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NEWS REPORT

Country:	Slovenia
Title:	Constitutional Court Ruling No. U-I-140/14 of 25 April 2018
Date:	28 May 2018
Expert:	Neža Kogovšek Šalamon
<u>Context</u>	
Issue at stake:	Constitutional Court Ruling on Article 25 of the Animal Protection Act (ZZZiv) in relation to ritual slaughtering
Ground of discrimination:	Religion and belief
Source:	Constitutional Court
Field:	Access to goods and services
Applicable law:	Article 25 of the Animal Protection Act (ZZZiv), Article 41 of the Constitution, Article 9 of the European Convention on Human Rights

Content

Case law: Following the initiative of the Muslim Community and individual applicants, the Constitutional Court of the Republic of Slovenia issued a judgement on the constitutionality of Article 25 (2) of the Animal Protection Act (ZZZiv), which stipulates that the stunning of the animals must also be performed during ritual slaughter.

The main issue of the present case was whether the impugned statutory provision was inconsistent with the freedom of religion as defined under Article 41 of the Constitution. The two initiators (the religious community whose purpose is the preservation of Islamic values, and a natural person belonging to the Islamic faith) claimed the motion to be unconstitutional because the second paragraph of Article 25 of the Animal Protection Law (ZZZiv) orders the stunning of animals for all slaughter in slaughterhouses without exception for ritual slaughter carried out by members of the Islamic faith. The initiators alleged that the contested provision was intended to prevent Muslims from a daily supply and consumption of Halal meat, as well as from the supply of halal meat intended for consumption during the Islamic religious holiday of Kurban Bayram, when Halal meat is divided into thirds and consumed in accordance with the ritual. The applicants claimed that a regular consumption of meat of the animals slaughtered in accordance with the rules of Islam and the consumption and offering of such meat during Kurban Bayram serve to fulfil important religious duties reasonably related to the essence of religious beliefs. Both are therefore protected under Article 41 of the Constitution stating that religious and other beliefs may be freely professed in private and public life

The Constitutional Court found that the provision interferes with the freedom of religion as practiced by the members of the Islamic faith. However, the Constitutional Court also emphasised the importance of Article 9 (2) of the European Convention on Human Rights, which states that the objectives of restricting a person's freedom of religion must be taken into account when assessing the admissibility of the restrictions to the freedom of religion as laid down in the first paragraph of Article 41 of the Constitution. The aim of Article 25

(2) of the ZZZiv is to ensure the welfare of animals. In the context of the case at hand, the issue was the protection of animals against torture as explicitly demanded by Article 72 (2) of the Constitution. The definition of the constitutionally prescribed "protection of animals against torture" also includes the efforts of the legislator to prevent or alleviate any feelings of pain, stress, and fear caused by humans. The goal of stunning the animals before slaughter, that is the provision of animal welfare, is part of morality as a set of rules serving as a guide for people to distinguish between good and bad conduct. Under Article 9 of the European Convention on Human Rights, morality is acknowledged as an admissible cause for interfering with religious freedom.

The Constitutional Court hence ruled that such interventions are appropriate and necessary, that by pre-stunning animals it is possible to effectively alleviate the pain and fear of the animals, and that there is no other equally effective means of achieving this goal which would prove to be a smaller encroachment on the freedom of religion. On the basis of a proportionality assessment, the Court underlined the fact that the benefits of Article 25 of the ZZZiv are considerable, whereas the consequences for the freedom of religion are but limited as evident from the neutrality of the contested provision as well as from the fact that the access to Halal meat is rendered only more difficult, not impossible. The Constitutional Court therefore decided that the second paragraph of Article 25 of the ZZZiv is not inconsistent with the Constitution.

Key points of analysis: The Constitutional Court ruled that the benefits of Article 25 of the ZZZiv carry more weight than the consequences for the freedom of religion. This is the second Constitutional Court decision in 1,5 years deriving from a complaint lodged by Islamic community, which imposes the same rules on everyone, regardless of their religion. A decision of January 2017 referred to officially designated work-off days which, in the opinion of the Islamic community, do not take into account other religions apart from the catholic ones. In that case the Constitutional Court also did not find discrimination.¹

Internet link source:

<http://www.us-rs.si/aktualno/novice/odlocba-ustavnega-sodisca-st-u-i-14014-z-dne-25-4-2018/>.

¹ Constitutional Court decision, No. U-I-67/14-11, of 19 January 2017, available at: <http://odlocitve.us-rs.si/si/odlocitev/US31095?q=zakon+o+dela+prostih+dnevi> (last accessed 24 May 2018).