



REPUBLIKA SLOVENIJA
USTAVNO SODIŠČE

U-I-28/94
16.2.1995

R E S O L U T I O N

At the meeting of 16 February 1995 concerning the procedure of testing the initiative of Vladimir Bogolin from Loka pri Žusmu, represented by Mr. Franc Pevec, a lawyer from Šentjur, the Constitutional Court

passed the following resolution:

The initiative for evaluation of constitutionality of the Resolutions concerning radio and television subscription rates (Official Gazette of RS, Nos. 12/93, 28/93 and 17/94) is rejected.

R e a s o n s:

With his application of 7 February 1994 the initiator proposed to the Constitutional Court to accept his initiative and commence the proceedings for evaluation of constitutionality and legality of the Resolutions concerning radio and television subscription rates (Official Gazette of RS, No. 12/93), as well as of any resolutions relating to radio and television subscription rates passed subsequent to the filing of the initiative. In the opinion of the initiator, the disputed Resolution is unconstitutional for making all citizens liable for payment of full radio and television subscription rate regardless of the range of programmes that can be received by each particular citizen. Thus, the full amount of subscription must also be paid by subscribers who can only watch the first programme of the RTV Slovenia. The disputed Resolution is in the opinion of the initiator also in conflict with Article 15 of the Bonded Relations Act, which prescribes that when concluding bilateral agreements the principle of equal value of reciprocal charges should be observed.

According to Article 21 of the Constitutional Court Act (Official Gazette of RS, No. 15/94), the Constitutional Court shall decide, inter alia, on conformity of regulations and general acts issued for the exercise of public powers with the Constitution and with statute. The disputed Resolution was passed by the Council of the RTV Slovenia. The Resolution is not of the nature of a regulation, nor of a general act issued for the exercise of public powers, but is a business act. And the Constitutional Court does not have jurisdiction to evaluate such acts. Such disputes as may arise in reference with the carrying on of subscriber's relationship as a special form of bonded relations should be settled before courts of general jurisdiction.

This Resolution was passed by the Constitutional Court on the basis of Article 25 of the Constitutional Court Act in the following composition: Dr. Tone Jerovšek, President, and Dr. Peter Jambrek, Matevž Krivic, M.L., Janez Snoj, M.L., Dr. Janez Šinkovec, Dr. Lovro Šturm, Franc Testen, Dr. Lojze Ude and Dr. Boštjan M. Zupančič, the judges. The Resolution was passed with eight votes in its favour and one vote against it. The vote against was cast by the judge Matevž Krivic, M.L., who gave a dissenting opinion.

P r e s i d e n t:
Dr. Tone Jerovšek