

Case No.:

U-I-40/06

Record No.:

E-84/06

Challenged act:

Environmental Protection Act (Official Gazette RS, Nos. 41/04, 17/06, 20/06, and 39/06 – official consolidated text) (ZVO), Art. 163.2

Forests Act (Official Gazette RS, Nos. 30/93 and 67/02) (ZG), Art. 5.1.3

Keywords:

1.5.51.1.13.1 - Constitutional Justice - Decisions - Types of decisions of the Constitutional Court - In abstract review proceedings - Finding that a regulation is in conformity - With the Constitution.

5.3.36 – Fundamental Rights – Civil and political rights – Right to property.

5.3.36.3.51 – Fundamental Rights – Civil and political rights – Right to property – Other limitations – Economic Function (67/1).

5.3.36.3.52 – Fundamental Rights – Civil and political rights – Right to property – Other limitations – Social Function (67/1).

5.3.36.3.53 – Fundamental Rights – Civil and political rights – Right to property – Other limitations – Environmental Function (67/1).

5.1.3 – Fundamental Rights – General questions – Limits and restrictions.

3.9 – General Principles – Rule of law.

5.5.51 – Fundamental Rights – Collective rights – National Assets and Natural Resources (70).

3.16 – General Principles – Proportionality.

3.18 – General Principles – General interest.

5.5.1 – Fundamental Rights – Collective rights – Right to the environment.

Legal basis:

Constitution, Arts. 2, 33, 67, 70, 72, 73

Constitutional Court Act, Art. 21

Operative provisions:

Art. 163.2 of the Environment Protection Act (Official Gazette RS, Nos. 41/04, 17/06, 20/06, and 39/06 – official consolidated text) and Art. 5.1.3 of the Forests Act (Official Gazette RS, Nos. 30/93 and 67/02) are not inconsistent with the Constitution.

Abstract:

In the valid Slovene legal regulation game is considered to be an independent movable thing. The basic function of game is not to satisfy the commercial-economic interests of agriculture and forestry, but game is part of the natural environment, which must be protected such that the long-term conditions for people's physical and mental well being and the quality of their life are maintained. Due to the function that game has with regard to the environment it is recognized the status of a natural resource. Thus, by regulating in Art. 163.2 of the Environmental Protection Act that game is the property of the state, and not any person's property, the legislature acted in conformity with the powers determined in Arts. 5 and 70 of the Constitution. Therefore, by the regulation of Art. 163.2 of the Environmental Protection Act it did not interfere with the right to private property determined in Art. 33 of the Constitution.

Owners of land are not only obliged to allow hunting on their land, but must also allow the exercise of the [broader concept of the] hunting right (i.e. measures connected with sustainable game management). Concerning the extent of the use of forests for the exercise of

the [broader] hunting right of non-owners and the extent of limitations imposed on the owners of land regarding the use of their land, the obligation of the owners of forests to allow the exercise of the [broader] hunting right in their forests is no longer within the limits of determining the manner of the use of property, rather the obligations and limitations imposed on the owners of forests are of a character such that entails an interference with the right to private property determined in Art. 33 of the Constitution. On the basis of constitutional provisions the legislature had to determine by law the manner and conditions of game management such that a healthy living environment is ensured. As game management is impossible without the use of land and forests and encompasses numerous professional tasks for which expert knowledge about game is necessary, the Constitutional Court evaluated that the obligation of land owners to allow qualified persons to use their land in order to enable the exercise of the [broader] hunting right is a necessary and appropriate measure for achieving the constitutionally protected aims. The Constitutional Court established that the benefits resulting from the exercise of the [broader] hunting right in the manner determined by the Game and Hunting Act, by which the protection of the natural resource is ensured, outweighs the severity of the interference with the property right of the owners of land and forests. Therefore, Art. 5.1.3 of the Forests Act is not inconsistent with the Constitution.

Full text:

U-I-40/06

11 October 2006

DECISION

At a session held on 11 October 2006 in proceedings to examine the petition of Marija Stritar of Mojstrana, the Constitutional Court

d e c i d e d a s f o l l o w s :

Art. 163.2 of the Environmental Protection Act (Official Gazette RS, Nos. 41/04, 17/06, 20/06 and 39/06 – official consolidated text) and Art. 5.1.3 of the Forests Act (Official Gazette RS, Nos. 30/93 and 67/02) are not inconsistent with the Constitution.

R e a s o n i n g

A.

1. The petitioner alleged that Art. 163.2 of the Environmental Protection Act (hereinafter ZVO-1) interfered with the property right of owners of forests as it determines that game is

owned by the state. She was of the opinion that game cannot be dealt with separately from the property right regarding land. Game can allegedly only be hunted and killed by using the land where such game is present. Living nature cannot allegedly be a subject of the property right as its characteristics exclude property entitlements, such as the right to have a thing in possession and to use such. From the historical development of the activity of hunting and comparable regulations in other European states, it allegedly follows that the regulation of the property right regarding game is related to the question of the hunting right and the property right regarding land. Game is allegedly not the property of anyone, and when it is killed it becomes the property of that person on whose land it was killed. Since for forests particularly two forms of management (i.e. wood management and hunting) are allegedly important, the regulation according to which free living game is owned by the state evidently interferes with the right determined in Art. 33 of the Constitution. From a historical perspective, also the appropriation of killed game and game management were allegedly elements of the property right regarding forests. She was of the opinion that such regulation did not concern the determination of the economic, social, and environmental function of property in the sense of Art. 67.1 of the Constitution, but an interference with the right to private property. Thus, the challenged ZVO-1 provision was allegedly to be weighed in accordance with Art. 15.3 of the Constitution. She opined that for such an interference with the property right, no admissible aim can be found, and that the measure sought is neither necessary nor appropriate. Proper game management could allegedly be achieved by imposing obligations on forest owners. From the perspective of comparable legislation, the challenged regulation was allegedly inconsistent with a system based on private property and free economic initiative.

2. The petitioner asserted that Art. 5.1.3. of the Forests Act (hereinafter ZG) was inconsistent with Art. 33 of the Constitution. She stated that the Constitutional Court already reviewed the mentioned provision in Ruling No. U-I-51/95, dated 18 March 1999 (Official Gazette RS, No. 24/99 and OdlUS VIII, 65). She was of the opinion that the position of the Constitutional Court in the mentioned Ruling cannot be applied in the review of Art. 5.3. of ZG from the perspective of hunting. The collection of forest fruit, brushwood, and forest plants allegedly cannot be compared with hunting on private land. Furthermore, she stated that the limitations of property entitlements which reduce the value of property and its yield always interfere with Art. 33 of the Constitution. Thus, the statutory provision which grants to everyone the right to hunt in a forest that they do not own allegedly entails an interference with the right to private property. She opined that such regulation excessively interferes with the right determined in Art. 33 of the Constitution.

3. The National Assembly did not reply to the petition.

B. – I.

4. The Constitutional Court separated the petitioner's application of 3 October 2005 from Case No. U-I-98/04 and for reason of joint consideration and decision-making joined the case with Case No. U-I-40/06. In view of the fulfilled conditions determined in Art. 26.4 of the Constitutional Court Act (Official Gazette RS, No. 15/94 – hereinafter ZUstS), it proceeded with the decision-making.

5. Art. 163.2 of ZVO-1 determines the following: "According to the regulations on hunting, game is owned by the state."

6. The petitioner opined that the game that is present on a certain land is connected with such land. Thus, an independent right concerning game allegedly cannot be possible. The regulation that determines that game is owned by the state is allegedly inconsistent with Art. 33 of the Constitution.

7. The right to private property is ensured in Art. 33 of the Constitution. The constitutional guarantee regarding property presupposes the existence of ownership as a legal institution. What is the subject of private ownership and which ownership entitlements are protected is determined by the legal order with regard to the economic and social circumstances in general. Concerning such, the purpose of the constitutional guarantee of ownership must be respected, i.e. ensuring the individual's freedom and the exercise thereof. The nature of property as a legal institution at the same time depends on the function ascribed to it by the legal order. The fact that the exercise of an individual's ownership entitlements is not unrestricted, but that the individual must consider the interests of other community members and the community as such, stems from the concept of the property right according to Roman law (Decision No. U-I-60/98, dated 16 July 1998, Official Gazette RS, No. 56/98 and OdlUS VII, 150).

8. According to Art. 15.1 of the Real Property Code (Official Gazette RS, No. 87/02 – hereinafter SPZ), a thing is an independent physical object which a human being can control. Game includes all kinds of free living mammals and birds which are hunted (Art. 2.1 of the Game and Hunting Act, Official Gazette RS, No. 16/04 – hereinafter ZDLov-1). SPZ considers animals to be things which can be objects of real property rights. Therefore, in the valid legal regulation game is considered to be an independent movable thing. Game is not a fixture [1] of land, nor an accessory[2] of such. The fact that game by nature uses land for its movement and that it can only be hunted and killed by using land, does not mean that it is inseparably connected with the land where it is present. Accordingly, it applies even more than it applies to fruit that game is an independent thing.[3]

9. The petitioner was of the opinion that the challenged regulation interfered with the property right regarding land since it allegedly follows from the historical development of hunting that the appropriation of game as an ownerless thing and the management of such are elements of the property right regarding forests. However, it is necessary to take into consideration that what has been increasingly asserted throughout the period of societal development is the awareness of the intrinsic value of a healthy living environment, biological diversity, and its components for the further existence of human beings. Biological[4] diversity is important for evolution and for maintaining the life sustaining systems of the biosphere. The preservation of biological diversity is a common concern of humankind (the Convention on Biological Diversity, Official Gazette RS, No. 30/06, MP, No. 7/96 – hereinafter MKBR). Thus, societal development, changes in the system of values, the new awareness of the significance of a healthy living environment, and the preservation of nature have contributed to changing our views concerning the importance of game. In addition to its economic and social function, particularly the ecological function of game (the preservation of biological diversity[5] and the balance of nature) has to be emphasized. Throughout the development of civilization what has been emphasized regarding game is its nature-conservation significance more than its importance for the individual. The basic function of game is no longer to satisfy the economic interests of agriculture and forestry, rather game is a part of the environment which must be protected in a manner such that long-term [favorable] conditions for people's physical and mental well-being and quality of life are maintained. What must be preserved is biological

diversity, and the sustainable use of its components must be ensured. Due to it having such a function with regard to the environment, game has acquired the status of a natural resource.

10. In the framework of general provisions, Art. 5 of the Constitution determines certain positive obligations of the state, including providing for the preservation of the natural wealth. Art. 70 of the Constitution is intended for the preservation of natural resources. The legislature is obliged to determine by statute the conditions for the exploitation of natural resources, the conditions for the use of land, the conditions and the manner of carrying out economic and other activities intended to exercise the concern of the state for a healthy living environment, etc. By Art. 70.2 of the Constitution, the legislature is authorized to determine by statute the conditions under which natural resources may be exploited.[6] Natural resources belong to ecosystems, i.e. natural systems which also include human beings. Therefore, the Constitution gives the legislature the possibility to determine the contents and extent of property entitlements with regard to the type of natural resources, and to determine the manner of the acquisition and enjoyment of the ownership of such thereby with consideration of the economic, social, and environmental function of the natural resources.[7]

11. In determining the contents of property rights regarding certain resources, the legislature must consider societal changes. . The most extensive changes have occurred particularly in the area of natural resources. Concerning such, by determining in Art. 163.2 of ZVO-1 that game is owned by the state, and is not an ownerless thing, the legislature acted in accordance with the powers granted by Arts. 5 and 70 of the Constitution. Thus, by the challenged regulation it did not interfere with the right to private property determined in Art. 33 of the Constitution. In this case the Constitutional Court did not need to take a position whether a different regulation would be in conformity with the provisions of Arts. 5 and 70 of the Constitution.

B. – II.

12. The petitioner opined that Art. 5.1.3 of ZG, which imposes on owners of forests the obligation to allow hunting in their forests, interfered with the right to private property determined in Art. 33 of the Constitution.

13. Art. 5.1.3 of ZG provides that: "The right to property regarding forests is exercised in a manner such that their environmental, social, and production function is ensured. Therefore, the owner of a forest must allow others to do the following activities in their forest: beekeeping, hunting, the recreational picking of fruit, green plants, and mushrooms, and catching freely living animals, in accordance with regulations."

14. The right to property that is ensured in Art. 33 of the Constitution cannot be considered without Art. 67 of the Constitution, which determines the economic, social, and environmental function of property. Art. 67 of the Constitution stems from the assumption that, in addition to its individualistic function, property must also have a function for the entire society. The owner's right must also serve the realization of the freedom and personal development of others and the entire society. Art. 67 of the Constitution allows and imposes on the legislature the obligation to determine the nature of property.[8]

15. The Constitutional Court took the position (Ruling No. U-I-51/95 and Decision No. U-I-319/96, dated 7 December 2000, Official Gazette RS, No. 2/01 and OdlUS IX, 287) that in cases in which the natural wealth is concerned, the determination of the manner of exercising

the property right does not interfere with Art. 33 of the Constitution, but these limitations fall within the social limits of property. The Constitutional Court has already considered a petition for the review of the constitutionality of Art. 5.1.3 of ZG from the view of an interference with the right to private property due to the right of people to pick fruit in a forest that they do not own (Ruling No. U-I-51/95). It stated that the law regulated the rights of a forest owner concerning the intention and use of forests in a manner such that in accordance with the social function of property it also considered the benefit of those who are not the owner of the forest. The Constitutional Court decided that the petition was evidently unsubstantiated from the perspective of an interference with the property right due to the right of non-owners to recreational picking of fruit in a forest that they do not own.

16. The authority determined in Art. 67 of the Constitution has a limitation. If the legislature exceeds such, it no longer concerns the determination of the manner of enjoying property, but an interference with the right to private property. Where this limitation ends does not only depend on the character of the thing which is the subject of the property right, but also on which obligations the legislature imposed on the owner in the framework of the determination of the manner of the enjoyment of property.[9] Therefore, it is necessary to review the limitations on the property right that are necessary for achieving the economic, social, and environmental function of property in view of the concrete circumstances. Considering the above-mentioned, the Constitutional Court had to review whether the obligation of forest owners to allow hunting in their forests was still within the limits of the determination of the manner of enjoying such property, or whether the obligations were of a character such that already entailed an interference with the right to private property.

17. From Art. 5.1.3. of ZG it follows that forest owners must allow the hunting of freely living animals in accordance with regulations. The activity of hunting is regulated in ZDLov-1. ZDLov-1 links the right to hunt with the [broader] hunting right such that the right to hunt is not an autonomous and independent right, but is an inseparable part of the [broader] hunting right. The obligations of owners of forests to allow hunting in their forest in accordance with the ZDLov-1 provisions essentially entails the obligation to allow the [broader] hunting right on their land. The owners of land are obliged to bear not only hunting on their land, but also the exercise of the [broader] hunting right (i.e. measures connected with sustainable game management).

18. The exercise of the hunting right (i.e. sustainable game management) entails the implementation of numerous measures for the preservation, maintenance, and improvement of the living conditions of animals and the maintenance of appropriate population structures of the animals, the guarding of game, the implementation of measures for the prevention of the occurrence and compensation for damage done by game on a hunting ground.[11] In addition to the above-mentioned, it also includes the building of hunting, breeding, and related technical objects and other structures which directly serve the protection, breeding, and hunting of game. The exercise of the hunting right does not only entail the mere movement of non-owners on land they do not own, but also that the owners of land must allow the use of their land for the implementation of numerous measures which are necessary for the effective management of game, including inter alia also the use of firearms on their land. In addition to the performance of the numerous activities that the owners must tolerate on their land, certain obligations are also imposed on them and they are prohibited from acting in a certain way when using their land (Arts. 30 to 36 of ZDLov-1). Due to the independent character of the hunting right, which in accordance with a special procedure can be acquired on the basis of an administrative decision only by qualified legal entities, owners

of land and forests may not freely hunt and appropriate game that is present on their land. They may not use their land for the profitable exercise of the right to hunt. With regard to the extent of the use of forests for the exercise of the hunting right of non-owners (those who exercise the hunting right) and the extent of the limitations that are imposed on the owners of land regarding the use of their land, the obligations of the owners of forests to allow the exercise of the [broader] hunting right in their forests is no longer within the limits of the determination of the manner of enjoying property, but the obligations and limitations of forest owners are of a character which already entails an interference with the right to private property determined in Art. 33 of the Constitution.

19. The interference with the right to private property is allowed in the cases determined in Art. 15.3 of the Constitution. On the basis of Art. 15.3 of the Constitution, it is possible to limit human rights only in cases as are provided by the Constitution and when such are limited by the rights of others. According to established case law, a human right or fundamental freedom may be limited if the legislature has followed a constitutionally admissible goal and if the limitation is in conformity with the principles of a state governed by the rule of law (Art. 2 of the Constitution), i.e. with one of such principles which prohibits excessive interferences by the state (the general principle of proportionality).

20. On the basis of Arts. 5 and 70 of the Constitution, the legislature is obliged to determine by law the conditions under which natural resources may be exploited, the conditions for the use of land, the conditions and the manner of carrying out economic and other activities with the intention to fulfill its obligation to promote a healthy living environment, etc. Therefore, on the basis of the constitutional provisions, the legislature had to determine by law the manner and conditions for the management of game such that a healthy living environment is thereby ensured. The legislature had a constitutionally admissible goal in interfering with the right to private property.

21. Considering the fact that the legislature had a constitutionally admissible goal, it is necessary to evaluate whether the limitation is in conformity with the general principle of proportionality. The Constitutional Court evaluates whether an interference was excessive or not on the basis of the so-called test of proportionality. This test encompasses the review of three aspects of the interference: (1) whether the interference was necessary at all in order to reach the pursued goal; (2) whether the evaluated interference was appropriate for reaching the pursued goal in the sense that it is actually possible to achieve this goal by the interference; and (3) whether the weight of the consequences of the evaluated interference with the affected human right is proportional to the value of the pursued goal or the benefits which will ensue due to the interference (the principle of proportionality in the narrow sense). Only if the interference passes all three aspects of the test is it constitutionally admissible (Decision No. U-I-18/02, dated 24 October 2003, Official Gazette RS, No. 108/03 and OdlUS XII, 86).

22. Game by its nature is always present on some land. Since it moves freely it cannot be restricted to a certain property with regard to the boundaries of individual property. Although game is an independent movable thing, it is not possible to manage such (i.e. by exercising the hunting right) without the use of such property and forests. As bearers of the hunting right also have the [narrower] right to hunt, by which the population of game is interfered with through the use of firearms, the carrying out of hunting cannot be left to the will of the owner of the land, but must be regulated by law and controlled. The exercise of the [broader] hunting right encompasses numerous professional tasks for which special knowledge regarding game

is needed. Without the cooperation of qualified persons having appropriate knowledge about game and the environment, it is impossible to manage game effectively. Thus, the Constitutional Court evaluates that the obligations of owners of land to allow the use of their land so that qualified persons may exercise the [broader] hunting right, and the limitations imposed on owners in the use of their land and forests for the exercise of the [broader] hunting right, are a necessary and appropriate measure for achieving constitutionally protected goals.

23. In the review of proportionality in the narrow sense the Constitutional Court balanced the need to exercise the [broader] hunting right for the preservation of the natural resource against the weight of the interference with the right to private property. On the basis of Art. 72.2 of the Constitution, the state is obliged to promote a healthy living environment. It must encourage social development such that it enables the long-term conditions for people's physical and mental well being, quality of life, and the preservation of biological diversity. The goal of environmental protection is inter alia also to ensure the sustainable use of natural resources. According to the principle of sustainable development determined in Art. 4 of ZVO-1, the state is obliged to encourage such economic and social development of the society which in satisfying the needs of the present generation considers the equal possibilities of satisfying the needs of future generations and enables the long-term preservation of the environment. The purpose of the exercise of the [broader] hunting right is to ensure a healthy living environment by protecting game, which is a natural resource. Thus, in weighing the proportionality of the interference with the right to private property of the owners due to their obligations (e.g. to allow non-owners to use the land, to respect the life rhythm of game concerning certain parts of forests, to use preventive means and work methods in order to prevent the loss of game in breeding places and nests), which are imposed on land owners due to the exercise of the [broader] hunting right, the protection of game needs to be given priority. If due to the special measures for the protection of game a land owner incurs damage which exceeds general limitations regarding environmental protection, they are entitled to damages according to the rules on the expropriation of real estate (Art. 36.5 of ZDLov-1). The owners of land have the right to compensation for damage caused by game, and for damage caused by hunting and the management of hunting grounds and hunting grounds with a special purpose. A special chapter of ZDLov-1 (Part IX: Prevention and Compensation for Damage Caused by and to Game) regulates types of damage, liability for damage, the amount of damage, and the manners of claiming compensation. The petitioner also erroneously opines that the challenged decision enables anyone to hunt on land they do not own and to freely appropriate game. Game as a natural resource is managed by the Republic of Slovenia, which may transfer part of its powers by granting a concession to qualified legal entities in the form of the [broader] hunting right (Art. 1.3 of ZDLov-1). A private subject may acquire the [broader] hunting right only by following a special procedure (the granting of a concession according to a public tender procedure) and by an act of public law (an administrative decision). The bearer of the hunting right may not entirely transfer such to other subjects. They may, however, use individual parts of the hunting right (including the right to hunt) and may under the conditions determined by statute transfer such to other persons. The right to participate in hunting is only enjoyed by persons who fulfill statutory conditions, and only to the extent which is necessary for the effective management of game as a natural resource. On their land owners cannot entirely freely hunt the game which is present there. However, they have the right to participate in hunting under the conditions determined in Art. 60 of ZDLov-1. On the basis of Art. 65.5 of ZDLov-1, they also have the right to be members of a hunting society if they have registered their basic agricultural and forest activities concerning the respective hunting ground, and if they are

owners of at least 15 ha of forest or agricultural land. The owners of land may on the basis of Art. 65 of ZDLov-1 establish a hunting society which may by participating in a public tender acquire a concession for the sustainable management of game and the right to exercise the [broader] hunting right. A hunting society most of whose members are the owners of land and forests in the area of the hunting ground, and most of whose members have permanent residence in that area, has priority in the acquisition of such license in relation to other hunting societies (Art. 26 of ZDLov-1), except in the first procedure for the acquisition of the license, wherein the hunting organization which until the call for public tenders managed the hunting ground (Decision No. U-I-98/04, dated 11 October 2006) has priority. From the above-mentioned, it follows that the owners of the land may on their land hunt under the conditions determined by law. If land owners join an organizational form envisaged by ZDLov-1 they may within this form acquire the hunting right. Concerning such, in the review of proportionality in the narrow sense, the Constitutional Court established that the benefits brought by the exercise of the hunting right in the manner determined by ZDLov-1, by which the protection of natural resources is ensured, outweighs the interference with the right of the owners of land and forests.

24. Due to the mentioned reasons, Art. 5.1.3 of ZG is not inconsistent with Art. 33 of the Constitution.

C.

25. The Constitutional Court reached this Decision on the basis of Art. 21 of ZUstS and Art. 46.3.3 of the Rules of Procedure of the Constitutional Court (Official Gazette RS, Nos. 93/03 and 98/03 – corr.), composed of: Dr. Janez Čebulj, President, and Judges Dr. Zvonko Fišer, Lojze Janko, Marija Krisper Kramberger, LL.M., Milojka Modrijan, Dr. Ciril Ribičič, Dr. Mirjam Šrk, Jože Tratnik, and Dr. Dragica Wedam Lukić. The Decision was reached unanimously.

Dr. Janez Čebulj

President

Notes:

[1] A fixture is everything which is generally considered to be part of another thing (Art. 16.1 of SPZ).

[2] An accessory is a movable property which is generally considered to be intended for the economic use or embellishment of a primary thing (Art. 17.1 of SPZ).

[3] Compare with Ruling No. U-I-51/95.

[4] In the Slovene translation MKBR uses the term *bioloska* [biological]diversity. The Preservation of Nature Act (Official Gazette RS, No. 56/99 et seq. – ZON), however, uses the term *biotska* [biotic] diversity. As in the decision we refer to MKBR, the term from that convention is used in this decision.

[5] In conformity with Art. 2 of MKBR, biological diversity entails the diversity of living organisms from all sources including inter alia land, sea and other water ecosystems, and ecological complexes being part of such; this includes the diversity within a species itself, between species, and the diversity of ecosystems.

[6] From the preamble of MKBR, it follows that the [signatory] states are responsible for the preservation of biological diversity in their territory and for the sustainable use of their resources.

[7] J. Čebulj, *O ustavni presoji določanja načina uživanja lastnine na naravnih dobrinah* [On the Constitutional Review of the Determination of the Manner of Enjoying Property Regarding Natural Resources], in the proceedings of V. dnevi javnega prava, Portorož 1999, p. 122.

[8] All according to G. Virant in L. Šturm (ed.), *Komentar Ustave Republike Slovenije* [Commentary on the Constitution of the Republic of Slovenia], Fakulteta za podiplomske državne in evropske študije, Ljubljana 2002, pp. 342–344.

[9] J. Čebulj, *op. cit.*, pp. 126–127.

[10] The right to hunt is defined in Art. 5.11 of ZDLov-1, and includes seeking, observing, pursuing, decoying, and waiting for game with the goal to kill game or catch such alive, and the collecting of game and the remains thereof.

[11] Art. 21.1 of ZDLov-1 determines: "Under the conditions of performing a public service, managers of hunting grounds and hunting grounds with a special purpose perform the following tasks in the area of sustainable game management:

1. taking planned measures for the protection of game and the living environment thereof and measures to preserve and improve the living conditions of game;
2. carrying out the killing of sick or injured game;
3. participation in the implementation of measures of the preventive health care of game and the submitting of dead game for a veterinary examination;
4. the keeping of prescribed records on killed game and game found dead;
5. the collection of data on game and its relation to the living environment in accordance with special methods of monitoring;
6. taking planned measures for the prevention of damage by and to game;
7. the assessment of damage by and to game;
8. ensuring compensation for damage caused by game to owners or land users;
9. providing training for hunters;
10. communication with land owners and the public;
11. carrying out supervisory tasks that are performed by a game warden service;
12. participation in scientific-research work concerning game and hunting;
13. carrying out the practical part of hunting examinations when necessary;
14. taking measures for the improvement of the living conditions of all species of birds and mammals in conformity with the regulations in the area of nature preservation; and
15. interfering with the population of freely living birds and mammals in conformity with the regulations in the field of protected species and by such manner of hunting as determined by this law."