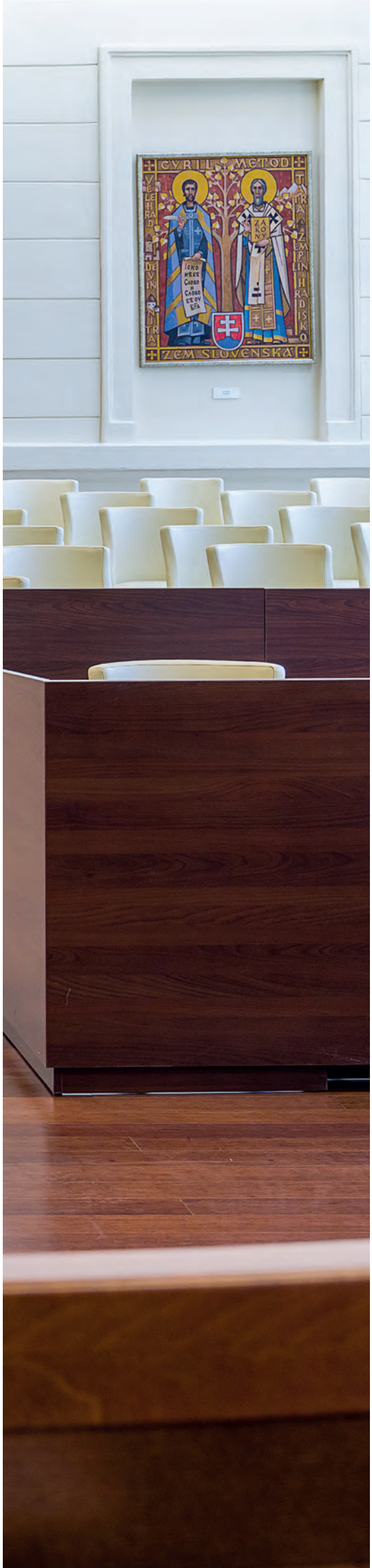
ÚSTAVNÝ SÚD
SLOVENSKEJ REPUBLIKY

YEARBOOK 2023



CONSTITUTIONAL COURT
OF THE SLOVAK REPUBLIC

CONTENT

INTRODUCTION

JUDr. Libor Duľa

Dear esteemed readers, ladies and gentlemen,

It is my honour to address you with the opening words of the current yearbook of the Constitutional Court of the Slovak Republic. As always, it is an opportunity to reflect on the past year and outline the perspective for the future.

I will not delve into the detailed factual overview of last year, as other information sources of our court serve that purpose. It has become standard that we are overwhelmed with work, so here are just a few numbers:
In 2023, there was a renewed increase in the number of cases brought to the Constitutional Court, totaling 3130 motions (compared to 2876 motions last year). We also resolved more cases, reaching 3193 of them (compared to last year's 2995). Out of the contested cases, 14 motions were on the plenary agenda, with decisions made on 20 cases. The negative difference between these numbers was absorbed by clearing the remaining cases on our plenary backlog.

When it comes to significant decisions, the focus naturally shifts to the matters addressed by the entire judicial assembly of the Constitutional Court. These decisions stand out not only for their limited number but also for their extensive scope, complexity, and overall importance.. Revising or repealing legal regulations, especially laws due to their inconsistency with the constitution or international treaties, is the „family legacy" of the Constitutional Court, and the attribute for which the document of public television referred to it as the „most powerful institution" on the occasion of the thirtieth anniversary of its establishment. If I were to delve into this matter, decisions of the plenum, particularly those related to the penalty of confiscation of property in the Penal Code, the infamous § 363 of the Code of Criminal Procedure, asylum law, dismissal from office of a senior civil servant, disciplinary rules of the Supreme Administrative Court, the name of a politician in the title of a political party, or the new judicial map, were among those that received substantial societal and media attention.
As previously mentioned, I do not wish to delve into a detailed retrospective. Instead, myaim to define certain aspects of the perspective on the current state of the Constitutional Court's exercise of its powers and to offer a prognosis of its development on a rational and emotional level.

In the application of the law, politics should not play a significant role; however, in the creation of legal regulations, especially at the parliamentary level, politics is obvious and indispensable. Representative democracy is accompanied both by conflict and cooperation among political parties as its condictio sine qua non, a condition reflected in the Constitution of the Slovak Republic. It is correct that political parties compete for the favour of voters, and none of them holds a monopoly of power, as was the case more than three decades ago.

However, as Winston Churchill said, „democracy is the worst form of government except for all those other forms that have been tried from time to time," with the Slovak universal equivalent being „there is always another side to the coin."

This is especially true for (let us say, still) young democracies in our geographical latitudes, which the civil society perceives (as they are already a seeming commonplace), often primarily through their negative aspects. In the current Slovak reality, the political struggle of factions „on a knife-edge" is perceived as a sensitive issue, along with everything associated with it, not only in the life of the state and law.

In this regard, the past year was as turbulent as it had not been for a long time, significantly marked by one of the important rulings of the Constitutional Court of 2022. Although it did not approve the referendum question on shortening the ongoing term of office of the Members of the National Council of the Slovak Republic, it allowed such a solution based on a referendum or based on a decision of the parliament itself, if the newly adopted constitutional amendment permits it. This was realized in the second of the two designated alternatives, with the final outcome being a change in the political spectrum of the coalition-opposition.

Sharp shifts in the power dynamics, even as I write these lines, are turning the sails on the mast of legislation, and the turbulent waters of social relations are churning. Those at the helm seek to change the course of the common ship, while those in opposition resist, as is typical after every election. And as usual, both disputing sides invoke the constitution. This is appropriate; the constitution delineates boundaries and sets limits on the slippery slopeof public power.
At this moment, the role of the judge in the struggle to preserve constitutionality (often on thin ice) gains paramount importance, a role that the Constitutional Court is expected to play within the framework of substantive rule of law. And we believe it has been playing this role for a long time. Therefore, its decisions, especially (but not exclusively) in cases concerning the conformity of legal regulations, are anticipated with bated breath and impatience, particularly when it involves significant normative question that cannot afford delay. Because sometimes, later is as good as never.
It is therefore extremely important for the Constitutional Court to be able to exercise its authority fully and meaningfully. As judges, we strive to do as much as possible for this purpose, while constantly questioning whether it is sufficient..

What prevents us from saying with peace of mind that the situation is satisfactory?
As I hinted, the Constitutional Court is a major producer of final justice at the national level. The number of cases (especially constitutional complaints from individuals and legal entities) exceeding three thousand per year, as well as approximately the same number of decisions by the highest Slovak judicial institution, is a phenomenon that may not be as alarming for someone lacks a deep understandingof the related issues as it is for a person who views them in more complex contexts..

Of course, the question is why it is alarming. Not because we are unwilling or because we underestimate any agenda. The reason is that with such a high level of engagement in individual matters, the Constitutional Court was not designed or envisionedat the time of its establishment, nor was it a reality in earlier stages of its decision-making practice. The primary competency

portfolio entrusted to the Constitutional Court was supposed to be the protection of the constitution in the legislative process, ensuring that the sovereignty of parliament would not deviate from the fundamental rules that this body, otherwise enjoying the highest legitimacy generated by general direct elections, should follow.

The Constitutional Court is a court of human rights, but all courts are expected to bebe human rights courts, as designated by the Constitutional Court as general courts. Additionally, these courts also decide on ordinary disputes regarding sub-constitutional law and factual circumstances, of course, within the context of constitutional and international treaty principles and interpretive rules. The Constitutional Court consistently emphasizes this thesis and to fulfill it, the Slovak Republic has a three-tier system of general courts led by two supreme courts, which is more than adequate for a state of our size or population. The separate subsystem of administrative justice covers virtually the entire area of decision-making by public authorities, thereby completing the mosaic of judicial protection.

Above this concept of protecting subjective rights, the Constitutional Court extends an additional protective umbrella at the national level from the perspective of Article 127 of the Constitution, regarding fundamental rights and freedoms in proceedings concerning complaints from individuals and legal entities. However, it should not be merely a mechanical duplication of the system of courts or other bodies but rather the final safeguard, the ultima ratio, if there is an exceptionally serious malfunction in the administration of justice that persists despite the use of all available legal means. This was explained during the constitutional amendment in 2001 and this is how it should have been carried out, i.e. by meaningfully and selectively adding to the mosaic of powers of the constitutional judiciary, of which the plenary agenda, regulated primarily in Article 125 of the Constitution, being an indispensable component. This foundational pillar represents the control and ensuring the conformity of legal regulations according to their legal force, especially laws with the constitution and relevant international treaties. Particularly for the exercise of the said jurisdiction, the Constitutional Court was established, and as previously stated, even in democracies with functioning free elections, it is more than important, especially for countries attributing dominance to the rule of law, which is characteristic of EU member states, and it cannot be overlooked. It is also a relatively new element historically, as courts directly protecting individual rights have existed in our geographical latitude long before, regardless of the societal system, although they did not always protect these rights according to current standards.

If the Constitutional Court is to be function effectively and fulfill its mission sustainably "in the pulse of the day," rather than with ineffective distance, a proper balance must be found between its primary agenda of interventions (primarily) in the normative sphere and the examination of individual decisions in proceedings concerning constitutional complaints.

In the first of these blocks, the Constitutional Court does not have a public law substitute, but it does in the second, in the form of the general judiciary, for which the Constitutional Court (as a procedural construct in the development of application practice) is another higher instance, albeit with limited review criteria. Such an evaluative aspect is referred to as the constitutional sustainability of decisions and procedures (compared to extreme excesses with the nature of intervention into fundamental rights and freedoms), and fundamentally should not manifest the form of foundational decision-making in the affected cases, or ordinary disputes at the level of law and factual circumstances. Do these word combinations sound familiar to you? It is quite possible because they are often the subject of explanations of the essence of the matter by the Constitutional Court to the applicants (constitutional complainants). Naturally, they see it differently, believing that their case always has the necessary dimensions – with great respect for such individual perspectives, as that is what we are here for, and to explain what is needed.

Seemingly, everything could proceed in a non-intervention zone, akin to the language of nature conservation. However, the development shows the already noted circumstance. Applicants and, of course, their legal representatives tend to automatically use the Constitutional Court as another opportunity to overturn the outcome of legal proceedings in which they have not succeeded so far, finding a constitutional aspect in the question they raise by merely linking it with the fundamental right to judicial protection, of which they are undoubtedly subjects. Moreover, they often turn to the Constitutional Court during the proceedings with a partial procedural question, even though they could use regular and subsequently extraordinary remedies in the relevant type of procedure regarding its resolution and its impact on the substantive decision. This is, I emphasize again, understandable; the affected individuals are exercising their fundamentally legal option, and the generalized considerations presented from this perspective may not interest them.

The number of constitutional complaints is on the rise, with over three thousand filed last year alone. In absolute terms, but also in proportional comparison with the Constitutional Court of the neighboring and legally comparable but twice as populous Czech Republic, it appears unequivocally disproportionate. The four chambers of the Constitutional Court respond as best they can, and although there are successful constitutional complaints, except for objections to courts' procedural delays, they are mostly rejected, not only for procedural but also substantive reasons. The Constitutional Court explains to complainants that they should have first used more readily available remedies or that their objections do not possess the necessary relevanceto warrant cassation intervention by the Constitutional Court, even if they might be valid at the sub-constitutional legal or factual level. While this explanation may not be readily understood by laypeople, lawyers dealing with the issue know exactly what it means. They also know that there is always a decision by the chamber involved, which, even if negative towards the submitted proposal, has its merits, its relevant content, must be professionally conceived considering the circumstances of the specific case, and ultimately deliberated by the respective chamber. This requires time and effort, which, given the constant influx of further constitutional complaints, can be described using an ancient paraphrase as Sisyphean work.

In a real expression and to avoid going back to numbers, in order for the backlog of unresolved matters not to increase, each of the constitutional court chambers must address nearly eight hundred of them annually according to current data. These cases should encompass such significant issues that they have not been resolved by any legal protection body in previous proceedings. It is unnecessary to explain to the involved party that fulfilling such an objective is not sustainably achievable with a serious approach (how else?).

In the presented context, the regulations regarding proceedings before the general courts are also problematic. Our colleague, Judge Baricová, eloquently addressed this issue in a certain overview, focusing on details in last year's edition („Words from the Bench" section). Given the described development of judicial practice, or rather the machinery, I feel an urgent need to follow up on it, but conceptually, from a broader perspective. Therefore, in general terms, I add that, in the interest of shortening judicial proceedings, certain procedural aspects have either not been regulated or have been removed (at least) extraordinary remedies, and the appeal process has been limited to a complaint as a civil procedural means of defense against the decision of a senior court clerk, followed by the decision of a district court judge without the intervention of the Court of Appeals. In an incomplete (non-triangular) exploratory mode, reminder, enforcement, bankruptcy, and restructuring proceedings operate. Similarly, relatively independent non-meritorious decision-making on urgent and protective injunctions in civil litigation, on the application for the granting of suspensive effect to an administrative lawsuit in administrative proceedings, and the decision on custody, reopening of proceedings, and conditional release in criminal proceedings. Here, the reaction of the unsuccessful party after the decision has become final (at most, a second-instance court decision) is directed directly to the constitutional court, as there is no other recourse within the domestic legal sphere. The

tendency to mechanically link one's defeat in these cases with a claim of the constitutional unsustainability of the conclusions of the general court is a reality verified by practice.

An example with high probative value is the decision on the amount of costs in the closing stages of an already legally concluded civil litigation, as well as decisions in enforcement proceedings, for instance, and typically on a motion to stop execution. The personnel sequence of exercising judicial power is as follows: a senior court clerkof the District Court, a judge of the District Court, and a three-member chamber of the constitutional court - neither the regional nor the Supreme Court gets a „pass". The absurdity of such a procedure is evident even in the light of the argument about taxpayer resources. Note - this is not an exception; the constitutional court deals with hundreds of such cases annually.

The law of energy conservation applies not only in physics but also in the Constitutional Court; its judges and the teams around them must handle what is necessary (realistically, what can be done), without significantly favouring any agenda at the expense of another, which may currently seem less urgent.

Considering how quickly matters accumulate, the category of those that seemingly „aren't urgent" would multiply to the extent that one day we would leave our successors with a backlog of unresolved cases, both paper and electronic. In an illuminating basic distinction, the plenary agenda, which often concerns matters „shaping the state," especially assessing the constitutionality of laws, cannot push aside the scrutiny of decisions in individual cases - of course, besides the indicated pragmatic approach, also because protecting the rights of individuals and minorities in specific cases is among the fundamental tenets of constitutional judiciary. The accompanying negative aspect is that everything takes longer than it should/could, and I also question myself whether I can sufficiently focus on matters in proceedings where I am not the rapporteur in the chamber or in plenum.

What, then, is the recipe for fulfilling the purpose of the constitutional judiciary and, at the same time, for the effective exercise of its jurisdiction?
Expanding staff capacity is not an effective solution. The increasing number of cases, especially constitutional complaints, which form the absolute majority, would have to be offset by the number of judges and their advisors, so that the constitutional judiciary would become relatively „overcrowded" compared to the basic court system, and also oversized compared to other countries in Europe and the civilized world. Of course, everything comes at a cost, and the current public finances, as is well known, are crying tears of blood.

As just noted (reiterating the correct procedure), it concerns the quality of the entire system of legal protection bodies, which the Constitutional Court oversees, thus the quality of underlying legislation and simultaneously optimal application approach. In this context, normative procedural regulation of individual rights protection must be materially effective, accessible, not overly slow, and must also clearly differentiate between primary and remedial proceedings. Within the implementation of corrective measures, it is important to ensure a pyramidal structure of scrutiny with a gradual ascent from broader to narrower within its grounds, so as to eliminate blanket criteria duplication, where the higher level does not merely replicate the lower one but examines only more fundamental failures in conduct and decision-making (this described procedure then continues at the supranational level, as done, albeit not without difficulties, by the European Court of Human Rights). It is essential for the rules to be not only established but for their enforcement to be feasible and effectively ensured.

Without delving into specifics, meaningful solutions to change certain components of legal regulation are readily available in professional discussions. An effective element could, for example, be filters within the general judiciary, which address real problems in judicial protection

of rights recipients more quickly and efficiently at the source of their occurrence, while also relieving the Constitutional Court. Typically, such a solution could be applicable in cases of procedural delays, where, following the Czech model, a higher court could initially intervene and set a deadline for the completion of actions. This would bring earlier resolution to the legal uncertainty for parties involved, and for the Constitutional Court, it would at least partially alleviate its most numerous case laod. Further rational changes to legal regulation can be defined, which, combined with the Constitutional Court's application practices, would effectively uphold the principle of subsidiarity within its jurisdiction and refine its scrutiny processes. This could alter the current tendency to elevate the Constitutional Court to roles more appropriately held by higher-level or Courts of Appeals. The Constitutional Court should not be perceived by individuals, legal entities, or legal aid providers as the fourth level of the basic judiciary, a role they often attribute to it in their submissions, placing it in a position akin to a court of appeal or even a court of cassation.

All in all, the general court should incorporate into its decision-making a dimension of interpretation that is constitutionally, internationally, and from the perspective of European law, conforming. This should serve as an enhancement to the ordinary application base, which the Constitutional Court can only correct provided it constitutes an extreme excess or in cases clearly defined by procedural regulation, albeit pragmatically criterion-limited, with effective correction of otherwise oriented proposal attempts. The opposite approach, where the Constitutional Court would address fundamental deficiencies, especially judicial decisions, through the prism of sub-constitutional level debate, thus at the level (at most) of law and factual circumstances, and consider such a solution as the protection of the constitution, is not only fundamentally wrong in terms of the dual system of judiciary in the Slovak Republic but also practically unmanageable. The Constitutional Court, given its limited personnel substrate, cannot withstand the consequences as an almighty polymath with unlimited capacity, effortlessly checking the system of general judiciary, now significantly specialized in individual agendas, and always ensuring timely correction if necessary. The institutions of „guardians over guardians" (judges over judges) have their significance only when they do not escape the implementers of such a concept, that is, when they are operationally manageable.

I may be exposing the problem to the bone and rather expressively, but apparently the time has come to say with the candor of a small child that the emperor has no clothes. In other words, and no longer with a quote from a fairy tale, reality can be obscured but not deceived.

In conclusion, here is an update. Quite recently, on Friday the 12th of January, the Speaker of the National Council of the Slovak Republic met with the President of the Constitutional Court at the court's headquarters. From media reports, dear readers, you might have gathered that the President conveyed content-wise similar thoughts to those in this editorial to the parliamentary leader. Based on reactions from the said constitutional figure, I had the impression that he delved into this specific issue or understood its parameters. Since the presented ideas require support through legislative changes, I see this as a positive sign. This way, the Constitutional Court can adequately and promptly address what it is indispensable for. The year 2024 will likely bring numerous and undoubtedly bold challenges in the indicated direction, with a probability now bordering on certainty.

LIBOR DUĽA
Judge 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 2007 until 2023

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

WORDS
FROM THE BENCH

PETER MOLNÁR
Judge of the Constitutional Court of the Slovak Republic

IF EXTENSIVE INTERPRETATION OF THE LAW IS NECESSARY FOR EFFECTIVE PROTECTION, IT ALSO FALLS WITHIN THE ROLE OF THE CONSTITUTIONAL COURT.

Public authorities, in carrying out their powers in proceedings they lead (or in their other actions), apply legal norms and principles. In the interpretation and application of legal norms, the authority must act in accordance with the constitution and European law,primarily relying on the linguistic expression of the norm. However, they are not absolutely bound by the literal meaning. Authorities must also consider, in addition to grammatical and logical interpretation, the purpose and objective of the norm, its context, and the legislator's intent (although it is worth noting that in examining the legislator's intent articulated in the explanatory memorandum of the legislative proposal, the Constitutional Court has already noted in its decision-making activity in constitutional complaint proceedings that the declared objective was not successfully translated by the legislator into the approved legal text).[1] One of the methods of interpreting legal norms is also extensive interpretation.

In this context, the specific situation in proceedings before the Constitutional Court can also be considered as the authorization of the Constitutional Court to suspend the enforceability of the challenged decision, measure, or other intervention (§ 129 of the Constitutional Court Act) and the authorization to order interim injunctions (§ 130 of the Constitutional Court Act). Regarding the first instrument, it is worth noting that the legal regulation does not explicitly address the possibility of suspending the validity of the challenged decision. Regarding the latter, the considerable discretion afforded to the Constitutional Court is noteworthy.

The purpose of the institution of suspending the enforceability of a decision in proceedings before the Constitutional Court, in accordance with the cited provision, is to prevent serious harm that could result from the "legal consequences of the challenged final decision, measure, or intervention."

The doctrine of civil procedural law considers enforceability as a characteristic of a judicial decision, stipulating that it pertains only to decisions that impose an obligation to perform. Therefore, only enforceable decisions may be subject to forced execution. Other decisions (procedural resolutions regulating the conduct of proceedings, determinative statements, statements on personal status, statements on the claim for reimbursement of costs, etc.) acquire "only" legal force.

In proceedings concerning a constitutional complaint, all types of decisions, measures, and interventions may constitute the subject matter. In some instances, from the perspective of protecting fundamental rights and freedoms, it is necessary to prevent the enforcement of the challenged decision until the conclusion of the proceedings before the Constitutional Court because otherwise, the protection, in the form of a substantive decision, could be delayed (potentially causing further harm) or even appear unnecessary (the harm incurred would be either irreparable or very difficult to remedy). If the Constitutional Court strictly were to adhereto the literal wording of § 129 of the Constitutional Court Act, it could not provide interim protection to the complainant if they challenge a final decision, measure, or intervention that doctrinally does not possess the characteristic of enforceability.

In the case of certain decisions, measures, and interventions, it is possible to prevent harm by temporary measures, as the Constitutional Court may, in particular, order the identified violator of fundamental rights to temporarily refrain from implementing the challenged final act, or it may instruct third parties to temporarily refrain from exercising the rights granted to them by the impugned final act. On one hand, the wording of this provision, by using the phrase "in particular," suggests the possibility of the Constitutional Court making a temporary order (with a certain degree of hyperbole) potentially applying to almost anyone and almost on any matter (of course, subject to meeting other conditions, especially regarding the balancing of the consequences of ordering or not ordering for the parties involved and the public interest).[2] On the other hand, the recipients of the temporary measure are presumed to be the identified violator and/or the specific involved individuals, namely, the particular other participants in the proceedings from which the challenged decision, measure, or other intervention arose (argued as: "granted to them"). There-

1 *See, for example, Decision No. II.ÚS 405/2020-42 of 19 November 2020, paragraph 24.4.*

2 *See Babják, M. In: Macejková, I., Barány, E., Baricová, J., Fiačan, I., Holländer, P., Svák, J. et al. Act on the Constitutional Court of the Slovak Republic. Commentary. 1st edition. Bratislava : C. H. Beck, 2020, pp. 990, 991.*

fore, the wording of Section 130 of the Constitutional Court Act may not always seem to be the most appropriate and universal tool for addressing recipients without further use in the scope of the stated hyperbole. There are decisions, measures, or interventions where, to achieve the purpose of the Constitutional Court's intervention, it is necessary to address it to a subject other than the the one infringing the rights or the involved person, as the legal effects of the impugned act, arising *ex lege* from the finality of the impugned act, are directed towards another subject[3] or the enunciation is binding *erga omnes*.[4]

The situation described presents a dilemma for the Constitutional Court on how to provide effective interim protection for an alleged violation of a fundamental right, when the literal wording of either of the two potential instruments does not allow preventing further enforcement of the contested act in this particular case. The Constitutional Court (as it is "expected" from other public authorities) approaches a teleological examination of the purpose of the institute of suspending the enforceability of the contested act by the Constitutional Court and the institute of interim measures of the Constitutional Court, and assesses the question of whether, considering the purpose intended by the legislature, Sections 129 and 130 of the Constitutional Court Act may also be interpreted more broadly. Upon analyzing Section 129 of the Constitutional Court Act, the Constitutional Court concluded that its objective, which is the prevention of serious harm, is not exclusively linked by the norm itself to the compelled execution of the contested act (which is the legal result of enforceability), but rather to the "legal consequences" stemming from the contested act. These consequences refer to the ramifications of its legal effects derived from finality in procedural records. Therefore, if harm arises from the very effects resulting from the finality of the contested act, and it is the task of the Constitutional Court to prevent this harm, the Constitutional Court (based on the fact that Section 129 "focuses" more at the contested act itself and Section 130 more at the recipients of the intervention) has repeatedly resorted to an extensive interpretation of Section 129 of the Constitutional Court Act and suspended the finality of the contested final decision.[5] Given the subsidiary use of the Civil Procedure Code in proceedings before the Constitutional Court (Section 62 of the Constitutional Court Act), it is worth comparatively noting that with the suspension of the finality of a decision that does not have enforceability, extraordinary remedies in civil proceedings are taken into account.[6] Also in the administrative justice system, an administrative action, an action for a retrial and a cassation complaint may be granted suspensive effect,[7] resulting in "the effects of the contested decision or measure of the public authority being suspended and such decision or measure may not be the basis for subsequent decisions of the public authorities or measures of the public authorities" (Section 186 para.1 of the Administrative Judicial Procedure Code).
However, we can also find a case where the Constitutional Court, in order to prevent the complainant's harm, used an instrument similar to the suspension of legal validity by extensively interpreting Section 130 of the Constitutional Court Act and issued a temporary measure by which it decided to suspend the legal effects of the contested act.[8]
In some cases, an order to refrain from exercising the power of a public authority distinct from the designated infringing party or person involved needs to be broadly directed to prevent the occurrence of a "downstream" injury. Thus, in the proceedings on the constitutional complaint of the complainant alleging a violation of her fundamental right to a lawful judge (by the order of the Supreme Court in a criminal case regarding the withdrawal of the case and its transfer to another District Court), the Constitutional Court imposed an obligation to temporarily refrain from carrying out procedural acts on the District Court to which the case had been delegated. Also in proceedings on constitutional complaints in which final orders of the distraint court were challenged, the Constitutional Court applied a provisional measure by imposing an obligation (to refrain from continuing[9] or to refrain from completing the distraint[10]) on the certified distraint officer.

From the foregoing, it follows that even the Constitutional Court, in fulfilling its constitutional and statutory obligations, strives to proceed in a manner that achieves the intended objective (in this case, preventing harm) in the best possible way and to the widest extent. If necessary, it does so through an extensive interpretation of the legal framework of both instruments available to it under the Constitutional Court Act.

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3 For example, an alleged subject infringing the rights is the Supreme Court. Its legally binding decision on the claim for reimbursement of court costs is challenged, and the Court of First Instance must "follow up" on this decision with a decision on the amount of reimbursement of costs.

4 For example, a judgment on personal status (Section 43 of the Code of Civil Non-Litiguous Proceedings) and a decision rendered in abstract control proceedings in consumer matters (Section 25 of Act No. 261/2023 on Actions for the Protection of Collective Interests of Consumers and on Amendments and Supplements to Certain Acts).

5 Please refer to Resolution no. II. ÚS 203/2021-22 dated April 21, 2021, Resolution no. II. ÚS 453/2023-16 dated October 11, 2023, Resolution no. II. ÚS 502/2023-16 dated October 24, 2023, Resolution no. II. ÚS 531/2023-26 dated November 22, 2023, and Resolution no. III. ÚS 616/2023-47 dated November 23, 2023.

6 Please refer to Section 412 (2), Section 415 (2), Section 444 (2), and Section 464 in conjunction with Section 444 (2) of the Code of Civil Litiguous Proceedings.

7 Please refer primarily to Sections 186 through 189, Section 447, and Section 482 of the Administrative Judicial Procedure Code.

8 Please refer to Resolution no. I. ÚS 695/2023-17 dated December 19, 2023.

9 Please refer to Resolution no. I. ÚS 579/2023-24 dated November 9, 2023.

10 See Resolution No. II. ÚS 566/2020-18 of 15 December 2020. In the present case, the Constitutional Court granted the application for interim relief to a narrower extent ('to refrain from completing the distraint') than that proposed ('to refrain from continuing the distraint'), since granting the application in full would have meant granting interim protection to a wider extent (the distraint officer would not have been able to carry out even the discovery and safeguarding procedural acts) compared with the protection afforded to the applicant by the state of affairs prior to the contested decision of the distraint court.

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

CONSTITUTIONAL LAW REVIEW

LEGAL LEASE OF AGRICULTURAL LAND (PL. ÚS 15/2018)

Last year, the Constitutional Court had to assess the method by which the legislature attempted to address the complicated issue of fragmented ownership of agricultural land in Slovakia. According to the Constitutional Court, effective agriculture is based on cultivating larger areas of agricultural land, which is also linked to landscape formation and food security. Due to the unique historical development of the Slovak Republic, land ownership here is physically and legally fragmented, leading to a weakened personal relationship among many owners with their land. The Slovak Land Fund is characterized by fragmentation, compounded by the fact that legal, economic, and cultural aspects of land do not overlap in reality. This state of affairs is a direct reflection, both physically and legally, of our history.

In the state of land ownership and its management, developments in both private and public law intersect. Hungarian inheritance law was based on equal shares for heirs. During the interwar period of the Czechoslovak Republic, large land units were divided through land reform. After 1948, following the Communist Party's rise to power, the concept of legal regulation of land relations underwent fundamental changes, involving forced incorporation of land into cooperatives and nationalization of land. In the interest of rectifying injustices and returning to market-based and free use of land, the so-called Land Act of 1991 was enacted, allowing the return of land seized by the state and also allowing the assumption of ownership of land by those who had usage rights from cooperatives and the state. Lease of land is the fundamental legal instrument enabling the effective use of land. This law constructed a change in the legal concept by abolishing the previous so-called usage rights to land as of June 24, 1991, and establishing a lease relationship between former users (typically agricultural cooperatives) and owners if not otherwise agreed upon. According to the explanatory memorandum, the aim was to protect both owners, many of whom were likely unable to immediately take over management of their land, and agricultural and forestry organizations, ensuring necessary food supply. Therefore, it was proposed that, as of the effective date of the law, usage rights would be replaced by a lease relationship established by law, with the amount of rent to be determined by agreement between the owner and user or otherwise regulated by relevant laws.

In 2003, the Agricultural Land Lease Act was also enacted to regulate the specifics of leasing agricultural land. Due to the reasons mentioned, institutions allowing the establishment or extension of a lease relationship between the entitled user and the owner who does not respond to calls for concluding a lease agreement became gradually incorporated intothis law. All of this was in the interest of ensuring the proper use of agricultural land. The absence of explicit consent from the owner regarding intervention in their ownership in these provisions of the law allowing the establishment and extension of a lease relationship raised constitutional concerns among the petitioners, who saw it as a violation of property rights.

The Constitutional Court acknowledged that it undoubtedly constitutes an intervention in the property rights of owners, but it pursues a legitimate objective of enabling proper systematic management of agricultural land. Protection of agricultural land and its production potential is a public interest, legitimizing state regulatory interventions in the agricultural land market. The contested legal regulation is undoubtedly an appropriate tool to achieve the intended objective, and given the state of land ownership in the Slovak Republic, there is no gentler way available to balance the relationship between land users and owners.

The crucial question was whether the contested provisions struck a fair balance between the rights of the owner and the public interest in ensuring the use of agricultural land. First and foremost, according to the Constitutional Court, it is important to note that the subject of ownership – cultivated land – is not changed in any irreversible way. On the contrary, the tenant is obliged to handle it in accordance with soil protection regulations. The Constitutional Court pointed out several provisions of the law protecting the owner. Firstly, the entitled user is obliged to demonstrate by proposing the conclusion of a lease agreement to the owner by

sending it to the address specified in the land register, with the owner being obliged to update the data in the land register. Secondly, the entitled user is obliged to inform the owner of the form and manner of rejecting the proposal and to warn them that if the proposal is not rejected or the user of the land is not called upon to return and take over the land, a lease relationship will be established by law. Thirdly, although the lease relationship is established for an indefinite period, it can be terminated at any time with one year's notice effective from November 1. Moreover, it still involves a paid relationship, and even an owner who is not available has a retroactive right to rent, the individual installments of which are subject to the statutory three-year limitation period. The legally prescribed minimum rent is not unreasonably low, according to the Constitutional Court. Therefore, a fair balance was found between the rights of the owner and the public interest, and the contested provisions are thus in accordance with the constitution.

NON-EXTENSION OF SUPPLEMENTARY PROTECTION DUE TO NATIONAL SECURITY CONCERNS (PL. ÚS 15/2020)

The Constitutional Court ruled in March on the unconstitutionality of certain provisions of the Asylum Act. The case began with a citizen of a third country applying for an extension of supplementary protection. In accordance with the procedure prescribed by the Asylum Act, the authorized employee of the Ministry of the Interior requested opinions from the Slovak Information Service and Military Intelligence. These opinions revealed that the intelligence services considered the applicant a threat to national security, thereby opposingthe extension of supplementary protection.

The Ministry thus rejected the application because the law did not allow it to deviate from the opinion of the intelligence services in any way. Neither the applicant nor the authorized employee of the ministry learned the specific reasons why the intelligence services disagreed with the extension of supplementary protection because the information was strictly classified Consequently, the applicant challenged the decision with an administrative lawsuit, which was unsuccessful, prompting them to file a cassation complaint against the dismissal judgment with the Supreme Court. The Supreme Court concluded that there might be a constitutional issue with the relevant provisions of the Asylum Act, and thus referred the case to the Constitutional Court. By denying the applicant any opportunity to familiarize themselves with even the essence of the reasons why the intelligence services considered them a threat to national security and thus preventing them from refuting or defending against these claims, the principle of equality of arms, according to the Supreme Court, was violated.

The fundamental constitutional dilemma in this case was whether it is constitutionally justifiable in the interest of national security to completely deny the applicant the opportunity to become familiar with even the essence of the reasons why the intelligence services consider them a threat to national security and thus prevent them from refuting or defending against these claims. In other words, the Constitutional Court had to examine whether the legislature found a constitutionally acceptable balance between two extremely important values: national security and the right to a fair trial.

The relevant provisions of the Asylum Act were introduced by an amendment in 2018. The legislature introduced them with the aim of protecting national security and therefore did not allow the applicant access to the opinion of the intelligence services. The information on which the intelligence services do not grant consent for the extension (or granting) of supplementary protection (or asylum) is obtained through their own intelligence activities or through international intelligence cooperation. In many cases, this information is also obtained through classified methods and means, making both the obtained information and the manner of obtaining it a classified fact, to manipulate which special legal regimes established by national law apply. However, the law does not limit access to this classified information only to the applicant. According to the Asylum Act, the decision on granting or extending asylum or supplementary protection is made by an authorized employee of the Ministry of the Interior with sufficient knowledge in the field of asylum. Therefore, the relevant employee is not required to have the status of an authorized person to become acquainted with classified facts, which was also evident in this case when the relevant employee of the ministry himself did not know the reasons for not granting consent for the extension of supplementary protection. Similarly, access to this information is also limited for the applicant's lawyer, as their access depends on the consent of the superior, to jurisdiction of whom the classified fact belongs. This means that the law also allows for a situation where neither the applicant nor their lawyer learns even the essence of the reasons for not granting consent. Only a judge deciding on the administrative complaint has access to classified facts by law, but even that does not guarantee that the applicant will learn at least the essence of the mentioned reasons in the judicial proceedings.

According to the Constitutional Court, the legislature undoubtedly pursued the legitimate objective of protecting national security with the contested provisions of the Asylum Act, namely, the provisions that instruct the Ministry of the Interior to request an opinion on the applicant from the intelligence services and subsequently decide in accordance with this opinion while not allowing the applicant to access even the essence of the reasons stated in this opinion. At the same time, the specific restrictions genuinely help achieve this objective, which was not disputed.

However, the Constitutional Court considered the contested provisions unconstitutional for two reasons. Firstly, the legislature had less severe options available than completely depriving the applicant of the opportunity to learn the essence of the reasons for the intelligence services' negative opinion. It is possible to noti-

fy the applicant of at least the essence of the reasons for the negative opinion of the intelligence services without disclosing the entire opinion. This would protect classified facts on the one hand, and on the other hand, the applicant would have the opportunity to refute or defend against the claims of the intelligence services. Secondly, especially the failure to communicate the essence of the reasons for the negative opinion to the applicant, as required by the contested provisions, directly caused interference with the fundamental right to a judicial remedy, which is unacceptable in a rule of law system.

DISMISSAL OF SENIOR EMPLOYEES OF STATE ADMINISTRATION (PL. ÚS 6/2022)

At the end of 2021, the parliament passed an amendment to the State Service Act, which introduced the competence for the general secretaries of service offices to dismiss senior employees without stating a reason, only with the consent or upon the proposal of the statutory body. A group of MPs challenged the amended provisions before the Constitutional Court, arguing that they violated the fundamental right to equal access to public office.

The Constitutional Court noted that the contested provision applies only to senior employees directly subordinate to the office management, requiring the statutory body or a state official in a public office (state secretary) to express consent to the dismissal. The amendment thus concerns those senior employees who serve as a bridge between conceptual management and the bureaucracy of the state service. The statutory body, i.e., the person at the head of the respective administrative body (chairperson, head), assumes constitutional responsibility for the replacement of these senior employees.

The fundamental right to equal access to public office is a distinct political and participatory right, bridging civil society and public power. Its uniqueness lies in its protection against power, ensuring that it does not obstruct proper access to power, including its access to itself. The first decisive question was, therefore, whether the affected senior employees perform a public office. Apart from office in constitutional bodies, only office in such bodiesthat exercise at least a minimum of state (public) power within the scope of authority conferred on them by law can be considered as such.

The term “office” suggests that it cannot apply to every employee in such an organization, but only to a position that is genuinely associated with decision-making authority (external authority expressed through the public jurisdictional competence of the relevant body or internal managerial, especially personnel authority within its structure), thus the ability to effectively influence the exercise of such power. This right may primarily concern not only the leading representatives of central and local bodies of state administration and territorial self-government, but also representatives of of public-law corporations or institutions that exercise power over their members or other individuals. The decisive criterion is therefore the exercise of public power. By assigning tasks and instructions to subordinate state employees for the performance of state service or state power, in accordance witho the law on state service, the senior employee’s activity is associated with decision-making authority or the ability to effectively influence the exercise of such power. The Constitutional Court therefore concluded that the senior employee performs a public office.

Following the establishment that senior employees of the state service fall within the scope of Article 30 paragraph 4 of the Constitution, the Constitutional Court had to clarify what protection the right to equal access to public office provides to these affected subjects. From the text of the provision, it is apparent that the primary substantive component of this right is the prohibition of discrimination. The right to non-discriminatory access also entails the prohibition of discrimination in deprivation of public office, as without it, non-discriminatory access would be illusory. However, according to the Constitutional Court, the contested regulation, by not explicitly establishing direct or indirect discriminatory reasons, does not discriminate among senior employees. Therefore, there is no violation of the fundamental right to equal access to public office.

THE NAME OF THE POLITICAL PARTY (PL. ÚS 22/2019)

A group of opposition MPs in 2019 challenged several provisions of the Political Parties Act. The provision prohibiting the inclusion of the names and surnames of members of statutory bodies and preparatory committees of political parties in the name of the party was challenged for allegedly violating freedom of speech. The provisions that set the minimum number of members of political party bodies and barred non-party members from membership in these bodies were challenged, citingalleged violations of freedom of association. The legal regulation mandating the submission of a list of party members to the State Election Commission upon request was challenged for alleged violations of the right to privacy. Tprovisions requiring the transfer of non-returnable gifts, received in violation of transparency rules, into state ownership, were challenged for allegedly violating the right to property.

The Constitutional Court found that the provisions regulating the minimum number of members of political party bodies are legitimate and proportionate measures aimed at ensuring democratic representativeness without infringing on the essence of the right to association. The effort to formalize political parties is therefore a legitimate objective in a democratic society. Therefore, laws can establish rules for their operation, which must, however, serve a specific public interest, taking into account the intensity of regulation. This public interest lies precisely in the fact that political parties significantly participate in the exercise of public power, with an exclusive position in elections to the National Council. Political parties acquire political power. Therefore, protecting public order requires ensuring that only those parties with a realistically perceived membership base, essential for their democratic func-

tioning, participate in democratic political competition. Another objective set by the legislator in the relevant amendment was to strengthen intra-party democracy by defining the party bodies that every political party must have, their powers, and the minimum number of members. This measure can be identified as having a legitimate aim since such regulation to a certain extent prevents the concentration of power in a narrow circle of party members or even individuals.

The Constitutional Court also dismissed objections regarding the provision stating that only members of the party can be members of party bodies. It reasoned that for a political party, which aspires to participate in public power and thus in the governance of the state, it is essential to fill its party bodies from its own membership base.

The registration of members of a political party and the subsequent submission of the list of members to the state commission are tools to ensure the effective implementation of the provisions regarding the minimum number of members of a political party. This objection was also dismissed.

The Constitutional Court also rejected the objection concerning the confiscation of unlawful non-returnable gifts. The law mandates political parties to accept donations only from identifiable bank accounts in the interest of transparency. Donations received in violation of this rule must be returned, and if return is impossible, they must be transferred to the state. The Constitutional Court reminded that the constitution does not protect property acquired unlawfully, and therefore did not consider this measure to be inappropriate.

However, the Constitutional Court found a violation of freedom of speech in the provision concerning the names of political parties. It reiterated that political expressions typically enjoy the highest level of protection, including the decision of individuals founding a political party to choose its name. In a democratic space, it is common for the name of a political party to include the name and surname of its leading member. At the same time, it is not possible to find a common ideological orientation among such political parties, meaning it cannot be said that parties containing the name of a specific person represent the same or similar political positions. It can be assumed that naming a political party after a specific person also reflects certain political stances associated with that individual. Therefore, freedom of speech applies to the name of a political party and may only be restricted for specific reasons.

The purpose of the contested legal regulation of the name of a political party introduced in November 2018 by overriding the presidential veto was to prevent the impression of a political party being owned by one person, to prevent the perception of greater influence of this person on other members, and to prevent certain influencing of voters during elections. However, these concerns do not constitute a significant enough factor that would justify restricting freedom of speech. A political party name containing the name or surname of a person who is a statutory body, a member of a statutory body, or a member of a preparatory body of the party does not endanger the rights and freedoms of other individuals, state security, public order, public health, or morality. Pursuant to Article 26 of the Constitution, these are the only reasons for which freedom of speech may be legally restricted. Therefore, the restriction did not pursue any legitimate objective and was deemed unconstitutional.

ADJUDICATING PROSECUTORS IN DISCIPLINARY CHAMBERS (PL. ÚS 2/2023)

The constitutional amendment at the end of 2020 introduced several changes in the field of judiciary. Perhaps the most significant change was the provisions considering the separation of administrative justice from general justice, marked by the establishment of the Supreme Administrative Court of the Slovak Republic. The amended text of the constitution included in its scope not only administrative justice and part of electoral justice but also disciplinary proceedings against judges, prosecutors, notaries, and judicial executors. Following the adoption of the necessary implementing legislation, the Supreme Administrative Court commenced to operate in the summer of 2021. The disciplinary chambers commenced at the start of 2022, after the establishment of disciplinary procedural rules.

The new disciplinary procedural rules introduce five-member disciplinary chambers, in which three members, including the chairperson, are always professional judges from the ranks of the Supreme Administrative Court. The remaining two members of the chamber always come from the professional group to which the disciplinary accused belongs. An exception is made for cases involving disciplinary accused judges, where the other two adjudicating members are randomly selected from a database of adjudicators elected by the Judicial Council of the Slovak Republic from among reputable lawyers with at least ten years of experience.

In the case of disciplinary accused prosecutors, two prosecutors randomly selected from a database of adjudicators elected by the Prosecutor's Council complement the disciplinary chamber. One disciplinary chamber of the Supreme Administrative Court, which is currently adjudicating a case involving a disciplinary accused prosecutor, challenged this provision before the Constitutional Court, arguing that it violates the principle of independence and impartiality of the court.

The movant sees a violation of the constitution in the fact that the Slovak prosecution is a highly hierarchical and centralized structure of authorities, headed by the Attorney General of the Slovak Republic, who is authorized to order, give instructions and direct every prosecutor's duties.. Prosecutors are required to fulfill these tasks and may only refuse to fulfill them for legally specified reasons. Additionally, the Attorney General holds numerous powers

over prosecutors within their employment relationship, capable of creating specific potential career and indirectly economic pressure on the prosecutor. According to the movant, for instance, when a prosecutor considers career advancement, transferring to another prosecution office, or seeking further qualifications must recognize that thesedecisions depend directly or heavily on the Attorney General, who often lacks statutory limitations (constraints) on how these powers be exercised. The Attorney General's freedom in decision-making can further increase pressure on a particular prosecutor to not only avoid open disputes with the Attorney General but, on the contrary, to seek their favour.

According to the movant's opinion, the inclusion of prosecutors - adjudicating members of disciplinary chambers - under the employment relationships within the prosecution office and their subordination to the Attorney General, who may be the movant in disciplinary proceedings and to whom all other movants are equally subordinate, poses a risk of pressure on the prosecutor, capable of raising concerns about the independence and impartiality of the court in the proceedings and decisions of the disciplinary chamber in cases where the prosecutor is the subject of disciplinary proceedings themselves. This deficiency is systemic and stems from the legal regulation, which allows only prosecutors to be appointed as adjudicating members in such cases, who always fall under the authority of the Attorney General in employment matters.

According to the Constitutional Court, however, it is unequivocally evident from the legal regulation that the authority of a superior prosecutor to issue instructions to a subordinate prosecutor applies only to their conduct in such proceedings and only to the performance of tasks through which they exercise the jurisdiction of the prosecution office. Prosecutors as members of disciplinary chambers of the Supreme Administrative Court, however, do not exercise the jurisdiction of the prosecution office but rather the jurisdiction of the Supreme Administrative Court in deciding on the disciplinary responsibility of prosecutors. Therefore, the legal regulation of the authority of a superior prosecutor to issue instructions to a subordinate prosecutor under the Prosecutor's Office Act does not allow the superior prosecutor (including the Attorney General) to issue instructions regarding the performance of duties as an adjudicating member.

Regarding the control by the movant mentioned above over the career of prosecutors, the Constitutional Court did not consider these arguments to be correct. It particularly noted that many decisions of the Attorney General regarding career progression can only be made with the consent of the affected prosecutor, and cannot occur without their consent, while simultaneously ensuring compliance with legal safeguards. In this context, the highest body of prosecutor self-government plays a significant role, which is the Prosecutor's Council of the Slovak Republic, consisting of eight chairpersons of prosecutor councils of district prosecutor's offices and the chairperson of the prosecutor's council of the Attorney General's Office. They are elected by secret ballot from among the members of prosecutor councils, who are themselves elected secretly by all prosecutors of the respective district prosecutor's office or the Attorney General's Office.

The prior consent of the Prosecutor's Council is thus required by the Attorney General for a decision on the temporary assignment of a prosecutor to another prosecutor's office, which can be made without their consent for a maximum of 60 working days. The Attorney General can transfer a prosecutor to another prosecutor's office without their consent only if it is a transfer to the same level within the territorial jurisdiction of the same municipality. The Attorney General can transfer a prosecutor from the Attorney General's Office to a district prosecutor's office and a prosecutor from a district prosecutor's office to a regional prosecutor's office only if they have been repeatedly notified in writing about this possibility due to inadequate performance of their duties. However, such a transfer is only possible with the prior consent of the Prosecutor's Council. The affected prosecutor can also challenge this decision through a lawsuit, and the transfer will not take place until the court decides on the matter. Moreover, every prosecutor can challenge the validity of the Attorney General's decision regarding employment matters in court.

The Constitutional Court reminded that only a prosecutor against whom no disciplinary or criminal proceedings are pending, and who has not been disciplined, can be selected as a member of the chamber. Additionally, they cannot be a chief prosecutor or a member of the Prosecutor's Council. The members of the chamber are randomly selected from the database of selected chamber members for disciplinary proceedings, and neither the Attorney General nor any chief prosecutor participates in their selection or appointment. The Constitutional Court deemed these safeguards sufficient to ensure the independence of the disciplinary chambers and therefore did not grant the motion.

THE AUTHORITY OF THE ATTORNEY GENERAL TO ANNUL DECISIONS MADE BY PROSECUTORS AND POLICE OFFICERS (PL. ÚS 1/2022)

In June, the Constitutional Court rejected motions from the President of the Republic and a group of MPs aimed at a specific institution of the Slovak criminal procedure, which empowers the Attorney General, the highest-ranking prosecutor at the top of the hierarchy of the Slovak judiciary and the separate system of the prosecution service, to annul any legally binding decision of any prosecutor or police officer during the preparatory phase of criminal proceedings.

The movants primarily challenged the relevant provisions regarding the authority of the Attorney General to annul decisions to bring charges, arguing that it is an easily abused, unreviewable by the courts or anyone else, and represents a *de facto* unlimited power governed by vague provisions allowing arbitrary interpre-

tation. In their motions, they expressed concerns as to the way the Attorney General has exercised this power to annul decisions to bring charges in several corruption cases in recent years. According to the movants, by allowing the Attorney General to use this power even after the courts, including the highest court, have already assessed the justification for criminal prosecution, the principle of the separation of powers is violated. They also argue that the rights of the affected parties are violated, as they have no opportunity to challenge the Attorney General's decision. Moreover, the group of MPs justified their argument about the violation of the separation of powers by considering the prosecution service to be a part of the executive branch.

The authority of the Attorney General to annul final decisions made by police officers and prosecutors in the preparatory proceedings, given a serious violation of the law occurred therein that could affect the decision in the case, was introduced during the recodification of criminal law in 2005. Until then, it was the case that the Attorney General could challenge violations of the law in the preparatory proceedings, as well as those that occurred, potentially including court decisions on guilt and punishment, by filing a complaint for breach of the law. This was an extraordinary remedy, which in some form had existed in our legal system since the 19th century, although it was significantly strengthened after the onset of the communist regime.

As part of the recodification in 2005, several significant changes were made to the criminal procedure. The concept of the main hearing was altered, becoming procedurally more complex, and once again, for procedural parties - namely the accused and the specific prosecutor representing the prosecution - the possibility of challenging serious violations of the law at the highest court through an appeal was introduced. The authors of the recodification deemed it appropriate to relieve the courts by having the Attorney General directly handle serious violations of the law in the preparatory proceedings instead of the highest court deciding based on a complaint for breach of the law filed by the Attorney General. In 2015, the relevant provisions were amended, granting the Attorney General the authority to annul any final but unlawful decisions made by police officers and other prosecutors in the preparatory proceedings, including decisions to bring charges.

The Constitutional Court, however, did not align with the arguments put forth by the movants. First and foremost, it rejected the notion that the prosecutor's office was part of the executive branch, as the Constitution places it in a separate eighth head, outside both the executive and judicial branches. Neither the Attorney General nor any other component of the prosecutor's office is, unlike the situation in several other states, in any way subordinate to the Ministry of Justice.

The Constitutional Court also reminded us that the separation of powers does not necessarily imply that the individual branches of power are or should be separated absolutely. On the contrary, the separation of powers presupposes that there are interrelations among them. These interrelations must serve to balance the constitutional system and would be unconstitutional if they hindered the proper functioning of any branch of power by allowing the exceeding of powers, obstructing their exercise, or causing overlapping of jurisdiction, thus negating the separation of powers. However, this is not the case in the examined scenario.

Prosecutors are the masters of the preparatory proceedings, oversee compliance with the law by the authorities involved in criminal proceedings, and decide on all fundamental issues of the preparatory proceedings except for the most serious interventions in human rights, which are entrusted to the judge. Only prosecutors decide whether to file charges or terminate criminal proceedings, particularly when the evidence does not indicate that the accused committed the alleged criminal act. This traditional power of theirs cannot be considered an interference with judicial power.

Deciding on pre-trial detention in preparatory proceedings does not transfer the responsibility of the prosecutor for the legality of the preparatory proceedings to the judge. The Constitutional Court holds the view that it is not acceptable to require the judge deciding on pre-trial detention in preparatory proceedings to assume the oversight responsibility of the supervising prosecutor and to meticulously examine the legality of the investigator's actions because the judge is not legally empowered to "correct" any potential mistakes of the investigator at this stage of the criminal proceedings. When deciding on the detention of the accused, which occurs within the constitutionally prescribed short period of 48 to 72 hours, the judge in charge of preparatory proceedings examines the justification for criminal prosecution solely from the perspective of whether the file and any alleged facts provide at least a reasonably plausible likelihood, without obvious errors and inaccuracies, that there are grounds for suspicion that the accused committed the alleged crime.

The extraordinary legal remedy, as per the challenged provisions, serves a different purpose in criminal proceedings than pre-trial detention. Pre-trial detention is a precautionary measure aimed at securing the person for the purpose of conducting and completing criminal prosecution. The extraordinary legal remedy, as per the challenged provisions, aims at rectifying violations of the law by lawful decisions of the prosecutor or the police in preparatory proceedings. It is thus part of ensuring the legality of preparatory proceedings, which is entrusted to the prosecution and fulfills the positive obligation of the state to conduct criminal proceedings that meet the requirements of legality. Therefore, the Constitutional Court did not agree with the arguments of the movants regarding the encroachment on the competence of the courts.

The Constitutional Court, however, noted to the Attorney General his incorrect interpretation of his authority in one aspect. According to the Constitutional Court, the law does not authorize the At-

torney General to annul a resolution to initiate criminal proceedings on the grounds that the criminal proceedings are not yet in their preparatory phase at this stage, which begins only with the accusation of a specific person. It also noted that even after the 2015 amendment, any violations of the law cannot be a reason for the application of the extraordinary legal remedy by the Attorney General, and under the current regulations, it must always involve serious violations. The scope of decisions subject to the Attorney General's review has been expanded, but the intensity of the review has not changed.

PENALTY OF FORFEITURE OF PROPERTY (PL. ÚS 1/2021)

One of the most significant rulings of last year, issued by the Constitutional Court at the end of September, concerned another of the central institutions of Slovak criminal law, namely the penalty of forfeiture of property. A group of MPs challenged Sections 58.2 and 58.3 of the Criminal Code, which made it mandatory for courts to confiscate virtually all of a convicted person's property in the event of a conviction for one of the offences listed in those provisions. For some offences it had to be proved that the convicted person had directly or indirectly acquired a certain part of the property through criminal activity, for other offences this condition was not required. The Constitutional Court upheld the applicants' claims in full and invalidated the contested provisions of the Criminal Code.

The penalty of forfeiture of property, historically known in Europe as general confiscation, has a relatively long tradition in our criminal law, just as it had existed everywhere in Europe since time immemorial. Its essence is that the offender's property is forfeited to the State, in whole or in part, as determined by the conviction, as a punishment for the crime committed, which originally, historically, was most often treason or other anti-State crimes. While most European countries have since eliminated it from their catalogue of penal instruments, its frequent and regular application occurred in Eastern Europe after the rise to power of the Communist regimes. Thus, the general confiscation found its way into the first Czechoslovak Criminal Code of 1950 and became, as contemporary commentaries openly highlight, one of the central tools of the class struggle. Albeit already cleansed of ideological residue, it survived the fall of communism, the division of the federation, the establishment of an independent Slovakia, and even the recodification of criminal law in 2005, and thus remains part of Slovak criminal law to this day (currently Sections 58 and 59 of the Criminal Code).

Currently, the existence of the general confiscation is justified by the need to confiscate property amassed through criminal activity, as a means of combating organised and other criminality motivated by the pursuit of wealth. Several international treaties ratified by the Slovak Republic, as well as several legal acts of the European Union, require Member States to adopt effective measures aimed at confiscating criminal assets. The Constitutional Court is therefore in no doubt about the particular importance of these instruments, which are intended to send a clear signal that crime must not pay.

However, as the Constitutional Court pointed out, the general confiscation is fundamentally different from the confiscation instruments required by these sources of international and European law, as well as from the confiscation instruments standardly used in Europe for these purposes at the national level. All of the above-mentioned instruments evolved from the so-called traditional special confiscation, the essence of which was that only specific items connected with the offence were subject to confiscation, not the entirety of the convicted person's property. Special confiscation thus classically included, and still includes today, in addition to the assets used in the commission of the offence and the items the possession of which is unlawful, also the assets obtained by the offence, the assets obtained as a reward for the offence and, finally, any assets obtained in exchange for the latter, i.e. the proceeds of crime. Its denomination varies from one legal system to another; in the Slovak legal system it corresponds to the penalty of forfeiture of an item (Section 60 of the Criminal Code) and the protective measure of confiscation of an item (Section 83 of the Criminal Code).

The main disadvantage of this traditional form of special confiscation was that it often became virtually impossible for the prosecution to prove not only that a specific crime had been committed, but also that this particular piece of property had been the proceeds of that particular crime, which significantly weakened and undermined the fight against organised crime. Thus, in the last decades of the 20th century, a more modern form of special confiscation developed, where the work of the prosecutor in proving the illegality of the origin of the property is considerably facilitated. One widespread form is that based on a proven gross disproportion between official income and actual property, which the person concerned cannot plausibly explain. This modern form, for which the name extended confiscation has been widely adopted, has been gradually adopted by the sources of international and European law binding on the Slovak Republic. Extended confiscation was only introduced into our legal system in 2020 under the name of confiscation of part of the property (protective measure under Section 83a of the Criminal Code).

The penalty of forfeiture of property (general confiscation) is thus fundamentally different from the extended confiscation, but that does not make it unconstitutional per se, just as its infamous communist past does not make it unconstitutional. In 2010 and 2011, however, there was a fundamental change in the treatment of the general confiscation. In the criminal amendment of 2010, the legislator attempted to resolve the issue of the protection of creditors of persons sentenced to general confiscation by providing that the actual transfer of the convicted person's property to the State is now preceded by bankruptcy proceedings in which

creditors are to be satisfied first. However, a clause allowing the criminal courts to determine which part of a convicted person's property is to be confiscated was apparently inadvertently lost during the legislative process. The law has since provided that, with the exception of property not subject to disposition in bankruptcy proceedings, everything the convicted person owns after the bankruptcy is closed shall be forfeited to the state. At the same time, the list of offences for which the courts must impose a mandatory penalty of such total confiscation has been expanded if it is proved that the convicted person has acquired at least a "substantial amount" of his or her property (i.e. a portion of the property worth at least EUR 26,600) directly or indirectly through criminal activity. The 2011 amendment even introduced the mandatory imposition of the general confiscation without any other condition for certain offences, i.e. without the above-mentioned condition of illegal acquisition of property worth the aforementioned EUR 26 600.

The Constitutional Court has recognised that in some cases it may be appropriate to impose confiscation of the entire property of a convicted person. At the same time, however, the Constitutional Court is of the view that there is no doubt that in many cases the confiscation of the entire property will be grossly disproportionate to the seriousness of the offence. Since the contested provisions do not give the courts the possibility to determine the extent of the property to be confiscated, but compel them to confiscate the entire property, thus preventing them from imposing an appropriate sanction for the offence committed in specific cases, the Constitutional Court declared the contested legislation unconstitutional on the grounds of violation of the principle of proportionality of penalties and the right to own property.

PENSIONS OF REPRESENTATIVES OF THE COMMUNIST REGIME (PL. ÚS 2/2022)

In 2021, the parliament passed a law titled "on the withdrawal of undeserved benefits to representatives of the communist regime." This legislation essentially stipulated that years of service in certain positions within the state apparatus of the communist regime would not be recognized for the calculation of accrued years of service, and therefore indirectly for the calculation of old-age pension. The explanatory memorandum to the law asserted that "all these privileges, including above-standard remuneration, and the resulting higher old-age and/or severance pensions of top representatives of the communist state power, or officials, members, and employees of security forces, as along with above-average widows' and widowers' pensions of their family members that were derived from these higher pensions, were and are, from the perspective of a society valuing individual freedom and the rule of law, undeserved, unjust, and immoral benefits for their recipients."

According to the explanatory memorandum, "the main purpose of this law is therefore to withdraw undeserved benefits provided in pension security to former top representatives of communist power and its apparatus in security forces (members, officials, and employees of these forces) - i.e., individuals who participated in the management and implementation of politically motivated repression during the communist period, or worked in institutions and organizations dedicated to sustaining the totalitarian communist regime in power at any cost." Additionally, it is apparent from the explanatory memorandum that "the pension security of former top representatives of communist power and their apparatus in security forces (members, officials, and employees of these forces) is currently significantly higher than average."

A group of opposition members of parliament at the time challenged the said law in the Constitutional Court, arguing its inconsistency, particularly with the right to own property and the right to adequate material security in old age. They sought the suspension of the law's effectiveness, which the Constitutional Court approved.

According to the Constitutional Court, it is umambiguous that the withdrawal of benefits provided within the pension security to former top representatives of communist power and its apparatus in security forces, as well as the partial withdrawal of pension security for their surviving family members (widows' and widowers' pension benefits) introduced by the contested legal provision in question, meets the constitutional requirement of lawful regulation between basic rights and freedoms. This limitation is established in the form of law and meets other conditions of legality, including accessibility and the provision of sufficient clarity and precision in the legal regulation, and ensuring that recipients can familiarize themselves with its contents.

However, the Constitutional Court concluded that in the circumstances of the matter under consideration, the contested legal provision lacks a demonstrable meaningful purpose that would justify the need to limit the right to peacefully enjoy property or the right to adequate material security in old age. The contested legal provision is based on the factual assumption of the above-average income provided in pension security to former top representatives of communist power and its apparatus, including those in security forces. However, despite this assumption, no evidence confirming this was presented during the legislative process for the approval of the contested legal provision, including the explanatory memorandum. Indeed, the analysis of the current state of affairs (the existence of above-average pensions), and thus the definition of the regulated social problem along with the reasons for the need for new statutory regulation, should have been detailed in the explanatory memorandum in a form that would leave no reasonable doubt and whose content could be retrospectively verified in any proceedings before the Constitutional Court. For this reason, the contested law failed the test of legitimacy of the pursued aim and was therefore declared unconstitutional.

At the same time, the Constitutional Court considered it necessary to declare that its conclusion of unconstitutionality is not in any

way a defense or justification of the activities of the communist regime and individuals working in its favour, nor is it a complete exclusion of the possibility to respond to historical reality with measures associated with the limitation of income generated in the totalitarian past of the state (even in cases where it does not involve individualized but categorized imposition of such responsibility). As stated, the legislature aimed to eliminate above-standard pension entitlements (as undeserved benefits), the existence of which, however, it did not sufficiently demonstrate in advance and even partially questioned during the proceedings before the Constitutional Court.

CONSTITUTIONAL COMPLAINTS

USE OF ACCESS ROAD (II. ÚS 245/2021)

This case originated from a neighborly dispute over an access road, which eventually escalated into legal disputes. The complainant owned land adjacent to the land of a local heating company. However, the only access road from the main road to the complainant's land ran through the heating company's land, so the complainant also used this road. The heating company sued the complainant for unjust enrichment, claiming that he did not pay adequate rent for using the road. The courts ruled in favour of the heating company, awarding them just under EUR 2,000 for the decisive period. The complainant challenged these decisions by filing a constitutional complaint with the Constitutional Court.

In the mentioned case, the contentious issue revolved around the legal status of the access road owned by the claimantclaimant, i.e., the heating company, which served as the sole access route to the complainant's properties. According to the complainant, this raised questions regarding the entitlement to claim unjust enrichment and its quantification.

The District Court and the Regional Court concluded that this access road is not a public road and therefore does not have its own legal regime because it is not demarcated by external boundaries such as ditches, embankments, cuts of slopes, doorframes, facing walls, or the base of retaining walls. Thus, it is not a roadway with its own legal regime distinct from the land regime. Consequently, they concluded that this access road is also not a public purpose road and this shares the regime of the land on which it is located.

On the other hand, according to the complainant, it is ought to be recognized as a public purpose road that should be made accessible to him for use without having to enter into a lease agreement with the landowner and pay rent. He requested the dismissal of the lawsuit brought against him by the claimant seeking payment for unjust enrichment, which corresponds to the usual rent for using this road. In his submissions during the judicial proceedings before the general courts, he also stated that he is willing to contribute to the costs that the claimant had incurred on this access road.

The subject of the judicial dispute was the restitution of unjust enrichment for the use of the access road without adequate financial compensation. The Constitutional Court addressed the question of whether it is decisive for the decision on unjust enrichment for the general court to assess the access road as a public purpose road (as requested by the complainant) or not. Regarding this question, the Constitutional Court expressed the opinion that even if it were a public purpose road or not, ultimately, the complainant would be obliged to compensate the claimant for the use of this access road in both cases.

In general, it is not fair to demand from the owner of a public access road, which is not part of the city's communication network, to provide and maintain it in operational condition without the users contributing proportionally to these costs. Regarding the use of the disputed road, it follows that even if the claimant were obliged to allow its use by the complainant, they would be entitled to a certain fee for this usage. Therefore, the Constitutional Court directed its constitutional review to determine whether the restitution of unjust enrichment designated by the courts was arbitrary or not. It concluded that it was not an arbitrary legal assessment. Hence, the constitutional complaint was dismissed.

EFFECTIVE INVESTIGATION OF INHUMAN POLICE TREATMENT (II. ÚS 329/2021)

At the end of spring, the Constitutional Court, as part of individual constitutional protection, ruled on a case involving a breach of the prohibition of inhuman treatment. This case had been the subject of a judgment by the European Court of Human Rights against the Slovak Republic several months prior.

The case begins in March 2009 when a police patrol, responding to a reported robbery of an elderly woman allegedly committed by a group of children, detained six boys of Roma origin aged 10 to 16 and took them to the police station, where they were held for several hours. In early April, a well-known investigative journalist working in Slovakia found an envelope with a DVD disc on his desk labeled "Slovak Guantanamo," containing 6 folders with video recordings. After reviewing the video files, the journalist concluded that there had been inappropriate treatment by members of the Police Forces towards the children. Consequently, he promptly contacted the Ministry of Interior, to which he handed over the DVD, and the matter was forwarded to the prosecutor's office. Some of the footage was published the same day in an article by the journalist in a reputable newspaper where he worked, under the title "Police Tortured Roma Boys," and subsequently appeared in other media outlets.

The investigation proceeded in a generally smooth manner, and in May 2010, charges were filed against several members of the Police Forces who were present at the police station at the time for offences of abuse of power by a public official and extortion

committed through complicity. The entire legal process lasted for more than 10 years because the District Court acquitted the accused three times for lack of evidence, with two of the acquittals being overturned by the Regional Court and the last one upheld. The main reason for the undue length of the proceedings was that the District Court twice refused to admit a key piece of evidence in the form of video recordings from the DVD, essentially arguing that it was an untrustworthy copy and not the original, despite the Regional Court ordering the evidence to be admitted twice upon the prosecutor's appeal, with the stipulation that any questions regarding the authenticity and credibility of the recordings be answered by an expert. On the third attempt, the District Court accepted an expert who confirmed the authenticity of the recordings and dispelled concerns that the videos had been manipulated for any purpose. Nevertheless, the District Court did not consider the evidence against the accused to be sufficient, arguing that it was not possible to identify specific defendants from the figures in the video recordings. The Regional Court did not grant the prosecutor's appeal.

The Constitutional Court noted that the driving force behind the entire case and the initiation of the investigation into the assessed criminal matter was the audiovisual recording on the DVD, initially delivered to a specified newspaper, through which it eventually came into the possession of the relevant public authorities who launched the investigation. An expert ruled out the creation of the assessed recording through video editing and also stated the high improbability of arranging its content, either in front of a green screen or through staged acting in the police station premises. Therefore, as part of the study of the entire case file, the Constitutional Court also thoroughly familiarized itself with the content of this recording and found that it depicted disturbing scenes disturbing scenes wherein child victims were subjected to bullying and humiliation by adults, clearly identifiable as police officers. These acts are indicative of gross disrespect for human dignity and an utter lack of empathy. According to the Constitutional Court, this represents reprehensible behavior towards a vulnerable group of individuals, children, where the repulsiveness of this conduct is compounded by the fact that it was recorded by mobile phones, apparently for the amusement of its perpetrators.

The undeniable facts in this case were the presence of the aggrieved complainants as well as the accused police officers at the relevant police station on the incriminated day, and the fact that inhumane treatment of the complainants did indeed occur, which was ultimately confirmed by the European Court of Human Rights. The decisive question was whether the criminal proceedings were prompt and effective.

Regarding the promptness of the proceedings, the very fact that the judicial phase lasted for over 10 years, according to the Constitutional Court, renders any conclusion about promptness highly improbable. This disproportionate length of the proceedings was undoubtedly caused by the District Court, which in many instances inadequately verified the reasons for the absence stated by the accused, resulting in repeated adjournments of the proceedings. However, it was primarily caused by repeatedly refusing, contrary to a clear opinion of the Court of Appeals, to appoint an expert for the purpose of assessing the authenticity of the key evidence - the video recording, which it also evaluated without having it executed.

Furthermore, the Constitutional Court found insufficient transparency in the assessment of evidence conducted by both the District Court and partly by the Regional Court. Several hearings were conducted during the proceedings, involving both officers from the relevant police station and higher-ranking police officials. In several instances, the courts committed misinterpretations of certain testimonies and, without reasonable justification, failed to consider potential bias due to closer working relationships in the case of some testimonies. Due to minor discrepancies in the testimonies of the complainants, the courts unreasonably disregarded alternative explanations other than falsehood, even though the complainants had lower intellects and several years had passed since the incriminating events.

None of the arguments presented by the District Court make any sense. It refused to admit the video recording as evidence on the grounds that it was created without the consent of the individuals involved, thus violating their right to privacy. However, it completely overlooked the obvious fact that the police officers depicted in the video recording were not acting as private individuals but were carrying out official duties (albeit in a grossly unlawful manner), and therefore their actions were not protected by the right to privacy. The District Court also questioned the admissibility of the recording, arguing that it was not the primary original recording of the events but a copy, which, according to the court's opinion, could not guarantee the authenticity of the content due to its nature. The District Court maintained this opinion despite the expert, during the preparatory proceedings, essentially answering and explaining that copying and transferring originally created digital files does not degrade the quality of the recording, and the created copy is identical to the original. The question that was ultimately addressed by the expert, based on a binding instruction from the Regional Court, was the authenticity of the actual content of the recording. The expert ruled out the creation of the content through video editing and ruled out the staging of scenes in front of a green screen. With a high probability, the expert also ruled out the staging of the captured scenes through rehearsed acting in the premises of the police station. After familiarizing itself with the content of the recording, the notion of rehearsed acting in the premises of the police station appears completely absurd even to the Constitutional Court.

According to the Constitutional Court, the courts involved committed obvious misinterpretations of the facts in several instances, to such an extent that both contested decisions become constitutionally unacceptable. The essence of the identified defects in the judicial phase of the proceedings is the irregular application

of the principle of free evaluation of evidence, where the correction of investigative efficiency by the courts is possible through a rational, comprehensive, and transparent analysis of all the evidence gathered. It will now be the task of the District Court to address this matter once again.

DISTORTION OF EVIDENCE BY THE CRIMINAL COURT (III. ÚS 216/2023)

The complainant was near a field where 20 cannabis plants were growing. He was detained by the police, who asked him if those plants belonged to him. He answered affirmatively. Subsequently, a certain amount of marijuana was found in his car, as well as during a home search. He repeated his confession regarding the plants growing in the field before the judge in the preparatory hearing deciding on his detention. He was sentenced to 10 years in prison by the court. However, the Supreme Court overturned the convicting judgments because they relied on unlawful evidence and remanded the case for reconsideration by the District Court.

The illegality pertained to the complainant's testimony from the preparatory hearing regarding the ownership of the cannabis plants because, given the investigations at the time of the indictment, the known facts amounted to such a qualification of the act that the accused was required to have legal representation during interrogation. At that time, the investigating police officers presumed that the complainant had not only possessed the marijuana found in his car and home but also cultivated 20 plants in the field, from which a significant amount of drugs could be produced, making the offense a particularly serious offence punishable by 10 to 15 years. In such a case, the accused must always have legal representation during interrogation, which did not happen, and therefore, the complainant's statements from the preparatory phase of the proceedings were illegal evidence that the courts could not consider.

The District Court and the Regional Court, however, again sentenced the complainant to a ten-year prison term. They found him guilty of possessing a non-negligible amount of marijuana, which was not at all disputed. At the same time, they also found him guilty of cultivating the mentioned 20 plants, a fact that the complainant was contesting.

The criminal courts concluded the complainant's guilt regarding the cultivation of 20 cannabis plants based on his testimony during the main trial conducted in the initial proceedings, as well as on two categories of circumstantial evidence: firstly, evidence related to the complainant's past life (regular consumption of marijuana and, previously, cultivation of cannabis for personal use), and secondly, evidence related to the current situation (the discovery of marijuana in the complainant's possession and the fact that he regularly visisted the field in question for walks).

The courts assessed the mentioned testimony from the main trial as an admission to cultivating cannabis. However, according to the Constitutional Court, they grossly misinterpreted this testimony, as the complainant actually denied committing the act therein. In his testimony, the complainant confirmed that, upon being apprehended, he responded affirmatively to the officers' question about the ownership of the field and the plants therein. Simultaneously, he also clarified to the court that he retracted his confession while being transported in the police car to the station. The officers allegedly told him it was pointless to deny, as nobody would believe him anyway, and if he confessed, he would be prosecuted while at liberty. When he requested an attorney, the officers allegedly informed him that it was a clear-cut case, and involving a lawyer would only prolong the proceedings, leading to a longer time in investigative custody. Furthermore, he stated that he made the confession before the judge in the preparatory hearing to secure his release as soon as possible. He claimed that while he was aware of the cannabis growing in the field, neither the land nor the plants belonged to him. He fabricated the confession, along with the story of buying seeds, planting, and tending to them, with the intention of securing his release, as allegedly promised by the officers. He explained his initial confession as a panicked reaction upon seeing the officers in the field and realizing he had marijuana in his car.

When it comes to indirect evidence, none of them could conclusively show that thecomplainant could have been the sole cultivator of the plants in question. Consequently, the courts grossly misinterpreted the only legal direct evidence, which was the complainant's testimony at the main trial during the initial proceedings. Although the courts may have found his testimony illogical or hard to believe, they failed to discredit it in a credible manner. Furthermore, the courts drew conclusions from indirect evidence that did not logically follow from them, thereby violating the presumption of innocence and the complainant's right to a fair trial.

PROVISION OF ALTERNATIVE HOUSING AFTER DIVORCE (III. ÚS 296/2023)

This finding of the Constitutional Court followed a long-standing dispute between two ex-spouses regarding the resolution of housing issues. Originally, both ex-spouses, along with their minor son, shared a rented apartment. However, the ex-husband left the shared household, leading the complainant (ex-wife) to argue that their joint tenancy of the apartment should cease. Their shared son then lived in the household with the ex-husband and his new spouse. The ex-husband filed a lawsuit in the District Court seeking to annul their joint tenancy, declare him as the sole tenant, and require the complainant, his ex-wife, to vacate the apartment.

The District Court partially granted the ex-husband's lawsuit. While it annulled the joint tenancy, it designated the complainant as the exclusive tenant and ordered the ex-husband (claimant) to vacate the apartment. However, it also imposed the obligation to provide

the ex-husband with alternative housing on the complainant.

In doing so, it proceeded from the consideration that the law would only allow the complainant to avoid this obligation if it conflicted with good morals, which, according to the District Court, would only occur if the issue of housing for the ex-husband and his minor son were resolved in another apartment in a permanent, complete, and uninterrupted manner. Since both lived in a shared household in an apartment owned solely by the ex-husband's new wife only with her consent, such a situation did not arise, and thus the complainant was obligated to provide alternative housing to her ex-husband.

The Constitutional Court, upon the complainant's notification and based on its own investigation, found that between the first judgment of the District Court and the challenged decision of the Regional Court, there was a transfer of the apartment owned by the second wife of the complainant's ex-husband to their son through a deed of gift, with a life estate established on behalf of the ex-husband at the same time. Such a life estate can only be changed or revoked by agreement of the parties or by a court decision fulfilling the legal conditions.

The Regional Court, considering the time elapsed since the first judgment of the District Court, conducted its own evidence gathering. According to Slovak procedural rules, the acting court can obtain evidence through public documents, which include extracts from the land registry, even without a motion from the parties involved. Therefore, the Regional Court erred by failing to verify the housing situation of the claimant, thus deciding contrary to the actual state of affairs.

CONDITIONS FOR VISITS IN A PENITENTIARY INSTITUTION (III. ÚS 242/2023)

The complainant is serving an eleven-year sentence for large-scale fraud. By addressing submissions to the prosecution, he contested the manner in which visits from his relatives at the correctional facility were conducted. He pointed out that the visits took place in visitation booths, which the complainant described as "post office windows" that are slid open during visits to allo direct contact. He argued that although the legal framework permits convicts to greet and bid farewell to visiting individuals with a handshake, hug, or brief kiss, such contact is not only practically very difficult to achieve, but also hazardous in the case of visits from children, and nearly impossible in the case of individuals with higher body weight.

Despite conducting an inspection of the conditions of serving a sentence in the assessed facility, the General Prosecutor's Office of the Slovak Republic concluded that the visits were conducted in accordance with the law and the European Prison Rules. The main argument was that direct contact between convicts and visitors was already facilitated by sliding the plexiglass open, which, according to the opinion of the General Prosecutor's Office, constitutes the main obstacle to contact with visitors.

The Constitutional Court found that creating an opening in the visitation booths by removing the plexiglass did not completely eliminate the physical barrier between the convict and their visitor. The dividing partition itself constitutes a physical obstacle, even with the possibility of leaning over the created opening.

Visits should allow for the closest acceptable contact between the convict and the visitor. Only contact without any physical barrier may be considered direct contact, and thus, conducting visits that do not enable such contact is contrary to the law on the execution of imprisonment and violates the convict's right to privacy, as well as the right to respect for private and family life. The Public Defender of Rights expressed a similar opinion in their statement.

The Constitutional Court also noted that in this case, the material conditions guaranteed by the European Convention on Human Rights were not met. The norm should be complete and uninterrupted contact between the convict and the visitor, and any restriction of this contact must be a necessary limitation in a democratic society for the purposes of one of the specifically defined values. Therefore, it is not about what "must be allowed," but about what "can be restricted" – and only what meets the conditions set out in Article 8, paragraph 2 of the Convention can be restricted.

The General Prosecutor's Office did not provide any arguments or reasons why visits could not be conducted at tables with chairs, a practice already in place in other facilitiesThe Constitutional Court concluded that there are no legitimate justifications for maintaining dividing partitions during contact visits.

STASTISTICAL DATA ON THE DECISION-MAKING ACTIVITY

NUMBER OF SUBMISSIONS DELIVERED TO THE CONSTITUTIONAL COURT IN 2023 — 3 130

PLENUM	**14**
Proceedings on conformity of legal regulations under Art. 125 (1) a), b) of the Constitution	13
Proceedings on conformity of legal regulations under Art. 128 of the Constitution	1
CHAMBERS	**3 116**

NUMBER OF SUBMISSIONS PROCESSED BY THE CONSTITUTIONAL COURT IN 2023 — 3 193

PLENUM	**21**
Proceedings on conformity of legal regulations under Art. 125 a), b) of the Constitution	21
CHAMBERS	**3 172**

PENDING SUBMISSIONS AS AT 31st DECEMBER 2023 — 939

SUMMARY OVERVIEW

Submissions	Plenum	Chambers	Altogether
Delivered in 2023	14	3 116	**3 130**
Decided in 2023	21	3 172	**3 193**
Pending submissions as at 31st December	20	919	**939**

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

CHAMBERS **1** FROM 2018

PLENUM **10** FROM 2020

SUMMARY OVERVIEW OF OLDEST PENDING SUBMISSIONS AS AT 31 DECEMBER 2023 (2018 – 2023)

Year	Pending submissions Plenum	Pending submissions Chamber	Altogether
2018	1	-	**1**
2019	1	-	**1**
2020	1	10	**11**
2021	4	19	**23**
2022	3	68	**71**
2023	10	822	**832**
TOTAL	**20**	**919**	**939**

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

in 2023

The year 2023 was marked by the celebration of the 30th anniversary of the Constitutional Court of the Slovak Republic. The celebrations took place in Bratislava as well as at the court's headquarters in Košice. The solemn plenary session, attended by the highest constitutional authorities, was symbolically held in the Constitution Hall in the historic building of the National Council of the Slovak Republic on Župné námestie in Bratislava. It was the first time ever that the plenum of the Constitutional Court convened outside the court's headquarters, highlighting the exceptional nature of this celebration. As part of the program, speeches were delivered by the highest representatives of justice and the chief guest, the President of the Constitutional Court of the Czech Republic, Pavel Rychetský, together with the President of the Constitutional Court of the Slovak Republic, Ivan Fiačan, launched a publication mapping the history of Czechoslovak constitutional justice, which is the first of its kind.

In Košice, the celebrations had a different, but all the more personal character. President Ivan Fiačan honored those employees who have worked at the Constitutional Court since its very beginning. The speeches were also delivered by Marianna Mochnáčová, a Judge Emeritus, who, as the former first Head of the Constitutional Court's Chancellery, reminisced about its beginnings. The final and dignified point was the preview of the documentary "The Most Powerful Institution", produced by RTVS, which chronicles the birth of this institution, its breakthrough periods, as well as its most important decisions.

Overall, 2023 was again a breakthrough year in terms of the number of international and national events, as well as the number of "novelties" introduced.

One of them was the project **"Constitution for Every Day"**, which aimed to introduce the Constitution of the Slovak Republic as the basic law of the state to the students of the best secondary grammar schools in Košice. As part of the project, we invited approximately 200 third and fourth grade students on an excursion, which included, in addition to a tour of the premises, a discussion with the Judges of the Constitutional Court on the protection of human rights in the Slovak Republic. The secondary grammar schools we selected were ranked according to the INEKO ranking: the Poštová Secondary Grammar School, the Alejová Secondary Grammar School, the Secondary Grammar School of St. Thomas Aquinas and the Evangelical Secondary Grammar School of Ján Amos Komenský. As the project received an excellent response, we plain to continue it next year.

Another novelty was the awarding of the authors of the best diploma theses on the topic of constitutional law by President Ivan Fiačan to students of the Faculty of Law of UPJŠ. This pleasant meeting will surely become a tradition, as the students greatly appreciated the opportunity of a personal meeting with one of the highest representatives of the judiciary in Slovakia, during which they discussed their theses as well as their future careers.

In March, the participation of President Ivan Fiačan at the state dinner hosted by the President of the Slovak Republic, Zuzana Čaputová, in honour of the Dutch royal couple King Willem-Alexander and Queen Máxima was particularly interesting. The royal couple symbolically visited our country to commemorate the 30th anniversary of diplomatic relations between the two countries.

For the first time in history, an American constitutional law professor, Douglas McKechnie, delivered a lecture at the Constitutional Court. The lecture's topic was "The Precedential Effect and Its Impacts in the U.S. Constitutional System," during which the advisors of the Constitutional Court actively participated in the discussion in fluent English.

In the spring, Vice President Ľuboš Szigeti and Judge Jana Baricová met with Cornell Clayton, an American law professor, and David Campbell, a judge of the Federal Court of First Instance, who were visiting Slovakia as participants in the Fulbright programme and expressed their interest in meeting with the representatives of the Constitutional Court. Both meetings focused on the powers and position of the Constitutional Court in the structure of state bodies.

The Plenum of the Constitutional Court held its first meeting in gowns outside the seat of the Constitutional Court in Bratislava to mark the 30th anniversary of the Constitutional Court of the Slovak Republic.

In March, the judges of the Constitutional Court and the staff of the Chancellery of the Constitutional Court commemorated the 30th anniversary of the first plenary session of the Constitutional Court of the Slovak Republic

President of the Constitutional Court, Ivan Fiačan, attended a conference in Brno on the occasion of the 30th anniversary of the Constitutional Court of the Czech Republic.

Upon the invitation of the President of the Federal Constitutional Court of Germany, Stephan Harbarth, President Ivan Fiačan and Judge Jana Baricová participated in a congress entitled "Climate Change as a Challenge for Constitutional Law and Constitutional Courts" in Berlin.

For the first time, President Ivan Fiačan invited the Presidents of the Constitutional Courts of the Republic of Austria, Christoph Grabenwarter, and Hungary, Tamás Sulyok, to a working meeting held at the Château Bela, the so-called trilateral lunch, the idea of which was conceived for the purpose of a close exchange of information not only on decision-making, but also on contemporary issues relating to security in Europe, European institutions and their procedural changes, as well as the climate.

As every year, Judge Jana Baricová and Judge Peter Molnár attended the plenary sessions of the Venice Commission in March, June, October and December in Venice.

At the end of the summer, Judge Ladislav Duditš took part in the second international conference in the Hague, entitled "United in Diversity II: The Rule of Law and Constitutional Diversity", which was jointly organised by the Court of Justice of the European Union, the Constitutional Court of Belgium, the Constitutional Court of Luxembourg and the Supreme Court of the Netherlands.

The Constitutional Days conference has become an annual tradition, and this year's topic was "Judicial and Other Legal Protection of Political Rights." The main guests of the conference were the new President of the Constitutional Court of the Czech Republic, Josef Baxa, and the First Advocate General of the Court of Justice of the European Union, Maciej Szpunar. The conference program included discussions on topics such as political rights in the Slovak Republic and their legal protection, the protection of political rights by the Constitutional Court of the Slovak Republic, constitutional principles of electoral law and their legal protection, as well as legal protection of political rights in selected Council of Europe member states. Due to the participation of foreign guests, the conference was interpreted into the English language.

Following the pandemic years, during which bilateral meetings were suspended, the first bilateral meeting of the two Constitutional Courts took place in October at the Château Belá after the change of presidents on the Czech side, when the long-standing President, Pavel Rychetský, was replaced by Josef Baxa. The main topics of the meeting included the review of the constitutionality of the legislative process and the effects of the Constitutional Court's derogation ruling in the procedure on the conformity of legislation. This visit was intertwined with the appointment of the new government, which President Ivan Fiačan attended at the Presidential Palace in Bratislava.

November was also rich in events. The President of the Constitutional Court, Ivan Fiačan, attended the Conference of Presidents of Constitutional Courts of the European Union Member States which took place in Brussels, where participants discussed the role of constitutional courts in the protection of the rule of law in the European Union and their experiences in developing bilateral and multilateral relations between the constitutional courts of the European Union Member States. The conference was held under the patronage of the European Commissioner for Justice, Didier Reynders.

Shortly thereafter, President Ivan Fiačan and Judges Jana Baricová and Martin Vernarský attended a bilateral meeting with the Judges of the Constitutional Court of the Republic of Austria. The main topic of the meeting focused on the review of the constitutionality of laws due to deficiencies in the legislative process, as well as the review of the constitutionality in relation to legislative inactivity of the Parliament.

At the same time, Vice-President Ľuboš Szigeti attended the celebration of the 60th anniversary of the Constitutional Court of Serbia in Belgrade, which included an international conference on the dialogue between constitutional courts and the European Court of Human Rights, as well as their role in the protection and promotion of human rights and freedoms.

Also in November, the first event resulting from the collaboration between the Constitutional Court and Pavol Jozef Šafárik University took place. It was aimed at future linguist lawyers, law students, and students of the study program in English language for European institutions and economy from the Department of English and American Studies. Representatives of the Constitutional Court emphasized the need for experts with excellent knowledge of English and French for their professional activities and interaction with international organizations.

Upon the invitation of the Faculty of Law of Comenius University, the Director of the Department of Foreign Relations and Protocol, Mária Siegfriedová, for the second year in a row, delivered a lecture on International Relations and Protocol of the Constitutional Court of the Slovak Republic. In this lecture she outlined to the third and fourth grade students of the Faculty of Law of Comenius University the position of the President of the Constitutional Court in the protocol order and the importance of the bilateral and multilateral cooperation of the Constitutional Court and its involvement in judicial networks.

We have also maintained and strengthened our professional relations with multinational organisations through the employees of the Chancellery. Igor Mihalik and Tomáš Plško, judicial analysts, have long served as liaison officers to the Venice Commission. As part of this agenda, Tomáš Plško attended a meeting of the Joint Council for Constitutional Justice (JCCJ) in April. This council

Ľuboš Szigeti, Vice-President of the Constitutional Court, spoke at an international conference dedicated to the memory of Károly Szladits.

American professor of constitutional law, Douglas McKechnie, delivered a lecture in the hearing room of the Constitutional Court.

The President of the Constitutional Court Ivan Fiačan and Judge Libor Duľa received the Prosecutors of the Czech Republic.

is composed of members of the Venice Commission and liaison officers. The JCCJ meetings, which are held once a year, were again followed by a "mini-conference" on a topic in the field of constitutional justice, during which the participants presented the relevant case law of their respective courts. The JCCJ has a significant influence in determining the activities of the Venice Commission in the field of constitutional justice.

In addition, the Constitutional Court is a member of two judicial networks: the Network of Supreme Courts under the patronage of the European Court of Human Rights (ECtHR) and the Judicial Network of the European Union (JN EU). Igor Mihalik represented the Constitutional Court at the regular SCN forum in June. The forum was mainly devoted to case law on the independence of the judiciary.

And since it is also necessary to build good relations within our institution, the Department of Foreign Relations and Protocol initiated the idea of organizing a "Spring Picnic in the Botanical Garden" in June and co-organized a trip to the Slovak Opal Mines near Prešov in October together with the SLOVES trade union organization and the Human Resources department.

The end of the year was marked by the first ever joint lunch of Judges and Chancellery staff, organised by the Department of Foreign Relations and Protocol to mark the coming Christmas. Based on the positive feedback from Judges and staff, we will continue to hold such events in future years.

SOCIAL MEDIA

Thanks to communication with the public on various platforms, information about the Constitutional Court and its activities is available on an ongoing basis, allowing everyone to follow what is happening at the Court in real time. From 2023, the Constitutional Court can be found on the social media, such as Facebook, Instagram, X, Youtube and LinkedIn.

The presence of the Constitutional Court on various social networks is the result of an effort to inform the widest possible public about the Court's activities. The available data show that people of different ages and backgrounds use the various platforms.

At the end of the year, over 3,100 people followed the Constitutional Court on Facebook, with the highest number of followers in the 25-34 age group, followed by the 35-44 age group. Women comprised 55.8% of the followers, outnumbering men at 44.2%. Compared to the previous period, the number of followers increased by 13%, adding 360 new followers.. The majority were from Bratislava (22.1%) and Košice (10%).

As of August 2023, theConstitutional Court is also present on Instagram, where it had gained just under 400 followers by the end of the year. A total of 42 posts and numerous stories have been shared. Nearly 90% of the audience was under the age of 35, with women comprising 59% and men 41% of the followers. Similarly, followers from Bratislava (23.4%) and Košice (20.4%) were predominant on this platform as well.
More than 60 posts were added to social network X in 2023. Followers were kept informed about court events, participation in conferences, bilateral meetings, press releases, decision-making activities and statistics.

The Constitutional Court and the Judicial Academy signed a Memorandum of Cooperation. The photo shows the Director of the Judicial Academy, Peter Hulla, and the President of the Constitutional Court, Ivan Fiačan.

Constitutional Court Judge Ladislav Duditš attended the conference "EUnited in Diversity II" in The Hague, the Netherlands.

Vice-President Ľuboš Szigeti and Judge Robert Šorl participated in the conference "The Right to Freedom of Expression and Judicial Restraint" organized by the VIA IURIS organization.

The Judges of the Constitutional Court meet with the first Advocate General of the Court of Justice of the EU, Maciej Szpunar.

The President of the Constitutional Court, Ivan Fiačan, delivered a speech at the ceremonial meeting of the Academic Senate of the Faculty of Law of Pavol Jozef Šafárik Univerzity in Košice, commemorating the 50th anniversary of the Faculty.

Judges from the Constitutional Courts of the Czech and Slovak Republics convened for a bilateral meeting at Chateau Belá.

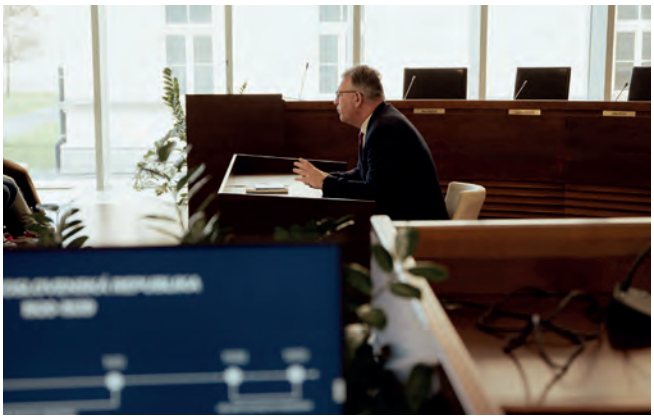
President of the Constitutional Court, Ivan Fiačan, participated in the Conference of Presidents of the Constitutional and Supreme Courts of the EU Member States.

The President of the Constitutional Court, Ivan Fiačan, along with Judges Jana Baricová and Martin Vernarský, held a bilateral meeting with the Judges of the Constitutional Court of Austria in Vienna.

Vice-President of the Constitutional Court, Ľuboš Szigeti, and President of the Constitutional Court of Serbia, Snežana Marković, at an event marking the 60th anniversary of the Serbian Constitutional Court in Belgrade.

Trilateral meeting of the Presidents of the Constitutional Courts of Austria, Slovakia and Hungary. From left: Christoph Grabenwarter, Ivan Fiačan and Tamás Sulyok.

President of the Constitutional Court, Ivan Fiačan, Vice-President Ľuboš Szigeti, and Judge Ladislav Duditš participated in a bilateral meeting with Romanian constitutional judges in Bucharest.



More than 200 students from secondary schools in Košice visited us as part of the project "Constitution in Day-to-Day Life". The photo shows Judge Ladislav Duditš, one of the judges they had the opportunity to meet.

In September, the Constitutional Court held its XIIth Constitutional Days on the topic "Judicial and other legal protection of political rights." In the photo from left to right: Dean of the Faculty of Law of UPJŠ Miroslav Štrkolec, President of the Constitutional Court of the Czech Republic Josef Baxa, President of the Constitutional Court of the Slovak Republic Ivan Fiačan, Judge of the Constitutional Court of the Slovak Republic Peter Molnár, and First Advocate General of the Court of Justice of the European Union Maciej Szpunar.

The XII Constitutional Days Conference took place in the hearing room of the Constitutional Court.

1 January	Bratislava	President Ivan Fiačan attended the State Honours Ceremony
7 January	Bratislava	President Ivan Fiačan attended a gala dinner on the occasion of the 30th anniversary of the Slovak Republic at the Slovak National Theatre
31 January	Bratislava	Judges of the Constitutional Court attended the opening of the Judicial Year in the Historical Building of the National Council of the Slovak Republic
22 February	Bratislava	Ceremonial event on the occasion of the 30th anniversary of the Constitutional Court of the Slovak Republic in the Historical Building of the National Council of the Slovak Republic
23 February	Brno	President Ivan Fiačan and Vice-President Ľuboš Szigeti attended a conference organised on the occasion of the 30th anniversary of the Constitutional Court of the Czech Republic
24 February	Košice	President Ivan Fiačan attended the inauguration of the Dean of the Faculty of Law of the University of Pavol Jozef Šafárik in Košice
3 – 4 March	Venice	Judge Jana Baricová attended the 134th Plenary Session of the Venice Commission
7 March	Bratislava	President Ivan Fiačan attended a State Gala Dinner on the occasion of the visit of King Willem-Alexander and Queen Máxima of the Netherlands
8 March	Bratislava	President Ivan Fiačan attended the inauguration of the Rector of Comenius University in Bratislava
16 March	Košice	ceremonial event with Judges and employees of the Chancellery of the Constitutional Court of the Slovak Republic on the occasion of the 30th anniversary of the first plenary session of the Constitutional Court of the Slovak Republic
27 March	Bucurest	President Ivan Fiačan, Vice-President Ľuboš Szigeti and Judge Ladislav Duditš participated in a gala session on the occasion of the 100th anniversary of the adoption of the 1923 Constitution of United Romania
28 March	Bucurest	Bilateral meeting of Judges of the Constitutional Courts of Slovakia and Romania
30 March	Košice	Lecture by American professor of constitutional law, Douglas McKechnie
17 April	Bratislava	Court advisors and analysts participated in the "Talking Courts" event organized by the Faculty of Arts of Comenius University in Bratislava
18 April	Bratislava	Judge Jana Baricová met with David Campbell, an American Judge of the Federal Court of First Instance, at the detached office of the Constitutional Court
21 April	Dunajská Streda	Vice-President Ľuboš Szigeti attended an international conference dedicated to the memory of Károly Szladits
26 April	Košice	Vice-President Ľuboš Szigeti welcomed American law professor Cornell Clayton

27 April	Bratislava	President Ivan Fiačan participated in a roundtable discussion organized by the Slovak Bar Association
4 – 5 May	Berlin	President Ivan Fiačan and Jana Baricová attended the Congress of Presidents of European Constitutional Courts on Climate Change
11 May	Košice	President Ivan Fiačan and Judge Libor Duľa welcomed the state representatives of the Czech Republic
25 – 26 May	Sofia	Judicial analyst Tomáš Plško participated in the meeting and mini-conference of the Joint Council for Constitutional Justice (JCCJ)
30 May	Košice	The Constitutional Court and the Judicial Academy signed a Memorandum of Cooperation
31 May	Košice	Vice-President Ľuboš Szigeti and Judge Ladislav Duditš welcomed the Judges of the District Court of Trebišov and the Judges of the District Court of Debrecen
31 may	Košice	President Ivan Fiačan presented awards to students of the Faculty of Law of the University of Pavol Jozef Šafárik in Košice for excellent final theses
5 June	Chateau Belá	Trilateral Lunch of the Presidents of the Constitutional Courts of Slovakia, Hungary and Austria
5 – 7 June	Stará Lesná	President Ivan Fiačan and Judges Libor Duľa and Miloš Maďar participated in the 3rd International Workshop on the Protection of Human Rights and Fundamental Freedoms in Criminal Proceedings, organized by the General Prosecutor's Office of the Slovak Republic
8 – 9 June	Strasbourg	Judicial analyst Igor Mihálik participated in a seminar of the Supreme Court Network (SCN) focused on the independence of the judiciary
9 – 10 June	Venice	Judge Peter Molnár attended the 135th Plenary Session of the Venice Commission
20 June	Bratislava	Vice-President Ľuboš Szigeti met with experts from the Organisation for Security and Cooperation in Europe (OSCE/ODIHR) ~~Office for Democratic Institutions and Human Rights (ODIHR)~~ at the detached office of the Constitutional Court.
21 – 22 June	Košice	President Ivan Fiačan and Judges Ladislav Duditš, Peter Molnár, Robert Šorl and Martin Vernarský took part in the scientific conference on the occasion of the jubilee of Prof. Alexander Bröstl, organized by the Faculty of Law of the University of Pavol Jozef Šafárik in Košice
14 – 16 June	Karlovy Vary	President Ivan Fiačan attended the conference "Karlovy Vary Law Days" (Karlsbader Juristentage)
31 August – 1 September	The Hague	Judge Ladislav Duditš attended the international conference "United in Diversity II"
11 September	Bratislava	Judges Libor Duľa, Rastislav Kaššák, Miloš Maďar, Peter Molnár and Peter Straka participated in the Bratislava Law Forum 2023
12 September	Bratislava	Vice-President Ľuboš Szigeti and Judge Robert Šorl participated in the expert conference "The Right to Freedom of Expression and Judicial Restraint" organized by the VIA IURIS organization
19 September	Košice	Reception of the first Advocate General of the Court of Justice of the European Union, Mr Maciej Szpunar

20 September	Košice	International Conference XII Constitutional Days
21 September	Košice	Participation of Judges in the ceremonial meeting of the Academic Senate of the Faculty of Law of the Pavol Jozef Šafárik University in Košice on the occasion of the 50th anniversary of the Faculty
26 September	Bratislava	Judges participated in a gala event on the occasion of the 30th anniversary of the Supreme Court of the Slovak Republic
28 September	Košice	Open Day of the Constitutional Court of the Slovak Republic 2023
29 September	Budapest	Vice-President Ľuboš Szigeti participated in a round table discussion on "Constitutional Justice in the Carpathian Basin" organised by the Gáspár Karoli Reformed University and the Faculty of Law of the Institute of Public Law
3 October	Košice	Judge Peter Molnár received Judges and Prosecutors from EU countries in the framework of the cooperation of the Judicial Academy with the European Judicial Training Network (EJTN)
4 October	Košice	President Ivan Fiačan received the mayors of the Podunajsko region
6 – 7 October	Venice	Judge Jana Baricová attended the 136th Plenary Session of the Venice Commission
11 October	Košice	Vice-President Ľuboš Szigeti attended the opening of the new Hungarian Consulate in Košice
25 October	Bratislava	President Ivan Fiačan attended the ceremony of the appointment of the new Government of the Slovak Republic
25 October	Chateau Belá	Bilateral meeting of Judges of the Constitutional Courts of the Czech Republic and Slovakia
10 November	Brussels	President Ivan Fiačan attended the Conference of the Presidents of the Constitutional and Supreme Courts of the EU Member States, organised by the European Commissioner for Justice Didier Reynders
15 – 16 November	Vienna	Bilateral meeting of Judges of the Constitutional Courts of Slovakia and Austria
16 – 17 November	Belgrade	Vice-President Ľuboš Szigeti attended the international conference and celebration of the 60th anniversary of the Constitutional Court of Serbia
21 November	Košice	Judge Ladislav Duditš received students of the Faculty of Law and Arts of the Pavol Jozef Šafárik University in Košice, who study English and French
29 November	Bratislava	Mária Siegfriedová, Director of the Department of Foreign Relations and Protocol, delivered a Lecture to students of Comenius University in Bratislava
7 – 8 December	Budapest	Vice-President Ľuboš Szigeti participated in a research seminar on elections and representation
15 – 16 December	Venice	Judge Peter Molnár attended the 137th session of the Venice Commission

THE 2023 OPEN DAY OF THE CONSTITUTIONAL COURT OF THE SLOVAK REPUBLIC

Throughout 2023, the Constitutional Court commemorateed the 30th anniversary of the beginning of its activities. The culmination of the celebrations of this important anniversary was the largest mass event organised for the general public - the Open Day of the Constitutional Court of the Slovak Republic.

On 28 September 2023, the premises of the Constitutional Court welcomed over 800 visitors of all ages, with primary and secondary school students being the dominant group. The guided tours conducted by the staff of the Constitutional Court Chancellery were aimed not only at informing the visitors about the history, specifics and functions of the individual buildings of the Constitutional Court, but also at familiarising them with the organisation, competences and decision-making activities of the Constitutional Court. The guides' explanations were complemented by a novelty of this year's Open Day - a video tour through QR codes, which were placed in the interiors and exteriors of the Constitutional Court's buildings, together with descriptions of the individual stations.

Knowledge quizzes were prepared for the visitors as part of the Open Day programme. At the Constitutional Court's stand, they had the opportunity to test their knowledge about the Constitutional Court acquired during the tour. Additionally, at the Representation of the European Commission in Slovakia's stand, they could test their knowledge of the European Union. They were interested in discussions about the study of law with representatives of the Faculty of Law of Pavol Jozef Šafárik University and many also viewed a presentation about the Constitutional Court, as weel as a video showcasing photographs of the Constitutional Court.

A film abtitled "The Most Powerful Institution", dedicated to the Constitutional Court, was showcased on a large screen in the courtyard, attracting significant interest among visitors. This documentary stands as the firsand currently the only film documentary of its kind dedicated to the Constitutional Court. It was prepared by the public broadcaster RTVS in cooperation with the Press and Information Department of the Constitutional Court's Chancellery on the occasion of the celebration of the Constitutional Court's jubilee. The film premiered on RTVS on 17 March 2023, when we commemorated the first session of the full Plenum of the Constitutional Court, and was also airedt on the Constitution Day of the Slovak Republic on 1 September. Visitors at the Open Day were particularly captivated by the insights shared by constitutional lawyers in the film, concerning the history of the constitutional judiciary, and also in the statements of the Presidents of the Constitutional Court in relation to the key decisions of the Constitutional Court during their respective terms of office.

The Chancellery of the Constitutional Court announced a literary competition for pupils and students of primary and secondary schools on the theme "Recipe for a Fairer World" and an art competition on the theme "Colours of Justice" as part of the preparations for Open Day. For university students, a literary competition on the theme: ‚The Importance and Role of the Constitutional Court During Its 30 Years of Existence'. While the competitions for primary and secondary schools were evaluated during the Open Day, the competition for colleges was evaluated a month later.

The competitions announced for pupils and students of primary and secondary schools attracted 150 competitors from 23 municipalities across Slovakia. In their

submissions, they expressed their perspectives on the topic of justice, emphasizing the importance of safeguarding it through sound decisions. They also addressed societal challenges such as polarisation of society, populism, poverty and hatred, proposing solutions to these negative phenomena rooted in the application of moral principles in our everyday lives, fostering cohesion and promoting mutual understanding in families and workplaces. Children from the Evangelical Special Primary Boarding School for Children with Deaf-Blindness in Červenice and children from the Kubranská Primary School - an elocated workplace in Trenčín-Opatová for pupils with autism also took part in the competitions. The winners were honoured to receive their prizes from the hands of the President of the Constitutional Court Ivan Fiačan.

The winners of the literary competition for universities together with their teachers were honoured with a reception by the President of the Constitutional Court on 28 November 2023 in the Independence Hall. During the interview, he appreciated their unconventional and professionally mature approach to addressing the topic, as well as their critical analysis of the constitutional judiciary. He praised the quality and inspiring nature of the winners' work and informed them about the opportunity to undertake an internship at the Constitutional Court. The winners expressed their appreciation for the Court's efforts to foster closer engagement with the public, especially the younger generation, through the launch of competitions. They emphasized the importance of such initiatives in ensuring thatConstitutional Court, as an independent judicial body for the protection of constitutionalism, enjoys social recognition it deserves. All winning entries are published on the Constitutional Court's website under ‚Information for the media and the public', ‚Open Day'.

The Constitutional Court will uphold the tradition of organising an Open Day and competitions for pupils and students at all school grade levels in the upcoming years.

EDUCATION AND TRAINING

In 2023 the Chancellery of the Constitutional Court enabled its state service employees to participate in various types of competence-based training, with a total of approximately 71 training activities. The trainings focused, for example, on current issues of civil procedure, management skills, effective team management, mentoring, time management, GDPR, e-government, labour law, insolvency law, diplomatic protocol, cybersecurity and others.

Building on the mutual cooperation in the previous periodthe Chancellery of the Constitutional Court focused on cooperation with the **Judicial Academy of the Slovak Republic**, in 2023, concluding the **Memorandum of Understanding** within the framework of training for advisors and analysts.

The purpose of the concluded Memorandum is to continue and further develop mutual cooperation, particularly in the areas of lecturing of the Constitutional Court Judges at educational events organized by the Judicial Academy, education of the Constitutional Court Chancellery staff through educational events organized by the Judicial Academy, participation of the Constitutional Court Judges in the examination commissions, which verify the professional knowledge and expertise of candidates for the professional judicial examination, and many other joint activities.

A total of 36 trainings focused on problematic aspects of unjust enrichment, selected issues of burdens in rem, unacceptable contractual terms and conditions in application practice, compensation for damages in commercial law, the development and practical problems of inheritance law, selected issues in family law, court argumentation, assertiveness in professional and private life, and others.

INTERNSHIP

In 2023, the Chancellery of the Constitutional Court of the Slovak Republic entered into contracts for 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. Additionally, it prepared other internship opportunities through an adopted directive.

This Directive regulates the objectives, conditions, course and technical-organisational provision of professional student internships, which are one of the forms of cooperation between the Constitutional Court Chancellery and the relevant faculty of university.

The objective is to implement collaboration with universities by offering students the chance to undertake free internships Constitutional Court's Chancellery under the guidance of an employee of the Constitutional Court's Chancellery, to the extent determined by mutual agreement. This initiative aims to bridge the gap between theoretical knowledge with practical experience, allowing students to familiarize themselves with the activities of the Constitutional Court's Chancellery across all its agendas.

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