



**REPUBLIKA SLOVENIJA**  
**USTAVNO SODIŠČE**

U-I-113/91  
13/2-1992

**R E S O L U T I O N**

At the meeting on Feb. 13, 1992, the Constitutional Court discussed the initiative lodged by Boris Ostruh, Celja and

**p a s s e d t h e f o l l o w i n g r e s o l u t i o n :**

The Constitutional Court refuses to accept the initiative and will not institute the proceedings of evaluation of constitutionality and legality of

1) Art. 2, Para 2 of the Ordinance by the Municipal Assembly of Celje on Amendments and Supplements of the Ordinance on the Compensation for Use of Building Plots in the Municipality of Celje (Official Gazette of SRS, No. 43/85), and

2) Resolutions by the Executive Council of the Municipal Assembly of Celje on the Point Value (Official Gazette of RS, No. 7/91 and 8/91).

**R e a s o n s**

The applicant lodged an initiative for evaluation of the legality of the above-mentioned Ordinance of the Municipal Assembly of Celje and of the Constitutionality of the two Resolutions of its Executive Council based on the impugned provision of the Ordinance. The initiator alleges that Art. 2, Para 2 of the Ordinance of the Municipal Assembly of Celje on Amendments and Supplements of the Ordinance on the Compensation for the Use of Building Plots in the Municipality of Celje, by which the Municipal Assembly authorized its Executive Council to determine the valorized value of a point for the calculation of the compensation for the use of a building plot, is not in conformity with the provision of Art. 61 of the Urban Land Act (Official Gazette of SRS, No. 18/84, p. 32/85 and 33/89), according to which the compensation for the use of building land is determined by the municipal assembly, not by its executive council.

The initiative is unfounded.

According to Art. 58 of the Urban Land Act, a compensation has to be paid for the use of a building plot. Such a compensation is payable in cities and urban areas, in areas intended for housing or other complex construction, in areas for which an urban plan has been adopted and in other areas having water supply, power supply and a sewage system. The area in which a compensation for the use of building land is payable is determined by a municipal assembly. Pursuant to Art. 61 of the Act, a municipal assembly determines the amount of compensation for the use of building land in accordance with the intermunicipal agreement on the harmonization of criteria and areas in which a compensation is payable and criteria for determination of the compensation for the use of building land, considering especially the availability of public utilities and other facilities on the building plot, the location, purpose and expedient utilization of the building plot, exceptional benefits for gaining profit in business and criteria for exemption from payment of the compensation for the use of building land.

On the above-mentioned statutory basis, the Municipal Assembly of Celje passed the Ordinance on the Compensation for the Use of Building Plots in the Municipality of Celje (Official Gazette of SRS, No. 2/85) which prescribes the criteria of formation of the compensation and provides that the amount of compensation be determined by the point method (Art. 15, 16 and 17). At the same time the

Assembly determined the value of a point which was 0.066 dinars at the time of passage of the Ordinance (Art. 20).

By Ordinance on Amendments and Supplements of the Ordinance on the Compensation for the Use of Building Plots in the Municipality of Celje, the Municipal Assembly altered the method of computation of the valorized value of a point, which (method) had been determined by the impugned provision of the Ordinance (Art. 1 and 2), its Executive Council to determine that value. Thus, the Municipal Assembly did not leave the determination of the point value to the Executive Council, but authorized it, pursuant to Art. 156 of the Municipal Charter of Celje (Official Gazette of SRS, No. 6/82, 73/90 and 13/91), for the implementation of its ordinance.

The Revenue Department, operating pursuant to Art. 3 of the Revenue Departments Act (Official Gazette of SRS, No. 3/81 and 6/83) issues, according to the provision of Art. 62 of the Urban Land Act, an assessment note to the payer of the compensation for the use of building land in the last quarter of the current year when also the point value for the fourth quarter is known. Until the issue of the assessment note, payers make only advance payments based on the assessment note of the preceding year. So, the final account is made at the end of the year and it is then that the final amount of the obligation for the current year is determined. Therefore, a quarterly change of the amount of the compensation for the use of building land has no retroactive affect, because by such a change the obligation of the payer is determined neither finally nor retrospectively.

This Resolution as set forth in the disposition is based on Art. 15 of the Law on the Procedure in the Constitutional Court of SR Slovenia (Official Gazette of SRS, No. 39/74 and 28/76).

P r e s i d e n t :  
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