



## Press release

14 October 2020

### **The Constitutional Court of the Slovak Republic ruled today on the compliance of the decision on the declaration of a state of emergency with the Constitution of the Slovak Republic**

At a closed session of the Plenum on 14 October 2020 the Constitutional Court made a decision in proceedings pursuant to Art. 129 par. 6 of the Constitution of the Slovak Republic on compliance with the Constitution or constitutional laws of the decision on the declaration of a state of emergency and other subsequent decisions. The Constitutional Court found **that the impugned resolution of the Government of the Slovak Republic on the state of emergency and Government Decree no. 269/2020 of 30 September 2020 are in accordance with the Constitution and the Constitutional Law on State Security.**

Due to its lack of powers, in the same proceedings the Constitutional Court rejected another motion from the same group of MPs concerning the alleged non-compliance of the impugned measures issued by the Public Health Authority on 30 September and 1 October 2020.

The constitutional system of the Slovak Republic presupposes the possibility of judicial review of a decision on the declaration of a state of emergency and any subsequent decisions within a 10-day period.

The petitioners, the First Deputy at the Prosecutor General's Office of the Slovak Republic and the group of MPs, objected to formal and factual deficiencies in the resolution of the Government on the state of emergency. They argued that the reason for its adoption was not clearly stated and that it failed to define the precise territory to which it applied. The MPs also argued that the situation at the time the state of emergency was declared did not justify its declaration; the statistical data on the number of infected and ill people, as well as the

number of deaths in connection with COVID-19 undoubtedly showed that there was no imminent threat to life and health in the Slovak Republic.

The Constitutional Court emphasized that the rule of law has to be respected even in times of emergency.

The Constitutional Court stated that it must always be suspicious of a declaration of a state of emergency in terms of its compliance with the Constitution and the Constitutional Law on State Security. The condition for declaring a state of emergency is that *“there has been a threat to life and health or such a threat is imminent, including a direct threat of pandemic, threat to the environment, or threat to high value assets due to a natural disaster, industrial, traffic or other operational accident”* (Article 5 par. 1 of the Constitutional Law on State Security). A state of emergency can therefore only be declared based on reasons stated in law, and the assessment of whether these reasons have arisen and whether they require a declaration of a state of emergency needs expert aforethought and ultimately political consideration. For this reason, the Constitutional Court concluded that the Government is in a better position to assess such circumstances, and is democratically accountable for their assessment.

The Constitutional Court pointed out certain deficiencies in the government's resolution on the state of emergency. However, it found that they did not affect its constitutionality. At the same time, the Constitutional Court gave its interpretation of the Constitutional Law on State Security in order to remove certain ambiguities in declaring a state of emergency, deciding on restrictions of fundamental rights and the imposition of obligations by the Government under this Constitutional Law. **The Constitutional Court accepted the reason for declaring the state of emergency and confirmed that it applied to the entire territory of the Slovak Republic.**

**The Constitutional Court stated that the Government had declared the state of emergency based on rational reasons fulfilling the conditions under Art. 5 par. 1 of the Constitutional Law on State Security and had not declared it on grounds other than those stated in this provision. The Government had also met the formal conditions for declaring a state of emergency.** The petitioners did not provide any evidence or argument

that would show obvious excessiveness of the state of emergency or the possibility of its abuse, and the Constitutional Court did not find such evidence during its assessment. In conclusion, **by declaring the state of emergency, the Government did not violate any related article of the Constitution or the Constitutional Law on State Security, and the impugned resolution is therefore in accordance with the Constitution and the Constitutional Law on State Security.**

The Constitutional Court also assessed the challenged government decree and found that it did not lack a formal legal basis as objected in the petition and was constitutionally acceptable in terms of the proceedings in question.

**Pursuant to § 67 of the Law on the Constitutional Court, Judge Peter Straka attached a concurring opinion to the reasoning behind the decision.**

Tomorrow, within the prescribed ten-day period, the Constitutional Court will deliver its findings to the participants to the proceedings, publish them on the website of the Constitutional Court, and announce them through a press agency.