Constitutional judgment 3-4-1-7-01

3-4-1-7-2001

JUDGMENT
OF THE SUPREME COURT EN BANC
of 11 October 2001

Review of the petition of the Tallinn Administrative Court to declare § 28(1)6) of the Weapons Act invalid.

The Supreme Court *en banc*
presided over by Uno Lõhmus
and composed of justices Tõnu Anton, Jüri Ilvest, Henn Jõks, Ott Järvesaar, Eerik Kergandberg, Lea Kivi, Ants Kull, Lea Laarmaa, Jaak Luik, Jaano Odar, Jüri Põld, Hele-Kai Remmel, Jüri Rätsep, Harri Salmann, Peeter Vaher and Triinu Vernik,
at its open session of 7 September 2001,
with the representative of the Riigikogu Vootele Hansen, Chancellor of Justice Allar Jõks and the representative of the Minister of Justice Enno Loonurm appearing,
and in the presence of the secretary to the Supreme Court *en banc* Piret Lehemets
reviewed the petition of the Tallinn Administrative Court of 10 April 2001.

I. FACTS AND COURSE OF PROCEEDINGS

1. By his resolution of 23 January 2001 the Järva police prefect refused to extend the weapons permit of Tiit Kikkas, because the latter has been punished for an intentionally committed crime and does not meet the requirements established by the Weapons Act. The police prefect based his decision on § 28(1)6) and § 32(3) of the Weapons Act. Tiit Kikkas was punished for a robbery by imprisonment of three years under § 141(2)2) of the Criminal Code of the Estonian Soviet Socialist Republic by the judgment of the Paide District People's Court of 24 February 1971. At the time of the commission of the crime T. Kikkas was 17 years of age. On 23 March 1973 he was released on parole.

2. T. Kikkas disputed the resolution of Järva police prefect in the Tallinn Administrative Court. The complainant states that § 28(1)6) of the Weapons Act, under which a punishment for an intentionally committed crime precludes the issuance of a weapons permit, is a restriction which is not necessary in a democratic society and which distorts the fundamental rights established by §§ 19, 29(1) and 32(2) of the Constitution. Since 1983, following a family tradition, the complainant has been a hunter, since 1984 he has been teetotal and he has been acknowledged for his long-time work on the same work-place by certificates of honour, letters of thanks and he has been decorated with an order. Refusal to extend his weapons permit would deprive him of the possibility to pursue hunting as his favourite hobby.

3. On 10 April 2001 the Tallinn Administrative Court repealed the resolution of the police prefect, did not apply § 28(1)6) of the Weapons Act and declared it to be in conflict with § 11 of the Constitution. On the same day the administrative court submitted a petition to the Supreme Court to review the compatibility of § 28(1)6) of the Weapons Act with § 11 of the Constitution.

4. On 10 May 2001 the Constitutional Review Chamber of the Supreme Court decided to refer the petition of the Tallinn Administrative Court to the Supreme Court *en banc* for hearing, because the petition pertains to an essential constitutional issue and the decision may require alteration of previous practice of the Chamber.

II. LEGAL REASONING

Disputed provisions

5. The disputed provision of the Weapons Act (hereinafter "the WA"), passed on 28 June 1995 and effective as of 1 January 1996 (RT I 1995, 62, 1056; 1997, 93, 1564; 1999, 57, 597, 2001, 7, 17), reads as follows:

Section 28. Circumstances precluding the issuance of weapons procurement permit or weapons permit to natural persons
(1) weapons procurement permit or weapons permit shall not be issued to a person who:
.....
6) has been punished under criminal procedure for an intentionally committed crime, irrespective of whether his or her criminal record has expired or been expunged;

6. On 13 June 2001 the Riigikogu passed the new Weapons Act, which shall enter into force on 1 January 2002 (RT I 2001, 65, 377). The pertinent provision of the Act reads as follows:

Section 36. Circumstances precluding the issuance of weapons procurement permit or weapons permit to natural persons

(1) weapons procurement permit or weapons permit shall not be issued to a person who
.....
6) has been punished under criminal procedure;

(2) the prohibition established in clauses 6) and 7) of subsection (1) of this section does not extend to persons information concerning whose punishment has been erased from the punishment register pursuant to the Punishment Register Act (RT I 1997, 87, 1467; 1998, 111, 1830).

Justifications of the participants

7. The administrative court writes in its judgment that pursuant to § 11 of the Constitution restrictions on rights and freedoms must be necessary in a democratic society and shall not distort the nature of the rights and freedoms restricted, i.e. restrictions have to be proportional to the aims pursued. § 28(1)6) of the Weapons Act establishes the intent of the legislator never to issue a weapons permit to a person who has been punished for an intentionally committed crime, irrespective of whether the person has a criminal record or not. Such restriction has been established with the aim of preventing threat to the life and health of people, because a weapon as a device or object can be used to harm a living object. But a restriction related to punishment under criminal procedure and accompanies a person for his or her life, not taking into account the nature and seriousness of the intentionally committed crime and the personal characteristics of the applicant for a weapons permit, is disproportional to the objective of protecting other people's lives and health. The legislator must give those who implement law a possibility, upon issuing and extending weapons procurement permits and weapons permits, to take into consideration the personal characteristics of the applicant and the circumstances of the crime he or she has committed. According to the court judgment the same view was taken by the Constitutional Review Chamber of the Supreme Court in its judgment no. 3-4-1-

9-2000 of 6 October 2000.

8. The representative of the Riigikogu explained at the court hearing that when imposing the restriction the Riigikogu proceeded from the view that considering the historical and cultural development of Estonian society a right to possess a firearm is not a fundamental right, which would somehow prevent a person from living a full life. It can rather be regarded as a special right and on the basis of this the circle of persons who are allowed to possess a firearm may be restricted considerably. On the basis of the circumstances which have become apparent in the course of implementation of the Act the Riigikogu has come to a conclusion that such a life-long prohibition to acquire a weapons permit is not reasonable.

9. The Chancellor of Justice argues that with the Weapons Act the Riigikogu has imposed restriction on the spread of weapons in public interests and this is in conformity with the provisions of §§ 3, 59 and 65(1) of the Constitution. But § 28(1)6) of the Weapons Act does not take into account the seriousness of a crime. Not all of those who implement law have the possibility of consideration when applying § 28(1)6) of the Weapons Act. This creates a possibility of conflict of application: the courts have a right and a possibility to weigh whether, considering all circumstances, a restriction is necessary in a democratic society, whereas the prescription of the Weapons Act is imperative for a police official. If an imperative prescription of law is not uniformly mandatory both in court proceedings and in administrative proceedings, the requirement of proportional application of law, proceeding from § 11 of the Constitution, is not guaranteed. The Chancellor of Justice is of the opinion that § 28(1)6) of the WA is disproportional to the extent that it does not allow, upon issuing or extending a weapons permit, to take into consideration the legal consequences for a person, who has committed a crime with a direct or indirect intent, with or without a weapon and irrespective of how the person has behaved after the criminal record has expired or been expunged. That is why the activities of those who apply § 28(1)6) of the WA fall outside the scope of § 11 of the Constitution. At the court session the Chancellor of Justice adhered to his views expressed in his written opinion.

10. In his written opinion submitted to the Supreme Court the Minister of Justice shares the view of the administrative court that § 28(1)6) of the WA is not in conformity with § 11 of the Constitution. The Minister observes that a weapon is not necessarily intended against human life or health as supreme values. In the case which served as the basis for the judgment of the administrative court the restriction on the freedom of self-realisation, right of ownership and, in some instances, on the free choice of the field of activity, is not necessary in a democratic society. The Minister adds that the disputed provision is not in conformity with the principle of legal clarity, which is a part of the rule-of-law principle and as such is protected by § 13 (2) of the Constitution. Namely, as also stated by the Supreme Court in its judgment of 6 October 2000, the valid law does not define the nature and seriousness of a punishment with sufficient clarity. The Minister argues that it is not justified to declare the disputed provision invalid in its entirety, because the provision expresses public interest to restrict the right of persons, punished under criminal procedure, to procure weapons. Such an objective is justified in a democratic society for the protection of life and health of individuals. That is why § 28(1)6), because of conflict with §§ 19, 29(1) and 32(2) in conjunction with § 11 of the Constitution, should be declared invalid to the extent that it does not allow for exceptions upon issuing weapons procurement permits or weapons permits. At the court session the Minister of Justice reiterated what had been submitted in his written opinion.

Opinion of the Supreme Court *en banc*

I.

11. This is the second time that the Supreme Court is reviewing the constitutionality of § 28(1)6) of the WA, which entered into force on 1 January 1996 and shall lose validity on 31 December 2001. By its judgment of 6 October 2000 (RT III 2000, 21, 233) the Constitutional Review Chamber of the Supreme Court did not satisfy the petition of Tartu Administrative Court to declare § 28(1)6) of the WA partly invalid. In the referred petition and judgment the administrative court did not relate a right to procure and possess a weapon to fundamental rights of persons. The court found that in the disputed case the restriction established by § 28(1)6) of the WA was in conflict with the principles of legal certainty and legitimate expectation,

proceeding from § 10 of the Constitution.

Neither is it apparent from the judgment and petition of the Tallinn Administrative Court of 10 April 2001 which fundamental right § 28(1)6) of the WA infringes upon. Pursuant to the reasoning of the court the restriction in the referred provision of the WA is in conflict with the principle of proportionality of § 11 of the Constitution. The administrative court notes that a restriction related to punishment under criminal procedure and that accompanies a person for his or her life, not taking into account the nature and seriousness of the intentionally committed crime and the personal characteristics of the applicant for a weapons permit, is disproportionate to the objective of protecting other people's lives and health. Applicant T. Kikkas writes in the complaint submitted to the administrative court that the restriction of § 28(1)6) of the WA is not necessary in a democratic society and distorts the fundamental rights established by §§ 19, 29(1) and 32(2) of the Constitution.

12. The Supreme Court observes first of all that although § 11 of the Constitution refers to fundamental rights and freedoms, it does not specifically mention any of these. This provision is a central norm, embracing all fundamental rights, containing fundamental principles of interpretation and application of fundamental rights, freedoms and obligations. § 11 of the Constitution allows for restriction of rights and freedoms on only three conditions. Firstly, rights and freedoms may be restricted "only in accordance with the Constitution"; secondly, the restrictions must be "necessary in a democratic society" and thirdly, the restrictions must not "distort the nature of the rights and freedoms restricted". The review of the observance of these principles thus requires that an infringement of a pertinent fundamental right be ascertained first. Although the administrative court has not referred to an infringement of a fundamental right, the Supreme Court shall review the constitutionality of the restriction of a fundamental right on the basis of the norms referred to in the complaint of T. Kikkas.

13. The Constitution does not refer to the right to procure or possess a weapon as a fundamental right of everyone. Nevertheless, a person's right to procure and possess a weapon may be covered by the right to free self-realisation referred to in § 19 of the Constitution or by some other fundamental right, such as the right to freely choose one's sphere of activity and profession (see judgment of the Constitutional Review Chamber of the Supreme Court of 6 October 2000 - RT 2000, 21, 233, paragraph 12).

In his complaint to the administrative court T. Kikkas writes that refusal to extend his weapons permit deprives him of the possibility to pursue hunting as his most favourite hobby. From this explanation it proceeds that the applicant needs a weapons permit in order to go in for hunting. Although hunting does not always presuppose carrying and using a weapon, still hunting with a weapon is one of the oldest ways of hunting and it is recognised by the state. The Supreme Court *en banc* is of the opinion that hunting is a way of free personal self-realisation.

Procurement of weapons, including hunting weapons, and issuance of weapons permits is regulated by the Weapons Act. Pursuant to § 26 (2) of the Weapons Act a weapons permit of a natural person entitles the possessor of the permit to procure pertinent ammunition, to store, forward and carry the weapon and ammunition pursuant to the procedure and under the conditions prescribed by the Weapons Act and other legislation. § 28 of the Act enumerates the circumstances which preclude the issuance of a weapons procurement permit or of a weapons permit to a natural person. Thus, hunting with a weapon is possible only if a person has a weapons permit. For these reasons the Supreme Court *en banc* is of the opinion that the refusal to extend the weapons permit deprived T. Kikkas of the possibility to take part in hunting with a weapon, by which the state power interfered with the applicant's right to free self-realisation established by § 19 (1) of the Constitution.

II.

14. The interference of state power into the applicant's right to free self-realisation, established by § 19 (1) of the Constitution, does not mean that the restriction of the right violates the referred right. An infringement of a fundamental right constitutes a violation of the fundamental right only when the infringement is

unconstitutional. Guidelines for the review of the constitutionality of the infringement can be found in the first sentence of § 3(1) of the Constitution, pursuant to which the powers of state shall be exercised solely pursuant to the Constitution and laws which are in conformity therewith; in the conditions justifying the restriction of rights referred to in § 11 (see above paragraph 12); in § 13(2), pursuant to which the law protects everyone from arbitrary exercise of state authority, and in § 19(2), which states that everyone shall honour and consider the rights and freedoms of others, and shall observe the law, in exercising his or her rights and freedoms and in fulfilling his or her duties.

15. The Supreme Court has repeatedly emphasised the principle that proceeding from the first sentence of § 3(1) and § 11 of the Constitution restrictions on fundamental rights and freedoms may be imposed only by legislative acts having the force of parliamentary Acts. Constitution provides for no other possibilities for imposing restrictions on fundamental rights and freedoms. This is an absolute principle and precludes the possibility to impose restrictions on fundamental rights and freedoms by legislation ranking lower than parliamentary Acts (see judgment of the Constitutional Review Chamber of 12 January 1994 -- RT 1994, 45, 768). In this case the restriction is imposed by a parliamentary Act and thus meets the above conditions.

16. A weapon as a device or an object can be used to harm a living object and therefore the procurement of weapons is restricted and precise rules and requirements have been established for the acquisition, commerce and supervision of weapons. § 28(1)6) of the Weapons Act establishes the intent of the legislator never to issue a weapons permit to a person who has been punished for an intentionally committed crime irrespective of whether the person has a criminal record or not. The Supreme Court *en banc* is of the opinion that upon imposing this restriction the legislator pursued a legitimate aim of preventing danger to life and health of people.

III.

17. Next, the Supreme Court *en banc* shall consider whether the restriction related to punishment under criminal procedure and which accompanies a person for his or her life, irrespective of the nature and seriousness of the intentionally committed crime and the personal characteristics of the applicant for a weapons permit, is proportional to the objective of protecting the life and health of other persons.

18. The Weapons Act which shall remain in force until 1 January 2002 entered into force on 1 January 1996. § 28(1)6) of the Weapons Act gives rise to the conclusion that the legislator intended to differentiate the fact of a punishment under criminal procedure form a criminal record as a status involving unfavourable criminal law and other legal consequences for the pertinent person. A criminal record is temporary in nature and shall continue until it expires or is expunged. The fact of punishment, on the other hand, characterises a person and thus has a permanent significance. While the valid law considers the fact of punishment as the basis for restriction, the earlier regulation as well as the new Weapons Act which shall enter into force on 1 January 2002 recognise the status of having a criminal record as the ground for restriction.

Until entering into force of the currently valid Act the sphere under discussion was regulated by "Provisional rules on the production, sales, procurement, storage and carrying of firearms and ammunition", approved by the Government of the Republic Regulation no. 256 of 27 August 1992 (hereinafter "the provisional rules") [RT 1992, 39, 519]. Pursuant to clause 11(5) of the provisional rules persons who have been punished for an intentionally committed crime and whose criminal record has not expired could not get a permit for the acquisition, storage and carrying of a firearm or ammunition. Thus, the provisional rules did not connect the issuance of a weapons permit to the fact of commission of a crime but with the criminal record of a person. The new Weapons Act, which shall enter into force on 1 January 2002, shall connect a refusal to issue a permit to an entry in the punishment register. Thus, § 36(2) will provide that the refusal to issue a weapons procurement permit or a weapons permit shall not extend to a person in regard of whom the information concerning his or her punishment has been erased from the punishment register.

19. Explanatory letter to the 1995 Weapons Act does not contain an explanation to the question on what grounds was it considered necessary, upon adopting the Act, to connect issuance of weapons permits not to a

criminal record for intentionally committed crime but to the fact of punishment, and whether the change of circumstances for the issuance of weapons permits was prompted by the change of overall crime situation in Estonia, by security considerations or by some other circumstances. It is only stated in the explanatory letter that the aim of imposing requirements on persons is to exclude the possibility that persons who constitute a danger to society may get hold of more dangerous weapons. The representative of the Riigikogu justified the fact that the Weapons Act of 2001 will connect the issuance of a weapons permit to a person who has committed an intentional crime with an entry in the punishment register, with the Riigikogu coming to a conclusion that a life-long prohibition concerning a person is not reasonable.

20. At the time when the provisional rules were in force and the 1995 Weapons Act entered into force the expiry and expunging of a criminal record was regulated by § 58 of the Criminal Code. A criminal record can be defined as a status involving unfavourable criminal law and other legal consequences. Other legal consequences in the form of restriction of certain rights accompany a criminal record only on the basis of special laws. The status is created when a punishment is imposed, and lasts until the punishment expires or is expunged. The duration of the state depended on the seriousness of the crime. The Punishment Register Act which entered into force on 1 January 1998 declared § 58 of the Criminal Code invalid. Since then the Criminal Code does not answer the question of which of the persons who have been punished under criminal procedure have criminal records, although several sections of the Criminal Code still refer to a criminal record (e.g. § 56(5)2) of the general part of the Criminal Code; § 164-1(2)2) of the special part of the Criminal Code). The Punishment Register Act does not use the concept of a criminal record and does not explicitly provide that the information concerning punishment of a person has the same legal meaning until the erasing thereof as - the now invalid - § 58 of the Criminal Code. Under § 2 of the Punishment Register Act the objective of the punishment register is to provide reliable information for fulfilling the tasks imposed on state agencies by law or by legislation issued on the basis of law and to inform a person about the data entered in the register concerning him or her. The Act does provide, though, that after the expiry of the term referred to in § 25(1) the information concerning punishment shall be erased from the punishment register and shall be transferred to the archives. § 36(6) of the 2001 Weapons Act allows to infer that a person is considered to have been punished under criminal procedure and his or her right to obtain a weapons permit can be restricted only during the period when information concerning his or her punishment is in the punishment register.

21. Although the legislator has imposed the restriction bearing in mind a legitimate aim, an infringement of a fundamental right can be regarded as justified only if the principle of proportionality has been observed. § 11 of the Constitution provides that restrictions on rights and freedoms must be necessary in a democratic society and shall not distort the nature of the rights and freedoms restricted. Restrictions must not affect a legally protected interest or right more than is justifiable by the legitimate aim of the norm. The means used must be proportional to the desired aim. The principle of proportionality must be observed not only by those who apply law but also by the legislator (see judgment of the Constitutional Review Chamber of the Supreme Court of 5 March 2001 -- RT III 2001, 7, 75, paragraph 16).

22. In its earlier judgment concerning the constitutionality of § 28(1)6) of the WA the Constitutional Review Chamber of the Supreme Court observed that a restriction related to punishment under criminal procedure which accompanies a person for his or her life, irrespective of the nature and seriousness of the intentionally committed crime, might not be proportional to the purpose of protecting the life and health of others. That is why the legislator must enable those who implement the law to take into account the personal characteristics of those who apply for a weapons permit and the circumstances of the committed crime (judgment of the Constitutional Review Chamber of the Supreme Court of 6 October 2000 -- RT III, 2000, 21, 233, paragraph 17). The Supreme Court *en banc* agrees with this conclusion of the Chamber.

23. Firstly, criminal law qualifies as crimes intentional acts with different degree of danger to society. Murder and insult are both intentional crimes. But insult is not comparable to assault against one of the most important values - life. Secondly, several previously punishable acts are no longer crimes under the valid Criminal Code. For example, criminal law no longer provides for responsibility for speculation. Nevertheless, the fact of having been punished for speculation still characterises the punished person and a

weapons permit can not be issued to him or her. Thirdly, the information concerning a person's punishment shall be erased from the punishment register after the term referred to in § 25 of the Punishment Register Act has expired and shall be transferred to the archives. Under § 22 of the Punishment Register Act a person who decides on the issuance of a weapons permit, does not belong to the circle of those persons who are entitled to have access to the data in the archives of the punishment register. Thus, effective control for ascertaining the fact of punishment has not been guaranteed. Fourthly, the Weapons Act which will enter into force on 1 January 2002 considers only those persons as having been punished under criminal procedure, the information concerning whose punishment has not been erased from the punishment register.

24. For these reasons the Supreme Court *en banc* comes to the conclusion that a restriction which prohibits to issue a weapons permit to a person who has been punished under criminal procedure for an intentional crime, irrespective of whether his or her criminal record has expired or been expunged, is not proportional to the objective of protecting the life and health of other people. The Supreme Court en banc admits that it may be justified never to issue a weapons permit to a person who has been punished for a dangerous intentional crime (e.g. terrorism, murder). The Punishment Register Acts also takes into account the seriousness of crimes, because the information concerning punishment shall be erased from the register when 15 years have passed after a person has served a 3 to 15- year prison sentence (§ 25(1)7)). But if a person has been sentenced to prison for 15 to 30 years or punished by a life imprisonment or death penalty or if the death penalty has been replaced by a life imprisonment, the information concerning punishment of such person shall not be erased (§ 26 (2)). Consequently, a weapons permit can never be issued to such persons. Upon making the decision the Supreme Court en banc also takes account of the intent of the Riigikogu, expressed in the Weapons Act which will enter into force on 1 January 2002, to connect the refusal to issue a weapons permit to the criminal record of a person, irrespective of for what crime the person has been punished. The words "irrespective of whether his or her criminal record has expired or been expunged" of § 28(1)6) of the Weapons Act are to be declared unconstitutional and invalid, because the provision disproportionately restricts the right of free self-realisation prescribed by § 19(1) of the Constitution.

25. At the same time the Supreme Court *en banc* considers it necessary to emphasise that the remaining text of § 28(1)6) of the Weapons Act "weapons procurement permit or weapons permit shall not be issued to a natural person who has been punished under criminal procedure for an intentionally committed crime" has to be understood as meaning that a person punished under criminal procedure is one in regard of whom the information of punishment has not been erased from the punishment register pursuant to the Punishment Register Act. In other words, a person who has a criminal record for an intentionally committed crime.

Proceeding from § 152(2) of the Constitution and from § 19(1)2) of the Constitutional Review Court Procedure Act, **the Supreme Court *en banc* has decided:**

To declare the words "irrespective of whether his or her criminal record has expired or been expunged" of § 28(1)6) of the Weapons Act invalid.

The judgment is effective as of pronouncement, is final and is not subject to further appeal.

Uno Lõhmus
Chief Justice of the Supreme Court

Dissenting opinion
of Justices Lea Kivi and Lea Laarmaa

In regard of the judgment of the Supreme Court *en banc* of 11 October 2001 concerning the petition of the Tallinn Administrative Court to declare § 28(1)6) of the Weapons Act invalid we dissent in the following issues.

Firstly. We do not think that a restriction prohibiting the issue of a weapons permit to a person who has been

punished for an intentionally committed crime irrespective of whether his or her criminal record has expired or been expunged, is unconstitutional.

The wording of § 28(1)6) of the Weapons Act effective as of 1 January 1996 reflects the intent of the legislator not to issue a weapons procurement permit or a weapons permit to a person who has been punished for an intentionally committed crime irrespective of whether his or her criminal record has expired or been expunged. The objective of such a restriction was to prevent possible danger a person punished under criminal procedure may constitute to life and health of people. Intentional crimes are the most dangerous crimes directed towards society. Bearing in mind the high rate of crime and the obligation of the state powers to protect the life and health of people as the values of utmost importance, the legislator was entitled and obliged to impose additional restrictions on persons who have been punished under criminal procedure for intentionally committed crimes to prevent them from possessing weapons. It is up to the legislator to decide whether to proceed from the nature and gravity of various intentional crimes (which the Supreme Court *en banc* also considers justified) or from the form of guilt. The imposed restriction reflected public interest to restrict the right to procure weapons of those persons who have been punished under criminal procedure, it was justified in Estonian society and necessary for the protection of life and health of people, and thus proportional.

Secondly. By declaring the words "irrespective of whether his or her criminal record has expired or been expunged" of § 28(1)6) of the Weapons Act unconstitutional and invalid, every person who has been punished under criminal procedure for an intentionally committed crime and concerning whose punishment there is no information in the punishment register, including persons who have committed the most serious crimes, is given a possibility to procure a weapon. The valid Weapons Act gives a comprehensive list of circumstances preventing the issue of a weapons procurement permit or a weapons permit to a natural person. The possibility to refuse to issue a weapons permit to a person who has committed a serious intentional crime but concerning whom there is no information in the punishment register and if there are no other excluding circumstances, has been excluded from this list. The Supreme Court *en banc* supported the view of the Constitutional Review Chamber expressed in its judgment of 6 October 2000 that the legislator should give those who apply law the possibility to take into account the personality of the applicant for a weapons permit and the circumstances of the crime committed by him or her. But by declaring § 28(1)6) of the Weapons Act partially invalid an unreasonable situation may arise when a person who has been punished for a serious crime may obtain a weapons procurement permit or a weapons permit under the still valid Weapons Act.
