

**Case number:**

U-I-67/14

ECLI:

ECLI:SI:USRS:2017:U.I.67.14

Challenged act:**Operative provisions:****Abstract:**

If a petition to initiate proceedings to review the constitutionality of a regulation is manifestly unfounded, the Constitutional Court dismisses such.

Thesaurus:**Legal basis:****Cases joined:****Full text:**

[Publisher's Note: The full text of this Decision/Order is available only in Slovene. The text published below is a summary prepared for the annual report.]

Religious Holidays and Freedom of Religion

By Order No. **U-I-67/14**, dated 19 January 2017, the Constitutional Court decided on the allegation that Article 2 of the Public Holidays and Non-working Days in the Republic of Slovenia Act, which determines non-working days, is unconstitutional. The petitioner, a member of the Islamic religious community, alleged that the challenged regulation only takes into account Christian religious holidays. He was of the opinion that the challenged regulation discriminates against him when compared to members of the Christian religious community and prevents him from exercising his right to profess his religion. The challenged regulation allegedly also discriminates against the members of other religious communities and atheists.

The review of the Constitutional Court proceeded from the premise that holidays are days that have a special significance for the lives of individuals or a community and that, as a general rule, are celebrated in some manner every year. Through holidays, communities and institutions commemorate important historic events and special local, state, or national, religious, and other cultural values, thus emphasising their own identities. Holidays have an important sociological and integrative role in the lives of individuals and families, as well as for local, professional, and national communities; they legitimise the organisation and ideology of a society and of the state. In the light of such, the holidays and non-working days in the Republic of Slovenia, as they are determined by law, are the outward expression of the identities of individuals – i.e. the citizens, who, according to the first paragraph of Article 3 of the Constitution, constitute the Republic of Slovenia, which is founded on the permanent and inalienable right of the Slovene nation to self-determination. The challenged statutory regulation differentiates between holidays and non-working days that are not holidays. The dates of

the non-working days that are not holidays are an expression of the traditionally accepted values that are historically connected to life in the territory of the present Republic of Slovenia. They serve the celebrations of individuals, and the state is excluded from such celebrations. The state only commemorates holidays, irrespective of whether they are also non-working days.

The Constitutional Court held that the selection of non-working days does not touch upon the functioning of religious communities or the profession of the faith of individuals. Irrespective of the challenged regulation, all religious communities and their members are autonomous and free with regard to the individual or collective profession of their religion. Therefore, the challenged regulation does not interfere at all with the sphere protected by the right determined by Article 41 of the Constitution. The selection of the dates of the non-working days (which according to the law are not state holidays) is a matter falling within the legislature's margin of appreciation. The legislature may regulate non-working days as an expression of the identity of the persons who have historically lived in the territory of our present state and who are connected to the tradition of the European area. In accordance with the Preamble to the Constitution, national independence is one of the starting points for the establishment of the fundamental social rules of coexistence. Consequently, the petitioner's allegations concerning the discrimination and unequal treatment of religious communities and their members and the ensuing inconsistency of the challenged regulation with the first and second paragraphs of Article 14 of the Constitution are also unsubstantiated. The challenged regulation distinguished non-working days from holidays and intended them to benefit individuals who may enjoy them as they see fit. The participation of the state is excluded. Therefore, the allegation that the challenged regulation is inconsistent with Article 7 of the Constitution is also not substantiated. The Constitutional Court dismissed the petition as unfounded.

Type of procedure:

ocena ustavnosti in zakonitosti predpisov in drugih splošnih aktov

Type of act:

zakon

Applicant:

Almir Talić, Ljubljana

Date of application:

19. 3. 2014

Date of Decision:

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