

# The multi-level regulation of the traditional and the exceptional emergency powers in Slovakia

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## 1. Regulation of the special legal regime in Slovakia in general

In Slovakia, the general rules concerning the emergency powers are laid down in the Constitution of the Slovak Republic, while the specific rules were enacted in the constitutional act No. 227/2002 Coll. on the state security in the time of war, state of war, exceptional state and the emergency state as amended.<sup>1</sup> The constitutional act on state security can be considered as an equivalent to a “crisis constitution act” in the Slovak Republic, as it plays an important and decisive role in the protection of the sovereignty of the state.<sup>2</sup> According to Svák et al., the constitutional act on state security is a special act applicable directly in times of war or another emergency situation.<sup>3</sup>

While the constitution regulates the issue of emergency powers in a rather succinct way,<sup>4</sup> the constitutional act on state security provides an exhaustive list and precise definitions of the different types of emergency powers. The conditions for the promulgation of a special legal regime, the particular procedure of promulgation, the territorial and temporal scope of

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1 Constitutional act No. 227/2002 Coll. on the state security in the time of war, state of war, exceptional state and the emergency state as amended. Hereinafter referred to as the constitutional act on state security.

2 Škrobák, 2020

3 Svák, Cibulka and Klíma, 2013, p. 97.

4 The constitution contains only two empowering provisions on the regulatory requirements of the special legal regime. Pursuant to Article 51 (2) of the constitution: “The conditions and extent of restriction of the fundamental rights and freedoms and the extent of duties in a time of war, a state of war, an exceptional state or an emergency state shall be laid down by a constitutional law”. The second provision can be found in Article 102 (3): “Conditions for declaring war, declaring a state of war, declaring an exceptional state, declaring an emergency state and the manner of exercising public authority during war, a state of war, an exceptional state, shall be laid down by a constitutional law”.

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a particular special legal regime, as well as the restriction of certain fundamental rights and the related obligations have been enacted in the constitutional act on state security in detail. The constitutional act on state security also regulates the specific emergency powers of certain constitutional bodies.

Regarding the relevant Slovak legislation, it is important to point out, that the constitutional system in Slovakia consists of not only the constitution itself but the constitutional system also includes numerous constitutional acts. For this reason, the Slovak scientific literature on the subject matter describes the constitution as so-called *polylegal*.<sup>5</sup> Therefore, the constitutional acts are also forming an integral part of the constitutional order of Slovakia: these special constitutional acts can be adopted or amended by a three-fifths majority of all members of the parliament (qualified majority).<sup>6</sup>

The legal hierarchy and the relationship between the constitution and the constitutional acts were examined by the Constitutional Court of the Slovak Republic as well. In this context, the Constitutional Court pointed out that the supreme law of Slovakia is the constitution; its adoption or amendment requires a qualified majority. However, from a formal point of view, the Slovak hierarchy of sources of law makes no distinction between the constitution and constitutional acts.<sup>7</sup> As a result, the constitutional acts are therefore undoubtedly having the same legal force in this respect as the constitution itself.<sup>8</sup>

The rules on emergency powers in Slovakia have been laid down solely at a constitutional level. However, there are other cases in the Slovak legal system which are not considered as traditional special legal regimes or emergency powers, however, they have a similar effect, and should be used for similar reasons. These non-traditional special legal regimes cases are regulated on the level of simple acts.<sup>9</sup>

### ***1.1. The specific cases of the special legal regime***

In accordance with the provisions of the constitutional act on state security, the particular cases of the emergency powers in Slovakia are war (*vojna*), state of war (*vojnový stav*), exceptional state (*výnimočný stav*), and state of emergency (*núdzový stav*).<sup>10</sup>

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5 Giba et al., 2019, p. 76.

6 Article 84 (4) of the constitution

7 The decision of the Constitutional Court of the Slovak Republic, no. I. ÚS 39/93.

8 Giba et al., 2019, p. 75.

9 It is important highlighting that, in the Slovak legislation concerning the cases of special legal regime regulated on the constitutional level the legislature uses the term “status” (*stav*), while the term “situation” (*situácia*) is used in connection with the non-traditional cases of the special legal regime, thereby facilitating the correct application of the law following the classification of cases.

10 The translations are the official translations of the specific types of emergency powers (special legal regimes).

**a) War**

According to Slovakian scientific literature on the subject, war, as a special legal regime, can be defined as a set of state measures through which the functioning of the state and the local authorities, private enterprises can be controlled or their functioning can be limited by the state.<sup>11</sup> According to the constitutional act on state security, the declaration of war falls under the authority of the president of the Slovak Republic, who makes a decision by resolution of the National Council of the Slovak Republic.<sup>12</sup> As a condition for declaration of war, the constitutional act on state security specifies two specific cases. War can be declared if the Slovak Republic is attacked by a foreign power violating its security, with or without sending a message of war, or if the Slovak Republic enters into war to fulfill its obligations arising from international contractual relations.<sup>13</sup> War can only be declared for the entire territory of the country. The constitutional act on state security also defines the duration of the war: the war is a period from the day of its declaration until the day of the conclusion of the peace.<sup>14</sup> In the event of such a special legal regime, depending on the severity of the events, the fundamental rights and freedoms may be restricted to the extent and for the necessary period in the whole or part of the territory of the Slovak Republic. The maximum number of obligations and restrictions on fundamental rights and freedoms<sup>15</sup> that can be imposed during the war are listed exhaustively in the constitutional act on state security.

**b) State of war**

In Slovakia, the president has the right to declare a state of war. The president may act on the proposal of the government. To declare this type of special legal regime, certain conditions must be met, such as a direct threat related to the message of war, or if the country is threatened by a direct attack by a foreign power without declaring war against Slovakia.<sup>16</sup> With regard to the declaration of a state of war, the president has discretion, as he has the right to reject the government's proposal at any time.

The state of war extends to the entire territory of the country.<sup>17</sup> In connection with the state of war, the fundamental rights and freedoms may be restricted, and obligations may be imposed in the whole state or part of the territory of the Slovak Republic, depending on the

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11 Šimák, 2005, p. 37.

12 *Národná rada Slovenskej republiky*. Hereinafter referred to as the parliament.

13 Constitutional act on state security, Article 2 (1)

14 Constitutional act on state security, Article 2 (5)

15 For more scientific literature regarding the restriction of fundamental rights and freedoms in Slovakia see for example Benedik, 2017 and Skurka, 2021.

16 Constitutional act on state security, Article 3 (1)

17 Constitutional act on state security, Article 3 (2)

severity of events.<sup>18</sup> The maximum extent of obligations and restrictions that may be imposed are listed exhaustively in the constitutional act on state security.

### **c) Exceptional state**

The president may declare an exceptional state based on a proposal from the government, but only if there is an imminent threat of a terrorist attack or street riots, or if these events have already occurred. Street riots, as defined by law, are a kind of widespread conduct that is accompanied by acts of violence against public authorities, the looting of shops or warehouses, other acts of violence against private property, or another massive acts of violence that seriously threaten the public safety. In this case, an exceptional state may be declared if the restoration of public safety through the usual intervention of the authorities or the use of other legal instruments proves ineffective.<sup>19</sup> Comparable to a state of war, the president has discretion regarding the declaration of an exceptional state, as he or she also has the right to reject the government's proposal.

Compared to war and a state of war, there is an important difference in the territorial scope of an exceptional state. While war and a state of war must be ordered for the entire territory of Slovakia, for an exceptional state, the scope of the declaration is limited to the physical territory affected, which also may be the whole state. The duration of the exceptional state may not exceed 60 days. The exceptional state may be extended for 30 days further if new circumstances arise that are directly related to the causes of the declaration of this type of a special legal regime. The criteria of necessity and proportionality must also be considered during the renewal of the exceptional state.<sup>20</sup>

### **d) State of emergency**

The fourth category of emergency powers enacted in the constitutional act on state security is the state of emergency, which may be declared by the government. In contrast to the other three types of the special legal regime already analyzed above, the subsequent approval of the declaration by the president or the parliament is not required. A state of emergency can be ordered if an extraordinary event endangering human life and health occurs, or it is an imminent danger of occurrence of these events.<sup>21</sup> These extraordinary events can be related to different kinds of epidemics; damage to natural environmental features or other significant material objects; or damage to real estate caused by natural disasters, industrial

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18 Constitutional act on state security, Article 3 (3)

19 Constitutional act on state security, Article 4 (1)

20 Constitutional act on state security, Article 4 (2)

21 Hojnyák and Ungvári, 2021, pp. 310–311.

disasters, transportation accidents, or other operational accidents.<sup>22</sup> The territorial scope of the declaration of the exceptional state and the state of emergency are identical, with the difference that the territorial scope of the exceptional state is limited to the affected area, which may be the entire state. The state of emergency may be declared for the time necessary, but its declaration shall not exceed 90 days.<sup>23</sup>

By the amendment of the constitutional act on state security effective from December 29, 2020, the legislature refers to the experiences gained during the pandemic situation caused by COVID-19. According to this amendment, during a pandemic situation, the state of emergency may be extended by a maximum of 40 days, even repeatedly, to the extent and for the necessary time. It means in general, that the state of emergency can be prolonged unlimited times. However, the extension of the state of emergency must be approved by the parliament within 20 days of the first day of the extension. In that case, if the parliament does not give its consent to the prolongation, the extended state of emergency shall end on the day on which the government does not accept the proposal to express its consent to the extension. The re-declaration of a state of emergency also requires the consent of the parliament if 90 days have not elapsed since the end of the state of emergency declared for the same reasons.<sup>24</sup>

Comparing the exceptional state and the state of emergency, the most fundamental differences relate to the nature of the situation. For an exceptional state, the threat is an attack on the protected interests of individuals or groups of people, while in case of a state of emergency, the constitutional regime reacts to a threat caused by force majeure, or a threat explicitly not caused by the intentional conduct of any person or group of persons. The state of emergency, therefore, responds to an objective situation. Another significant difference is that while the president may declare an exceptional state on the basis of a proposal of the government, the state of emergency may be declared by the government itself.<sup>25</sup> In an exceptional state and a state of emergency, there is a common point related to ensuring the legality of its promulgation. According to the constitution in both cases, the Constitutional Court of the Slovak Republic can decide on the lawfulness of the promulgation.<sup>26</sup>

To summarize the four types of special regimes<sup>27</sup> in Slovakia, the protection of the external sovereignty of the state basically requires the promulgation of war or a state of war, while the protection of the internal security of the state the promulgation of an exceptional state or a state of emergency is the appropriate choice.

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22 Constitutional act on state security, Article 5 (1)

23 Sepeši, 2020

24 Pirošíková, 2021, pp. 2–10.

25 Škrobák, 2020

26 Kelemen, 2020, p. 219. For further information, see: the constitution, Article no. 129 (6)

27 Burdová, 2011, p. 57.

### **1.2. The constitutional bodies and the common rules on emergency powers**

The constitutional act on state security specifies the general rules and the functioning of the constitutional bodies in detail. Such constitutional bodies are the government, ministries, central bodies, district offices, local governments, and self-governments on the county level. The Parliamentary Council of the Slovak Republic (*Parlamentná rada Slovenskej republiky*) and the Security Council of the Slovak Republic (*Bezpečnostná rada Slovenskej republiky*) are also key constitutional bodies in this respect.

The Parliamentary Council is established by the constitutional act on state security in order to carry out the specific functions of the parliament during the war, state of war, and exceptional state. However, there are certain exceptions among the exceptional powers of the Parliamentary Council.<sup>28</sup> The Parliamentary Council is a very special and exceptional body, which exercises the powers of the parliament if the parliament is obstructed for any reason.<sup>29</sup>

The Security Council is created by the constitutional act on state security as well. The Security Council has different responsibilities during a special legal regime from those in peacetime.<sup>30</sup> In times of war, states of war, and states of emergency, if the government is obstructed, the Security Council shall perform its functions. However, the Security Council shall substitute the government in general, the council cannot amend the program for government, request for a vote of confidence, or exercise general amnesty. The operation and the responsibilities of the Security Council during peacetime are regulated by Act No. 110/2004. Coll. on the Functioning of the Security Council During Peacetime.<sup>31</sup> The structure of the council is also defined by the aforementioned Act. According to this, the subdivisions of the Security Council are the county security councils and the district security councils.

The constitutional act on state security declares, that the resolutions on the message of war and the conclusion of peace, declaration of a state of war, declaration of exceptional state and state of emergency, restriction of fundamental rights and freedoms, and imposing obligations, as well as the decisions of the government on emergency measures, decisions of the Parliamentary Council and decisions of the Security Council should be immediately

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28 For the exhaustive list of the aforementioned exceptions, see the constitutional act on state security, Article 7 (2)

29 Giba et al., 2019, p. 74.

30 During peacetime, the Security Council operates as an advisory body to the government. In sphere of its authority, it participates in the development and operation of the security system of the Slovak Republic, fulfills international security obligations, and assesses the security situation at home and abroad; prepares proposals for the government to maintain the security of the state and also takes measures to prevent crisis situations.

31 Act No. 110/2004 Coll. on the Functioning of the Security Council During Peacetime

published in the Slovak print media, aired in radio channels and television broadcasts, and also immediately shall be published in the National Gazette of the Slovak Republic.

The constitutional act on state security regulates the issue of elections due in time of war, state of war, and exceptional state. The act also regulates the cases of the right to get compensation from the state in connection with the ordered special legal regimes, and the calculation of the statutory time limits and limitation periods.<sup>32</sup>

### ***1.3. Irregular emergency powers: crisis situation and emergency situation***

In addition to the four types of special legal regimes, two additional categories appear in the Slovak legal regulation, which are not part of the system of the emergency powers. These are the crisis situation (*krízová situácia*) and the emergency situation (*mimoriadna situácia*). However, the emergency situation should not be confused with the state of emergency, which is a type of a special legal regime.

The provisions of the crisis situation are laid down in Act No. 387/2002 Coll. on the state management in the time of crisis situations out of the time of war and the state of war as amended.<sup>33</sup> According to Slovak law, a crisis situation is a situation in which the security of the state is damaged or endangered, and the authorized constitutional bodies shall declare an exceptional state, a state of emergency, or emergency situation.<sup>34</sup> The act on crisis situations also sets out the administrative bodies for crisis management, namely which are the government, the Security Council, ministries and central bodies, the National Bank of Slovakia, the District Security Council, the District Office, the District Security Council, and municipalities. As can be seen from this list, there is a slight overlap between the crisis management bodies and constitutional bodies. It should also be noted that the government may also establish a Central Crisis Staff (*Ústredný krízový štáb*) chaired by the minister of the interior of the Slovak Republic to deal with crisis situations. The detailed rules related to the operation of the Central Crisis Staff are enacted in the statutes of the board, which shall be approved by the government.<sup>35</sup>

The Act No. 42/1994 Coll. on the civil protection of population as amended<sup>36</sup> defines the emergency situation as a period of endangerment or the result of a period following an emer-

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<sup>32</sup> Constitutional act on state security, Article 11

<sup>33</sup> Act. No. 387/2002 Coll. on the state management in the time of crisis situations out of the time of war and the state of war as amended

<sup>34</sup> Act on crisis situations, Section 2, point a)

<sup>35</sup> The Statutes of the Central Crisis Staff in the Slovak language can be downloaded from the website of the government Office of the Slovak Republic. [Online.] <https://tinyurl.com/vdee4xc> (Accessed: May 25 2021)

<sup>36</sup> Act No. 42/1994 Coll. on the civil protection of population as amended

gency that has a negative impact on human life, people's health, or property.<sup>37</sup> The act on civil protection also defines different types of emergencies, including elemental disasters, accidents, natural catastrophes, public health emergencies, and terrorist attacks. In the event of an emergency, different types of measures may be taken to save the lives, health, or property of the people; to reduce the risk of a threat; or to take other action to prevent the spread and consequences of the emergency.<sup>38</sup>

The act on civil protection aims to protect the lives, health, and property of citizens in the event of an emergency, and to define the rules of procedure of public bodies and the roles and responsibilities of natural and legal persons.<sup>39</sup> In the field of civil protection, Slovak law gives general duties to the government, while the minister of the interior of the Slovak Republic is entrusted with preparatory, coordination, implementation, and control duties.

## **2. Provisions restricting fundamental rights during a special legal regime**

According to the constitution, the Slovak Republic is a sovereign, democratic state, governed by the rule of law;<sup>40</sup> regarding legal certainty and justice, special emphasis is placed on the protection of certain fundamental rights, which are the subject of its regulation.<sup>41</sup>

Furthermore, Article 2 of the constitution enshrines an important relationship between the holders of state power and other subjects of law, which forms one of the basic pillars of the rule of law. A constitutional maxim applies to state authorities: "What is not allowed is forbidden." Accordingly, state bodies must act solely based on the constitution, within its scope, and their actions shall be governed by procedures laid down by law.<sup>42</sup> Citizens have different a constitutional maxim: "What is not forbidden by law is allowed." This is expressed in the constitution in the provision that everyone may do what is not forbidden by law, and no one may be forced to do what the law does not enjoin.<sup>43</sup> These two articles together form an effective legal basis for a system of protection for all persons against negative state action.<sup>44,45</sup>

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37 Act on civil protection, Section 3 (1)

38 Act on civil protection, Section 3 (1)

39 Pírý, 2020

40 The Constitution, Article 1 (1)

41 Skurka, 2021

42 The Constitution, Article 2 (2)

43 The Constitution, Article 2 (3)

44 Skurka, 2021

45 For more information, see the decision of the Constitutional Court of the Slovak Republic, no. II. ÚS 62/99.



In the Slovak Republic, fundamental rights shall be guaranteed to everyone regardless of sex, race, color of skin, language, belief or religion, political affiliation or other conviction, national or social origin, nationality or ethnic origin, property, descent, or any other status. No one shall be aggrieved, discriminated against or favored on any of these grounds.<sup>46</sup>

Regarding provisions restricting fundamental rights during a special legal regime, it is important to reiterate that the general provisions on restricting fundamental rights and freedoms have been declared in the constitution. Although the constitution provides guarantees the protection of fundamental rights, it does not address the issue of their limitation during a special legal regime.

The constitution enshrines, as a general guarantee, the freedom of the individual, and the equality of the individual in dignity and rights. The constitution also declares that fundamental rights and freedoms are irrevocable, inalienable, imprescriptible, and irreversible,<sup>47</sup> and these rights cannot be eliminated; furthermore, the constitution also guarantees the universality of fundamental rights and freedoms.

The Slovak Constitution contains only two empowering provisions for the establishment of detailed rules for the emergency powers. However, the constitution does not provide further information on the subject of the empowering provisions.<sup>48</sup> Based on the empowerment specified in the constitution, the constitutional act on state security exhaustively lists the permissible level of restriction on fundamental rights and freedoms, and also specifies the range (levels) of fundamental rights and obligations that may be restricted in specific cases. Following the structure of the act, after the introductory provisions, each of the fundamental rights and obligations that can be restricted are exhaustively listed and defined for each type of the special legal regime.

With regard to the four special legal regime situations, while at war or a state of war, the restrictions on the exercise of fundamental rights and freedoms can only be determined for the extent and for the time required, depending on the severity of the events in the state. In the meantime, in case of an exceptional state or a state of emergency, the regulations allows for the restriction of fundamental rights depending on the severity of the threat. As in the modern history of Slovakia, only the state of emergency has been declared, so at this point we will not analyze all types of the restrictions of the fundamental rights in case of every special legal regime; we will only analyze the restriction of the fundamental rights during a state of emergency.

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46 The Constitution, Article 12 (2)

47 The Constitution, Title II (Fundamental rights and freedoms), Article 12 (1)

48 Kelemen, 2019, p. 29.

During a state of emergency, certain fundamental rights may be restricted, while complying with the principles of necessity and proportionality, but their restriction is only possible in accordance with the constitution.<sup>49</sup> The restricting provisions of the fundamental rights during a state of emergency are exhaustively listed in the constitutional act on state security.<sup>50</sup>

Many types of restrictive measures can be imposed on an area affected by a state of emergency or imminent threat, such as evacuation of persons, conducting mandatory work, use of private premises for military purposes, prohibition of the use of vehicles, restrictions on the delivery of letters, restrictions on free movement. The right of assembly, the right to strike, and the right to freedom of expression may be also restricted during the state of emergency.<sup>51</sup>

The possibility of the restrictions on fundamental rights allowed by the constitution was also seized by the Slovak government during the epidemic situation caused by COVID-19.<sup>52</sup> With regard to the restriction of fundamental rights, it is necessary to briefly present and analyze Act No. 355/2007 Coll. on protection, promotion and development of public health and on change and amendment to some acts in wording of later regulations.<sup>53</sup> Under this act, the Public Health Authority of the Slovak Republic, as the administrative authority competent in the field of public health, is entitled to introduce certain measures at its discretion.<sup>54</sup> These measures taken by the Public Health Authority are authorized explicitly by the Slovak Constitution.<sup>55</sup>

However, this competence of the Public Health Authority has been subject of a number of public debates.<sup>56</sup> Given the unprecedented situation in which the world found itself seemingly overnight, the Slovak authorities did not have established procedures in place to fight this extraordinary situation. Responding to this situation, the Slovak parliament amended the act on public health, which was signed by President Zuzana Čaputová without delay. The purpose of the amendment of the act was to resolve inconsistencies in the precautionary measures made by the Public Health Authority of the Slovak Republic in response to the coronavirus epidemic. However, after signing the amendment of the act, the president forwarded it to the Constitutional Court to examine certain provisions of the act, as in her opinion the

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49 The Constitution, Title II, Article 13 (2)

50 The Constitution, Article 51 (2)

51 For further information see the constitutional act on state security, Article 5 (3)

52 See for example the Resolution of the government no. 693/2020 issued on 28 October 2020

53 Act No. 355/2007 Coll. on protection, promotion, and development of public health and on change and amendment to some acts in wording of later regulations. Hereinafter referred to as the Act on public health.

54 For detailed explanation on this subject-matter see Kukliš, 2021, pp. 141–154.

55 Act on public health, Section 48 (4)

56 For further explanation see: Havelková, 2020, p. 15.; Havelková, 2020; Dobrovičová, 2020

provisions of the act that exclude persons affected by precautionary measures were unconstitutional. The Constitutional Court of the Slovak Republic approved Čaputová's petition, and as a result, suspended the disputed legislation, and then forwarded the text of the petition re-consideration.<sup>57</sup>

### 3. Emergency powers in practice, except for COVID-19

Of the special legal regime cases analyzed in previous chapters, no war, state of war, or exceptional state has been declared in Slovakia so far. However, some examples can be found of the declaration of state of emergency. This special legal regime has been declared three times in Slovakia's modern history, two of which can be linked to the coronavirus epidemic.<sup>58</sup>

For the first time, Slovakia declared a state of emergency by issuing the decree of government no. 421/2011 due to a serious deficiency in the healthcare system. The declaration of the state of emergency was primarily aimed at ensuring proper operation of the healthcare system in the country and banning certain groups of workers (mainly the medical staff) from exercising their right to strike. In November, the cabinet of the president agreed to declare a state of emergency at fifteen state-run hospitals in Slovakia where an overwhelming majority of protesting hospital doctors rejected an offer of a €300 pay rise and refused to withdraw their resignation notices that take effect on December 1. Former Health Minister Ivan Uhliarik also announced that the state of emergency will not apply to doctors who did not submit resignation notices and that the salaries of doctors who have resigned but are forced to work will not be reduced as it had originally been announced. The Medical Trade Unions Association pointed out, at the end of September 2, 411 doctors had submitted their resignation notices in 34 hospitals across Slovakia. The Medical Trade Unions Association has made four demands to the government in order to avoid a situation like this in the future. The demands were to observe the Labour Code, to change the system of healthcare funding, to stop the transformation of hospitals into joint-stock companies, and to increase wages of healthcare employees.<sup>59</sup>

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57 See the press release no. 51/2020 of the Constitutional Court of the Slovak Republic: [https://www.ustavnysud.sk/documents/10182/107844303/TS\\_51\\_2020/c96cbo26-932e-4f15-8043-391be7018367](https://www.ustavnysud.sk/documents/10182/107844303/TS_51_2020/c96cbo26-932e-4f15-8043-391be7018367) (Accessed: December 2 2020)

58 Regarding this, see the website of the Ministry of Health of the Slovak Republic: <https://www.health.gov.sk/Clanok?vyhlasenie-nudzoveho-stavu-v-zdravotnickych-zariadeniach> (Accessed: December 14 2020).

59 You can read more about the situation: <https://spectator.sme.sk/c/20041805/slovakia-declares-state-of-emergency-at-15-state-run-hospitals.html> (Accessed: May 27 2021)

#### 4. Experiences of COVID-19 from the aspect of the state of emergency

Due to the epidemic caused by the new type of coronavirus,<sup>60</sup> the Slovak government decided to declare a state of emergency effective March 16, 2020.<sup>61</sup> However, originally, the scope of this type of special legal regime was limited to the healthcare system.

As already stated in the previous chapters, the constitutional act on state security links the possibility of promulgation of the state of emergency to the occurrence of an event or series of events that endanger human life, or it is an imminent danger to human life, peoples' health, or property. According to the constitutional act on state security, it may be an event related to a pandemic (epidemic) situation, or damage to a natural or built environmental feature or other real estate caused by a natural disaster, catastrophe, industrial disasters, or other operational accident.<sup>62</sup> An important feature of a state of emergency is that fundamental rights and freedoms may be restricted. Following this general definition, the act on state security lists exhaustively the fundamental rights and freedoms that can be restricted. The constitutional act on state security thus does not restrict fundamental rights *arising from the constitution*, but essentially authorizes the restriction of fundamental rights under the constitutional act on state security. In addition, it is absolutely necessary to emphasize that the declaration of a state of emergency does not in itself have a general restrictive effect, and it does not constitute a restriction on all fundamental rights and freedoms—it only creates the opportunity for a restriction.<sup>63</sup> Even before the state of emergency was ordered, the government declared an emergency situation for the entire territory<sup>64</sup> of the state.<sup>65</sup> However, the emergency situation is not a special legal regime in Slovakia.

The Slovak government, in response to the coronavirus epidemic, first introduced a countrywide emergency situation, then a few days later decided to introduce a special legal regime in form of a state of emergency.<sup>66</sup> Both, the emergency situation and the state of emergency were formally declared by a resolution of the government.<sup>67</sup>

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60 Venice Commission, 2020, p. 39.

61 Resolution of the government no. 114/2020.

62 Constitutional act on state security, Section 5 (1)

63 Drgonec, 2012, p. 76.

64 The declaration of the emergency situation was based on provisions of the Act on civil protection. In Slovakia, the state of emergency was declared one day after the COVID-19 pandemic declared by the director-general of the World Health Organization on March 11, 2020.

65 Resolution of the government of the Slovak Republic no. 111/2020. Pursuant to Section 8 of the Civil Protection Act, the government was entitled to order an emergency situation.

66 Hojnyák and Ungvári, 2021, p. 311.

67 Jančát et al., 2020

In Slovakia, during the first wave<sup>68</sup> of the coronavirus epidemic, the state of emergency was declared for the maximum possible duration (90 days).<sup>69</sup> As a result of the second wave of the coronavirus epidemic, the Slovak government has also decided to introduce a state of emergency similar to during the first wave. This measure was ordered on October 1, 2020, for 45 days.<sup>70</sup> In this case, the emergency situation was introduced along with the state of emergency.<sup>71</sup> As the second wave of the coronavirus epidemic was observed in November 2020, the government needed to extend the emergency for another 45 days on November 11.

An amendment of the constitutional act on state security came into force on December 29, 2020.<sup>72</sup> As a result, the possibility of extending the duration of the state of emergency from 90 days by a further 40 days can be extended an unlimited number of times. Accordingly, the government extended the duration of the state of emergency<sup>73</sup> throughout the Slovak Republic for a period of 40 days, from December 29, 2020, until February 7, 2021.<sup>74</sup>

After that period, the Slovak government saw the need to maintain the state of emergency, extending it from February 8, 2021, for another 40 days.

Beginning March 20, 2021, the government again extended the state of emergency in Slovakia by 40 days. However, the thirty days were not expected to expire (it would have ended on May 28, 2021), the Slovak government on the basis of the improving pandemic situation decided, to end the special legal regime on May 14, 2021.<sup>75</sup>

Finally, on April 1, 2021, the Slovak Parliament approved the extension of the state of emergency. In justification of the resolution, the government warned that the more aggressive COVID-19 mutation would continue to endanger the lives and health of citizens and that there was an imminent threat of the further spread of the coronavirus. The government has also warned that despite the improving number of cases, the epidemiological situation remains fragile and premature mitigation of measures could lead to a worsening of the situation. As

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68 The main measures adopted to deal with the coronavirus epidemic (during the first wave) have also been compiled by the European Parliamentary Research Service. For further information, see [https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/652002/EPRS\\_BRI\(2020\)652002\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/652002/EPRS_BRI(2020)652002_EN.pdf) (Accessed: December 14, 2020).

69 Constitutional act on state security, Section 5 (2)

70 Decision of the government no. 366/2020.

71 In this case, the Slovak government introduced the state of emergency only for 45 days instead of 90 days.

72 The amendments of the constitutional act on state security is available in the Slovak language on the following link: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2020/414/20201229.htm> (Accessed: May 27, 2021).

73 See the Resolution of the government of the Slovak Republic no. 807/2020. Available at (in Slovak language): <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2020/427/20201229> (Accessed: May 27, 2021).

74 Skurka, 2021

75 This happened right after the parliament adopted the amendment of Act No. 179/2021 on economic mobilization. This Act may be the more appropriate alternative to the emergency. As a result, the Cabinet has the means to take economic mobilization measures without declaring a state of emergency.

a result, the state of emergency was also extended on April 29, 2021.<sup>76</sup> The state of emergency was abolished seven months after its introduction. However, the emergency situation, which was introduced in March 2020, is still in force.

As the state of emergency introduced in March 2020 was affecting the healthcare system, the state of emergency introduced in October 2020 and the following period was a general kind of state of emergency.

Here it is necessary to briefly describe the public debates that have arisen regarding the declaration of a state of emergency in greater detail.

As previously mentioned, in 2011, the simultaneous dismissal of more than a third of the doctors working in Slovak hospitals shocked the Slovak government, and as a result, the government decided to order the state of emergency to combat the situation. The emergency declared in the resolution of the government was aimed at ensuring continuous healthcare and banning doctors from exercising the right to strike.<sup>77</sup> In connection with this case, several constitutional court decisions were born. The specific cases were examined not in connection with the promulgation of a special case of legal order (in this case, the state of emergency), but in connection with the prohibition of forced labor, during which the Slovak Constitutional Court did not find any unconstitutionality. The declaration of a state of emergency was then made only in March and October 2020, in connection with the outbreak of the coronavirus epidemic.<sup>78</sup>

In October 2020, Deputy Prosecutor General Viera Kováčiková submitted a motion concerning the state of emergency to the Constitutional Court of the Slovak Republic. The submitted complaint was made in connection with the constitutionality of the resolution adopted by the government. In addition, a group of members of parliament also appealed to the Constitutional Court concerning the declaration of the special legal regime. The Constitutional Court ruled that the state of emergency declared with effect from October 14 was in line with the Slovak Constitution, and that the declaration of the state of emergency violated neither the constitution nor the constitutional act on state security. The Constitutional Court ruled that the declaration of a state of emergency was not unconstitutional, nor that extending its scope to the entire territory of the country was unconstitutional. According to

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76 See the press release on the website of the Ministry of Interior of the Slovak Republic. Available at: <https://www.minv.sk/?tlacove-spravy&sprava=nudzovy-stav-na-slovensku-predlzeny-o-dalsich-30-dni> (Accessed: May 12, 2021).

77 It should be noted that the legislature regulates only in the case of a state of emergency that it cannot be declared to prevent the exercise of the right to strike.

78 Grešš, 2021

the Constitutional Court, the government had complied with all the formal requirements for declaring a state of emergency.<sup>79</sup>

Also, in October 2020, the general prosecutor's office (GPO) stated that the Slovak Public Health Authority had violated the law regarding the imposition of precautionary measures during the first wave of the coronavirus epidemic. For this reason, the GPO sent a warning to the Public Health Authority of the Slovak Republic. The infringement was mainly based on the fact that, after the declaration of the emergency situation and the state of emergency, the Public Health Authority no longer had sufficient power to order precautionary measures, and the legal form of the introduced measures was not appropriate. The GPO recommended that the Public Health Authority take the necessary measures without delay to prevent future violations of existing legislation. It is also clear from the warning received by the Slovak Public Health Authority that the prosecutor general did not object to the introduced measures but to the way (the legal form) in which they were adopted.<sup>80</sup>

We can also find a good example on the subject matter from the year 2021, as on May 31, 2021, the Constitutional Court of the Slovak Republic ruled on the constitutionality of the measures adopted on May 17, and the 40-day extension of the emergency proposed by the SMER-SD political party and Prosecutor General Maroš Žilinka. The Constitutional Court of the Slovak Republic had to rule within 10 days of the reception of the petitions, which resulted in the two petitions being joined and forwarded for further proceedings. In its decision, the Constitutional Court of the Slovak Republic stated that it considered that the risk of an epidemic existed throughout Slovakia and, as a result, endangered the lives and health of individuals.<sup>81</sup> "The government, therefore, had the relevant facts for the adoption of the contested decision and also had the appropriate legal basis, which arises from the constitutional act on state security," according to Judge-Rapporteur Martin Vernarský.<sup>82</sup>

Even with the petition of the prosecutor general, who raised fundamental objections to the ban on national antigen testing or travel abroad for leisure purposes, the Constitutional Court upheld the constitutionality of the measures. "The Constitutional Court has concluded that the only criterion for assessing restrictions on fundamental rights and freedoms in an emergency is their necessity in relation to the seriousness of the threat and that the restrictions imposed meet that criterion. The test is a condition for the application of the exception

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79 Grešš, 2021

80 The press release of the News Agency of the Slovak Republic is available at the following link: <https://www.tasr.sk/tasr-clanok/TASR:20201006TBB00246> (Accessed: November 10 2020)

81 For more information see the decision of the Constitutional Court of the Slovak Republic no. PL. ÚS 2/2021.

82 Pravda: Vládou predĺžený núdzový stav je v súlade s ústavou, rozhodol ÚS. Available at: <https://spravy.pravda.sk/domace/clanok/583013-plenum-ustavneho-sudu-rokuje-o-ustavnosti-predlzenia-nudzoveho-stavu/> (Accessed: May 27 2021)

to the curfew and thus de facto contributes to the fulfilment of the necessity criterion introduced by the constitutional law,” Martin Vernarský stated.<sup>83</sup>

Judges Jana Laššáková, Miroslav Duriš, and Peter Straka dissented with the decision of the Constitutional Court, both on the statement and on the court’s reasoning.<sup>84</sup>

## 5. COVID-19 as an economic crisis: Fiscal and monetary measures of crisis management

In Slovakia, a country of 5.4 million inhabitants, the state’s quick response to the pandemic situation in the first wave led to only 28 deaths.<sup>85</sup> This remarkable performance was due to the quick response, and the high level of compliance of the general public, and of course, the overall effectiveness of the measures taken was high. As a result, Slovakia occupied the last place among European states, but the impact of the measures were still severe.

The first economic measures that followed thereafter were focused on mitigation of economic consequences on companies and individuals caused by the spread of the coronavirus. After the stabilization phase, the measures are aimed at restoring economic growth by strengthening the sustainability of public finances and strengthening economic stability. In the first quarter of 2020, the GDP shrank by 3.9%, which was one of the largest drops in Europe. Unemployment increased by 2% and was expected to grow further.<sup>86</sup>

As for the labor market, temporary agency workers and workers on fixed-term contracts belong to some of the most affected groups.<sup>87</sup> The employees working on work agreements outside of the regular employment contract were also poorly protected against job loss.<sup>88</sup> The government tried to provide support for the employers to preserve workplaces.<sup>89</sup> Employers were divided into two groups, distinguishing between those who closed and those who maintained their workplaces. For the first group, each employee got wage compensation up to

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83 Pravda: Vládou predĺžený núdzový stav je v súlade s ústavou, rozhodol ÚS. Available at: <https://spravy.pravda.sk/domace/clanok/583013-plenum-ustavneho-sudu-rokuje-o-ustavnosti-predlzenia-nudzoveho-stavu/> (Accessed: May 27 2021)

84 See the press release of the News Agency of the Slovak Republic (TASR): <https://www.tasr.sk/tasr-clanok/TASR:20210331TBBO0432> (Accessed: 27 May 2021).

85 Hovet and Heinrich, 2020

86 See the Worldometer’s statistics on COVID-19. Available at: <https://www.worldometers.info/coronavirus/> (Accessed: May 15 2021).

87 Confederation of the Trade Unions of the Slovak Republic’s statement before the tripartite meeting on May 18, 2020. Available at: <https://hsr.rokovania.sk/2020-/> (Accessed: 27 May 2021).

88 Slovak Labour Code distinguish between fixed term contract which is regular employment contract but set on specific time period and work agreement contract, which is designated for smaller jobs (up to 20 hours per week, for a maximum of one year, or for maximum 300 hours per year).

89 For detailed description on the measures taken by the government see: Križan, 2020



80% of the average wage, up to a maximum of €1,100, while in the second group, the level of support of the government varies banded.<sup>90</sup> However, these employers are not eligible for the special rescue packages during the epidemic period, as they are designed to help employers and workers in difficulty in all states to maintain labor market balance. A more significant improvement in employment and wages is not expected until the second half of 2021. In addition, a more significant slowdown in price growth is expected. The main reasons also include a decline in regulated energy prices and weaker consumer demand. Acceleration of price development is expected only with a more dynamic recovery of economic activity in 2022.<sup>91</sup>

### ***5.1. Budgetary supports to mitigate the impact of the crisis***

In February 2021, the parliament approved several financial measures to mitigate the negative impacts on taxpayers due to the pandemic situation. The Slovak Tax Code was amended as well, so the government can by means of regulation determine the conditions for waiving the imposition of tax penalties, the so-called tax amnesty.

The approved measures are aiming to regulate the tax deductibility of expenses on testing for the detection and prevention of COVID-19 for income tax purposes, exempt employee's benefit in kind in connection with COVID-19 testing from taxation, liberalize the conditions for applying the tax bonus on a dependent child, and to introduce the temporary application of a zero VAT rate to selected protective equipment.<sup>92</sup> On February 6, 2021, an amendment to Act no. 67/2020 Coll. on certain emergency measures concerning the spread of the dangerous contagious human disease COVID-19 as amended,<sup>93</sup> published under number 47/2021 Coll. came into effect. This amendment states that the expenses incurred by employers or taxpayers with incomes from business or another self-employed activity during the pandemic period for testing the COVID-19 are considered tax-deductible. The tax expenses also include expenses disbursed to relatives of employees<sup>94</sup> or to a taxpayer with incomes from business or another self-employed activity, who live in the same household with them. The tax expenses also include expenses of a taxpayer disbursed on testing natural persons who perform an activity for the taxpayer in the place of his business.<sup>95</sup> The conditions for the application of a tax

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90 For more: Hrecska-Kovács, Kovács and Csirszki, 2020

91 Grešš, 2021

92 Balogová, 2021

93 For the full text of Act No. 67/2020 (in English language) see:

[https://www.nbs.sk/\\_img/Documents/\\_Legislativa/\\_BasicActs/EN\\_672020-96.pdf](https://www.nbs.sk/_img/Documents/_Legislativa/_BasicActs/EN_672020-96.pdf) (Accessed: 20 May 2021)

94 The amendment of the Act on certain emergency measures, Section 24ab (2)

95 The amendment of the Act on certain emergency measures, Section 24ab

bonus on a dependent child for 2020 were also amended with effect from February 6, 2021. If the taxpayer has not reached the required minimum amount of taxable incomes from his own performed activity for the purposes of applying of tax bonus (€3,480 for 2020), he may also include in up to the amount of incomes received within active labor market measures and grants from the ministry of culture and pandemic sick-leave and pandemic nursing benefit.

On February 6, 2021, an amendment to the Tax Code was published under no. 45/2021 Coll. entered into force. The amendment to the act was approved by the parliament in a simplified legislative procedure at the end of January 2021. This amendment introduces a new competency for the government of the Slovak republic which allows setting conditions by regulation for the termination of tax arrears corresponding to the unpaid penalties, as well as the conditions under which the imposition of a penalty can be waived. This will apply to all types of penalties in relation to all taxes.<sup>96</sup>

### **5.2. Short-term economic forecast of economic trends<sup>97</sup>**

The Slovak economy contracted by about 6% in 2020. After a rebound from the bottom, a dynamic recovery should take place in 2021, and GDP growth should accelerate above 5%. In this and the following years, economic growth is expected to reach 5.6%, with a slight slowdown to 4.8% in 2022 and 3.7% in 2023. However, uncertainty persists stemming from further epidemiological developments.

With the situation improving in 2021, investment is expected to resume if there are favorable financial conditions and growing demand. The overall investment demand should be supported by the increased absorption of EU funds from the current program framework as well as the start of the absorption of funds from the recovery program. In the medium term, investment in the automotive industry, as well as funding from the EU structural and reconstruction funds, will have a positive impact. As for Slovakia's foreign trade relations, in 2021 foreign demand should continue to grow in a dynamic trend, which should be reflected in further growth in the export performance of the Slovak economy.<sup>98</sup> After the drop in GDP in 2020, the projected GDP should increase in 2021 and reach pre-crisis levels in the third quarter of 2021, and even surpass it in the fourth quarter of 2021. Because of the slump in consumer demand together with decreased energy prices, the inflation in 2020 decreased from the pre-crisis level of 2.8 in 2019 and should reach 0.3% in the first quarter of 2021 (Figure 2).

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<sup>96</sup> The amendment to the Tax Code published under no. 45/2021 Coll., Article I (2)

<sup>97</sup> This part is based on the report of the National Bank of Slovakia—Medium-Term Forecast, 1Q-4Q 2020. Available online: <https://www.nbs.sk/sk/publikacie/strednodoba-predikcia> (Accessed: May 28 2021).

<sup>98</sup> Grešš, 2021

The decreasing trend from 2020 should reach its bottom in this quarter, and since the second quarter, the inflation should increase slightly to 0.9%. However, this development will be in line with the development of the real GDP, when the GDP should increase by 1.4% and 3.1% in the third and fourth quarters of 2021 compared to a base fourth quarter of 2019. Therefore, the real GDP development should surpass the rate of inflation. The unemployment rate increased in 2020, however it is projected to increase even further in the first two quarters of 2021 reaching 8% in the second quarter. However, due to possible positive improvements in the pandemic situation, the rate is projected to decline in the second half of 2021, but not reaching the pre-crisis level of the end of 2019.<sup>99</sup>

External trade relations should also improve with projected increase in the value of both exports and imports through the whole year 2021. Numbers also show that intra-EU exports should comprise 46.7–47.5% of total Slovak exports with an increasing trend, while the intra-EU imports should compose 27.2% of total Slovak imports in all four quarters of 2021.<sup>100</sup>

Based on forecasts and the willingness of the Slovak population to vaccinate themselves,<sup>101</sup> the economic development in 2021 is predicted to return to the pre-crisis level of 2019, at least in GDP growth, which is projected to be higher in the third and fourth quarter of 2021 than in fourth quarter of 2019.<sup>102</sup> Inflation should remain below 2% for the whole year, which is well below the average inflation of 2019 at 2.8%.<sup>103</sup> Because of a rather significant increase in the unemployment rate in 2020 due to the pandemic, unemployment is expected to rapidly increase. In the first quarter of 2021, the unemployment in Slovakia was 7.1%.<sup>104</sup> A positive development is projected also for external relations with the values of both exports and imports increased in all four quarters of 2021. Overall, the year 2021 should be a year of economic recovery and another boost for the Slovak economy in case the pandemic situation improves significantly and no more radical measures (such as complete lockdown) will have to be imposed compared to 2020.<sup>105</sup>

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99 Grešš, 2021

100 Grešš, 2021

101 See the website of the Representation of the European Commission in Slovakia: [https://ec.europa.eu/slovakia/news/aky\\_je\\_aktualny\\_postoj\\_europanov\\_specialne\\_slovakov\\_k\\_ockovaniu\\_proti\\_covid\\_19\\_zvysuje\\_sa\\_ochota\\_slovakov\\_zaockovat\\_sa\\_vysledky\\_eurobarometra\\_sk](https://ec.europa.eu/slovakia/news/aky_je_aktualny_postoj_europanov_specialne_slovakov_k_ockovaniu_proti_covid_19_zvysuje_sa_ochota_slovakov_zaockovat_sa_vysledky_eurobarometra_sk) (Accessed: May 28 2021).

102 Muller and Merriman, 2021

103 See the website of the Representation of the European Commission in Slovakia: [https://ec.europa.eu/slovakia/news/jarna\\_hospodarska\\_prognoza\\_2021\\_vyhrnme\\_si\\_rukavy\\_sk](https://ec.europa.eu/slovakia/news/jarna_hospodarska_prognoza_2021_vyhrnme_si_rukavy_sk) (Accessed: May 17 2021).

104 Based on data provided by the Statistical Office of the Slovak Republic. Available at: <https://bit.ly/3hFlJME> (Accessed: May 17 2021).

105 Grešš, 2021

## 6. Summary

In Slovakia, the rules on the special legal regime are enacted at the constitutional level. These relevant provisions on emergency powers can be found exclusively in the constitution and in the constitutional act on state security. While the constitution contains only the general provisions on emergency powers, the constitutional act on state security lays down detailed regulations for each type of special legal regime.

The Slovak legislation distinguishes four categories of special legal situations: war, state of war, exceptional state, and state of emergency. In addition, the categories of the crisis situation and the emergency situation also appear in the field of crisis management. Neither the crisis situation nor the emergency situation belong to the classical type of special legal regime situations; however, the aim of these measures is to fight against the exceptional situations that occurred in the state as well. The provisions of the crisis situation are enacted in the act on civil defense, and the provisions of the emergency situation can be found in the act on crisis situations.

The president may decide on the declaration of war on the resolution of the parliament. The right to decide on the declaration of a state of war and a state of emergency is also concentrated in the hands of the president, who may on the proposal of the government consider the possibility of declaring these types of special legal regimes. The state of emergency can be declared by the government itself. If the parliament is obstructed during war, a state of war, or an exceptional state, the Parliamentary Council will be established based on the provisions of the constitutional act on state security. The Parliamentary Council exercises the general powers of the parliament; however, the following cases, which are listed in the constitutional act on state security, are considered to be exceptions to this. On this basis, the Parliamentary Council:

- may not amend the constitution, the constitutional acts, the act on elections, the act on political parties, and the act on referendums,
- may not recognize the binding force of an international treaty,
- may not propose a referendum on the dismissal of the president, and may not decide to call a referendum, and
- may not initiate charges against the president.

The Security Council is also established by the constitutional act on state security, which in the event of obstruction of the government during war, a state of war, or an exceptional state, performs the governments' general functions. The Security Council has different responsibilities in times of special legal regime versus in times of peace. While during a special legal regime, the operation of the Security Council is regulated by the constitutional act on state security, in peacetime, the Act on Functioning of the Security Council is in effect.

The table below summarizes the most important information about the Slovak emergency powers.

	<b>War</b> (vojna)	<b>State of war</b> (vojnový stav)	<b>Exceptional state</b> (výnimočný stav)	<b>State of emergency</b> (núdzový stav)
<b>Level of regulation</b>	constitutional (the constitution and the constitutional act on state security)			
<b>Reasons for introducing the special legal regime</b>	an attack of foreign power with or without a declaration of war  or  the Slovak Republic enters into war to fulfill its obligations arising from international contractual relations	the state is in imminent danger of war  or  the country is threatened by a direct attack by a foreign power without declaring war	terror attack  or  street riots  or  there is an imminent danger of the above happening	an event endangering human life and health has occurred  or  imminent threat of its occurrence
<b>Ordering body</b>	the president on the basis of a resolution of parliament	the president on the proposal of the government	the president on the proposal of the government	government
<b>Practical cases</b>	Has never been announced so far.			See the section "Experiences of COVID-19 from the aspect of the state of emergency"
<b>Cases not covered by a special legal regime</b>	crisis situation ( <i>krízová situácia</i> ) emergency situation ( <i>mimoriadna situácia</i> )			

Table 9  
Emergency regimes in Slovakia  
Source: Authors' compilation

In respect of the restriction of fundamental rights, it can be stated that the constitution only formulates certain fundamental guarantees concerning the fundamental rights; however, the constitution does not regulate their restriction during the period of a special legal regime. During such a regime, based on a general authorization by the constitution, the constitutional act on state security exhaustively lists the permissible level of restriction on

fundamental rights and the range of and obligations that may be introduced during special legal situations.

With regard to the practice of the emergency powers, it should be noted that in the modern history of the Slovak Republic, only the state of emergency has been declared. Two of these examples can be linked to the breakout of the coronavirus epidemic in the year 2020.

Concerning the financial issues of the pandemic situation it can be seen, that the impacts of the measures made by the government had severe effect on the economy of the state. A positive development is projected in all four quarters of 2021, in both exports and imports. Overall, the year 2021 should be a year of economic recovery and another boost for the Slovak economy in case the pandemic situation improves significantly and no more radical measures will have to be imposed compared to 2020.

In Slovakia, the regulation of the special legal regime is at a constitutional level, and the constitutional act on state security adequately fixes certain specific rules for instituting a special legal regime. The constitutional act on state security exhaustively and transparently lists the fundamental rights that may be restricted in the case of the introduction of a special legal regime. It can be also seen, that based on the intensity of the threat, the principle of gradation clearly prevails in the regulation. This assures the democratic functioning of the state during an extraordinary situation.

According to the constitution, the Constitutional Court of the Slovak Republic may decide on the lawfulness of the promulgation of a special legal regime, thereby ensuring the constitutionality of the special legal regime. A specific feature of the Slovak regulation is that in the Slovak legal order there are special categories (crisis situations and emergency situations) that are not considered traditional special legal regimes but are very similar to them. It can be seen from the practice, that the crisis management during COVID-19 was also based on the parallel use of the state of emergency, which is a special legal regime with the crisis situation, which is an irregular form of the emergency power in Slovakia. Based on experiences gained during the COVID-19, it can be seen that the crisis situation serves as an additional measure to the state of emergency.

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