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a) Slovakia / b) [Constitutional Court](#) / c) Plenum / d) 10-12-2014 / e) PL. ÚS 10/13 / f) Compulsory vaccination / g) *Zbierka nálezov a uznesení Ústavného súdu Slovenskej republiky* (Official Digest) / h) CODICES ([Slovak](#)).

Keywords of the Systematic Thesaurus:

- [03.18](#) General Principles - **General interest.**
- [05.01.03](#) Fundamental Rights - General questions - **Positive obligation of the state.**
- [05.01.04](#) Fundamental Rights - General questions - **Limits and restrictions.**
- [05.03.04.01](#) Fundamental Rights - Civil and political rights - Right to physical and psychological integrity - **Scientific and medical treatment and experiments.**
- [05.04.19](#) Fundamental Rights - Economic, social and cultural rights - **Right to health.**

Keywords of the alphabetical index:

[Vaccination](#) / [Treatment, medical, compulsory](#).

Headnotes:

The importance of the protection of public health from outbreaks of infectious diseases outweighs the importance of the protection of natural persons from interference with their physical and psychological integrity as part of the right to respect for private life. The public interest in protecting public health and lives of members of society by preventing infectious diseases from spreading through compulsory vaccination must be preferred to the right of an individual to respect for private life.

Summary:

I. The case originated in two applications challenging the constitutional conformity of certain provisions of Law no. 355/2007 Coll. on protection, promotion and development of public health (hereinafter, the «Law») and Regulation no. 585/2008 Coll. on prevention and control of infectious diseases (hereinafter, the «Regulation»), issued by the Ministry for Health.

The applications were submitted by the regional court that had been dealing with two motions to annul the decisions delivered pursuant to the challenged provisions by an administrative body, whereby fines were imposed upon the parents who failed to comply with the requirement of compulsory vaccination with respect to their children. The regional court claimed that the challenged provisions were contrary to Article 13 of the Constitution of the Slovak Republic (hereinafter, the «Constitution»), according to which duties may be imposed only by law, or on its basis and within its limits, whereas in this case the requirement of compulsory vaccination was, in the view of the applicant, imposed by the Regulation (i.e. by statutory instrument, not by law) which introduced the vaccination schedule. The regional court also claimed that compulsory vaccination itself violates the constitutional rights to life (Article 15 of the Constitution), to protection of health (Article 40 of the Constitution) and to respect for private life (Article 16 of the Constitution).

II. The Constitutional Court found that the challenged legislation was in line with Article 13 of the Constitution, since the general requirement of compulsory vaccination had been imposed upon all natural persons by the Law, and the Ministry for Health had been entitled to issue the Regulation with the vaccination schedule by the specific provisions of the Law, which were sufficiently clear and precise. Thus the Regulation had been issued on the basis and within the limits of the Law.

The Constitutional Court went on to say that vaccination was proven to reduce or even eradicate various infectious diseases, whilst the risk of its side effects was very low, and according to the Law compulsory vaccination would not be applicable in cases where any contraindications exist. The purpose of compulsory vaccination is therefore to protect health of natural persons, and consequently it cannot contravene the right to life or the right to protection of health.

However, with regard to the right to respect for private life, there was a conflict of two colliding values: the value of the protection of public health and the value of the protection of the integrity of natural persons from any unlawful interference. Compulsory vaccination (as an involuntary medical treatment) amounts to interference with the right to respect for private life, which includes a person's physical and psychological integrity. The Constitutional Court had already found that this interference was lawful (see above, paragraph 3) and it remained to be established whether it was justified.

To answer this question the Constitutional Court applied a test of proportionality which involved three steps:

- i. the test of legitimate aim/effect of interference;
- ii. the test of necessity/subsidiarity of interference; and
- iii. the test of proportionality in its strict (narrower) sense, which included firstly the test of the possibility of satisfying both colliding value concurrently and secondly Robert Alexy's Weight Formula, according to which both the intensity of interference with one value and the level of satisfaction of the other value could be given certain weights (light, moderate or serious) and it was a matter of balancing them in order to decide which value should be satisfied at the expense of the other.

The Constitutional Court concluded that the aim of compulsory vaccination (to protect public health) was legitimate and that compulsory vaccination was necessary to achieve this aim, since there is no other effective means to reduce or eradicate infectious diseases. It was evident that both of the colliding values could not be satisfied concurrently, and for that reason the Constitutional Court had to employ the Weight Formula in order to decide which value should be satisfied. The Court concluded that the intensity of interference with the right to respect for private life was moderate or serious (vaccination could have detrimental side effects, but it would not be applied in cases of contraindications and there were legal instruments to seek damages if any side effects happened to occur), whereas the satisfaction of the principle of protection of public health had a serious weight' (if compulsory vaccination were to be abolished, there would be no other means to control infectious diseases). It followed that the principle of protection of public health must be preferred to the principle of protection of the right to respect private life.

For all these reasons the Constitutional Court dismissed both of the applications.