2002/12/10 - PL. ÚS 16/02: LOCAL FEES

HEADNOTES

A municipality is authorized to establish, in a generally binding ordinance issued on the basis of § 10b of Act no. 565/1990 Coll., on Local Fees, exemption from or reduction in fees (§ 15 of the Act), assuming that this does not lead to circumventing the law and discrimination against fee payers. In evaluating this fact it is necessary to review the meaning and purpose of a given exemption (reduction).
If the relevant version of Act no. 185/2001 Coll. did not presume that the municipality can collect payment on a contractual basis from natural persons for the gathering, collection, transport, sorting, use and removal of communal waste, a generally binding ordinance can not set such "exemption" from the fee as subsequently permits the municipality to introduce, for one category of fee payers, a contractual payment which is basically at a lower level than the payment obligation.

A different procedure would be a violation of the abovementioned Act and also circumvention of § 10b para. 3 of the Local Fees Act, as the cited provision unambiguously defines how the municipality's expenses arising in connection with handling communal waste are to be distributed between two categories of fee payers (with permanent residence in the municipality or without it). The consequence of this is discrimination against fee payers, where one group of fee payers is illegally (and unjustifiably) given an advantage over the other.

CZECH REPUBLIC

CONSTITUTIONAL COURT
JUDGMENT

IN THE NAME OF THE CZECH REPUBLIC

The Plenum of the Constitutional Court decided, in the matter of a petition from the Chairman of the District Office in Žďár nad Sázavou to annul a generally binding ordinance of municipality V. of 6 December 2001 no. 04/2001 (note: the ordinance is incorrectly marked as no. 04/20001) on a local fee for operation of the system of gathering, collection, transport, sorting, use, and removal of communal waste, discussed without an oral hearing, with the consent of the parties to the proceedings, as follows:

I. Art. 4 of generally binding ordinance of municipality V. of 6 December 2001 no. 04/2001 on a local fee for operation of the system of gathering, collection, transport, sorting, use and removal of communal waste, is annulled as of the day this judgment is promulgated in the Collection of Laws.

II. The remaining part of the petition is denied.

REASONING

I.

By petition of 3 July 2002, filed in accordance with Act [sic] § 64 et seq. of Act no. 182/1993 Coll., on the Constitutional Court, as amended by later regulations; (the "Constitutional Court Act"), the Chairman of the District Office in Žďár nad Sázavou proposed annulment of the generally binding ordinance of municipality V. cited in the heading (the "ordinance"), issued under the municipality's independent jurisdiction, which reads as follows:

"Generally binding ordinance of municipality V. no. 04/20001

on a local fee for operation of the system of gathering, collection, transport, sorting, use, and removal of communal waste.

The municipal council of municipality V. issues, on 6 December 2001, under § 15 of Act no. 565/1990 Coll., on Local Fees as amended by later regulations, and in accordance with § 10, let. a) and § 84, para. 2, let. i) of Act no. 128/2000 Coll., on Municipalities (Municipal Establishment), this generally binding ordinance.

Art. 1
The fee shall be administered by the municipal office of V. (the "fee administrator") and proceedings concerning fees shall be handled under Act no. 337/1992 Coll., on Administration of Taxes and Fees, as amended by later regulations, unless Act no. 565/1990 Coll., on Local Fees, as amended by later regulations, provides otherwise.

Art. 2
Fee payer
The fee shall be paid by: a) a natural person who has permanent residence in the municipality. The fee may be paid for a household by a joint representative, and for a family house or apartment building by the owner or administrator. These persons are required to inform the fee administrator of the names and dates of birth of persons who are paying the fee, b) a natural person who owns a building designated or serving for individual recreation, in which no person is registered for permanent residence. If several people have ownership rights to this building, they are liable to pay the fee jointly and severally, in an amount corresponding to the fee for one natural person.

Art. 3
Rate of fee
1. The rate of the fee for a fee payer under Art. 2, let. a) and b) of this ordinance is CZK

467, and consists of: a) the amount of CZK 250 per calendar year and b) the amount of CZK 217 per calendar year. This amount is set according to the municipality's actual expenses in the previous year for the collection and conveying of unsorted communal waste. The actual expenses were CZK 164,796, and were allocated as follows:

CZK 164,716 ÷ 760 persons = CZK 217/person

2. In the event of a change, during the course of the year, in the place of permanent residence or a change in the ownership of a building which is designated or serves for individual recreation, the fee shall be paid in a proportional amount which corresponds to the number of calendar months of residence or ownership of a building in the relevant calendar year. If a change occurs during a calendar month, the situation at the end of the month shall be used to determine the number of months.

Art. 4
Exemption
1. The following are exempt from the fee: - fee payers under Art. 2 para. a) of this ordinance who take the opportunity under Ordinance no. 03/2001 Art. 4, para. 9 on the System of Handling Waste in Municipality V., 100 %, if the following conditions are met: - a contract is concluded with municipality V. for the removal of an appropriate number of waste containers (garbage cans); - they will thus liquidate an appropriate amount of waste in a demonstrable manner; - they observe other obligations arising from the decree on the waste handling system in Vír.; - they conclude a contract, including payment by the end of January; - if it is found that any of these conditions were not met, the entitlement to exemption expires and the fee will be imposed retroactively in full.
2. A fee payer is required to inform the fee administrator in writing or orally that he has become entitled to exemption from the fee within 15 days from the day when the facts arose which establish entitlement to the exemption. The fee payer is required to announce the termination of his entitlement to the exemption by the same deadline.

Art. 5
Payment Due Dates
1. The fee for a fee payer under Art. 2, let. a) of this ordinance is payable in one payment, from 15 January to 31 January of the relevant year.

2. The fee for a fee payer under Art. 2, let. b) of this ordinance is payable in one payment, no later than 31 March of the relevant year.

Art. 6
Information Obligation
A fee payer under Art. 2, let. a) of this ordinance is required to inform the fee administrator of the termination of his payment obligation as a result of a change in permanent residence in the municipality, no later than 10 days from the day when the change occurred.

1. A fee payer under Art. 2, let. b) of this ordinance is required to inform the fee administrator of the termination of his payment obligation as a result of a change in ownership of a building designated or serving for individual recreation.

Art. 7
If a fee is not paid on time or in the correct amount, the fee administrator shall set the fee by a payment assessment and may raise an overdue fee by up to 50%. The assessed fee is rounded up to whole crowns.

Art. 8
The fee administrator may impose, on anyone who does not meet a non-financial obligation by a deadline set by this ordinance or a decision, a fine under §37, of Act no. 337/1992 Coll., on Administration of Taxes and Fees, as amended by later regulations.

Art. 9
1. If a fee payer does not meet the information (payment) obligation provided by this generally binding ordinance, the fee due can be assessed within three years from the end of the calendar year in which the information (payment) obligation arose.
2. Periods of limitation are governed by Act no. 337/1992 Coll., on Administration of Taxes and Fees, as amended by later regulations.

Art. 10
The fee administrator may, on the basis of an application from the fee payer, reduce or waive [the fee] in individual cases, on the grounds of alleviating or removing hardship.

Art. 11
This ordinance goes into effect on 1 January 2002.Deputy Mayor Mayor of the Municipality

Posted on: 10 Dec. 2001

Taken down on:"

In his petition, the Chairman of the District Office in Žďár nad Sázavou states that on the basis of § 15 para. 1 let. h) of Act no. 147/2000 Coll., on District Offices, as amended by later regulations, he issued, on 20 February 2002, a measure in which, under § 124 para. 1 of Act no. 128/2000 Coll., on Municipalities (Municipal Establishment), as amended by later regulations, (the "Municipalities Act") he suspended execution of the ordinance on the grounds of illegality. At its meeting on 26 April 2002, the municipal council took cognizance of the suspension of the ordinance. At its next meeting, held on 26 June 2002, no action was taken in the matter of the ordinance. In view of these facts, he files a petition to annul it under Art. 87 para. 1 let. b) of the Constitution of the Czech Republic (the "Constitution").

In his petition, the petitioner begins with the premise that the cited ordinance was issued in a legal manner under Art. 104 para. 3 of the Constitution, and § 10 let. a), § 84 para. 2 let. i) and § 92 para. 3 of the Municipalities Act. Thus, this legal regulation is valid, and went into effect on 1 January 2002. The petition further states that the ordinance implemented a fee for operation of the system of gathering, collection, transport, sorting, use, and removal of communal waste, which is regulated by § 1 let. h) and § 10b of Act no.

565/1990 Coll., on Local Fees, as amended by later regulations (the "Local Fees Act"). Under § 10b para. 3 and § 15 of the Local Fees Act (note: in the wording in effect until 31 December 2002), the ordinance specifies who is a fee payer (Art. 2), what the rate of fees is (Art. 3), and who is exempt from the fee (Art. 4); municipality V. previously, under § 17 para. 2 of Act no. 185/2001 Coll., on Waste and Amending Certain Acts (the "Waste Act"), introduced, with effect as of 1 January 2002, by generally binding Ordinance no. 03/2001 (of 6 December 2001) a system of gathering, collection, transport, sorting, use, and removal of communal waste (the "communal waste handling system").

According to the petitioner it is apparent from these facts that municipality V. is authorized to collect only a fee for operating the communal waste handling system. The fee was implemented, but in Art. 4 of the ordinance the municipality set for some fee payers a different manner of making payments in the waste management sector, based not on an obligation to pay a fee set by a legal regulation, i.e. by an ordinance issued as part of the norm-creating activities of the municipality in the area of public law, but on a contract concluded between the municipality and some fee payers as a two-sided legal act under private law norms. The ordinance is inconsistent with the Local Fees Act in that it implements de facto two methods of imposing fees, one of which is governed by its Art. 4 and is a new type of contractual arrangement on making payment which has no support in the Local Fees Act. Thus, it is evident that insofar as municipality V., by generally binding ordinance regulated the communal waste handling system under the Waste Act and introduced a fee under the Local Fees Act by generally binding ordinance, it is not authorized to introduce a different form of payment other than the cited fee. Thus, it is not authorized either to introduce a form of payment on the basis of a contract concluded between the municipality and some fee payers, or to exempt those fee payers in the municipality from the binding ordinance. In addition, the legal framework for concluding contracts is uncertain, and displays signs of circumventing the law, in particular the Local Fees Act. In view of these facts, the Chairman of the District Office in Žďár nad Sázavou proposes that the contested ordinance be annulled.

II.

In its response to the petition, signed by Mayor J. H., municipality V. stated that the contested ordinance was approved on 6 December 2001, posted on 10 December 2001, and taken down on 2 January 2002; citizens were also informed of the ordinance by a flyer delivered to every household in the municipality. At the request of the Constitutional Court, the information provided was supplemented by a statement of 21 October 2002, which states that the municipal council has 15 members, 14 of whom took part in the relevant meeting, and all of those voted to pass the ordinance. On the merits of the matter municipality V. stated that the municipality has introduced waste sorting and weighing of garbage cans, and that citizens residing permanently in the municipality were permitted, under generally binding Ordinance no. 03/2001, to continue in this system, and thus to continue in the system of paying according to the actual weight of communal waste. The municipal council of municipality V. – according to a decision taken at a public meeting on 29 July 2002 – continues to maintain the validity of Ordinance no. 04/20001.

III.

For purposes of evaluating the petition, the Constitutional Court requested an expert position statement from the Ministry of Finance. In a letter of 27 September 2002, file no. 263/93491/2002, the Ministry stated that it can not agree with the exemption provided in Art. 4 of the contested ordinance, because it creates inconsistency with the Waste Act and Act no. 526/1990 Coll., on Prices, as amended by later regulations. The Ministry's reasons are that the Waste Act does not define communal waste as the property of a natural person, by liquidating which the municipality would be providing that person a service. On the contrary, § 4 of the Waste Act indicates that at the moment when a natural person places communal waste in a place designated thereto, the municipality becomes the originator and owner of that waste. The municipality has an obligation, in terms of dealing with communal waste, provided by the Waste Act (§ 17 para. 3 a 4), to determine a place for a natural person to place communal waste and that person's obligation to place the waste in the determined spot. It is evident from this that the municipality can not tie exemption from the fee for operating the communal waste handling system to a contractual arrangement between the municipality and a citizen, on the basis of which the municipality then performs a service for a natural person by liquidating communal waste. Since the Waste Act went into effect (i.e. 1 January 2002), a fee obligation can be imposed on natural persons, in accordance with the Local Fees Act, only by generally binding ordinance on local fees for operating the communal waste handling system. Under Act no. 526/1990 Coll. prices are negotiated between seller and buyer; in this case, however, this legal act lacks a subject of performance on the part of the municipality, i.e. a service provided to the citizen in connection with clearing away and liquidating communal waste.

IV.

Under Art. 87 para. 1 let. b) of the Constitution, the Constitutional Court decides to annul other legal regulations, including generally binding ordinances of municipalities issued under their independent jurisdiction, if they are inconsistent with the constitutional order or a statute. In view of § 68 para. 2 of the Constitutional Court Act, the Constitutional Court is also required to review in these proceedings whether a contested legal regulation was issued in a constitutional manner.

The generally binding ordinance was passed on 6 December 2001 (promulgated on10 December 2001); its passage and publication were subject to the Municipalities Act. Under § 35, § 84 para. 2 let. i) and § 10 let. a) of the Municipalities Act, a municipal council may, as part of a municipality's independent jurisdiction, issue generally binding ordinances and impose obligations in matters specified by a special statute. Under § 1 and § 15 of the Local Fees Act (in the wording in effect until 31 December 2002), municipalities may collect local fees enumerated by the Act, the implementation of which, as well as other requirements connected with that implementation, they shall set by generally binding ordinance.

As the Constitutional Court determined from the record of the public meeting of the municipal council in Vír, held on 6 December 2001, and from the list of those present, 14 out of a total of 15 members of the council took part in discussion of the generally binding ordinance on local fees and the ordinance was approved by all votes present. The ordinance was, in accordance with § 12 para. 1 and 2 of the Municipalities Act, posted on the official bulletin board from 10 December 2001 to 2 January 2002. Thus, the Constitutional Court believes that the contested generally binding ordinance was issued within the municipality's independent jurisdiction in a constitutional manner, and went into effect as is stated in it. By letter of 20 February 2002, the Chairman of the District Office in Žďár nad Sázavou, Ing. K. P., suspended execution of the cited ordinance. The council representatives of municipality V. learned of this decision at the meeting held on 26 April 2002. The municipal council did not arrange any correction, nor did it do so at its next meeting, on 26 June 2002.

Constitutional limits for issuing generally binding ordinances of municipalities in their independent jurisdiction are specified in Art. 104 para. 3 of the Constitution, under which municipal councils may, within the bounds of their jurisdiction, issue generally binding ordinances. Municipal jurisdiction in this regard arises from § 35 para. 3 let. a) of the Municipalities Act, under which municipalities are governed only by statutes when exercising their independent jurisdiction in issuing generally binding ordinances. In its previous judgments the Constitutional Court has ruled several times that Art. 4 para. 1, Art. 2 para. 3 of the Charter of Fundamental Rights and Freedoms and Art. 2 para. 4 of the Constitution indicate for the area of municipal jurisdiction that in cases where a municipality acts as an entity which imposes obligations on citizen through one-sided bans and orders, i.e. if it issues generally binding ordinances which contain legal obligations, it can do so only in cases of express statutory authorization (judgment of 19 January 1994, file no. Pl. ÚS 5/93, and of 5 April 1994, file no. Pl. ÚS 26/93, published in: The Constitutional Court of the Czech Republic, Collection of Decisions, vol. 1, no. 4 and 12). Although these judgments were made under the previous legal framework [Czech National Council Act no. 367/1990 Coll., on Municipalities (Municipal Establishment), annulled by Act no. 128/2000 Coll.], the conclusions expressed in them undoubtedly maintain their validity in the present (see judgment of 20 November 2001, file no. Pl. ÚS 20/01, no. 8/2002 Coll.).

After reviewing the generally binding ordinance, the Constitutional Court believes that the petition from the Chairman of the District Office in Žďár nad Sázavou is partially justified, concerning Art. 4 of the contested ordinance. In evaluating the petition, the Constitutional Court began with the premise that the municipality must be considered, under § 4 let. p) of the Waste Act, as the originator of communal waste, as of the moment when a natural person deposits waste in the place designated thereto (in that moment the municipality also becomes the owner of the waste). In view of this, it bears – with some exceptions – all the obligations of the originator of waste (§ 17 in connection with § 16 of the Waste Act). One of the municipality's obligations, as the originator of waste, is to designate places where natural persons can place communal waste and secure places where natural persons can place dangerous components of that waste. In view of certain specific features of communal waste, on the basis of § 17 para. 2 of the Act on Waste a municipality was permitted, in its independent jurisdiction, to set forth the communal waste handling system by generally binding ordinance. Natural persons are, under § 17 para. 4 of the Act

on Waste, required to place waste in designated places; if the municipality issues an appropriate ordinance on the communal waste handling system, natural persons are required to observe that system.

In the event that a municipality makes use of the statutory authorization in § 17 para. 2 of the Act on Waste and, by generally binding ordinance, provides a communal waste handling system, it is, under § 1 let. h) and §10b para. 1 of the Local Fees Act, also authorized to set a fee for operation of that system by generally binding ordinance. Under § 15 of the Local Fees Act (in the wording in effect until 31 December 2002), the municipality shall regulate, in a generally binding ordinance, the details of its collection, in particular it shall set a specific rate for the fee, an information obligation concerning the creation of a payment obligation, due dates, reductions and any exemption from fees; in this regard the municipality is guided by the statutory legal framework, in particular § 10b of the Local Fees Act, which determines who is a fee payer or a recipient of a given fee, and in what manner the amount of a fee is set.

The essence of the petition to annul generally binding ordinance of municipality V. no 04/2001 is disagreement with Art. 4, which establishes exemption in full from the relevant fee. The cited provision indicates that this exemption applies only to persons who have permanent residence in the municipality, i.e. persons under § 10b para. 1 let. a) of the Local Fees Act, and is also conditioned on (among other things) these persons concluding a payment contract with municipality V. on the removal of an appropriate number of waste containers (garbage cans) by the end of January 2002, that is, if these persons voluntary join the "system of weighing garbage containers" (Art. 4 para. 9 of generally binding ordinance of municipality V. no. 03/2001).

Under § 15 of the Local Fees Act, the municipality is also authorized to specify exemption from the fee, but in this matter the question arises whether Art. 4 of the generally binding ordinance really covers exemption in the sense of the cited provision. As the Constitutional Court determined from the information sheet of the municipality of Vír, citizens with permanent residence in the municipality can basically choose whether to pay the full fee, i.e. CZK 467, for each member of the household, (garbage cans will be removed 39 times a year), or to join the system of weighing waste and pay an advance for the deposit of 700 kg, or 1,000 kg of waste at the landfill for an amount of CZK 600, or CZK 815 annually (garbage cans will be removed 26 times a year, or 39 times a year).

It is evident from that, that apart from fees whose amount is set under § 10b para. 3 of the Local Fees Act, the contested generally binding ordinance gives a certain group of persons, instead of paying the local fee, the possibility of a kind of alternative "performance," which, under certain circumstances, will be advantageous for these persons – in terms of financial expense – [see the information sheet and the "Agreement on Calculating a Fee for Liquidation of Communal waste under Ordinance no. 04/2001," under which "fee payers" declare whether they are "exercising the claim to a discount under Ordinance no. 04/2001 Art. 4, para. 1 let. a)"]. Thus, this is not stricto sensu exemption from the fee, i.e. release from an obligation to provide monetary performance; however, it could be a reduction under § 15 of the Local Fees Act (in the wording in effect until 31 December 2002). In evaluating this question it is necessary to take into account the true meaning and purpose of the legal regulation. That is, as can be concluded from the foregoing, for one thing, providing a "discount" to a certain category of fee payers, more precisely, providing an

opportunity for these fee payers to make use of a certain advantage, and for another, creation of a parallel system for covering the municipality's expenses in handling communal waste, i.e. payment on a contractual basis. Therefore it was necessary to review whether the municipality is authorized to build such a system, outside the contested ordinance, but by making use of the ordinance.

The generally binding ordinance of municipality V. speaks of concluding a contract between a natural person and the municipality. The Waste Act is based on the principle that the municipality is the originator of communal waste which must fulfill the obligations set by the cited Act. Natural persons producing communal waste have only an obligation to place the waste at a designated spot, or to be guided by a generally binding ordinance on handling communal waste. For purposes of covering expenses which the municipality incurs as a result of this activity, the municipality is authorized to set a fee by generally binding ordinance. In contrast, the possibility of concluding contracts with natural persons was expressly permitted by the previous legal framework (Act no. 125/1997 Coll., on Waste, in the wording in effecting until 28 February 2000), which was based on the principle that natural persons pay the municipality a price set under of Act no. 526/1990 Coll., as amended by later regulations, for the conveying, sorting, and rendering harmless of communal waste; likewise, in the future (with effect as of 1 January 2003), the municipality will have the right, under the Act on Waste, to "collect payment for the gathering, collection, transport, sorting, use, and removal of communal waste from natural persons on the basis of a contract," which must be in writing and contain the amount of the payment (the Waste Act, as amended by Act no. 275/2002 Coll.). Thus, the Waste Act at present does not presume, or at the time the contested ordinance was passed did not presume the possibility of different payment of the municipality's expenses in handling communal waste other than through a local fee, and therefore it did not even presume the conclusion of appropriate contracts with natural persons (unlike legal entities and natural persons authorized to conduct business, provided these persons, as originators of waste, produce waste which is similar to communal waste, which can, on the basis of a contract with the municipality, make use of the communal waste handling system; § 17 para. 5 of the Act on Waste).

In view of the mandatory and comprehensive regulation of this topic in the Waste Act, one must begin with the principle that the municipality is not authorized to proceed otherwise than by the procedure expressly provided by statute. The foregoing rules clearly define the framework within which the municipality must move when creating the communal waste handling system and the related setting of fees for the operation of that system. Therefore, the Constitutional Court can not but state that the given procedure is contra legem, because a generally binding ordinance introduces a system of removal of communal waste on the basis of contractual arrangement and for payment, which is not permissible under of the Act on Waste. Following on from this, we can agree with the opinion of the Ministry of Finance that with these contracts there is inconsistency with Act no. 526/1999 Coll., as amended by later regulations, because the municipality does not provide any performance to these natural persons under this Act.

If the Constitutional Court considers this situation in terms of the Local Fees Act, it must be noted that the contested ordinance introduces for a certain group of citizens (fee payers) the opportunity to choose between paying the "ordinary" fee under the Local Fees

Act or paying the "price of the service" – removal of waste under a contract. That price is, of course, although this is not so directly on the basis of the ordinance, one-sidedly set by the municipality, and the contractual freedom of the parties is further limited by Art. 4 of the ordinance (and from the viewpoint of the fee payers basically also by the economic advantage of one or another manner of "payment"). Basically this is setting a "quasi" fee for a certain group of fee payers, and the calculation of its amount is quite inconsistent with the rules contained in § 10b para. 3 of the Local Fees Act, which supports the conclusion that Art. 4 of the contested ordinance leads to circumvention of that provision of the Local Fees Act. It is necessary to realize that this provision of the Local Fees Act attempts to create a system of paying local fees which would (at least to a certain degree) fairly distribute the expenses for operating the communal waste handling system which are to be paid by a local fee, between two groups of fee payers, i.e. on one hand, natural person with permanent residence in the municipality, who pay the fee "per person," and on the other hand, natural persons who are owners of real estate designated for individual recreation, who pay the fee "per real estate."

This is directly connected to the fact that the cited provision of the ordinance violates the balance between the two categories of fee payers, when it gives one of them an advantage over the other with the "exemption," in a situation where this procedure, with regard to the relevant legal framework, can not be justified by substantive reasons (and in any case no such reasons were cited by municipality V.). In the Constitutional Court's opinion, the municipality was authorized, under § 15 of the Local Fees Act, to set reductions and exemption from the fee, but in view of the cited legal framework the first (and unavoidable) criteria for allowing "exemption" from the fee could not be the permanent residence of a natural person; thus, if the municipality wanted to establish a possibility for reductions or exemption in the ordinance, it would have to do so on an equal basis, i.e. for both groups of fee payers (of course, on the assumption that the ordinance was not illegal for other reasons). Therefore, the Constitutional Court also considers the provision in question to be discriminatory and inconsistent with Art. 1 of the Charter of Fundamental Rights and Freedoms, as well as with § 10b of the Local Fees Act.

Although the petition from the Chairman of the District Office in Žďár nad Sázavou seeks annulment of the contested ordinance as a whole, the Constitutional Court did not find that, except for Art. 4, inconsistency with the law in other provisions, as even the objections raised in the petition are not aimed against other provisions, nor did it find that annulling Art. 4 would have an influence on other legal norms contained in the ordinance. For these reasons the Constitutional Court only partially granted the petition from the Chairman of the District Office in Žďár nad Sázavou and annulled the contested generally binding ordinance of municipality V. in the scope expressed in the verdict of this judgment under § 70 para. 1 of the Constitutional Court Act, whereas it denied the remainder of the petition.

Notice: Decisions of the Constitutional Court can not be appealed.

Brno, 10 December 2002