

Cases and rulings

Country Code	Year	Reference details title	Reference details URL	Hate Bias motivation	Court / Body	Key facts of the case	Results (sanctions, outcome) and key consequences or implications of the case	Main reasoning / argumentation	Key issues (concepts, interpretations) clarified by the case	Key quotation in original language and translated into English with reference details
Slovenia	2019	Slovenia / Supreme Court / Order X (as of 2019) ECtHR (2019-2019) X (25-71-2019)	http://www.sodnagpraksa.si/seek.php?te=Sklep%20%20%2017%2019&databaseSOVS1=SOVS6_submit=1h/CS%A1h/CS%80d/rowsPerPage=20&page=6&id=201508111431718	Migration status	Supreme Court of the Republic of Slovenia (Vrhovno sodišče Republike Slovenije)	In 2019, a municipality council adopted an order calling for a consultative referendum with the aim to establish the will of local residents regarding integration of refugees and migrants, accommodation of migrants who crossed the border in an irregular manner, and reception and registration of foreigners, that is - the establishment of an reception and registration centre in the territory of the municipality. The referendum question was the following, "Are you in favour of the Constitutional Court to decide on whether such a regulation was consistent with the constitution and the law. The outcome of the case shall thus depend of the possible future actions by relevant bodies (e.g. municipality council, the latter falling within exclusive competence of the state. The court thus regarded the order as an individual rather than general municipal act. The judgment was challenged before the Supreme Court which established that the Administrative Court wrongly applied the law and annulled the judgment.	The Supreme Court annulled the judgment produced by the Administrative Court, and established that an order calling for a consultative referendum was a municipal regulation and that it was up to the Constitutional Court to decide on whether such a regulation was consistent with the constitution and the law. The outcome of the case shall thus depend of the possible future actions by relevant bodies (e.g. municipality council, the latter falling within exclusive competence of the state. The court thus regarded the order as an individual rather than general municipal act. The judgment was challenged before the Supreme Court which established that the Administrative Court wrongly applied the law and annulled the judgment.	The Supreme Court, by means of referring to several prior decisions and produced by the Constitutional Court, established that an act on calling a municipal consultative referendum represented a municipal regulation (i.e. general municipality act related to its functioning), and not an individual municipal act (i.e. decision concerning administrative issues under its competence). By establishing the legal nature of the municipal act, the court ruled that it was the competence of the Constitutional Court, and not the Administrative Court, to assess its compliance with the constitution and the law. According to the Supreme Court, the legal status of a municipal act was not determined by its compliance with the law, as compliance with the Administrative Court.	The Supreme Court clarified the legal nature of an act governing the call for municipal consultative referendum, namely that it represented a general (i.e. regulation) rather than an individual municipality act. As a result, it is the competence of the Constitutional Court which is responsible to review its compliance with the constitution and the law.	"Iz obrazložitve izpodbijane sodbe je razvidno, da je Upravno sodišče svoje sklepanje, da gre v obravnavanem primeru za konkreten in posamičen akt in ne za splošni akt, napačno opirna presojo njegove nezakonitosti. Ugovor glede pristojnosti Upravnega sodišča za odločanje je namreč zavrnjen z ugotovitvijo, da se referendumsko vprašanje nanana na vprašanja, ki niso v pristojnosti občinskega sveta. Pravna narava splošnega akta in pristojnost za odločanje Upravnega sodišča pa ni odvisna od njegove nezakonitosti. " It is apparent from the reasoning of the judgment that the conclusion by the Administrative Court which concerns a concrete and individual act rather than a general one was wrongly based on an assessment of unlawfulness of the act. Namely, it rejected the objection concerning the jurisdiction of the Administrative Court by establishing that the referendum question was related to issues which were not within the competence of the municipality council. However, legal nature of a general act, and related jurisdiction of the Administrative Court, is not dependent of its unlawfulness.

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