

No: U-I-167/93  
Date: 2.12.1993

## RESOLUTION

At a session held on 2.12.1993, on the initiative of TEVE Varnost, Tovarna eksplozijsko varnih elektronaprav, d.o.o., Zagorje ob Savi, in a proceeding for assessing constitutionality, the Constitutional Court

passed the following resolution:

The provision of article 2 of the the decree of the municipal assembly of Zagorje ob Savi determining value points for calculating compensation for the use of building land in 1993 (Official gazette of Zasavje, no. 11/93) is annulled.

This decision has legal effect according to articles 414 and 415 of the Constitution of 1974.

### Reasoning

The initiator impugns the constitutionality of the municipal regulation cited in the Disposition of this Resolution, which determines in article 2 that the value points used from 1.1.1993 onwards shall be calculated according to these regulations. The initiator believes that the impugned decree is not in accordance with article 155 of the Constitution because it has retroactive effect. In answer to the initiative the opposing party, who was represented by the Inter-municipal public attorney of Trbovlje, stated that the impugned decree of the municipal assembly is not a regulation but an individual decree issued on the basis of municipal act and the law, and that the Constitutional Court is not therefore competent to assess its constitutionality.

By Resolution no. U-I-167/93-5 of 7.10.1993, the Constitutional Court accepted the initiative and commenced a proceeding. It considered that the impugned decree of the municipal assembly is a regulation which arranges legal relations in general, and does not bind directly a specific person.

In the first paragraph of article 155, the Constitution determines that laws, other regulations and general acts may not have retroactive effect.

The Assembly of the municipality of Zagorje ob Savi adopted the impugned decree on 2.5.1993 and promulgated it in the Official Gazette of Zasavje, no. 11/93 of 15.6.1993, and in article 2 determined that the value points according to this decree should be used for calculating compensation for the use of building land from 1.1.1993.

On the basis of the cited data, the Constitutional Court found that the provision of article 2 of the municipal decree has retroactive effect in conflict with the first paragraph of article 155 of the Constitution, so it annulled it.

The Constitutional Court adopted this resolution on the basis of the first paragraph of article 161 of the Constitution, article 7 of the Constitutional Law for Implementing the Constitution of the Republic of Slovenia and line 2 of the third paragraph article 25 of the law on proceedings before the Constitutional Court SR Slovenia (Official Gazette SRS, no. 39/74 and 28/76), at a session composed of: president Dr Peter Jambrek and judges Dr. Tone Jerovšek, Mag. Matevž Krivic, mag. Janez Snoj, Dr. Janez Šinkovec, Dr. Lovro Šturm, Franc Testen, Dr. Lojze Ude and Dr. Boštjan M. Zupančič. The resolution was adopted unanimously.

President  
Dr. Peter Jambrek