of the Constitution) the standpoint of the Administrative Court is not disputable. Article 22 of the Constitution ensures that a person who in proceedings before State authorities exercises their rights, has suitable and sufficient possibilities to present their case not only from a factual but also from a legal point of view. Claiming asylum is demanding in both regards. The applicant for asylum found himself in need in a foreign

country; not knowing the legal system and the language of this country can actually prevent him from exercising the right to asylum. The right determined in Article 9 of ZAzil enables the applicant efficient protection of their rights in procedures for the recognition of asylum and represents the realization of the guaranties determined in Article 22 of the Constitution.

8. The mere non-appointment of an adviser for refugees does not mean that the applicant was not given the possibility to efficiently claim asylum. ZAzil does not provide this right as an absolute right, but it determines the right of an applicant to choose their own legal adviser or an adviser for refugees. During the proceedings the complainant was represented by an attorney he had chosen, moreover, he does not assert that the efficient protection of his rights was rendered impossible because of the non-appointment of a special adviser for refugees.

9. Furthermore, the allegation concerning the violation of Articles 5 and 13 of the Constitution is not founded. Article 5 of the Constitution provides that a State in its own territory protects human rights and fundamental freedoms. Article 13 determines that in accordance with treaties, aliens in Slovenia enjoy all the rights guaranteed by this Constitution and laws, except for those rights that pursuant to the Constitution or law only the citizens of Slovenia enjoy. These are the general provisions that do not guarantee an individual more rights then those specifically determined in the Constitution or by treaty.

10. Article 22 of the Constitution represents the application of the general principle of the equality of all before the law (Article 14.2 of the Constitution) in the field of the protection of human rights. This is a special case of the principle of legal equality which guarantees everyone the equal protection of rights in any proceeding before courts, other state authorities, local community authorities, and bearers of public authority. Therefore the Constitutional Court reviewed the argument on the violation of Article 14 of the Constitution within the framework of the asserted violation of Article 22 of the Constitution.

11. According to the Constitution, the right to asylum is recognized only to persons who are subject to persecution for their commitment to human rights and fundamental freedoms (Article 48 of the Constitution). Article 18 of the Constitution is the constitutional basis for the review of a decision of a competent authority on the (non) granting of asylum for the reasons determined in Article 1.3 of ZAzil (hereinafter asylum for humanitarian reasons). The provision prohibits torture and inhuman and degrading treatment and punishment. It is a special provision in relation to Article 34 of the Constitution which gives everyone the right to personal dignity and safety, and in relation to Article 35 of the Constitution, which ensures the inviolability of the physical and mental integrity of every person. The Constitutional Court reviewed the complainant''s allegations of the violation of Articles 34 and 35 of the Constitution within the framework of guarantees determined in Article 18 of the Constitution.

12. The Constitutional Court based the interpretation of the provision on the previous standpoints of the European Court for Human Rights (hereinafter ESČP), on the contents of Article 3 of EKČP in connection with deciding on asylum and the extradition of individuals to another State, or their deportation. Similar to Article 18 of the Constitution, Article 3 of EKČP prohibits torture and inhuman and degrading treatment and punishment.

Moreover, the Constitutional Court considered the provisions of the special Convention against Torture and other Cruel, Inhuman or Degrading Punishments or Treatment (Official Gazette RS, No. 24/93, IT, No. 7/94 - hereinafter the Convention of the United Nations).

13. The Convention of the United Nations explicitly prohibits the prosecution, deportation or extradition of a person to another State if there are serious reasons to suspect that this person would be tortured (Article 3.1). According to the explanation of ESČP, the contents of Article 3 of EKČP are similar. The provision prohibits the extradition of an individual to another State when substantial grounds are demonstrated, grounding a conclusion on the existence of a real risk that this person will be subjected to torture or inhuman or degrading treatment or punishment.(1) A decision on the existence of a danger requires the establishment of the situation in the State which has requested the extradition of the person or because of which the person has applied for asylum. According to the Convention of the United Nations, all relevant circumstances are taken into consideration, among others whether numerous systematic serious, obvious, or massive violations of human rights (Article 3.2) exist in the particular State.

14. In the Constitution, similar to EKČP, there is a provision on the prohibition of torture among the first provisions on human rights; right after the provision on the inviolability of human life (Article 17), and before the provisions ensuring personal freedom (Articles 19 and 20). The temporary suspension and restriction of rights determined in Article 18 of the Constitution during a war or a state of emergency is not allowed (Article 16.2). As do EKČP and the Convention of the United Nations, also the Constitution prohibits the extradition or deportation of a person if there is a serious danger that the person will be subjected to inhuman treatment - it does not, however, ensure the right to asylum. A decision that asylum for humanitarian reasons is granted and under which conditions, which the complainant applied for, is in the field of the legislature"s evaluation.

Article 18 of the Constitution merely determines that the extradition or deportation of a person for whom there is a real danger that in case of their return to the State from which they entered Slovenia, they would be subjected to inhuman treatment, is prohibited.

15. The Constitutional Court has emphasized several times that the purpose of the Constitution is not the formal and theoretical recognition of human rights, but the Constitution requires that the possibility of their effective and factual implementation must be ensured (decision No. Up - 275/97 dated 16 July 1998 - DecCC VII, 231). If the guarantees determined in Article 18 of the Constitution were in fact ensured, the individual should not be imposed with too heavy a burden of proving a threat. A review of the existence of a danger that the person will be subjected to inhuman treatment is very demanding. It is in the nature of things that the person has to assert the circumstances under which they are threatened. What follows is the review of whether the subjective fear is so objectively concretized that the person is in fact threatened. Thereby not only the position of the person must be considered but also the situation in the State from which the person has come from, or to which the person is supposed to be extradited.

16. The statutory regulation of the extradition procedure relevant in the complainant"s case enables the observance of the described constitutional guarantees. The extradition procedure is composed of the court"s decision on the fulfillment of the statutory conditions for the extradition, and of the decision of a Minister of Justice on the (dis) allowance of the extradition. The Minister of Justice does not permit the extradition if a person was granted asylum (Articles 528 to 530 of the Code of the Criminal Procedure, Official Gazette RS, No. 63/94 et seq. - hereinafter ZKP). The later ZAzil has foreseen two types of decisions preventing extradition: a decision on the granting of asylum, and a decision on permission to stay in the country. Asylum for humanitarian reasons is recognized under two presumptions: (1) that humanitarian reasons are given (i.e. a danger of inhuman treatment, or a threat to safety or physical integrity), and (2) that there are no reasons for not granting asylum (e.g. the existence of a reasonable suspicion that the applicant has committed a serious criminal offence of an apolitical nature outside the State, before entering it). In case only the first presumption is fulfilled, the applicant may, after final decision being issued on the rejection of the asylum request, request permission to stay in the Republic of Slovenia (Articles 6 and 61 of ZAzil). Neither ZKP nor ZAzil provide how the permission to stay in the Republic of Slovenia influences the decision of the Minister of Justice on the (dis) allowing the extradition of a person to the State requesting such. Notwithstanding the policy in force, the institution of staying in the Republic of Slovenia cannot be understood differently than that it prevents any forceful detention or return of a person, and thus also their extradition. This is namely its only meaning.

17. From the viewpoint of Article 18 of the Constitution, a decision on the existence of humanitarian reasons in an asylum procedure and a decision on (not) issuing permission to stay in the Republic of Slovenia are important. In both proceedings the competent authority must evaluate: (1) whether the circumstances due to which the person has requested asylum or permission to stay are such that they can feel threatened, and (2) whether such a fear is objectively founded. In the evaluation of the existence of the first element, the entire body of assertions of the person and possible additional evidence have to be considered, and a reliable evaluation of the credibility of these assertions produced. In the evaluation of the second element on evaluation of the circumstances in the State to which the applicant should return to if asylum or permission is refused, has to be included. If a decision does not contain an evaluation of all the circumstances and evidence relevant for the

competent authority to produce a relevant evaluation of the existence of both elements, the decision is not in conformity with Article 22 of the Constitution (the equal protection of rights).

18. The criterion for the evaluation of a decision on the existence of reasons for exclusion in an asylum procedure is - considering the complainant"s assertions - the guarantee of the equal protection of rights (Article 22 of the Constitution).

According to this provision the court which reviews the decision of a lower court or an administrative body is obliged to address the applicant"s assertions concerning their relevancy, and in the reasoning of the decision evaluate the assertions of essential importance for a decision to be made on the matter.

19. The challenged administrative decision and the judgment rejected the complainant"s statement that his return to Z. could jeopardize his safety or physical integrity. The complainant substantiated his application for asylum with the fact that he knows of corruption and other illegalities in the election procedure for the governor of Krasnojarsk, Mr. C, who was later elected, that he possesses documents confirming these illegalities, and that the criminal procedure for which Z. V. requires his extradition is falsely constructed. He claimed that he was threatened with death. The administrative and court decisions based their ruling on the groundlessness of the application for asylum on the fact that they rejected the credibility and wellfoundedness of the complainant"s assertions because they are allegedly contradictory. Moreover, the court itself determined that there is a basis to refuse asylum as determined in Article 4.1.2 of ZAzil, i.e. that there are substantiated reasons to suspect that the complainant had committed a serious criminal offence of an apolitical nature outside the Republic of Slovenia prior to entering the country.

The court based this conclusion on the data from the administrative file obtained from the criminal file regarding the complainant"s extradition. It stated that the criminal offence of fraud, for which there is a pending criminal prosecution against the complainant in Z. V., is a classic criminal offence, because he is alleged to have misused budgetary funds of 10 million rubles - thus a serious criminal offence.

20. The majority of the findings in both of the challenged decisions that the complainant"s assertions are contradictory are not supported by the data in the file. The certificate of citizenship and the passport issued in March 1999 do not prove conclusively that the complainant was in Ž. during that time. In November 1998 a criminal proceeding was initiated against the complainant, and on 2 February 1999 an arrest warrant was ordered. It is not very possible that the complainant would not be arrested if he were in Ž. after the order of the warrant. Furthermore, the court required in the extradition procedure the submission of an application on the basis of which the passport had been issued.

The Russian authorities did not submit such a document. On the other hand it is possible to infer from the copy of the passport issued in March 1999, and from the copy of the letter from the Administration of the Interior of town T., No. 6162, dated 3 September 1999, that the change of citizenship from the former Union of Socialist Soviet Republics into the citizenship of Z. V. is determined by law, and the application of an affected person was not required. Furthermore, the complainant did not sign that passport. The circumstances of where a travel visa was issued to Š are unclear. The complainant namely stated during interrogation in the extradition procedure that he had obtained it in S., however, in the asylum procedure he asserted that it was issued in Ž. The visa was issued in August 1999 at a time when the warrant had already been issued and the complainant was in R. Nevertheless, it is hard to imagine a substantiated reason why the administrative body referred to the complainant"s statements, instead of requiring the competent authorities to produce the visa and examine it itself. The statements on the number of children are not contradictory; the complainant"s credibility on the whole is confirmed by the reply of the Public Prosecutor"s Office of Z. V., dated 20 March 2000. In the reply it is stated that one out of four of the complainant"s children is adopted. Also the assumed contradictions in the complainant"s statements concerning his professional activities are not such that would clearly challenge his credibility, and that would substantiate a rejection of the application for asylum. The period when the complainant allegedly worked at the turbine factory in Leningrad, and the period when he held office in a public administration unit in T., are different. Merely the fact that he held public office, and at the same time owned several companies around the world, does not mean

that his assertions on the activity he was pursuing prior to escaping from Z. are not consistent. The complainant produced numerous documents from which it is evident which office he had held in the administrational organization structure of T. Also the assertions that on his departure from the country he was escorted by the police, and that on arrival he received a summons from the Business Offences Office, which the complainant clearly stated occurred in 1997, and not in November of 1998 when he was allegedly fleeing from Z. due to threats for which reason he requested asylum. It is also not clear how the alleged fact that the complainant himself participated in the election campaign of C. could contradict his assertions on the threat due to his knowledge of irregularities in that campaign. Since the administrative body and the court deny the credibility of the complainant"s assertions, as he did not produce documents which are allegedly deposited in a bank safe in Ž., and evidence that he has already been shot at, a burden of proof which cannot be fulfilled is imposed on the complainant. Moreover it is not clear which additional evidence the complainant is supposed to produce to prove his assertion that he had reported the offence to the competent authorities, owing to which a criminal procedure was initiated against him. With the application dated 4 October 1999 and 14 January 2000 the complainant submitted numerous documents, among others also the correspondence between him and the bank, and between him and the District Attorney in Moscow, which confirm his assertions. Some documents were, however, submitted after the issuance of the administrative decision, which does not exclude the obligation of the court to regard them in its decision-making (Article 39.3 of ZAzil and Article 14 of ZUS).

21. The challenged decisions interpret some facts to the prejudice of the complainant; it is not even implicitly evident why the other - at least as possible or even more possible explanation - is not taken into consideration. On the basis of the fact that the complainant requested asylum one month after the arrival in the country, and that he was traveling to Š, the administrative authority drew the conclusion that he had filed an application for asylum only for the purpose of preventing extradition. The complainant"s actions are an understandable response to the situation when he was arrested on the way to Š., where he had fled to once before because of threats; it is also understandable that the complainant needed some time to find a legal representative. The statements that his wife and children are imprisoned as hostages in his apartment in spite of receiving his wife"s letter, the complainant convincingly enough explained by claiming that with the expression hostages he meant that they could not leave Z. It is also not clear why the fact that the complainant submitted the document dated 9 February 1999 to the file should prove that the complainant was in Ž at the time.

22. The challenged decisions are not well reasoned in the part where they substantiate the existence of a subjective threat to the complainant, and thus they are contrary to the guarantee of the equal protection of rights (Article 22 of the Constitution). Since there is no review of the existence of a subjective as well as objective threat in the challenged decisions, the Constitutional Court could not decide whether Article 18 of the Constitution was violated.

23. The guarantee of the equal protection of rights (Article 22 of the Constitution) was also violated by the decision on the existence of a reason to not grant asylum, as determined in Article 4 of ZAzil. The court substantiated that there is a suspicion of a serious criminal offence, and that the alleged criminal offence is of an apolitical nature. The reasoning of the challenged decision is missing a review of the existence of a third condition for a decision on the existence of a reason to not grant asylum, i.e. on the existence of a reasonable suspicion that the complainant committed the alleged criminal offence.

24. One of the conditions for a decision by a competent court that statutory conditions for extradition have been fulfilled (Article 522.7 of ZKP) is the existence of enough evidence for a reasonable suspicion that the person whose extradition is requested, committed a criminal offence. The evidence standard "enough evidence for reasonable suspicion" is at least the same as the evidence standard "the existence of well founded reasons for suspicion" required in asylum procedures. A decision on the existence of the mentioned condition in an extradition procedure also includes a review of the possible claim of the person in question that the pending criminal procedure against him is falsely constructed. The existence of a final decision on the existence of conditions for extradition is therefore sufficient for a decision on the existence of "well founded reasons for suspicion" in asylum procedures.

25. At the time of issuing the challenged judgment the existence of the conditions for extradition had already been finally decided on, however, the challenged judgment does not refer to this decision.

Because the challenged judgment does not state which specific circumstances under which it considers that there exists "well founded reasons for suspicion", and it does not evaluate the complainant"s claim that the criminal procedure was falsely constructed, it is contrary to Article 22 of the Constitution.

26. When the Constitutional Court decides in favor of a constitutional complaint, it abrogates or abrogates ab initio the individual act completely or partly, and remands a case to the authority competent to decide it (Article 59.1 of ZUstS). If the competent authority in an asylum procedure establishes the existence of a reason to refuse asylum, as determined in Article 4 of ZAzil, a decision on the existence of humanitarian reasons becomes unnecessary. Owing to the fact that in the part where the existence of a reason to refuse asylum was determined, the constitutional right was violated only by the challenged judgment and not by the decision of MNZ, and since the Administrative Court is competent in cases when in order to remedy the established violations of constitutional rights it is necessary to overturn the decision as well, the Constitutional Court overturned only the judgment and remanded the case to the Administrative Court. When newly deciding on the case, the Administrative Court is - in the case of a possible annulment of the challenged decision of MNZ as well - obliged to take into consideration the reasons for this decision.

B. - II.

27. According to Article 40.2.2 of ZAzil a procedure for the recognition of asylum is final upon the decision of the Administrative Court being served. It follows from this provision that an appeal to the Supreme Court is not allowed against a decision of the Administrative Court. Therewith the legislature regulated the right to appeal differently as it is regulated in Article 70.1 of the Judicial Review of Administrative Acts Act (Official Gazette RS, No. 50/97 and 65/97 - hereinafter ZUS). It provides that against a judgment issued in the judicial review of administrative acts in the first instance an appeal is allowed if this Act does not provide otherwise. ZUS does not mention the discussed case.

28. The Constitutional Court, on the basis of Articles 59.2 and 30 of ZUstS, extended proceedings to review the conformity of Article 40.2.2 of ZAzil with the Constitution. In proceedings it will adjudicate whether the right to appeal as determined in Article 25 of the Constitution is violated by the challenged provision, and whether such a regulation is in compliance with the principle of a State governed by the rule of law as determined in Article 2 of the Constitution.

29. The Constitutional Court stayed the implementation of the mentioned statutory provision until the final decision as well.

According to Article 39 of ZUstS, the Constitutional Court may, until the final decision, completely or in part stay the implementation of a statute or a general act for the exercise of public authority, if irreparable and damaging consequences may result from the implementation thereof.

30. In deciding on the suspension of the implementation of a statute the Constitutional Court decides between the detrimental consequences that would result from the implementation of a possible unconstitutional act, and the detrimental consequences that would arise if the challenged provision was not implemented. An applicant for asylum whose application was rejected can, after a decision by the Administrative Court has been served, be forcibly removed from the territory of the Republic of Slovenia (Articles 40.1 and 40.2 of ZAzil), which can have irreparable and damaging consequences for the applicant. On the other hand, by staying the implementation of Article 40.2.2 of ZAzil the damaging consequences do not result. Only the effect of finality is delayed to the moment provided in the general rules of ZUS.

31. So as not to cause unnecessary complications in the final decision on the matter regarding the question of the effect of finality, the Constitutional Court decided on the basis of Article 40.2 of ZUstS, for the duration of its stay an appeal is permitted against the decision of the Administrative Court which decided on a legal action against the decision issued in the procedure for obtaining asylum. Pursuant to the provisions of ZUS temporarily used also in asylum procedures due to the suspension of the relevant provision of ZAzil, a decision becomes final after an appeal has been exhausted against the decision of the court of first instance, and after the judicial decision has been served; if the appeal

against the judicial decision was not lodged or was delayed, the finality takes effect with the expiry of the time limit for the appeal.

C.

32. The Constitutional Court reached this decision on the basis of Articles 30, 39, 40.2, 59.1, and 59.2 of ZUstS, composed of: Franc Testen, President, and Judges: Dr. Janez Čebulj, Dr. Zvonko Fišer, Lojze Janko, Milojka Modrijan, Dr. Mirjam Škrk, Dr. Lojze Ude, and Dr. Dragica Wedam-Lukić. Paragraphs 1 and 2 were reached unanimously. Paragraphs 3, 4 and 5 of the disposition were reached by seven votes against one. Judge Ude voted against. Judge Fišer and Judge Škrk wrote a concurring opinion regarding Paragraphs 1 and 2, Judge Ude wrote a dissenting opinion regarding Paragraphs 3, 4, and 5.

President:
Franc Testen

Notes:
(1)See rulings in cases Soering v. United Kingdom, dated 7 July 1989, Publ. ECHR, Ser. A, Vol. 161, žž 88-91; Cruz Varaz et alt. v. Sweden, dated 20 March 1991, Publ. ECHR, Ser. A, Vol. 201, ž 69; Vilvarajah et alt. v. United Kingdom, dated 30 October 1991, Publ. ECHR, Ser. A, Vol. 215, ž 103; Chahal v. United Kingdom, dated 15 November 1996, Reports 1996-V, Vol. 22, žž 73-74; Ahmed v. Austria, dated 17 December 1996, Reports 1996-VI, Vol. 26, ž 39.