



REPUBLIKA SLOVENIJA
USTAVNO SODIŠČE

Concurring Opinion of Judge Krivic

I fully agree with the Decision and its reasoning. I am of the opinion, however, that only the first paragraph, i.e. Paragraph 7 of Section B–I belongs in the reasoning of this decision. The content of the three paragraphs that follow (i.e. Paragraphs 8–10) is certainly very interesting and substantively indisputable (e.g. how the post-war authorities suppressed political parties and, in general, any opposition); however, it does not actually serve any purpose in the reasoning of the present decision (i.e. that only the Constitutional Court, and not the Ministry of the Interior, may currently prohibit political parties in Slovenia by a two-thirds majority). In my opinion, this could be likened to the situation where in a present-day decision on the protection of the constitutional right to private property it would be deemed necessary to first describe in the reasoning the historical details and interesting facts regarding how and through what means the post-war government destroyed private property, on the grounds that the person, to whom the decision is addressed, and other readers of the decision will only then sufficiently understand why it is necessary in the present-day political and constitutional system to consistently protect private property as a vital important constitutional right. In my opinion, such a “educational” approach underestimates the citizens and is, as such, questionable. A legal and historical analysis of the circumstances during and after the war was naturally necessary and had its purpose in cases where the Constitutional Court has decided and is still deciding on the constitutionality of various regulations applicable during and after the war, insofar as these are still currently applicable; in cases, such as the case at issue, however, an excessive description of the historical reminiscences may entirely needlessly raise various doubts as to the motives of such writing and I believe, as I have already stated, that this serves no purpose and is superfluous. In the case at issue it was found that the refusal to register the *Istrski demokratski zbor* [Istrian Democratic Assembly] on the grounds that one sentence in their programme was allegedly unconstitutional, was in fact unconstitutional in itself. In my opinion, it is entirely inappropriate to compare the conduct of the present day Ministry of the Interior – that was not a reflection of its political arbitrariness and systematic suppression of the opposition, but primarily a consequence of the implementation of an unconstitutional statutory provision – with the post-war brutality and suppression of the entire opposition, which was illegal even pursuant to the then applicable regulations. As a result, the attention is at least partially diverted from what is really important in this Decision in relation to the present time and circumstances.

Matevž Krivic