

U-I-147/92-9  
6.5.1993

## RESOLUTION

At a meeting held on 6.5.1993, the Constitutional Court dealt with the initiative of Husein Kasumović, from Tržič, represented by Miro Senica and Barbara Menart-Senica, lawyers in Ljubljana, and passed

the following resolution:

The Constitutional Court does not accept the initiative and has not started proceedings for assessing the constitutionality of the supplementary law to the law on citizenship of the Republic of Slovenia (Off. Gaz. RS, no. 30/91-I).

## Reasoning

The initiator bases his initiative on the claim that he lodged an application for citizenship of the Republic of Slovenia on the basis of article 40 of the law on citizenship of the Republic of Slovenia (Off. Gaz. RS, no. 1/91-I, 30/91-I and 38/92). His application was rejected by decision of 20.7.1992 for reasons citing the third paragraph of article 40 of the law on citizenship of the Republic of Slovenia. This determines that, irrespective of meeting the conditions of the first paragraph of this article, an application for citizenship from a citizen of another republic may be rejected if reasons are appended under point 8 of para. 1 of article 10, which determines as a condition for obtaining citizenship by naturalisation, that granting of citizenship does not represent a threat to the public order, security or defence of the state. The provisions of the third paragraph of article 40 of the law on citizenship were validated by the supplementary law to the law on citizenship of the Republic of Slovenia (Off. Gaz. RS, no. 30/91-I), which took effect on 14.12.1991. For the reasons cited, the initiator believes that the law has been used retroactively, which violates the Constitution, and he proposes that the Constitutional Court annul this law.

The Constitutional Court finds that the initiative is not substantiated. The supplementary law to the law on citizenship of the Republic of Slovenia does not determine retroactive effect and took effect on the day of its promulgation in the national official gazette. Also in the case of the initiator, it did not have retroactive effect. The initiator deposited his application for citizenship prior to implementation of the law whose constitutionality is impugned. However, the law on citizenship of the Republic of Slovenia expressly defines that an applicant for citizenship under article 40 of the law only becomes a citizen on the day that the decision on granting citizenship is handed down. The decision that the applicant's request was not granted was issued on 27.7.1992, so after the implementation of the impugned law. The decision thus did not retroactively encroach on the initiator's rights, but relied on a legal provision which took effect prior to the conclusion of the administrative procedure. In view of the express provisions of article 15 of the law on citizenship of the Republic of Slovenia, the Constitutional Court is of the opinion that there is no cause to characterise the use of the law as retroactive in this case.

The Constitutional Court passed this resolution on the basis of article 7 of the Constitutional Law for Implementing the Constitution, by the use of article 15 of the law on procedures before the Constitutional Court of SR Slovenia (Official Gazette SR Slovenia, no. 39/74 and 28/76).

President  
Dr. Peter Jambrek