

**Case number:**

U-I-114/16, Up-535/16

ECLI:

ECLI:SI:USRS:2018:U.I.114.16

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

Where the criminal offence in question was committed or property acquired before the entry into force of the Confiscation of Illicitly Acquired Property Act, the court at issue adopted the contested orders on the basis of a statutory provision that the Constitutional Court had already established was inconsistent with the second and first paragraphs of Article 155 of the Constitution. As the contested orders are based on an unconstitutional statutory provision, equal treatment of the complainant (the second paragraph of Article 14 of the Constitution), who in filing a constitutional complaint claimed the inconsistency of the contested provision with the Constitution due to the retrospective effect of the Confiscation of Illicitly Acquired Property Act, would require that the Constitutional Court abrogate the contested orders and remand the case to the court for new adjudication. As the contested orders ceased to be in force, the Constitutional Court merely established a violation of the complainant's right determined by the above-stated provision of the Constitution.

If the Constitutional Court has already abrogated a regulation, the petitioner does not demonstrate a legal interest for a new review thereof.

Petitioners do not have a legal interest if they do not demonstrate that the possible granting of the petition would improve their legal position.

Thesaurus:**Legal basis:****Cases joined:**

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Full text:**Type of procedure:**

ocena ustavnosti in zakonitosti predpisov in drugih splošnih aktov
ustavna pritožba

Type of act:

zakon
posamični akt

Applicant:

Rudolf Trček, Ljubljana

Date of application:

27. 6. 2016

Date of Decision:

22. 11. 2018

Type of decision adopted:

odločba

Outcome of proceedings:

ugotovitev kršitve človekove pravice
zavrženje

Published:

Document:

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