

DECISION 22 OF 1996: 25 JUNE 1996
ON COMPENSATION FOR PAST INJUSTICES II

The Parliamentary Standing Committee on Human Rights petitioned for preliminary review of the text of a bill before the final vote.

Act XXII of 1992 regulated the question of compensation for those wrongfully deprived of their life and liberty due to political reasons. Having been the subject of a previous ruling of the Court (*Dec. 1 of 1995 (II.8) AB: MK 1995/10*), the legislature had thereby been obliged to add further provisions to the said compensation statute. These amendments centred on the fact that the previous law had restricted the possibility of compensation to those whose rights had been arbitrarily violated in connection with a formal criminal procedure. In addition, the legislature had to replace those provisions declared unconstitutional.

After the text of the amending legislation had been finalised but before voting on it, the Standing Committee on Human Rights sought a preliminary review of the bill on the grounds that *etc.*

Held, granting the petition:

(1) The Court had jurisdiction to review the constitutionality of the bill. Adjudicating upon the constitutionality of the provisions of a pending bill, the text of which was not definitive, would mean the possibility of the Court becoming involved in the everyday legislative process by being required to choose from several options. This was the task of the legislature and any interference in this process on the part of the Court would be incompatible with the principle of the separation of powers. However, the Court was able to accept

jurisdiction in the present case since the legislature had already finalised the text of the bill and had excluded the possibility of any further changes.

(2) It was unconstitutional if the amount of compensation for those deprived of their life is substantially unequal for different groups of people. The legislature had redressed its former mistake by creating a new group of persons entitled to compensation, specifically those deported to Germany or to the Soviet Union. However, the bill had established substantially different standards for similar grievances, *viz.* the loss of life. Loss of life was so serious a grievance that it absorbed all previous injustices. It would be arbitrary and at the same time would violate human dignity to differentiate among the diverse ways of losing life.

(3) If, as a result of this change, the legislature was required to enlarge the range of persons entitled to compensation (because of the stated constitutional requirements), it would remain constitutional to redistribute the overall budget allowed for such compensation, thus reducing the amount of the original compensation for each individual.