
ÚSTAVNÝ SÚD
SLOVENSKEJ REPUBLIKY

# YEARBOOK 2022

# CONSTITUTIONAL COURT
OF THE SLOVAK REPUBLIC

## CONTENT

CONSTITUTIONAL COURT OF THE SLOVAK REPUBLIC

# FOREWORD BY THE PRESIDENT

*JUDr. Ivan Fiačan, PhD.*

Dear readers,

year 2022 at the Constitutional Court was characterised by enthusiasm and a high level of work commitment. After the 2020-2021 pandemic period, we were once again able to continue implementinng our projects and intensifying personal contacts in the most diverse activities relating to the Constitutional Court's decision-making and protocol.

An important moment in 2022 was the celebration of the 30th anniversary of the adoption of the Constitution of the Slovak Republic, which, among other things, established the Constitutional Court of the independent Slovak Republic. It was the moment that directed our reflections and reflections of the whole society to recall the principles of democracy and rule of law, humanism and protection of fundamental rights and freedoms based on which the Constitution was established, as well as its significance for the independent Slovak Republic.

*On various social fora, discusions were taking place to remember that the text of the Constitution is the foundation to serve as grounds for the legal culture of constitutional institutions from which the public naturally expects the fulfilment of fundamental constitutional principles and values.*

We recalled that, beside the aforementioned principles of democracy and the rule of law, the Constitution is also based on such values as equality, freedom, human dignity and non-discrimination. And we also recalled that these values complement and supplement provisions of the Constitution that may seem incomplete or imperfect. Critical assessments of the text of the Constitution were voiced in various debates, calling for its updating and modernisation. Its defects and shortcomings were pointed out, although some of them were eliminated by the amendments. However, the conclusions of the reflections and discussions showed that our Constitution, however imperfect, has been positively evaluated regarding the protection of fundamental rights and freedoms since the time of its creation

and even today it constitutes a solid basis for the proper functioning of government, even in the application of those norms of the Constitution which are not normally used but "come to life" in the situations of crises.

In Articles 124 to 140, the Constitution of the Slovak Republic established the Constitutional Court, its powers, the division of competence between the plenum and the chambers of the Constitutional Court, as well as the foundations of its organisation and the status of its judges, thus bringing it to life. Thus, the Constitutional Court has obligations and duties towards the Constitution within the limits of its powers conferred by the Constitution.

The period of extensive social changes that we are experiencing, which are inevitably reflected in legislative changes at the European and national levels, provides the Constitutional Court with a space for an up-to-date, comprehensible and applicable interpretation of the Constitution, which takes into account both past experience and current social developments, offers solutions and points the way forward. This is one way of revitalising the text of the Constitution and restoring its credibility and respect in the eyes of the public. This is done, above all, through the decisions of the Constitutional Court and their consistent and comprehensible reasoning.

In 2022, the Constitutional Court ruled on the motion of the President of the Slovak Republic to initiate proceedings on the compliance of the subject of the referendum - it declared one of the referendum questions concerning the resignation of the government to be incompatible with the Constitution. In this decision, the Constitutional Court followed its landmark decision of July 2021 regarding the shortening of the term of the National Council. Another decision which aroused public interest was the decision regarding the law on the financing of children's leisure time, the so-called "pro-family aid package", where all the challenged provisions were declared unconstitutional due to the unconstitutionality of the legislative process preceding their adoption. This was the first decision in which the Constitutional Court declared a piece of legislation unconstitutional solely as a result of defects in the legislative process. I consider one of the most important decisions to be the resolution of May 2022, in which the Constitutional Court laid down the basic grounds for a possible examination of the incompatibility of a constitutional law with constitutional norms in the event that the challenged constitutional law, a part of it or an individual provision of it, would result in an inadmissible interference with the substantive core of the Constitution.

Year 2022, which the present publication clearly, comprehensively, and systematically assesses from various aspects of the activities of the Constitutional Court and its Chancellery, was the year of the celebration of the 30th anniversary of the adoption of the Constitution of our sovereign state. Next year will be the year of the celebration of the 30th anniversary of the launch of its functioning. I believe that, just as the text of the Constitution has stood up to extensive social debate, the same result will be attained also in respect of the evaluation of the position of the Constitutional Court. Facing adverse circumstances of a long period of incomplete plenum, a high number of competences and an enormous caseload throughout its existence, the Constitutional Court, despite many critical voices some which were even justified, has consistently and responsibly fulfilled, and continues to fulfil, its sovereign mission as the guardian of constitutionality, human rights and freedoms.

JUDr. IVAN FIAČAN, PhD.
*President of the Constitutional Court of the Slovak Republic*

# PLENUM
## OF THE CONSTITUTIONAL COURT OF THE SLOVAK REPUBLIC

JUDr. IVAN FIAČAN, PhD.
President of the Constitutional Court of the Slovak Republic
from 2019

JUDr. ĽUBOŠ SZIGETI
Vice-President of the Constitutional Court of the Slovak Republic
from 2019

JUDr. JANA BARICOVÁ
Judge of the Constitutional Court of the Slovak Republic
from 2014

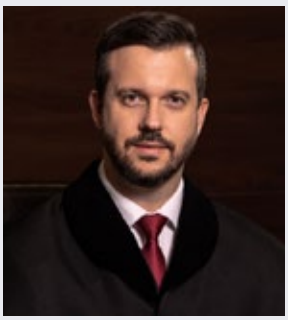
JUDr. LADISLAV DUDITŠ
Judge of the Constitutional Court of the Slovak Republic
from 2019

JUDr. LIBOR DUĽA
Judge of the Constitutional Court of the Slovak Republic
from 2019

JUDr. MIROSLAV DURIŠ, PhD.
Judge of the Constitutional Court of the Slovak Republic
from 2017

JUDr. RASTISLAV KAŠŠÁK, PhD.
Judge of the Constitutional Court of the Slovak Republic
from 2019

JUDr. JANA LAŠŠÁKOVÁ
Judge of the Constitutional Court of the Slovak Republic
from 2017



JUDr. MILOŠ MAĎAR, PhD., LL.M.
Judge of the Constitutional Court of the Slovak Republic
from 2019

JUDr. PETER MOLNÁR, PhD.
Judge of the Constitutional Court of the Slovak Republic
from 2019

JUDr. PETER STRAKA
Judge of the Constitutional Court of the Slovak Republic
from 2019

JUDr. ROBERT ŠORL, PhD.
Judge of the Constitutional Court of the Slovak Republic
from 2020

JUDr. MARTIN VERNARSKÝ, PhD.
Judge of the Constitutional Court of the Slovak Republic
from 2019

# DECISION-MAKING ACTIVITY OF THE CONSTITUTIONAL COURT OF THE SLOVAK REPUBLIC

## ABSTRACT REVIEW OF THE CONSTITUTIONALITY OF LEGISLATION

### HEALTH PROTECTION: THE COVID-19 PANDEMIC AND GREENPASS (PL. ÚS 14/2021)

In the end of July 2021, the Act on the Protection, Promotion and Development of Public Health was amended, introducing new powers for the Public Health Office and the Regional Public Health Offices. Under the amended wording, these agencies may, by a decree published in the Government Gazette, temporarily condition the access to the premises of establishments where persons are gathered, and the access to mass events, by the entering persons´ showing a valid certificate of vaccination against COVID-19, a valid certificate of overcoming the disease, or a valid certificate of a negative test result of the disease. These were similar measures to those being adopted in other countries at that time, and, in practice, people were usually using the GreenPass mobile application to comply with them.

This amendment was challenged by a group of MPs who argued that an introduction of this new authority resulted in the violation of the principles of separation of powers, non-discrimination and generality of legal norms. According to them, fundamental rights are being restricted by statutory instruments issued by the executive, which are issued on the basis of a power of attorney that does not meet constitutional requirements. They also challenge the unjustified privileging of persons who are vaccinated or have overcome the disease over persons who do not meet these conditions. Nor does the challenged legislation regulate pandemic situations in general, but only in relation to a specific disease.

The Constitution provides that the limits of fundamental rights and freedoms can only be changed by the law. Obligations can then be imposed by the law or also on the ground of the law.

In relation to the alleged violation of the separation of powers, the Constitutional Court concluded that the challenged enabling provision is sufficiently precise, clear, and certain, while the implementing decree must be temporary and must be based on the current epidemiological situation. In implementing this statutory provision, the empowered authorities (public health agencies) are obliged to act only within the limits of the statutory mandate and not to prevent the fulfilment of the basic needs. Shoul a decree exceed the statutory authority, it can be contested at the Constitutional Court.

When assessing the alleged violation of the non-discrimination principle, the Constitutional Court admitted that, in the case of persons not vaccinated due to contraindications, this could amount to a constitutionally unjustified ground of different treatment. However, for those not vaccinated by their personal choice, the Constitutional Court found that the freedom of an individual is linked to the responsibility of an individual, who is obliged to take into account the protection of the rights and freedoms of others, in this case, in particular, the protection of the health of other persons.

The restriction of unvaccinated persons is justified especially by the numerous cases of a complicated course of COVID-19 desease among these persons, which is associated with a burden on the health system to the extent hindering the health care delivery for all, and thereby endangering the protection of public health. The Constitutional Court found that the challenged legislation pursues legitimate objectives and establishes the necessary legislative framework for the adoption of normative measures by public health authorities, which are capable of facilitating the fulfilment of the objectives pursued by this legislation. The legitimate aim of the challenged regulation was balanced by the fact that the health condition of persons whose contraindications preclude vaccination was assessed as a prohibited ground for different treatment.

The Constitutional Court did not accept the objection of the lack of generality of the challenged provision of the Act on the Protection of Public Health, since the requirement of the generality of the legal norm is met in the given case by the fact that its essence applies to an unspecified number of unvaccinated persons or persons without a test or certificates of overcoming the disease in connection with their entry to the premises of individually unspecified estab-

lishments or to unspecified mass events. For these reasons, the Constitutional Court did not grant the group MPs´ application.

## HEALTH PROTECTION: ANAESTHESIOLOGICAL OUTPATIENT CLINICS (PL. ÚS 10/2018)

In December 2015, the Health Care Providers Act was amended, which changed the provision of health care in the field of anaesthesiology so that doctors providing specialised outpatient health care on the basis of a permit in the specialised field of anaesthesiology and intensive care medicine cannot provide health care on an outpatient basis from 1 June 2020, as permits issued under the previous legislation expired on 31 May 2020.

In March 2018, this new regulation was challenged by the Prosecutor General, who deemed it inconsistent with the providers' right to do business freely and their right to own property. In his view, this effectively wiped out private anaesthesia outpatients´, which intereference could be justified by no legitimate aims. This will eventually have, according to the Prosecutor General, a negative impact on the protection of patients' health as a result of less competition and longer waiting periods.

The Constitutional Court acknowledged that the contested amendment restricted the freedom of establlishment of health care providers and, indirectly, their right to own property, since before the adoption of the contested legislation it was possible to do business in outpatient anaesthesiology and intensive care medicine, but after the adoption of the amendment and after the expiry of the transitional period, this is no longer the case.

In the case of rights belonging to the so-called second generation human rights (economic, social, and cultural rights), which also include the fundamental right of establishment, there is greater discretion for the legislator to restrict them. This conclusion follows from the fact that economic, social, and cultural rights are rights whose form and content depend to a large extent on the economic and financial capacities of the State. For the legislator, this increases the room for manoeuvre in regulating the institutions that give economic, social, and cultural rights their concrete content. However, the margin of appreciation granted by the Constitution to the legislator when enacting these laws cannot be understood in absolute terms. Its limits are to be sought, above all, in the constitutional principles and the requirement to protect the other values on which the Constitution is based and which it protects.

Therefore, the Constitutional Court dealt only with the question whether the contested legal regulation pursues a legitimate aim and whether the chosen means are capable of achieving this aim. The provision of anaesthetic, resuscitation and intensive care and treatment by an inpatient health care provider or a provider of one-day outpatient care is, by the nature of the case, associated with other specialised medical procedures. The provision of anaesthesiology and intensive care medicine alone is not possible without the provision of other health care. Anaesthesiology and intensive care medicine shall only be provided to a patient in connection with another medical procedure. Anaesthesia cannot be applied to a patient without another medical procedure, it is therefore not irrational that the legislator has restricted, by the law, the practice of anaesthesiology and intensive care medicine in a specialised outpatient clinic established exclusively in a hospital. At the same time, the legislator has given providers a sufficient period of several years to adapt to the new conditions. The Constitutional Court thus did not grant the Prosecutor General's application.

## PROTECTION OF HEALTH: HEALTH AND SOCIAL INSURANCE (PL. ÚS 2/2020)

In autumn 2016, two statutes were amended by the legislator, namely the Social Insurance Act and the Health Insurance Act. The former increased the maximum assessment base for the payment of social insurance contributions from the fifth multiple of the average monthly wage in the national economy to seventh multiple, the latter even abolished the maximum limit of the assessment base for health insurance contributions altogether. According to the explanatory memoranda, both of these changes were aimed at increasing the degree of solidarity of high-income groups of insured persons with respect to low-income groups.

Both amendments were challenged by a group of MPs who argued, in particular, that they violated the right to own property, the right to adequate material security in the old age, and in cases of working incapacity and loss of breadwinner, as well as the right to free health care on the basis of health insurance, all of which are guaranteed by the Constitution.

In the case of the right to social security and the right to health care, the Constitutional Court essentially had to consider whether their restriction is based on a legitimate objective and whether the adopted changes are capable of fulfilling this objective and do not undermine the very essence of these rights. This greater restraint by the Constitutional Court is due to the fact that, in the case of the so-called second-generation fundamental rights, to which those rights belong, they are rights whose form and content depend to a significant extent on the economic possibilities of the State. For the legislator, this means that there is greater room for manoeuvre in regulating the legal instruments by which it gives economic, social, and cultural rights their specific content.

According to the Constitutional Court, the objective of achieving greater solidarity between high-income groups of insured persons is legitimate and the chosen means of increasing the maximum assessment base for social insurance and abolishing it for health insurance is capable of achieving that objective. Equally, the chosen strategy cannot be considered to be so burdensome for these high-income groups that they would risk ceasing to participate in

social security and health insurance schemes, or that other unacceptable social phenomena would threaten as a result of these changes.

In the case of the alleged interference with the right to own property, the Constitutional Court stated that it respects the increased degree of autonomy of the legislator in the implementation of the budgetary policy of the state, and thus also the issue of taxes and levies, which are the basic source of revenue of the state budget. As already stated, the contested amendments pursue a legitimate objective by means which are capable of achieving that objective. Similarly, the Constitutional Court did not consider the measures adopted to be unduly burdensome for high-income groups, which also benefit from this higher level of participation in health and social insurance schemes by virtue of the law. The Constitutional Court therefore did not grant the group of MPs' application.

## OWNERSHIP RIGHT: MAINTENANCE OF THE WATER-SERVICE PIPE CONNECTIONS BY THE MUNICIPALITIES (PL. ÚS 5/2022)

In 2021, an amendment to the Public Water Supply Act was passed, which transferred the obligation to maintain and repair water-service pipe conncetions located in the public premises from the owner of the water-service pipe connection to the owner of the water pipelines. This amendment was challenged by the President of the Republic, who argued that it infringed on the right to own property and the right of municipalities to self-government.

According to the Public Water Supply Act, only municipalities, legal entities owned by municipalities, or their associations can own public water supply systems. The owner of a water-service pipe connection that is not considered to be a part of the public water supply system is the person who has established it at his/her own expense.

During the legislative process, the reasoning of the contested amendment was grounded in efforts to ensure a uniform approach to the repair and maintenance of water-service pipe connections that are built in public premises, and it was to be applied, in particular, in the situations with an ambiguous ownership structure, e.g., in the case of old water-service pipes or in the case of pipes whose owner is not known.

According to the Constitutional Court, the aforementioned objective of ensuring a uniform approach to repairs and maintenance of water-service pipe connections is not legitimate, since it has not been demonstrated that the public interest in the public supply of drinking water to the population necessarily implies the need to implement a uniform approach to the repair and maintenance of water-service pipe connections. The consequence of not repairing a water-service pipe connection would only be that the owner would not be able to use the pipe connection for drinking water, but the supply and abstraction of drinking water for the rest of the population would not be affected. The Constitutional Court also considered it significant that the municipalities to which this new obligation was delegated were not compensated for the costs of such maintenance and repairs, and therefore found the contested provisions to be contrary to the right to own property and the right to self-government.

## LEGISLATIVE PROCESS: THE JUDICIARY (PL. ÚS 13/2020)

In the previous year, the Constitutional Court issued two findings in proceedings on abstract review of the constitutionality of legislation, where the focus of the plaintiffs' argumentation was not the substantive unconstitutionality, but rather a violation of the rules of the legislative process.

The first finding relates to the amendment act of the end of March 2020, which regulated several areas of law in a rather eclectic manner and which was adopted in a non-standard/abbridged legislative procedure in response to the urgent situation related both to the freshly outbreak in Slovakia of the pandemic of the until-then virtually unknown COVID-19 virus, as well as to some urgent staffing issues in the judiciary.

A number of the amended provisions were challenged before the Constitutional Court by a group of parliamentary opposition MPs in early April 2020. The said Act introduced into the then Electronic Communications Acts a duty for the telecommunications operators to archive certain selected telecommunication data, on a flat basis, and to provide such data to the Public Health Authority for the purposes of tracking the COVID-19 epidemic. In particular, the group of MPs challenged the disproportionate interference with the right to privacy, which the Constitutional Court basically upheld by suspending the effectiveness of parts of these provisions. Shortly afterwards, however, the suspended provisions were amended by the legislator and the Constitutional Court discontinued the procšeedings in this part of the motion.

Last year's ruling thus concerned only that part of the motion that challenged the amended provisions in the judicature laws, on the ground of violation of the rules of the legislative process. The challenged provisions dealt with a situation related to the need for the statutory regulation of vacancy in the office of President of the Supreme Court of the Slovak Republic („the Supreme Court") and eliminated the two-month period during which the President and members of the Judicial Council still remained in office after they had resigned from office. The adoption of these amending provisions was justified by the situation that arose when the President and several other members of the Judicial Council resigned after the Minister of Justice informed them that she did not have confidence in them. The appellants argued that the resignation of the members of the Judicial Council and the vacancy of the posts of President and Vice-President of the Supreme Court were not

such exceptional circumstances as to justify the application of the non-standard/abridged legislative procedure.

From a comparative point of view, there exist various strategies to meet the urgent need to adopt, at short notice, a regulation with the force of law in response to a specific contingency. For example, several legal systems allow the executive, most often the government, to pass regulations with the force of law, but these must be approved by parliament within a certain time limit, or they will lapse. In the Slovak Republic, as in some other countries, the so-called ´shortened´ legislative procedure is preferred, the essence of which lies in the fact that restrictive time limits are not applied during the legislative process, which are otherwise intended to ensure that MPs, parliamentary committees and the public are thoroughly acquainted with the draft law and thus guarantee a good parliamentary and public debate concerning the draft. The application of this non-standard/abridged procedure must be proposed by the government and may only be used where there may be a threat to fundamental human rights and freedoms or security, or where there is a risk of significant economic damage to the State.

According to the Constitutional Court, parliamentary debate and the constitutional requirement that laws express the will of parliamentarians are intertwined. The restriction on debate affects the formation of the will of parliamentarians. Conversely, the failure to submit motions in the proper manner or similar procedural defects preclude or restrict debate on those motions. Debate is one of the purposes of parliamentary procedure, and therefore a breach of the Rules of Procedure Act could reach constitutional intensity if, for example, debate is grossly or completely restricted, the opportunity for MPs, especially minority MPs, to take a public position and express their views on a bill is severely or completely restricted, or there are a number of flaws in the whole procedure which would have the same effect in the end.

However, that was not the situation in this case. The MPs had proper knowledge of the legislation they were debating and voting on. This is apparent from the course of the debate in the plenum of the National Council and from the scope and complexity of the norm being discussed and adopted. The contested standards were properly presented, and they are textually concise, without any doubt as to their content and meaning, and there were no complex votes on amendments or supplementary provisions when they were being debated. It is clear from the course of the debate in the National Council that MPs were in no way deprived of the opportunity to debate the contested norms. They had the opportunity to express their views or to table amendments, which they did. In the end, MPs commented only on the combination of the legislative procedure and the outcome, i.e., the fact that the norms were intended to deal with judicial issues too abruptly, and that they did not comment on their substance (content). The Constitutional Court therefore did not consider the alleged violation of the legislative process to be so serious as to undermine constitutional principles and therefore did not grant the application.

## LEGISLATIVE PROCESS: FAMILY PACKAGE (PL. ÚS 13/2022)

The second of the aforementioned last year's rulings is one of the most significant decisions of the Constitutional Court ever in the sense that for the first time in its history a law was annulled solely on the ground that the rules of the legislative process had been seriously violated during its adoption.

The contested legislation, also adopted under the non-standard/abridged legislative procedure, essentially concerned three areas, namely the provision of the allowance for children's leisure activities (known to the public as ‚krúžkovné'), the tax bonus and the child benefit and the child benefit supplement. It introduced a system of funding children's leisure time through the child leisure allowance, i.e., the allowance for the activities in the fields of education, culture, and sport. A monthly allowance was to be provided for these activities, which was earmarked only to cover leisure activities and was paid into a newly established child's account. The contested legislation also increased the so-called tax bonus and the amount of the child benefit and the child benefit supplement. It was a systemic solution to support children's leisure activities and families with children, not a one-off and immediate help in response to some unforeseen situation or circumstance. The explanatory memorandum itself suggests a so-called revolution in taxation, which loses the declared direct link to the COVID-19 pandemic or the military conflict in Ukraine, and, moreover, these changes were announced by the Government as early as November 2021, before the Russian invasion of Ukraine. Moreover, these systemic changes were not due to come into force until about half a year at the earliest and almost two years after their adoption by the National Council at the latest.

According to the Constitutional Court, the conditions for a non-standard/abridged legislative procedure, i.e., a threat to the fundamental human rights and freedoms or security or a threat of significant economic damage to the state, have not been established on the face of it. However, this fact was not, in itself, serious enough to justify a finding that the contested regulation was unconstitutional. However, no such intense interference has been proved. Thus, there was no situation in which the parliamentary opposition or minority could not exercise supervision and control over the majority or was otherwise excluded from the parliamentary process. Nor has it been shown that the timeframe for debating the contested law was so short or limited as to prima facie preclude its discussion.

However, according to the Constitution, the Slovak Republic protects the long-term sustainability of its economy, which is based on transparency and efficiency in the use of public funds. In support of these objectives, a specific constitutional law regulates the rules of budgetary responsibility, the rules of budgetary transparency and

the competence of the Council for Budgetary Responsibility. In this case, according to the Constitutional Court, the constitutional value of the long-term sustainability of the State's economy was violated during the legislative process.

The Constitution requires each public authority to take reasonable account of relevant information on the current state and possible negative impact of a measure on the long-term sustainability of the economy. If a decision is to be taken by in parliament on a measure with a major impact on the state of public finances which, when assessed by economic criteria, fulfils these requirements only to a limited extent or not at all, then the minimum that the Constitution requires is the creation of a space for a fair and exhaustive debate preceding the adoption of the decision, taking due account of the views of the subjects concerned or of their interest representatives.

The role of the Constitutional Court is not to enforce academic ideals and claims about the legislative process. Political life brings the need for political negotiation, coalition compromise and mutual concessions. However, the negotiation and discussion of important issues of public interest, which undoubtedly include negative interference with long-term sustainability, requires that the stakeholders become familiar with the relevant information that could affect not only the scope of the debate itself, but ultimately also the outcome of the legislative process. This information, which MPs should have had the opportunity to familiarise themselves with, includes the analyses and outputs of the Council for Budgetary Responsibility.

According to the Council for Budgetary Responsibility, Slovakia has the highest level of debt ever, well above the upper debt limit, and a medium to high risk to the long-term sustainability of public finances. Slovakia's public finances are not sustainable in the long term, and among EU member states Slovakia is ranked with the countries with the worst long-term public finance sustanablity. The contested legislation has, according to the Council, a permanent negative impact on public finances, as a systemic source of its full budgetary coverage is not ensured. Already in 2023, according to the information from the Council for Budgetary Responsibility, sanctions would be applied for exceeding the debt ceiling, which would have a major negative impact on the standard of living of the population.

The representative free mandate of an MP grants him or her independence from acting by instructions of natural or legal persons, public authorities and political parties and movements. If MPs are to be able to decide according to their conscience and convictions, it is necessary for them to be able, at least to a minimum extent, to form their own opinion on an important issue, which in this case, with reference to the constitutionally-protected value of long-term sustainability, was clearly at issue. Otherwise, there would be a risk that an MP could become a mere passive actor in the process, which would create tensions with the nature of his or her free mandate.

The Constitutional Court considered this omission so serious that it was made, for the first time in its history, to declare the contested law unconstitutional only on the ground of a serious violation of the rules of the legislative process in its adoption.

## DIRECT DEMOCRACY: LOCAL REFERENDUM ON THE SEPARATION OF A PART OF A MUNICIPALITY (PL. ÚS 8/2020)

In the past year, the Constitutional Court did not deal with direct democracy only in the proceedings on the compliance of the subject-matter of the referendum, but also ruled on one petition challenging the unconstitutionality of certain provisions of the Municipal Act regulating the conditions for declaring a local referendum on the division of a municipality.

According to the contested provisions, the municipal council shall declare a local referendum on the division of the municipality if at least 30 % of the eligible voters permanently residing in the municipality request it by petition. The local referendum on the division of the municipality will be valid and binding if a majority of the eligible voters participate in the vote and a majority of the valid votes cast are in favour of the division.

The basis of the petitioners' argument is based on the right to local self-government, in the exercise of which, according to the petitioners, priority should be given to the instruments of direct democracy, in particular the local referendum. The petitioners consider the current legislation on the local referendum on the division of a municipality to be dysfunctional and therefore constitutionally incompatible, since it effectively makes it impossible for the minority of residents residing in the part of the municipality which wishes to secede from the original municipality to decide on the division of the municipality in view of the presumed disagreement of the majority of the residents of the municipality residing in the remaining part of the original municipality. In the view of the petitioners, it would be constitutionally consistent to provide for legislation under which a local referendum on the division of a municipality would be held only in the part of the municipality to be divided. It can be inferred from the petitioners' reasoning that they consider that a part of the right to local self-government is the right of the minority part of residents permanently resisng in that part of the municipality which wants to separate from the original (existing) municipality to decide independently on the division of that municipality.

The Constitutional Court has previously stated that the Constitution favours the forms of direct democracy (assemblies of municipal residents, local referendum) over the forms of representative democracy (municipal authorities) at the level of local self-government. At the level of local government, such an interpretation can be accepted without any doubt, precisely because of the natural proximity of those exercising local government power and those against whom that part of public power is exercised. On the oth-

er hand, the Constitution grants the right to self-government to municipalities, not to parts of municipalities. It leaves the merger, division, and dissolution of municipalities to the law, it does not regulate them in any more detail, nor does it mention the separation of parts of municipalities.

The original version of the 1990 Municipal Act provided for the obligation of the municipal council to declare a local referendum on the division of the municipality if 20% of the eligible voters in the municipality requested it by petition. The 1991 amendment already introduced a provision according to which a petition signed by 20 % of the eligible voters of only the part of the municipality to be divided was sufficient to trigger a local referendum on the division of the municipality. The vote also took place only in the part of the municipality to be divided, although it was for the municipal council, elected by all the eligible residents of the municipality, to examine whether the legal conditions for the division of the municipality were met. This change was a reaction to the previous twenty-year period in which formerly separate municipalities had been artificially annexed to towns in order to increase the town's population and reduce the size of the administrative apparatus.

The current arrangement is the result of the 2001 amendment, which reverted to the rule that the division of a municipality is voted on in a referendum held in the whole municipality, not just in the part that wants to separate. The reason for this change was that in the 1990s there had been a growing number of small municipalities which, due to their insufficient size, would not have been able to carry out the tasks assigned to them in 2001, and would thus have to face the recurring problem of a lack of their own resources and would have been dependent on inter-municipal cooperation. The Constitutional Court considered these reasons to be legitimate and also considered the ten-year period from 1991 to 2001 to be sufficient to remedy the past injustice of artificially attaching municipalities to towns. It therefore considered the contested provisions to be compatible with the Constitution and did not grant the application.

## ADMISSIBILITY OF A REFERENDUM

### DIRECT DEMOCRACY: A REFERENDUM ON THE REMOVAL OF THE GOVERNMENT? (PL. ÚS 11/2022)

The preventive review of the constitutional admissibility of a referendum was introduced by a major amendment to the Constitution in 2001. Until then, it was up to the President of the Republic to assess whether a referendum question was constitutionally permissible. However, the controversial nature of the subject-matter of the referendum in some cases necessitated the introduction of the possibility for the Constitutional Court to rule authoritatively on its admissibility in the future. However, since the introduction of this specific type of procedure, known in some European states, the first opportunity for the Constitutional Court to take a position on the referendum question came up only in 2015 and the second in 2021. However, in the very next year, a third application was filed to review the admissibility of the referendum.

In countries that have overcome a long half-century of totalitarian regimes, the sometimes classic democratic institutions familiar from the old democracies are undergoing a very specific, remarkable evolution. This phenomenon has not bypassed the Slovak Republic either, which has seen yet another attempt to use the instrument of referendum for the purpose of removing the government. The first two attempts were not even subjected to a review by the Constitutional Court, because while in the first case, in 2000, when part of the electorate, by means of a petition organised by the then parliamentary opposition, sought to call a plebiscite on the dissolution of the parliament, and thus to declare early elections, such a special type of procedure had not yet been introduced, in 2004, in the case of a similar petition, the President of the Republic decided not to turn to the Constitutional Court and to declare a plebiscite after all. Unlike in some other countries, in the Slovak Republic a preventive review of the subject-matter of the referendum is not obligatory; the President has only the possibility to ask the Constitutional Court for an authoritative opinion. In the end, neither of the votes was attended by the constitutionally required majority of eligible voters and therefore the results were invalid.

A third attempt at a deformaton of the referendum by plebiscite in order to achieve the dissolution of parliament and early elections took place in 2021 and was subject to revew by the Constitutional Court, which declared such a referendum question inadmissible in one of its most debated rulings. The Court saw it as contradicting the principle of the generality of law and the principle of the separation of powers. In a referendum, the citizens exercise the legislative power, which results in a normative act with the legal force of a constitutional law, whereas they cannot exceed this limit on the exercise of the legislative power. Such a referendum, formally with the force of a constitutional law, would in one particular case circumvent the rules laid down in the Constitution concerning the formation and functioning of the National Council as a constituent and legislative body, under which the National Council has a four-year term of office and the Constitution currently gives only the President of the Republic the power to dissolve the National Council under specified conditions. Such a popular vote would therefore not establish any legal norm, as required by the constitutional provision for the referenda in our Constitution, but would ultimately decide on the removal of a particular composition of the National Council, i.e., it would not be a normative act, but rather an individual one.

The situation was similar in last year's ruling, but this time the initiators of the referendum tried to force the government to resign by a plebiscit.The Constitutional Court thus largely followed its 2021 ruling and did not admit the referendum question of whether the citizens agree „that the government of the Slovak Republic should

resign without delay". Such a question would essentially turn the referendum into a plebiscit on the removal of the government, which is not contemplated by the Constitution because the only popular removal is prpovided for in relation to the President of the Republic under well-defined conditions. In the Slovak constitutional order, a referendum is normative in nature, not an individual act, and thus cannot be used to dismiss public authorities or officials. On the contrary, the Constitution, in the part regulating the termination of the term of office of the government, does not provide that the latter should be obliged to resign on the basis of some kind of an order of the citizens expressed in a plebiscit or of some other holder of public power.

In the aforementioned 2021 ruling, the Constitutional Court found that a national referendum in the conditions of the Slovak constitutional order can directly change the wording of the Constitution, which it confirmed in last year's ruling. In other words, a Slovak referendum, insofar as it is initiated by citizens, is essentially the equivalent of what is called a popular initiative in some parts of the democratic world. This interpretation has also given the referendum a practical meaning since its legal effects have already been authoritatively interpreted. Citizens can therefore already know what to expect from a successful referendum, with the result that it is possible that more and more such referendum initiatives will emerge over time. After all, one popular vote on a direct change to the Constitution has already been called by the President of the Republic on 21 January 2023 on the basis of a citizens' petition. It is therefore possible that the Constitutional Court's doctrine on the admissibility of the subject-matter of a referendum will evolve and be enriched in the near future.

## CONSTITUTIONAL COMPLAINTS

### CRIMINAL LAW: DOUBLE COUNTING OF BURGLARY IN THEFT (III. ÚS 279/2021)

The complainant was found guilty by both the trial and appellate courts of several offences of theft by burglary and was sentenced to imprisonment for a term of seven years. Before the Constitutional Court, however, he argued that the courts had incorrectly applied a stricter penalty, as a result of which his sentence appeared too severe to him. The Constitutional Court accepted his argument, cancelled the contested court decision and remitted the case back to the competent court for a retrial and decision.

The whole problem has its origin in the legislative technique chosen by the Slovak legislator and its incorrect application by the criminal courts. The elements of the offence of theft were defined in the previous Criminal Code of 1961 in one specific section in the Special Part of the Criminal Code, where initially the first sub-section defined the basic, least dangerous form of theft with a basic penalty, and the second sub-section defined the more serious forms of theft, for which the law imposed a more severe penalty. In accordance with the long-standing practice of European criminal codifications, the elements of these more serious forms of theft (as with other offences) were defined at that place in the law where the offence of theft of defined. The section on the offence of theft was amended several times after 1989, but all the elements of the more serious forms of theft were still defined in that section.

The change took place in 2005, when due to the fact that the old Criminal Code was adopted during the totalitarian period and was originally based on a philosophy incompatible with the democratic rule of law, and also, especially after 1989, was amended many times and thus became less and less clear, a new, i.e,. the current Criminal Code was adopted. Its authors have opted for an original solution for defining the more serious forms of individual offences. Instead of the previous practice of defining them in the relevant section dealing with the offence in question, they have attempted to unify the more serious forms of conduct and to define them in general terms for all offences together. Thus, a provision was added to the general part of the Criminal Code defining the ‚more serious forms of conduct', where the legislator also included the commission of the offence by burglary. Naturally, some criminal offences cannot even be objectively committed by burglary (e.g., the offence of defamation), so this feature logically does not apply there.

The original wording of the section regulating the elements of the offence of theft in the current Criminal Code defined the basic, least dangerous form of theft in the first two sub-sections, with a penalty of up to two years' imprisonment. The first sub-section required the infliction of damage exceeding EUR 266.00, the second sub-section did not define damage, instead requiring theft to be committed by burglary or one of the other methods. The other sub-sections defined the elements of progressively more serious forms of theft, with, for example, more severe punishment being logically linked to the greater damage caused. The fourth sub-section, however, stated that whoever committed an offence defined in the first or second sub-sections by a ‚more serious mode of conduct', and thus, for example, by burglary, was liable to imprisonment for a term of between three and ten years. According to the Constitutional Court, such an unusually defined statutory offence may be regarded as a legislative shortcoming.

Thus, burglary appeared twice as an element of theft, so theft committed by burglary could be examined under the second sub-section with a prison sentence of up to two years or under the fourth sub-section with a prison sentence of between three and ten years. The courts and even the Supreme Court could not agree on the correct interpretation for a certain period. It was only in 2011 that the Supreme Court issued an opinion according to which the stricter penalty should be applied if the theft by burglary caused damage exceeding EUR 266.00. This interpretation resulted in disproportionately high penalties for theft committed burglary even when the amount of damage caused was relatively low, and thus the

gravity of such thefts was low. Since the complainant caused damage exceeding EUR 266.00 by the offences committed, the courts, in accordance with that interpretation, applied a more severe penalty to his case.

However, according to the Constitutional Court, this interpretation is incorrect. Both the Supreme Court and the courts in the present case were guided by the old principle that if two different laws can be applied to a case and one of them regulates the case in a more specific and detailed way, the one which regulates the case in a more general way shall not be applied. However, that principle was not applied correctly for two reasons. The law lays down concurrently that if a certain element is included in the definition of the basic form of an offence, it can no longer be included in the definition of its more serious form. And the basic form of theft was defined in the first two sub-sections, not just in the first, so even theft committed by burglary constitutes without other conditions (e.g., substantially greater damage or other circumstances), the basic form of theft, where the maximum possible sentence is two years' imprisonment. Thus, materially, by their decisions the courts caused a double counting of the fact that the complainant had committed theft by burglary, which resulted in an unlawful and disproportionately harsh sentence being imposed on him, whereby his right to personal liberty was unacceptably infringed on.

## CRIMINAL LAW: SEIZURE OF PROPERTY UNDER THREAT OF FORFEITURE (II. ÚS 480/2021)

The complainants were charged with large-scale embezzlement in conjunction with forgery of a public document. In particular, they were charged with using a false general power of attorney to obtain the transfer of immovable property owned by a third party to the first complainant without the knowledge of the original owner, for whom the second complainant was to act as (falsely) authorised agent. Since their criminal conduct was intended to cause extensive damage, the law then allows, if proven guilty, the forfeiture of the entire property of the convicted person as a penalty, if such penalty is, in the opinion of the trial court, appropriate in view of the circumstances of the offence committed and the circumstances of the perpetrator.

Because of the imminent imposition of a penalty of forfeiture of property and the fear that the execution of that penalty might be frustrated by the complainants' misappropriation of their property, the prosecutor issued an order for the seizure of all the property of both of the complainants, which was upheld by the trial court. According to the complainants, the seizure of their property was unjustified.

In addition, the aforementioned immovables owned by the first complainant were also seized in the present criminal proceedings in order to secure the injured party's possible claim for damages. Moreover, the injured party also sought the return of the immovable property by bringing an action before the civil court, which also issued an interim measure prohibiting the first complainant from disposing of the immovable property in question.

The Court justified the existence of its concern about the frustration of the execution of the sentence on the ground that the complainant had sold one of his immovables at the time when he must have already known that an investigation in the matter of embezzlement was being conducted. The Constitutional Court accepted this as a sufficient ground to show a well-founded concern about the frustration of the execution of the sentence in respect of the first complainant but did not consider it to be a relevant ground in the case of the seizure of the second complainant's property.

Nevertheless, the seizure orders were seriously flawed. The seizure of the immovable property in question on the ground of the possible imposition of a penalty of forfeiture of the property is inconsistent with its seizure for the purpose of securing the onjured party's claim for damages or its seizure in civil proceedings for the determination of ownership. Furthermore, neither the prosecutor nor the court habe sufficiently justified which circumstances of the offence committed and the circumstances of the co-defendants, if proven guilty, justify the imposition of forfeiture of all their property as proportionate to the seriousness of the offence committed. Nor were the rights of the second complainant's wife to be a party to the proceedings respected, since she is the joint owner of the property which would be affected by the penalty of forfeiture.

The Constitutional Court thus cancelled the court's resolution and sent the case back to the court for a new hearing and decision. The Constitutional Court recalled that the penalty of forfeiture of property by law affects virtually all of the property of the convicted person and is therefore primarily punitive and deterrent in nature, which implies that, as a penalty, it must be proportionate to the seriousness of the offence committed. The District Court will therefore have to give proper reasons under which circumstances of the offence committed and the offender it is reasonable to expect that, if proven guilty, the imposition of the penalty on both co-defendants would be proportionate, and therefore that its imposition could be reasonably expected.

## CRIMINAL LAW: EXECUTION OF THE EUROPEAN ARREST WARRANT (II. ÚS 290/2021)

The complainant was the subject to three European arrest warrants issued by the Italian prosecutor's office in 2020 for her delivery for the execution of sentence, based on three enforceable judgments of the Treviso court of 2010, 2014 and 2015, by which she was convicted of the offence of abduction and retention of a minor abroad. By a resolution issued in 2018 by the Italian Public Prosecutor's Office, the execution of the sentences imposed was joined into a single three-year prison sentence. The Regional Court in Nitra took her into extradition custody, and the Supreme Court

did not award her complaint.

The complainant is the mother of a minor child whose father is a national of the Italian Republic. According to her own statement, she had previously reported the child's father to the police for physical assault and extortion, when she subsequently left the Italian Republic with the child and travelled to Slovakia, according to her statement, with the knowledge of the minor child's father. As regards the care over the complainant's minor child, the most recent petition of the father of the minor child for the enforcement of a decision to remove the minor child from the mother and return it to the Italian Republic was rejected by the District Court of Topoľčany in 2018, on the ground that although the enforcement order (the order approving the settlement between the complainant and the father of the child, ordering the return of the minor child to the territory of the Italian Republic) was actually enforceable, in view of the fact that it took eight years to decide on the petition in question, the general  clourt had to take into account the interests of the child, who had demonstrably been in contact with his father for a short period of time, most recently in 2010, whereas the minor child has strong family and social ties in the territory of the Slovak Republic, does not understand the Italian language, does not know the environment to which he should be returned, wherefore his return to the Italian Republic is not in the child's interests.

The complainant argued that she had never been served with the judgments in question, had not been summoned to the hearings or notified of the dates of the hearings. Furthermore, she alleged that the condition had not been fulfilled that the acts in question, for which she had been convicted in Italy, must also abpunt to offences under Slovak law. In addition, she contested the limitation of the execution of the sentence as a mandatory ground for refusal to execute the European Arrest Warrant.

The Constitutional Court admitted the complainant's arguments, quoshed the contested decision and returned the case to the Supreme Court for a new hearing and decision. According to the Constitutional Court, the Slovak courts did not sufficiently deal with the objection of failure to fulfil the condition of double criminality and the objection of limitation of the execution of the sentence. In relation to the double criminality, it criticised the Italian authorities for too vague description of the offence in the European Arrest Warrant, in particular, as regards the temporal context. As a result, it was not possible to verify thoroughly whether the acts in question also constituted an offence under Slovak law.

As regards the issue of limitation, the general courts considered the Italian prosecutor's order as an act towards the execution of the sentence, as a result of which the running of the five-year limitation period was to be interrupted in 2018. According to the Constitutional Court, the Slovak courts had properly dealt with the question whether the Italian prosecutor's office could be regarded as an independent judicial body capable of carrying out a measure leading to the execution of a sentence. Moreover, the basis for issuing the European Arrest Warrants was not the prosecutor's resolution on the aggregation of sentences, but rather the convictions of the Italian court. Thus, the Slovak courts were supposed to deal also with the question whether, even for that reason, the question of the limitation period should not be considered separately for each of the three Italian convicting judgments.

## CRIMINAL LAW: THE NEED TO PROVE ALL THE ELEMENTS OF AN OFFENCE (III. ÚS 505/2022)

The Third Senate awarded the complainant's constitutional complaint against the Regional Court's resoluton dismissing her appeal against the judgment of the District Court, which had sentenced her to five years' unconditional imprisonment for her participation in large-scale fraud. In her constitutional complaint, the complainant challenged the Regional Court´s decision for its failing to prove her knowledge of the fraudulent conduct of the other two convicted co-offenders and, therefore, her accomplice status. At the same time, however, she also lodged an extraordinary  appeal with the Supreme Court against the judgment of the Regional Court in parallel with her constitutional complaint.

The purpose of a constitutional complaint is to ensure that everyone has the protection of his or her fundamental rights guaranteed by the Constitution and the human rights guaranteed to him or her by international treaties. The Constitutional Court may therefore also examine the factual conclusions of the courts in criminal proceedings, but it will only annul the contested decision if the error is so serious that it has resulted in the denial of a fundamental right. In the present case, the Constitutional Court's task was to examine whether the Regional Court had not made such a manifest error in the execution and assessment of the evidence that its conclusion as to the complainant's guilt appeared to be extremely illogical or arbitrary, and therefore constitutionally inadmissible.

The proceedings in the complainant's criminal case have been pending since 2008, and first she was acquitted twice, in 2015 and 2017, by the District Court because it was not proven that she had committed the offence, whereafter these acquittals were overturned by higher courts, and in a third judgment in 2021 she was found guilty of an attempt to commit a special gravity indictable offence of fraud by accomplice and sentenced to five years' unconditional imprisonment.

According to court decisions, three companies were to be involved in the fraud in question. In total, three persons were convicted. The complainant was a director of one of the companies, the other two convicted persons acted as directors of the remaining two companies. The complainant's company was supposed to have or to pretend to have an interest in the purchase of the real property and to have contracted another company to arrange the purchase. This agency contract was signed by the complainant as well as some other documents relating to the agency. The intermediary company was to enter into another agency contract with a third company

which was to have or pretend to have an interest in selling the real property, and a contractual penalty of more than EUR 2 million was agreed in the contract in the event of the seller company rejecting the offer. The director of the intermediary company was to make an offer to enter into a purchase contract on the basis of the complainant company's interest, which was rejected by the director of the selling company. Subsequently, the director of the intermediary company sought to recover the contractual penalty from the selling company in court, the court issued a payment order and, on the basis of that order, distraint proceedings were commenced. All the contracts and other documents date back to 2004 but, according to the judgment, they are fictitious and were, in fact, drawn up in 2007, and all of the three convicted persons, including the complainant, were supposed to have been acting in concert to unlawfully obtain a financial benefit at the expense of the ‚selling' company.

However, according to the Constitutional Court, it has not been proven that the complainant was aware that as a result of her act the contractual penalty was to be enforced. There was not a single piece of evidence executed that would prove the complainant was aware of the relations of the other two companies, in particular, of the contractual penalty agreed between them, and therefore her so-called indirect intent, i.e., her understanding that large-scale damage could occur as a result of the enforcement of the contractual penalty, could not be established either. Although it is stated in the judgment that the accomplices should have committed the fraudulent conduct by mutual agreement, that agreement has not been established by a single piece of evidence, whether direct or indirect, in relation to the complainant.

There is a presumption of innocence in all criminal proceedings. A court cannot convict a defendant unless the evidence establishes beyond reasonable doubt that the guilty act was committed, including the required form of fault, and in the case of fraud, the evidence must show at least an indirect intent. In the absence of such proof of intent, the court's factual conclusion of guilt is arbitrary and therefore constitutionally inadmissible, and the Constitutional Court therefore found that the complainant's fundamental right to personal freedom, the fundamental right to judicial protection and the right to a fair trial were violated, it quashed the contested resolution of the Regional Court and remitted the case to the Regional Court for a new hearing and a new decision.

## CRIMINAL LAW: CONDITIONAL DISCHARGE (I. ÚS 36/2022)

The complainant was serving an unconditional prison sentence. He applied for conditional discharge from prison, but his application was rejected by both the District Court and the Regional Court.

The essence of the complainant›s constitutional complaint is the claim that the general courts, in assessing whether the conditions for his conditional discharge from imprisonment were met, did not sufficiently take into account the changes in his behaviour, which were supported by the assessment of his person by the prison authorities, but based their decisions almost exclusively on the extract from his criminal record, i.e., on the facts which preceded his conviction and the start of his prison sentence. The complainant submits that the possibility of his conditional dicharge has become merely illusory as a result of the conclusions of the District Court and the Regional Court, since even positive changes in his behaviour cannot, in the light of the foregoing, outweigh the conclusions about his ‹criminal past›, which he can no longer change.

The Constitutional Court accepted the complainant›s arguments, quashed the contested resolution and remitted the case back to the Regional Court for a new hearing and decision. The Constitutional Court does not dispute that criminal history is a relevant factor in deciding whether a convicted person should be conditionally discharged. However, the presumption of the convict living a proper life in the future cannot be based primarily, or even exclusively, on their criminal record. It is necessary to take into account other current information about the convicted person, the state of his or her rehabilitation and the environment in which he or she would find himself or herself after possible conditional discharge, as well as to address the circumstances of the offence with regard to the extent to which the subjective causes of that offence have been overcome by the convicted person. Criminal history cannot be assessed in a formalistic way - how many times an individual has been convicted, how many times he or she has served an unconditional prison sentence or how many times he or she has violated the conditions of parole. It is necessary to consider how long ago and for what reasons the previous offences were committed and whether the convicted person can be expected to live a proper life on the basis of his or her current sentence.

The assessment of the presumption of living a proper life in the future cannot be a mechanical reference to the convicted person›s previous criminal history or the «failure to take advantage of the opportunity» of parole. As regards an individual›s previous convictions, it is necessary for the general court to consider how long ago and for what reasons the offence in question was committed. In addition, in assessing the likelihood of leading a proper life in the future, it is necessary to take into account the current knowledge of the convicted person (in this respect, the statement of the director of the penal institution is an important source), the state of his rehabilitation and the environment in which he would find himself after his eventual release on parole.

The Constitutional Court further found that, in assessing the expectation that the complainant would lead an orderly life in the future, the factor of the complainant›s favourable family environment had been assessed essentially against him in a manner contrary to logic. Any changes in the complainant›s family environment as a result of the passage of time, his allegedly intensified relationship with family members, or the possible greater involvement of the family in helping the complainant to live a proper life were not examined in any way.

# STASTISTICAL DATA
ON THE DECISION-MAKING ACTIVITY

**NUMBER OF SUBMISSIONS DELIVERED TO THE CONSTITUTIONAL COURT IN 2022** **2 877**

| | |
|---|---|
| **PLENUM** | **15** |
| Proceedings on conformity of legal regulations under Art. 125 of the Constitution | 14 |
| Proceedings on conformity of legal regulations under Art. 125b (1) of the Constitution | 1 |
| **CHAMBERS** | **2 862** |

**NUMBER OF SUBMISSIONS PROCESSED BY THE CONSTITUTIONAL COURT IN 2022** **2 995**

| | |
|---|---|
| **PLENUM** | **19** |
| Proceedings on conformity of legal regulations under Art. 125 of the Constitution | 18 |
| Proceedings on conformity of legal regulations under Art. 125b (1) of the Constitution | 1 |
| **CHAMBERS** | **2 976** |

**PENDING SUBMISSIONS AS AT 31st DECEMBER 2022** **1 010**

## SUMMARY OVERVIEW

| Submissions | Plenum | Chambers | Altogether |
|---|---|---|---|
| Delivered in 2022 | 15 | 2 862 | **2 877** |
| Decided in 2022 | 19 | 2 976 | **2 995** |
| Pending submissions as at 31st December 2022 | 27 | 983 | **1 010** |

## AS AT 31 DECEMBER 2022, THE CONSTITUTIONAL COURT HAD THREE SUBMISSIONS STILL PENDING FROM 2018

CHAMBERS **1**

PLENUM **2**

## SUMMARY OVERVIEW OF OLDEST PENDING SUBMISSIONS AS AT 31 DECEMBER 2022 (2018 – 2022)

| Year | Pending submissions Plenum | Pending submissions Chamber | Altogether |
|---|---|---|---|
| 2018 | 2 | 1 | **3** |
| 2019 | 4 | 8 | **12** |
| 2020 | 1 | 44 | **45** |
| 2021 | 8 | 107 | **115** |
| 2022 | 12 | 823 | **835** |
| TOTAL | **27** | **983** | **1 010** |

# THE PROTOCOL AND INTERNATIONAL ACTIVITIES OF THE CONSTITUTIONAL COURT OF THE SLOVAK REPUBLIC

*in 2022*

**The end of the COVID-19 pandemic had a significant impact on the start of the Constitutional Court's international activities to the extent that 2022 was surprisingly the most active year in the field of international cooperation of the Constitutional Court, despite the fact that the in the beginning of the year the pandemic was just fading away. This is evidenced by 16 business trips abroad undertaken, which is the most in the Court's history.**

**The year 2022 was also particularly important in terms of the introduction of "innovations" in the field of intranets and the Internet. The IURO intranet platform was launched by the Department of Foreign Relations and Protocol, which brings together in one place many documents and information for the purposes of the Constitutional Court's decision-making activities, such as analyses, translations of ECtHR judgments, opinions of the Venice Commission, decisions of other courts, and so on. It is also a forum for the exchange of information between its users on new developments in the field of constitutional law. The author of this practical and effective platform is Mgr. Andrea Nagyová.**

**Other major news in 2022 was the launch of Twitter on 1 September to commemorate the 30th anniversary of the Constitution, and the relaunch of Facebook. Each of these communication tools has a different target audience and a subtly different purpose, but the common goal of both is to bring the Court's decision-making activities, as well as its international and other activities, such as educational or charitable ones, to the public in 'human language'.**

**Since the spring of 2022, activities have gradually moved from the online platform back to the in-person format, and conferences, protocol receptions and official meetings have been relaunched.**

On 20 January, President Ivan Fiačan and the Director of the Judicial and Analytical Activities Department had an online meeting with **the European Commission's Commissioner for Justice, Didier Reynders**. The topics covered were the interpretation and application of European Union law in the Constitutional Court's decision-making, preliminary reerences to the Court of Justice of the European Union, bilateral cooperation between the Constitutional Court and other constitutional courts within the European Union, amendments to the Constitution of the Slovak Republic, and the Constitutional Court's decisions concerning the pandemic.

On 21 February, President Ivan Fiačan attended **the Conference of Presidents of the Supreme Courts of the European Union Member States in Paris**, which was devoted to the role of judges in strengthening the rule of law in Europe under the French Presidency of the Council of Europe. The conference was addressed by Eric Dupont-Moretti, Minister of Justice of the French Republic, Didier Reynders, European Commissioner for Justice, Laurent Fabius, President of the Constitutional Council of the French Republic, Robert Spano, President of the European Court of Human Rights, and Koen Lenaerts, President of the Court of Justice of the European Union.

On March 18 and 19, **the 130th Plenary Session of the European Commission for Democracy through Law (Venice Commission) took place in a hybrid form**, with an online participation of

Constitutional Court judges Jana Baricová and Peter Molnár**. They have already attended the 131st and 132nd Plenary Sessions in June and October in person**. The President of the European Court of Human Rights, Robert Spano, and the European Commissioner for Justice, Didier Reynders, also spoke at the June session.

On 25 April, President Ivan Fiačan received **the French Ambassador to Slovakia, Pascal Le Deunff, and the Attaché for Scientific and University Cooperation, Yann Pautrat**. During the working meeting, they discussed current topics, in particular the international activities of the Constitutional Court, judicial reform, the control of constitutionality in the Slovak Republic and the possibility of jointly organisation of judicial workshops.

*The President of the Constitutional Court Ivan Fiačan received the French Ambassador to Slovakia, Pascal Le Deunff*

On 28 April, President Ivan Fiačan and Vice President Ľuboš Szigeti discussed the rules and process of amending the Constitution of the Slovak Republic with **the President of the Slovak Republic, Zuzana Čaputová**. During the meeting at the Office of the President of the Slovak Republic in Košice, they also discussed the latest amendment to the Constitution made by Constitutional Act No 422/2020 and its application in practice, constitutional principles in the legislative process, as well as current issues related to the judiciary.

On 30 April – 1 May, the President of the Constitutional Court, as part of an official delegation led by the Speaker of the National Council of the Slovak Republic, Boris Kollár, took part in **a pilgramage to the Vatican and Rome to give thanks for the apostolic visit of Pope Francis to Slovakia**. The Slovak pilgrims, led by an official delegation, were received by Pope Francis on 30 April at a special papal audience in the Paul VI Audience Hall at the Vatican.

On 5 May **in Prague**, the Vice President of the Constitutional Court attended the first renewed **Congress of Czech Lawyers**, which is considered to be an important forum for the discussion of representatives of the legal professions in the Czech Republic. The theme of the event was *"Lawyers - not only professional but also social responsibility and institutional safeguards of their independence"*.

Upon an invitation of the President of the Slovak Republic Zuzana Čaputová, President Ivan Fiačan and Vice President Ľuboš Szigeti attended the award ceremony on the occasion of **the 29th an-**

*The President of the Constitutional Court Ivan Fiačan and Vice-President Ľuboš Szigeti met with the President of the Slovak Republic, Zuzana Čaputová*
*Source: TASR*

**niversary of the establishment of the Slovak Republic** at the Slovak Philharmonic on 8 May.

The Vice-President of the Constitutional Court accepted an invitation to **a constitutional law conference**, which took place on 21 May 2022 in **Sfântu Gheorghe, Romania**. As part of the programme, active judges and judges emeritus of constitutional courts from Slovakia, Hungary, Serbia and Romania, experts from the judiciary and representatives of local government addressed topics such as the vision of nationalities, models of democratic self-government, differences in the constitutional jurisprudence of neighbouring countries, etc. The Vice-President made a presentation on *"Legal regulation of the status of national minorities in the Constitution of the Slovak Republic and in the decisions of the Constitutional Court of the Slovak Republic"*.

On 25 May, President Ivan Fiačan attended **online a meeting of the Circle of Presidents on the organisation of the XIXth Congress of the Conference of European Constitutional Courts**.

On 30 May, the President and Vice-President of the Constitutional Court met with **the President of the Supreme Administrative Court of the Slovak Republic Pavol Naď and its Vice-President Marián Trenčan** at the Court's seat in Košice. Together they discussed the decision-making activities of both judicial institutions, mutual contacts, and cooperation, as well as the current situation in the Slovak judiciary.

On 10 June, the Constitutional Court Judge Jana Baricová, on behalf of President Ivan Fiačan, participated **in a ceremony marking the 20th anniversary of the establishment of the Judicial Council of the Slovak Republic at the Primate's Palace**.

On 15 June, the President of the Constitutional Court met **with the President of the Supreme Court of the Slovak Republic, Ján Šikuta, and the Vice-President of the Supreme Court of the Slovak Republic, Andrea Moravčíková**, at the Court's seat in Košice. The meeting was also attended by the Chair of the Criminal Law Division of the Supreme Court of the Slovak Republic, František Mozner, as well as the judges of the Constitutional Court of the Slovak Republic, Libor Duľa, Martin Vernarský and Robert Šorl. The discussion mainly concerned the decision-making activities of both judicial institutions.

On 15 June, President Ivan Fiačan and Judges Jana Baricová, Peter Molnár and Robert Šorl gave a speech at **the conference Košice Days of Private Law IV**, which was organised by the Faculty of Law of the University of Pavol Jozef Šafárik in Košice in cooperation with the civil association Košice Days of Private Law. The event was also attended by Judges Ladislav Duditš and Miroslav Duriš.

On 17 July, the Constitutional Court of the Slovak Republic was visited by participants of the **Ivan Krn Summer School of International Law**. Eighteen law students from the Slovak Republic and two lecturers in the hearing room of the Constitutional Court discussed with President Ivan Fiačan about the status and powers of the Constitutional Court, as well as the relationship between domestic law and international treaties, and concluded the visit with a guided tour of its premises.

On 16 August, the President of the Constitutional Court attended **the funeral of Cardinal Jozef Tomko in the St. Elizabeth Cathedral in Košice**. The funeral was attended by the highest constitutional officials and religious dignitaries, including President Zuzana Čaputová, Prime Minister Eduard Heger and the Speaker of the National Council of the Slovak Republic Boris Kollár.

On 1 September, President Ivan Fiačan attended a ceremonial meeting of **the National Council of the Slovak Republic on the occasion of the 30th anniversary of the Constitution of the Slovak Republic**. The ceremonial meeting was held in the Hall of

*The President of the Constitutional Court Ivan Fiačan took part in a thanksgiving pilgrimage at the Vatican*
*Source: National Council of the Slovak Republic*

*The Vice-President of the Constitutional Court Ľubiš Szigeti attended the first renewed Congress of Czech Lawyers*

*The Judge of the Constitutional Court, Miloš Maďar, attended the gala evening of the Slovak Bar Association*

*The Vice-President of the Constitutional Court Ľuboš Szigeti attended a constitutional law conference in Romania*

*From left:*
*Marián Trenčan, Vice-President of the Supreme Administrative Court of the Slovak Republic, Pavol Naď, President of the Supreme Administrative Court of Slovak Republic, Ivan Fiačan, President of the Constitutional Court of the Slovak Republic, Ľuboš Szigeti, Vice-President of the Constitutional Court of the Slovak Republic*

the Constitution, where exactly 30 years ago in the evening the members of the then Slovak National Council adopted the text of the Constitution. After the meeting, the Speaker of the National Council of the Slovak Republic, Boris Kollár, gave the six laureates the Jozef Miloslav Hurban State Prize.

On 12 and 13 September 2022, the President of the Constitutional Court participated **in the eighth international scientific conference "Bratislava Law Forum 2022"** organised by the Faculty of Law of Comenius University in Bratislava. The event was part of the celebrations of the 100th anniversary of the foundation of the Comenius University in Bratislava, Faculty of Law, and the central theme was *"The rule of law and the academy in the whirlwind of 100 years".*

On 15-16 September 2022, the Judges of the Constitutional Court Ladislav Duditš and Miloš Maďar participated in **an international conference dedicated to the 100th anniversary of the Constitution of the Republic of Latvia and the 25th anniversary of the Constitutional Court of the Republic of Latvia in Riga**. The programme addressed the *topic "Sustainability as a constitutional value: future challenges"*. Claire Bazy-Malaurie, President of the Venice Commission, attended the event.

**On 28 and 29 September 2022, the Constitutional Court of the Slovak Republic in cooperation with the Faculty of Law of the University of Pavol Jozef Šafárik in Košice organised an international scientific conference *"The Constitution of the Slovak Republic as a Normative Basis of a Democratic and Legal State (30th Anniversary of the Constitution of the Slovak Republic) - XI. constitutional days".*** During the two days, the participants of the conference presented contributions in 6 thematic blocks and discussed the birth, transformations and perspectives of the Constitution of the Slovak Republic, as well as the Constitution of the Slovak Republic in the legal-application practice. The event was attended by the Minister of Justice of the Slovak Republic, Viliam Karas, the President of the Supreme Court of the Slovak Republic, Ján Šikuta, the President of the Supreme Administrative Court of the Slovak Republic, Pavol Naď, the Judge of the European Court of Human Rights, Alena Poláčková, the Judge of the Court of Justice of the European Union, Miroslav Gavalec, as well as judges and judges emeritus of the Constitutional Court, experts in the field of legal disciplines and academics.

From 4 to 7 October, JUDr. Mária Siegfriedová, Director of the Department of Foreign Relations and Protocol, attended **the 5th Congress of the World Conference of Constitutional Justice in Indonesia**, co-organized by the Venice Commission. The theme was *"Constitutional Justice and Peace".* President Ivan Fiačan and Judge Jana Baricová were originally scheduled to attend the event, but their trip was cancelled shortly before departure due to illness.

On 4 October, the Constitutional Court was visited by **judges and prosecutors from European Union countries, who, as part of an exchange visit organised by the European Judicial Education Network**, learnt about the legal and judicial system of the Slovak Republic. At the seat of the Constitutional Court in Košice, the guests were accompanied by the Judge of the Constitutional Court, Ladislav Duditš. The working meeting was held in an informal spirit of discussion on the competences and decision-making activities of the Constitutional Court.

On 7 October 2022, **the Conference of the Presidents of the Constitutional Courts of the Member States of the European Union was held in Brussels**, at which President Ivan Fiačan was substituted by the Judge of the Constitutional Court, Ladislav Duditš. The participants discussed the role of constitutional courts in the protection of the rule of law in the European Union, and bilateral and multilateral relations between the constitutional courts of the Member States of the European Union. The conference was held under the patronage of the European Commissioner for Jus-


*The President of the Constitutional Court Ivan Fiačan participated in the international conference "2022 Bratislava Legal Forum"*

*The President of the Constitutional Court Ivan Fiačan was at the appointment of members of the Government of the Slovak Republic*

*The Judges of the Constitutional Court, Ladislav Duditš and Miloš Maďar, participated in an international conference dedicated to the 100th anniversary of the Constitution of the Republic of Latvia and the 25th anniversary of the Constitutional Court of the Republic of Latvia*

*International Scientific Conference "11th Constitutional Days"*

tice, Didier Reynders, with the participation of the President of the Court of Justice of the European Union, Koen Lenaerts, and the President of the European Court of Human Rights, Robert Spano.

On 11 October 2022, Vice-President Ľuboš Szigeti attended a working meeting **in Budapest on the occasion of the 800th anniversary of the Golden Bull of Andrew II**. As part of the programme, he met with the President of the Constitutional Court of the Republic of Hungary, Tamás Sulyok, and fellow judges of the Constitutional Courts of Hungary, the Czech Republic and Romania, and visited the Hungarian National Archives, where he also had the chance to look at historical constitutional documents.

On 25 October 2022, Judge Jana Baricová attended **an international conference in Vilnius dedicated to the 100th anniversary of the 1922 Constitution of Lithuania and the 30th anniversary of the 1992 Constitution of the Republic of Lithuania**. She represented not only the Constitutional Court but also the European Commission for Democracy through Law (Venice Commission). The main theme of the conference was **"From National Constitutions to Transnational Constitutionalism"** and within the framework of the conference, Judge Baricová presented a paper entitled **"The Transnational Dimension of National Constitutions"**. Also speaking at the conference were Koen Lenaerts, President of the Court of Justice of the European Union, Claire Bazy-Malaurie, President of the Venice Commission, Christoph Grabenwarter, President of the Austrian Constitutional Court, and Stephan Harbarth, President of the Federal Constitutional Court of Germany.

On 9 and 10 November, the Constitutional Court Liaison Officers, Tomáš Plško and Andrea Nagyová from the Foreign Relations and Protocol Department of the Constitutional Court, participated, **in the Budapest workshop on the launch of the European Constitutional Communication Network (ECCN)**. The aim of the project is to create a database of the most important decisions of the participating courts and to share case law on individual constitutional issues in English.

On 15 November, the President of the Constitutional Court received **the newly appointed Ambassador of the United States of America to Slovakia, Gautam Rana**, at the seat of the Constitutional Court in Košice. They discussed the status and competences of the Constitutional Court and its vision for the future in the field of international relations, the communication of the Constitutional Court's socially and media monitored decisions to the public, and the possibilities of future cooperation in organising judicial workshops.

On 21 November, upon an invitation of the President of the Constitutional Court of the Czech Republic, Pavel Rychetský, President Ivan Fiačan, together with the President of the Constitutional Court of the Republic of Austria, Christoph Grabenwarter, attended **a trilateral working meeting in Brno**. The Presidents of all of the three Constitutional Courts discussed their decision-making activities as well as current issues concerning the judiciary in Central Europe.

On 4 - 6 December 2022, President Ivan Fiačan attended the celebrations of **the 70th anniversary of the Court of Justice of the European Union in Luxembourg**, which included a forum of judges on the theme *"Justice within the reach of the citizen"*. Speakers included Koen Lenaerts, President of the Court of Justice of the European Union, Stephan Habarth, President of the Federal Constitutional Court of Germany, Věra Jourová, Vice-President of the European Commission, and Pavel Blažek, Minister of Justice of the Czech Republic. The event included a presentation of a film surveying 70 years of the Court of Justice of the European Union. Crown Prince Guillaume of Luxembourg was the most important guest of the event.

*The Constitutional Court was visited by judges and prosecutors from European Union countries as part of the exchange programme "European Judicial Education Network".*

*Ladislav Duditš, Judge of the Constitutional Court, attended a conference with the Constitutional Courts of the Member States of the European Union, organised by the European Commissioner for Justice, Didier Reynders*

*The Constitutional Court Judge, Jana Baricová, attended an international conference to celebrate the 100th anniversary of the 1922 Constitution of Lithuania and the 30th anniversary of the 1992 Constitution of the Republic of Lithuania*

*The President of the Constitutional Court received the Ambassador of the United States of America to Slovakia, Gautam A. Rana*

*The President of the Constitutional Court, Ivan Fiačan, participated in a trilateral working meeting with the President of the Constitutional Court of the Czech Republic, Pavel Rychetský, and the President of the Constitutional Court of the Republic of Austria, Christoph Grabenwarter*

*The Vice-President of the Constitutional Court Ľuboš Szigeti attends a conference at the National University of Public Service in Budapest.*


*The President of the Constitutional Court attended the Forum of Judges for the Presidents of the Supreme Judicial Authorities of the Member States of the European Union on the occasion of the 70th anniversary of the Court of Justice of the European Union*

## ACTIVITIES OF THE CONSTITUTIONAL COURT

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| 24 January | online | The President of the Constitutional Court met Didier Reynders, Commissioner for Justice of the European Commission. |
| 20 - 22 February | Paris | The President of the Constitutional Court attended the Conference of the Presidents of the Supreme Courts of the Member States of the European Union. |
| 25 April | Košice | The President of the Constitutional Court received the French Ambassador to Slovakia, Pascal Le Deunff. |
| 28 April | Košice | The President and Vice-President of the Constitutional Court met with the President of the Slovak Republic, Zuzana Čaputová. |
| 29 April - 1 May | Vatican City | The President of the Constitutional Court took part in a thanksgiving pilgrimage at the Vatican. |
| 5 May | Prague | The Vice-President of the Constitutional Court attended the first renewed Congress of Czech Lawyers. |
| 8 May | Bratislava | The President and Vice-President of the Constitutional Court attended the ceremony of awarding state honours at the Slovak Philharmonic in Bratislava. |
| 13 May | Trnava | The Judge of the Constitutional Court, Miloš Maďar, attended the gala evening of the Slovak Bar Association. |
| 20 May | Sfântu Gheorghe | The Vice-President of the Constitutional Court attended a constitutional law conference in Romania. |
| 24 May | Košice | The President and Vice-President of the Constitutional Court met with the President of the Slovak Republic Rudolf Schuster. |
| 25 May | online | The President of the Constitutional Court participated in an online meeting of the Circle of Presidents of the Conference of European Constitutional Courts. |
| 30 May | Košice | The President and Vice-President of the Constitutional Court received the President of the Supreme Administrative Court of the Slovak Republic, Pavel Naď, and the Vice-President, Marián Trenčan. |
| 17 - 18 June | Venice | The 131st Plenary Session of the Venice Commission was attended by the Judges of the Constitutional Court, Jana Baricová and Peter Molnár. |
| 17 July | Košice | The Constitutional Court was visited by participants of the Summer School of International Law. |
| 16 August | Košice | The President of the Constitutional Court attended the funeral of Cardinal Jozef Tomko. |
| 1 September | Bratislava | The President of the Constitutional Court attended a ceremonial meeting of the National Council of the Slovak Republic on the occasion of the 30th anniversary of the adoption of the Constitution of the Slovak Republic. |

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| 12 September | Bratislava | The President of the Constitutional Court participated in the international scientific conference "2022 Bratislava Law Forum". |
| 13 September | Bratislava | The President of the Constitutional Court was at the appointment of members of the Government of the Slovak Republic. |
| 15 - 16 September | Riga | The Judges of the Constitutional Court, Ladislav Duditš and Miloš Maďar, participated in an international conference dedicated to the 100th anniversary of the Constitution of the Republic of Latvia and the 25th anniversary of the Constitutional Court of the Republic of Latvia. |
| 28 September | Košice | International Scientific Conference "The Constitution of the Slovak Republic as a Normative Basis of a Democratic and Legal State (30th Anniversary of the Constitution of the Slovak Republic) - XI Constitutional Days". |
| 4 October | Košice | The Constitutional Court was visited by judges and prosecutors from European Union countries as part of the exchange programme "European Judicial Education Network". |
| 4 - 7 October | Bali | Mária Siegfriedová, Director of the Department of Foreign Relations and Protocol, represented the Constitutional Court at the 5th Congress of the World Conference of Constitutional Justice. |
| 7 October | Brussels | Ladislav Duditš, Judge of the Constitutional Court, attended a conference with the Constitutional Courts of the Member States of the European Union, organised by the European Commissioner for Justice, Didier Reynders. |
| 11 October | Budapest | The Vice-President of the Constitutional Court had a working meeting in Budapest on the occasion of the 800th anniversary of the Golden Bull of Andrew II. |
| 20 - 22 October | Venice | The 132nd Plenary Session of the Venice Commission was attended by the Judges of the Constitutional Court, Jana Baricová and Peter Molnár. |
| 25 October | Vilnius | The Constitutional Court Judge, Jana Baricová, attended an international conference to celebrate the 100th anniversary of the 1922 Constitution of Lithuania and the 30th anniversary of the 1992 Constitution of the Republic of Lithuania. |
| 9 - 10 November | Budapest | The employees of the Office of the Constitutional Court of the Slovak Republic, Tomáš Plško and Andrea Nagyová, participated in a workshop on the launch of the European Constitutional Communication Network (ECCN). |
| 15 November | Košice | The President of the Constitutional Court received the Ambassador of the United States of America to Slovakia, Gautam A. Rana. |
| 21 November | Brno | The President of the Constitutional Court, Ivan Fiačan, participated in a trilateral working meeting with the President of the Constitutional Court of the Czech Republic, Pavel Rychetský, and the President of the Constitutional Court of the Republic of Austria, Christoph Grabenwarter. |
| 25 November | Budapest | The Vice-President of the Constitutional Court attends a conference at the National University of Public Service in Budapest. |
| 4 - 6 December | Luxembourg | The President of the Constitutional Court attended the Forum of Judges for the Presidents of the Supreme Judicial Authorities of the Member States of the European Union on the occasion of the 70th anniversary of the Court of Justice of the European Union. |

# PROVIDING INFORMATION AND RELATIONSHIP WITH THE MEDIA

The communication of the Constitutional Court of the Slovak Republic in relation to the general public and the media has its own specific features, which result from the special position of the Constitutional Court in the system of the judiciary. The Constitutional Court, as a defender of constitutionality and protector of human rights and freedoms, expresses itself mainly through its decisions.

## PROVIDING INFORMATION

The addressees of the information provided by the Constitutional Court and the Chancellery of the Constitutional Court of the Slovak Republic (hereinafter also referred to as the "Chancellery of the Constitutional Court") are the general and professional public, citizens of the Slovak Republic, as well as foreign nationals. All basic and up-to-date information on the activities of the Constitutional Court and its Chancellery (decisions, press releases, announcements, etc.) is available on the website of the Constitutional Court.

The Constitutional Court of the Slovak Republic is addressed with applications and complaints by authorized subjects, legal entities, and individuals seeking protection of their rights and freedoms. **Among the most followed are in particular the decisions of the Constitutional Court and their reasoning**, which are significant not only for the parties to the proceedings and their legal representatives, but also for further decisions of the general courts, and many of them provide additional considerations of the Constitution and important guidelines for legislators. In accordance with Section 70(2) of the Constitutional Court Act, the Constitutional Court published all of its final 2022 decisions within 15 days of their entry into force on the website of the Constitutional Court in the section "Motions and Decisions Retrieval Section".

Selected plenary and chamber decisions of the Constitutional Court, attractive especially for the professional public, are published annually and regularly in the Collection of Rulings and Resolutions of the Constitutional Court of the Slovak Republic. The publication of this professional overview for the year 2022 is scheduled for the first half of the year 2023.

Another source of information for the general public is press releases. They inform those interested in the decision-making activity about the current decisions of the Constitutional Court immediately after the session of the plenary of the Constitutional Court, or about the decisions adopted in the chambers of the Constitutional Court, as a rule, within 5 working days. In 2022, **21 so-called plenary press releases were published on the website of the Constitutional Court in the "Current information" section, of which 7 were extended press releases:** 1. on the decision on the so-called aid package of 13 December 2022; 2. on the decision on the subject of the referendum of 26 October 2022; 3. on the decision on the unification of decision-making practice in favour of the protection of consumer rights of 19 September 2022; 4. on the decision on the restriction of the competence of the Constitutional Court to decide on the compliance of Constitutional Acts with the Constitution of 25 May 2022; 5.on the decision on the removal of undeserved benefits from the representatives of the communist regime of 2 March 2022; 6. on the decision on the contested provision of the Act No. 355/2007 Z.z. /Coll./ on the protection, promotion and development of public health and on the amendment to the relevant Acts, as amended, concerning the implementing measure (decree) of the Office of Public Health of the Slovak Republic (hereinafter referred to as 'OPH SR') in relation to the COVID-19 disease of 16 February 2022; 7. on the decision in the case concerning the amendment of the Social Insurance Act and the Health Insurance Act of 2 February 2022. A press release on an interesting plenary decision concerning the unification of the Constitutional Court's decision-making practice in favour of the protection of consumers' rights (case ref. PLz. ÚS 1/2022) was also

published.

The so-called chamber press releases are also frequently followed. **In 2022, 173 chamber press releases were published on the "Media" section of the Constitutional Court's website.** Of these, 10 press releases concerned interesting chamber decisions, which the Constitutional Court began publishing in July 2022. The press releases in question - interesting chamber decisions - concerned 1. the inspection of correspondence during and after the duration of the collusion custody (IV. ÚS 219/2022); 2. the Constitutional Court's ruling on the conditions for ordering an urgent measure (III. ÚS 458/2022); 3. the violation of the rights of the complainant, who was illegally detained for 63 days and has been seeking compensation for non-pecuniary damage for 5 years (III. ÚS 486/2022); 4. the filing of an extraordinary appeal or a constitutional complaint against the judgment of an appellate court (III. ÚS 505/2022); 5. extraordinary appeals against decisions issued in proceedings for enforcement of a decision in matters concerning minors, which terminate the proceedings for enforcement of a decision, which are admissible under Section 420 of the Code of Procedure for Contested Civil Cases, as well as under Section 421 of the Code of Procedure for Contested Civil Cases (IV. ÚS 540/2022); 6. the absence of the signature of the other company director on the procedural act [remonstrance against the order for payment (II. ÚS 350/2021)]; 7. the decision on organisational change, which is not a decision on the business management of the company (IV. ÚS 512/2020); 8. the ruling of the Constitutional Court on the admissibility of an extraordinary appeal in civil litigation proceedings (III. ÚS 405/2021); 9. the decision of the Constitutional Court in favour of the complainant, as the judicial review of a decision, which must be issued by an administrative authority within the statutory time limit of several days, takes more than 5 years (II. ÚS 518/2021); 10. the Constitutional Court's decisions in favour of the complainant, who had challenged the violation of the right to protection against unjustified interference with private and family life and had been isolated from his children for 13 years (I. ÚS 414/2021). The press releases labelled interesting chamber decisions serve solely to inform about the decision-making activity of the Constitutional Court and do not replace the decisions of the Constitutional Court. The full text of the decisions, including the reasoning, can be found on the website of the Constitutional Court in the section "Motions and Decisions Retrieval Section – Decision Retrieval" by entering the file number in the relevant field.

**Of the press releases, which are monitored, at regular intervals, for selected statistical indicators related to the Constitutional Court's decision-making activity**, such as the number of motions and complaints, the number of pending and settled cases, or the amount of appropriate financial compensation awarded to complainants by the Constitutional Court in constitutional complaints, **13 were published in 2022** in the "Media" section.

In accordance with the programme of the President and the Judges of the Constitutional Court, press releases were prepared and published to monitor the activities of the President, the and individual Judges of the Constitutional Court outside the decision-making activities. These included, in particular, important events, official visits, working meetings and participation in various ceremonial and professional events at home and abroad. **In 2022, 36 press releases were issued on the above-mentioned protocol events.**

**It follows from the aforementioned that in 2022, 243 press releases were published on the website of the Constitutional Court, i.e., by 21 press releases more than in 2021.**

In addition to the applications and complaints, the public also addresses the Constitutional Court with requests for information within the scope defined by the Act No. 211/2000 Z.z. /Coll./ on the free access to information and on the amendment to the relevant Acts (the Freedom of Information Act), as amended. In 2022, the relevant organisational units of the Chancellery of the Constitutional Court dealt with 226 such requests, several of which, due to their complexity, required in-depth expertise in specific areas of law, rigorous expert analysis, cooperation between several organisational units of the Chancellery and a larger time span for processing.

In addition to the above-mentioned requests under the Freedom of Information Act, 1,023 other requests were handled, which were neither requests under the above-mentioned Act nor complaints under Act No. 9/2010 Z.z. /Coll./ on the complaints, as amended (in 2022, 6 complaints were handled under this Act). These requests include informing the parties to the proceedings, the persons involved and their legal representatives, communication with the courts, law enforcement authorities, the offices of the Legal Aid Centre, administrative authorities, etc., and various other requests.

In accordance with Section 5 of the Freedom of Information Law, at the website of the Constitutional Court (www.ustavnysud.sk) in the section "Motions and Decisons Retrieval – Retrieval of Obligatorily Released Motions" published received motions to initiate proceedings pursuant to Articles 125 to 126 and 127a to 129 of the Constitution of the Slovak Republic.

## RELATIONSHIP WITH THE MEDIA

When communicating with the Constitutional Court, media representatives show the greatest interest in its decision-making activities. The Constitutional Court informs the public, including the media, about decisions adopted at the sessions of the Plenum of the Constitutional Court immediately after their adoption in the form of press releases published on its website. As mentioned above, a number

of these have been developed into extended press releases in order to make the decisions of the Constitutional Court more accessible to the general public. From July 2022, the Constitutional Court will inform the public, including the media, of interesting chamber decisions in the form of separate press releases published on the main page of its website. The press releases in question (plenary and interesting chamber decisions) are published on a regular basis (as a rule, after the chambers meet on the following Monday) on the Constitutional Court's website under the 'Media' section and the media are informed about them. Details of the number of press releases published are given in the text 'Providing information'.

In 2022, the Constitutional Court of the Slovak Republic informed the media about its decisions in proceedings on the compliance of legislation relating to the Social Insurance Act and the Health Insurance Act; the Act on the Protection, Promotion and Development of Public Health; the Higher Education Act; the Act on the Judicial Council of the Slovak Republic and the Courts Act; the Act on the National Highway Company; the Constitutional Act amending the Constitution of the Slovak Republic; the Code of Administrative Procedure; and the Act on Public Water Supply and Sewerage Systems. Following a change in legislation, the Constitutional Court discontinued proceedings before the Constitutional Court on the compliance of legislation concerning the Food Act; Decree No. 258/2021 V.V. of the Public Health Authority of the Slovak Republic ordering measures when public health is endangered to restrict mass events, and Decree No. 259/2021 V.V. of the Public Health Authority of the Slovak Republic, whereby measures are ordered when public health is endangered to restrict public operations; Decree No. 231/2021 V.V. of the Public Health Authority of the Slovak Republic, whereby measures are ordered when public health is endangered to impose quarantine obligations upon persons after entering the territory of the Slovak Republic, and Decree No. 226/2021 V.V. of the Public Health Authority of the Slovak Republic, whereby measures are ordred when public health is endangered to impose quarantine obligations upon persons after entring the territory of the Slovak Republic. The Constitutional Court of the Slovak Republic also decided on the motions to suspend the effectiveness of the Act on the removal of undeserved benefits from the representatives of the communist regime; part of the Act on public water supply and public sewage systems; part of the Act on civil service; the Constitutional Act No. 422/2020 Z.z. /Coll./, amending the Constitution of the Slovak Republic No. 460/1992 Zb. /Coll./, as amended, and the Act No. 423/2020Z.z. /Coll./ on the amendment to the relevant Acts in relation to the reform of the judiciary and the Act on certain measures in the field of environmental burdens.

**Among the most media and socially followed decisions of the plenary of the Constitutional Court of the Slovak Republic was the decision** on the application of the President of the Slovak Republic to initiate proceedings **on the compliance of the subject-matter of the referendum**, in which the Constitutional Court declared one referendum question incompatible with the Constitution of the Slovak Republic, and also **the decision on the law on the financing of children's leisure time, the so-called "pro-family aid package"**, where all the challenged provisions were declared unconstitutional due to the unconstitutionality of the legislative process preceding their adoption. **The Constitutional Court of the Slovak Republic informed about the decisions in question through a press briefing (26 October 2022) and a public announcement of the decision in the presence of press representatives (13 December 2022).**

In 2022, the Constitutional Court of the Slovak Republic started streaming via its Facebook account. For the first time, the aforementioned press briefing regarding the Constitutional Court's decision on the referendum (26 October 2022), the opening part of the public session of the Plenum of the Constitutional Court on the so-called "aid package" (9 November 2022), as well as the public announcement of the merits of the decision in the case (13 December 2022) were streamed. The streaming was well received, especially by journalists. The Constitutional Court intends to use this communication tool to inform the public, including the media, about its decisions in the future.

In addition to the decisions of the Constitutional Court adopted at the sessions of the Plenum and the Chambers of the Constitutional Court, the media are also very interested in statistical summaries of the Constitutional Court's decision-making activity. In accordance with previous practice, in 2022, there were published statistical summaries of the number of cases brought before the Constitutional Court, the number of cases heard and the number of cases pending before the Constitutional Court's Plenum and Chambers, as well as summaries of decisions in which the Constitutional Court found that the rights of complainants had been violated and awarded financial compensation. Press releases monitoring international, protocol and other activities of the Constitutional Court's President and Judges were also sent to the media and published regularly on the Constitutional Court's website.

The Constitutional Court of the Slovak Republic and its decision-making activities were mentioned in the media a total of 2,937 times, including 2,583 times on web portals, 156 times in daily newspapers, 92 times on TV (most frequently on TA3, RTVS Jednotka and TV Markíza), 28 times on radio (most frequently on Rádio Slovensko) and 78 times in magazines. The President of the Constitutional Court of the Slovak Republic, Ivan Fiačan, was mentioned a total of 412 times, including 278 times on web portals, 51 times in daily newspapers, 54 times on TV (mainly in TA3, TV Markíza and RTVS Jednotka), 19 times in radio (Rádio Slovensko: 11 times), and 10 times in magazines. The Judges of the Consti-

tutional Court (including the President of the Constitutional Court) were mentioned by name in the media 711 times in total (of which on web portals 506 times, in newspapers 98 times and on TV 65 times).

The relations between the Constitutional Court and the public and the media are regulated in the Rules of Procedure and Administration of the Constitutional Court of the Slovak Republic. Pursuant to Section 8 subs. 1 of these Rules, relations with the public and media are covered mainly:
a) by providing information in accordance with the Act No. 211/2000 Z.z. /Coll./, on the free access to information and on the amendment to the relevant Acts (the Freedom of Information Act), as amended, and the Act No. 167/2008 Z.z. /Coll./ on the periodicals and agency news and on the amendment to the relevant Acts (The Press Act), as amended;
b) by publishing information on the website of the Constitutional Court;
c) by enabling participation of the public and the media in oral proceedings if they are open to the public. A special organizational division of the Chancellery of the Constitutional Court, the Press and Information Department, is in charge of public relations.

The spokesperson of the Constitutional Court provides general communication with the media, otherwise it is done by the President of the Constitutional Court, the President of the relevant chamber or an authorized judge, usually the Judge-Rapporteur (Section 8 subs. 2 of the Rules of Procedure and Administration of the Constitutional Court). The spokesperson of the Constitutional Court of the Slovak Republic communicates with the media promptly (by phone and e-mail) and sends answers to their questions promptly (usually within 6 hours, or within 24 hours at the latest, or within the agreed deadline). The media are informed well in advance about the activities of the Constitutional Court that are open to the public (e.g. public hearings, public statements of decisions, etc.), and about their streaming, and during 2022 they were sent all press releases from the meetings of the Plenum of the Constitutional Court, as well as other press releases published on the main page of the website of the Constitutional Court in the 'Current information' section.

## 2022 OPEN DAY OF THE CONSTITUTIONAL COURT OF THE SLOVAK REPUBLIC

The 2022 Open Day of the Constitutional Court of the Slovak Republic was held in a virtual form. It focused on competitions for pupils and students aiming to make topics related to the judiciary, the application and enforcement of law and justice, and the protection of human rights and freedoms, which are increasingly resonating in social and professional debates in various forums, more attractive.

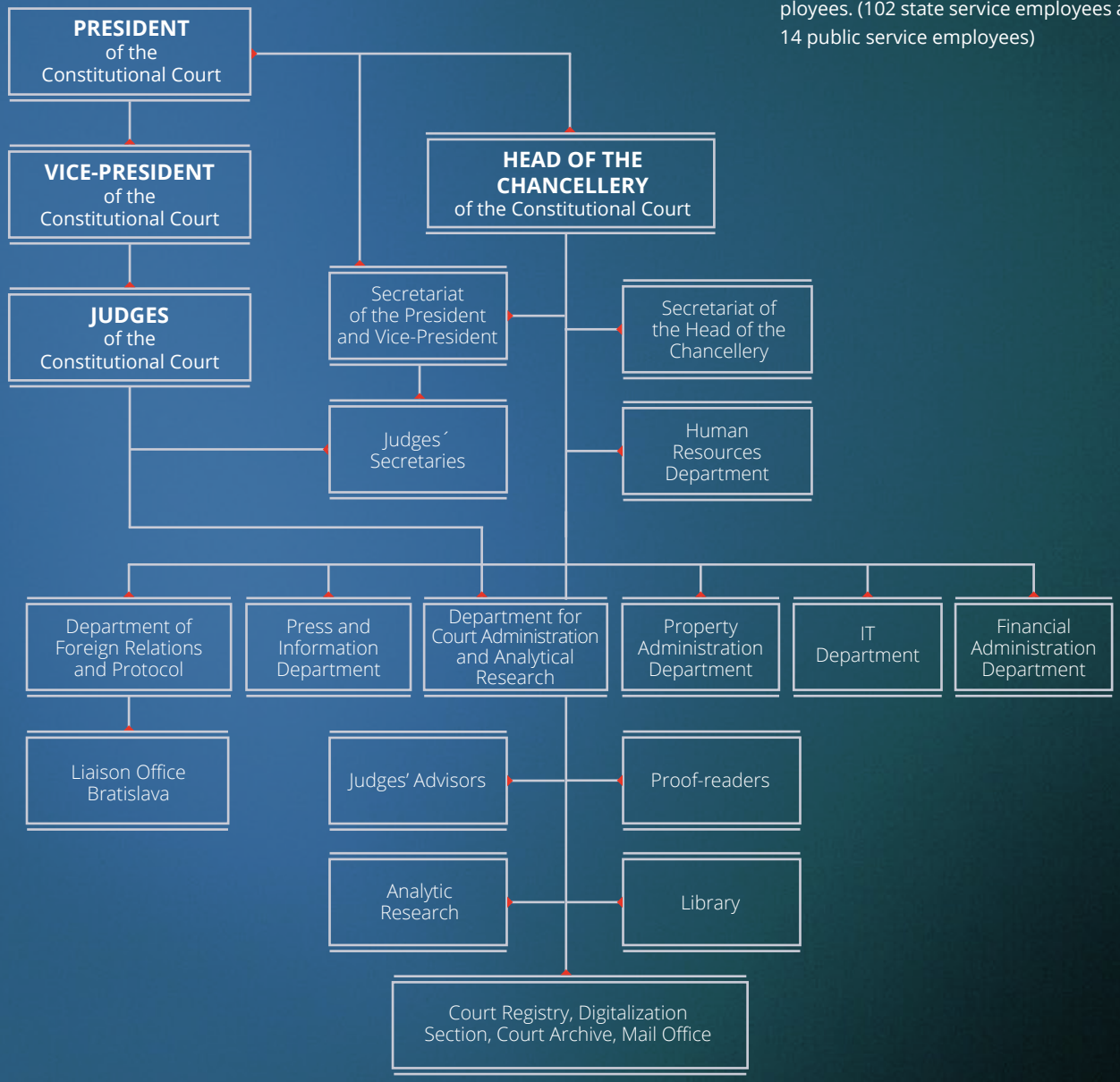
Compared to last year, a new component of this event was **a literary competition for university and college students entitled** "The Constitution - the fundamental law of the state", which commemorated the 30th anniversary of the adoption of the Constitution of the Slovak Republic. Young people from all over Slovakia showed interest, demonstrated knowledge, critical thinking and expressed their own opinions on the topic "Constitution - the fundamental law of the state". In their works, they applied a historical view of the creation of the text of the Constitution of the Slovak Republic and also a professional and sometimes even smiling view of its amendments in an inspiring way. The winners of the competition were invited to the Constitutional Court together with their teachers, met with the President of the Constitutional Court, Ivan Fiačan, and discussed interesting and socially high-profiled decisions of the Constitutional Court.

Traditionally, the virtual Open Day also included the organisation and evaluation of a literary competition and an art competition for primary and secondary school students. Literary works on the theme "**Law and justice - preconditions for a functioning society**" and art works on the topic "**Dream about justice**" presented the perception and opinions of young people on the topics in question and offered their own interpretation with a large dose of creativity.

Information about the Open Day was presented on the website and Facebook page of the Constitutional Court. Information about the competitions promoted on the Facebook account of the Constitutional Court was viewed by an average of more than 20,000 people in 2022. **More than 200 contestants from all over of the country participated in the competitions announced in 2022.** This shows the interest of young people in expressing their views on current social issues and public affairs, and it speaks volumes about the perseverance of teachers who make young people aware of the possibilities of using their creative potential and inspire them. After three years (2020-2022), when the Open Day of the Constitutional Court of the Slovak Republic was organised in a virtual form, the Constitutional Court plans to open its doors to the public in 2023 in an in-person form.

# THE ORGANIZATIONAL STRUCTURE OF THE CHANCELLERY OF THE CONSTITUTIONAL COURT OF THE SLOVAK REPUBLIC

The organization structure of the Chancellery of the Constitutional Court of the Slovak Republic is approved for 116 employees. (102 state service employees and 14 public service employees)




*The approved limit on the number of employees of the Chancellery of the Constitutional Court for the year 2022 is 129 persons (13 judges of the Constitutional Court, 14 public service employees and 102 civil servants) was not exceeded.*

## EDUCATION AND TRAINING

In 2022 the Chancellery of the Constitutional Court enabled its civil servants to participate in various types of competence-based training, with a total of approximately 80 training activities. Civil servants participated in training activities organized by civil servants training-course providers. The training focused mainly on employment law, mentoring, management and communication skills, GDPR, whistleblowing, computerisation of the civil service and cybersecurity.

The civil servants also took part in trainings organised by **the Judicial Academy of the Slovak Republic**, e.g., the European Arrest Warrant, courts as actors in the culture war, court argumentation, substantive and procedural law in the context of inheritance, selected problems of easements, as well as stage fright, work life balance and others.

At the same time, the third online educational event was organised in cooperation **with the Civic Association *Citizen, Democracy and Responsibility*** focused on anti-discrimination litigation in proceedings before the courts of the Slovak Republic with a focus on the application of Act No. 365/2004 Z.z. /Coll./ on the equal treatment in certain fields and on the protection against discrimination and on the amendment to the relevant Acts (the Anti-Discrimination Act), as amended, with a special emphasis on proceedings before the courts of the Slovak Republic.

## INTERNSHIP

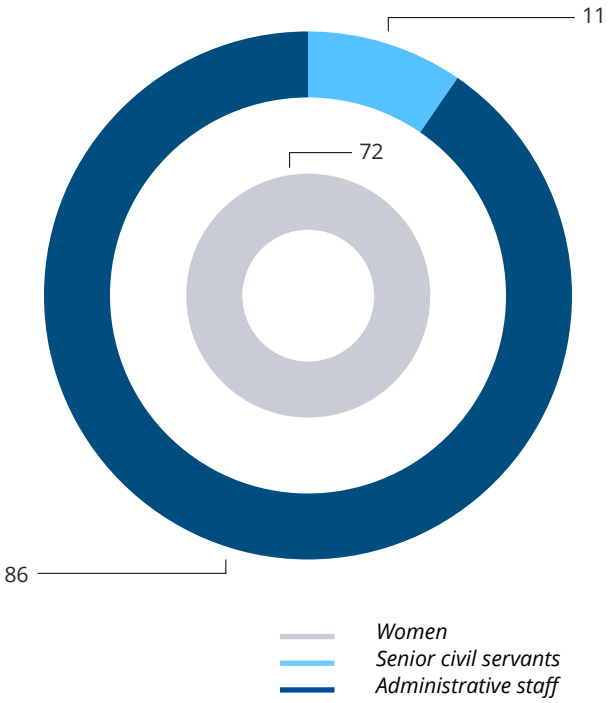
The internship is a course of study that forms part of the full-time study programme of the Faculty of Law as an optional course provided by the department for legal practice. The selection of students is made by the Faculty of Law on the basis of a motivation letter, a personal interview, taking into account the applicant's academic merits.

The aim of the Internship is to link the theoretical knowledge acquired through studies with practice and practical preparation of students for the future legal profession. The internship is intended to enable students to gain practical experience and knowledge of everyday legal work and to prove the theoretical knowledge in practice.

The Chancellery of the Constitutional Court of the Slovak Republic has entered into a contract on the provision of internships with the Faculty of Law of the Pavol Jozef Šafárik University in Košice and the Faculty of Law of the Comenius University in Bratislava. These interns are professionally supervised by judicial advisors, JUDr. Ján Štiavnický, PhD., and Mgr. Tomáš Majerník, who coordinate the activities of the interns and supervise the performance of the tasks entrusted to them.

## DATA ON CIVIL SERVANTS AS AT 31 DECEMBER 2022

**CURRENT NUMBER OF CIVIL SERVANTS** **97**



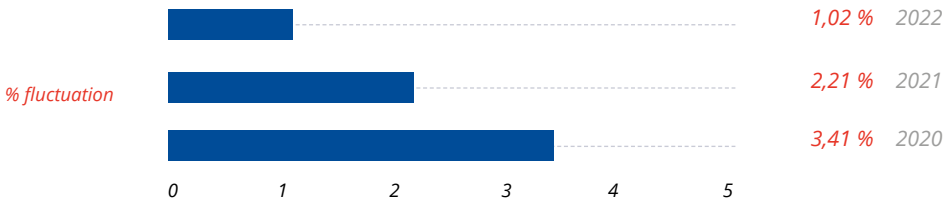

**NUMBER OF VACANT CIVIL SERVANTS POSITIONS** **4**

**NUMBER OF NEWLY EMPLOYED CIVIL SERVANTS HAVING JUST ENTERED CIVIL SERVICE** **4**

**NUMBER OF POSITIONS OCCUPIED BY GRADUATES SUCCESSFUL IN THE SELECTION PROCEDURES** **0**

## FLUCTUATION IN THE GIVEN YEAR IN %

*(number of terminated civil service positions/average number of civil servants in the given year x 100)*

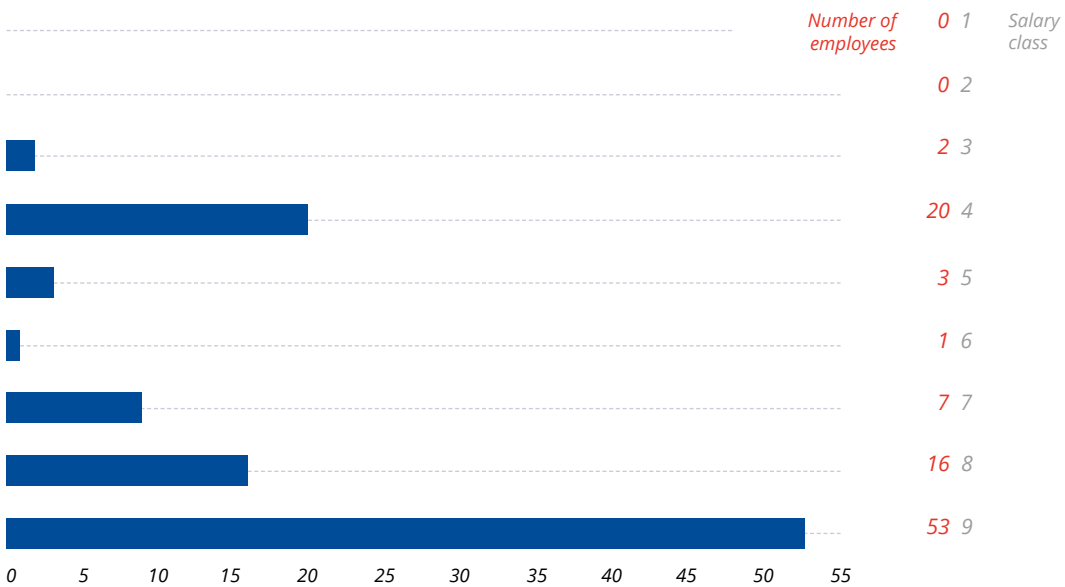



## WAYS OF TERMINATING CIVIL SERVICE EMPLOYMENT IN 2022

**TOTAL NUMBER OF CIVIL SERVICE POSITIONS TERMINATED** **1**

**BY AGREEMENT** **1**

## NUMBER OF CIVIL SERVNTS IN INDIVIDUAL SALARY CLASSES AS AT 31 DECEMBER 2022




**TOTAL OF 102 EMPLOYEES**

# HOME OFFICE IN THE CONDITIONS OF THE CHANCELLERY OF THE CONSTITUTIONAL COURT OF THE SLOVAK REPUBLIC

"Home office" was not a common practice in the Constitutional Court office until the outbreak of the coronavirus pandemic. In accordance with the company collective agreement, the Chancellery of the Constitutional Court allowed its employees to work from home only for a necessary period of time in the event of exceptional circumstances (in particular serious health or social reasons) on the side of the employee, which the employee had to duly justify in his or her homeoffice request.

The introduction of a "new benefit" by service offices employing mainly civil servants, which would allow for occasional "home office", was considered rather unrealistic in the run-up to the coronavirus pandemic, mainly due to the lack of legislative regulation of such a benefit for civil servant employees, but also due to the insufficiency of technical solutions and material tools for its effective implementation. In addition, at that time, the so-called "home office", which was used more in the private sphere (especially in IT companies), was generally regarded as something of a "day off" and employers preferred to avoid it for fear of reducing the efficiency of their employees' work.

Following the outbreak of the coronavirus pandemic, the Central Crisis Staff of the Slovak Republic adopted extraordinary restrictive measures resulting from the declaration of a state of emergency effective from 16 March 2020 (hereinafter referred to as the "emergency situation"), to which the Court's management had to react promptly. It was necessary to ensure a health-safe working environment or to significantly reduce the number of employees of the Chancellery of the Constitutional Court in the employer's premises, their gathering in a confined space, which would also reduce the risk of possible infection of the employees of the Chancellery of the Constitutional Court. The Court's management has therefore begun to consider another form of efficient performance of civil servants other than working in the premises of the employer.

On the basis of the aforesaid, Court's management proceeded to a first "hint" of home office by adopting an instruction for the employess of the Chancellery of the Constitutional Court, which, in the light of the declaration of an emergency situation, divided the employees into groups, based on the nature of their work:

a) allowing them to work at least in a limited mode from their home, while these employees were allowed to carry out so-called "limited work", which meant that they went to the premises of the Chancellery of the Constitutional Court only when necessary (to work with the information system, to print documents, etc...);

b) does not allow them to work even in a limited mode from their home, and failure to do so would jeopardise the decision-making activity of the Constitutional Court of the Slovak Republic or the operational running of the Chancellery of the Constitutional Court. These employees have been provided with conditions for the undisturbed and safe performance of their work in the employer's premises.

This measure, and many other partial measures taken at the time of the pandemic at the level of the Court's management, were primarily intended to protect employees from exposure to the infection, but in hindsight it can be said that they were a solid basis for the finding that working from home (even in the public sphere) is not impossible and, even with a well-configured system, is not less efficient or threatening to employee's work ethics.

The gradual creation of conditions for the home office was mainly due to the increasing number of recommendations and regulations from the state to the employers to allow their employees to work from home as often as possible, if the nature of their employees' work allows them to do so.

A crucial breakthrough in this respect was the adoption of an amendment to the Labour Code (the Act No. 66/2020 Z.z. (Coll.)), which entered into force on 4 April 2020. This amendment, among other things, added Section 250b(2) to the Labour Code, with the following wording:

(2) While a measure to prevent the emergence and spread of transmissible diseases or a public health emergency measure ordered by a competent authority under a special regulation is in force

a) the employer shall be entitled to order the work from the employee's home, if the type of work allows it,
b) the employee shall have the right to work from his/her home if the type of work allows it and there are no serious operational reasons by the employer which do not allow the home office.

After the adoption of this amendment, under which an employer could not only order an employee to perform work from home, but on the other hand the employee also had the right to perform such work, provided certain conditions were met, doubts began to prevail among the service authorities as to whether the employee's right under Section 250b(2)(b) of the Labour Code also applied to civil servants. These doubts arose in particular from the absence of an explicit link between Section 171 of the Civil Service Act and Section 250b of the Labour Code, which caused considerable problems in the application practice. Following several suggestions from the civil servants, the Civil Service Council also took up this issue and in October 2020 submitted an opinion on the draft law amending the Labour Code in the framework of the inter-ministerial comment procedure. Also on the basis of this initiative, the legislative shortcoming in question was later removed and Section 250b of the Labour Code could be extended to apply to civil servants, provided that the conditions laid down by the law were met.

The practice of home office during the period of severe restrictions due to the coronavirus pandemic was gradually developed in the Chancellery of the Constitutional Court until a workable internal regulation governing the conditions of its practice was established, which has worked very well in the long term, also thanks to the discipline and compliance with the rules by the staff of the Chancellery of the Constitutional Court. Over time, there has even been an increase in the productivity of work carried out from home, which would have been considered unrealistic in the past.

Following the gradual easing of restrictions due to the favourable pandemic situation, also as a result of the smooth performance of home office during the coronavirus pandemic, the Chancellery of the Constitutional Court has decided to adopt a directive on home office of the employees of the Chancellery of the Constitutional Court, on the basis of which (in accordance with Article 52(2) of the Labour Code) the employees of the Chancellery of the Constitutional Court, whose nature of their work permits it, may perform occasional home office two days per week, with the prior consent of their supervisor.

The possibility to work from the employee's home is a form of benefit from the Chancellery of the Constitutional Court towards its employees. The employees welcome this possibility because they consider it, among other things, a time-saver when travelling and a possibility to schedule their work individually during the day. From the point of view of the Chancellery of the Constitutional Court, it has also proved its worth, not only in terms of increased efficiency and quality of the employees' work, but also in an overall more positive and relaxed atmosphere in the workplace.

The Court's management would also like to thank all the employees of the Chancellery of the Constitutional Court who, during the period of restrictions caused by the coronavirus pandemic, were extremely patient, complied with all the rules and restrictions adopted and, as this was also a period of increased need for work, carried it out in a responsible, professional and extremely professional manner, despite the often difficult working conditions.

# LET US INTRODUCE OURSELVES

## AUDITORS

The Chancellery of the Constitutional Court of the Slovak Republic is a state budget organisation, which in terms of budgetary rules has the status of an administrator of a chapter of the state budget. In view of this fact, the Chancellery was obliged to ensure the implementation of the internal audit by at least two of its employees.

The Head of the Chancellery appointed as internal auditors employees who fulfilled the legal conditions, in particular that they had proved their integrity, had obtained a second-level university degree, had acquired professional competence by passing a qualification examination, and had at least two years of professional experience in the field of administrative financial control, on-the-spot financial control, internal audit, government audit and audit carried out under specific regulations.

The internal auditors of the Chancellery shall report directly to the Head of the Chancellery and shall be functionally and organisationally separate and independent from other organisational units of the Chancellery and from the performance of financial control and government audit. The internal auditors shall carry out the tasks and objectives of the Chancellery in accordance with the Act No. 357/2015 Z.z. (Coll.) on the financial control and audit and on the amendment to the relevant Acts, as amended (hereinafter referred to as "Act No. 357/2015 Z.z. (Coll.)"), the Staff Regulations governing the Statute on Internal Audit and the Procedures for the Performance of Internal Audit.

Internal auditors provide independent, objective and professional assurance to the Head of the Chancellery on the economic, efficient, effective performance of the Chancellery's tasks and thus provide added value to the Head of the Chancellery by identifying opportunities to improve management and control processes and to develop financial management in accordance with Article 5 of Act No. 357/2015 Z.z. (Coll.). Pursuant to Sections 10(2) and 16(5) of Act No. 357/2015 Z.z. (Coll.), an important objective of internal audit is to contribute to the achievement of the objectives, tasks and purposes of the Chancellery and to provide a systematic approach to improving the effectiveness of financial management, whereby internal audit shall, in particular:

- verify and evaluate the risk management system, identify, assess, and monitor potential risks related to financial management and other activities,
- verify and evaluate compliance with specific regulations, contracts made, decisions taken on the basis of specific regulations, internal rules in financial management and other activities,
- verify and evaluate economy, efficiency, effectiveness, and effectiveness in the management of public finances,
- verify the correctness and the demonstrability of the implementation of a financial operation or part thereof,
- verify and assess the reliability of reporting and the availability, accuracy, and completeness of information on financial operations or parts thereof,
- verify and assess the level of protection of assets, the level of protection of information and the level of prevention of fraud, irregularities, and corruption,
- verify that action taken on deficiencies identified by internal audit has been followed up,
- recommend improvements in risk management and financial management to minimise risks.

The performance of internal audit is ensured in accordance with the approved medium-term internal audit plan, the annual plan of individual internal audits and according to the internal audit programme, in accordance with Section 17 of Act No. 357/2015 Z.z. (Coll.). The basis for the development of internal audit plans is an objective risk assessment, i.e., a risk analysis aimed at identifying and evaluating risks in individual processes/areas of the Chancellery's activities, also taking into account the results of other controls and audits. The risk analysis is an internal audit tool to identify the processes/areas to be primarily included in the internal audit plans as well as to plan the staff resources to carry out a specific internal audit. The aim is to focus in particular on the most risky processes/areas within the activities. A risk in the management of the State's assets could be the occurrence of an adverse event, mainly due to non-compliance with the relevant legislation, as well as the consequent lack of application of appropriate principles and standards in practice.

In addition to regular activities related to the performance of internal audit, internal auditors prepare and send a mid-term and annual internal audit plan and an annual report on internal audits performed to the competent authorities pursuant to Act No. 357/2015 Z.z. (Coll.) and participate in mandatory professional training pursuant to Act No 357/2015 Z.z. (Coll.).

In carrying out their activities, internal auditors are guided by the Code of Ethics for Internal Audit and the Statute on Internal Audit and take into account the International Standards for the Professional Practice of Internal Auditing issued by the Institute of Internal Auditors. The internal auditors of the Chancellery shall refrain from any action that could lead to any bias in the performance of the internal audit, shall act impartially and without partiality, shall be objective and shall maintain an attitude of professional scepticism.

# BUDGET OF THE CHANCELLERY OF THE CONSTITUTIONAL COURT

The Constitutional Court, as an independent judicial body for the protection of constitutionality, carries out its activities in accordance with the Act on the Constitutional Court. The Chancellery of the Constitutional Court has an individual chapter in the state budget and is the legal entity responsible for performing tasks related to the organization, staff, financial, administrative, and technical support of the activities of the Constitutional Court.

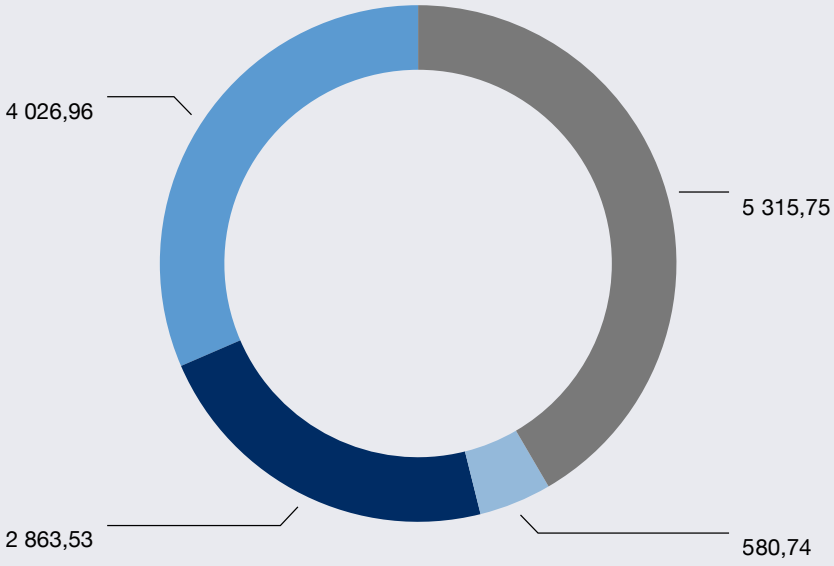
The budget of the Chancellery chapter for 2022 was approved through the passing of the Act on the State Budget for 2022.

## INCOMES

**THE INCOME ACTUALLY RECEIVED IN 2022 TOTALLED TO**

Eur **12 786,98**

- *Income from rent for accommodation used by Judges and employees in the residential building of the Chancellery at 110 Hlavná Street in Košice*
- *Income consisting of proceeds from meal vouchers deducted from payroll in 12/2021 and others*
- *Income from the proceeds of meal vouchers purchased in 2021, from arrears for services connected with the use of flats in the residential building from 2021, from credit notes, warrant claims, litigation costs, reimbursement of COVID-19 employee testing expenses, etc.*
- *Income from insurance compensation*



## EXPENDITURE

TOTAL EXPENDITURE IN 2022 AMOUNTED TO

Eur **7 876 862,46**

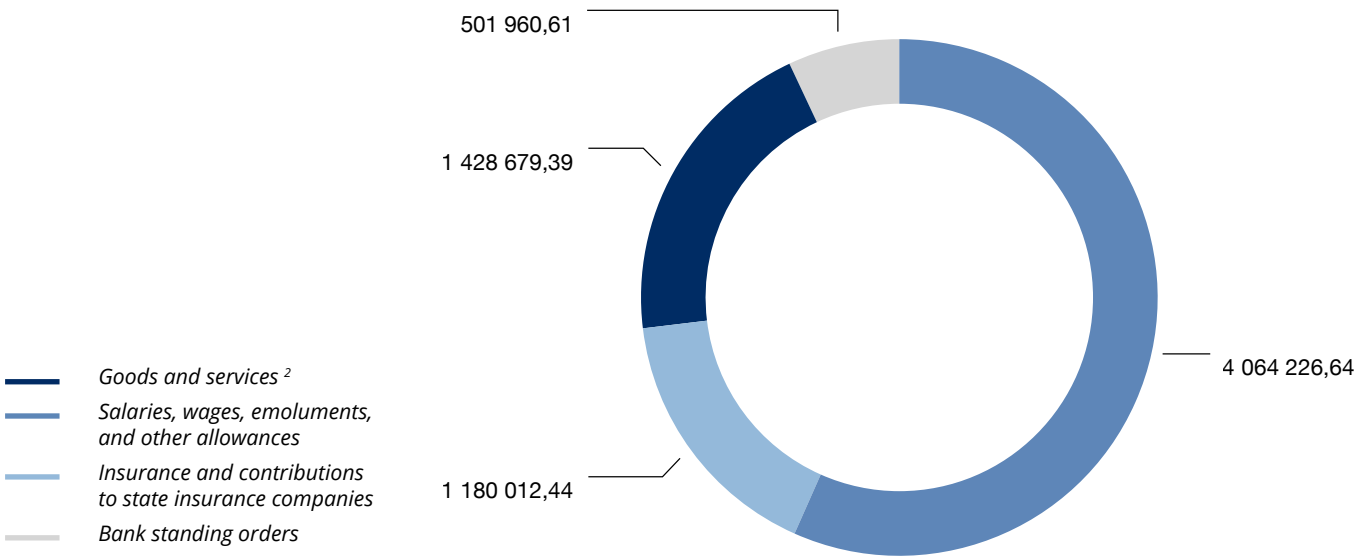
OPERATING EXPENDITURE

Eur **7 174 879,08**

CAPITAL EXPENDITURE [1]

Eur **701 983,38**

## OPERATING EXPENDITURE

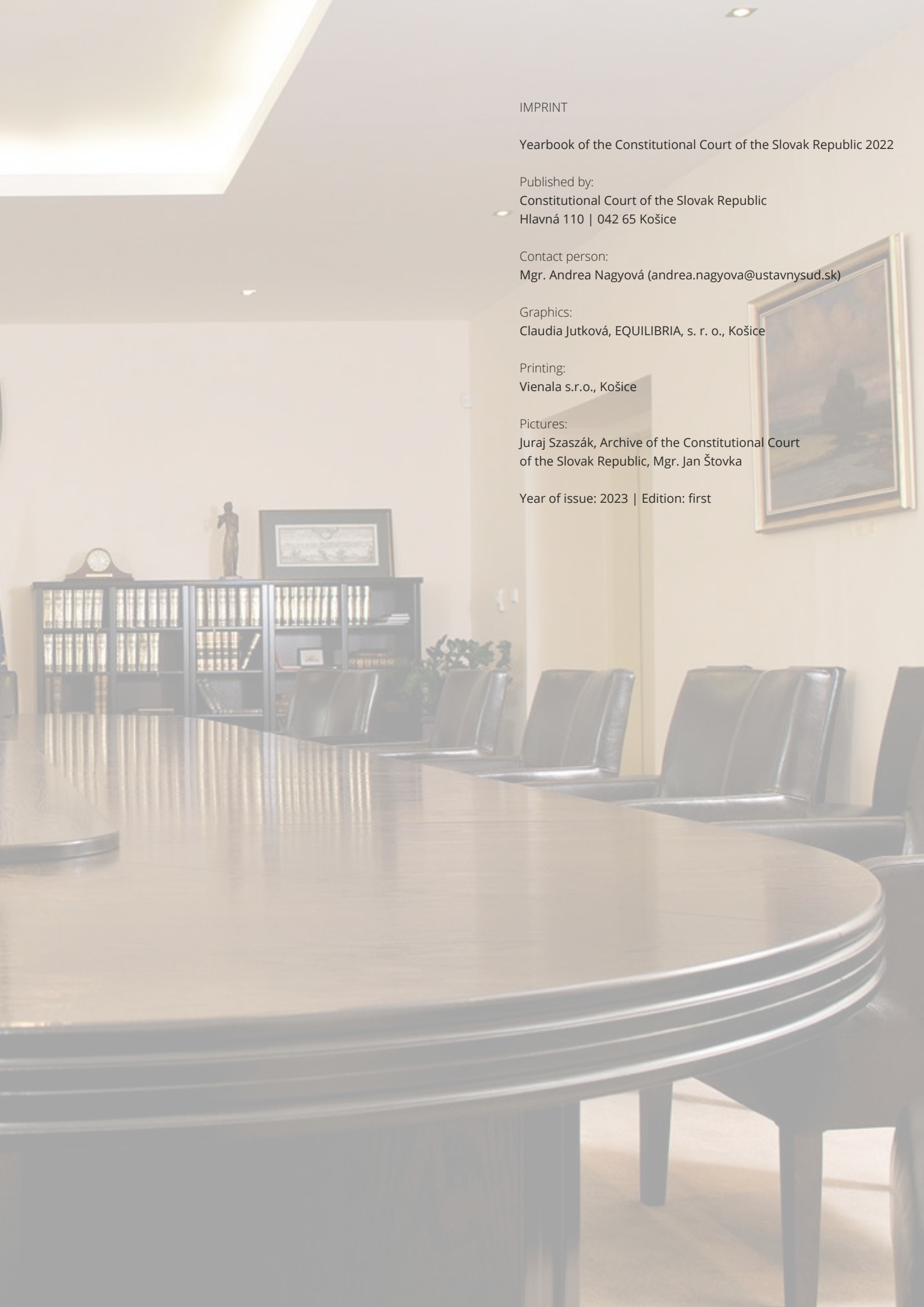



The Chancellery has transferred unspent funds from the capital expenditure budget from 2021 and 2022 to 2023 in the total amount of **EUR 978,103.20** for the purpose of upgrading and expanding of the information system of the Chancellery of the Constitutional Court with new modules, for hardware and software equipment and for the renovation of the roof and chimneys of the immovable cultural monument administered by the Chancellery (building B1).

*1 Acquisition of passenger motor vehicles, reconstruction of B1 (restoration of the tympanum and renovation of wooden windows), reconstruction of B2 (building modifications to change the use of the ground floor to office space), extension and modernisation of the camera system, acquisition of software and hardware equipment.)*

*2 For example, domestic and foreign official trips; electricity and gas supplies; water and sewerage; postal services; communication infrastructure and telecommunications services; acquisition of interior equipment, operational machinery and apparatus; supply of everyday materials; acquisition of software, computers and telecommunications equipment; maintenance and repair of passenger cars; maintenance of interior equipment; meals of employees, etc.)*

**CONSTITUTIONAL COURT**
OF THE SLOVAK REPUBLIC
2022



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