

Prof. Dr. Karol Plank
President, Supreme Court
Republic of Slovakia, Bratislava

The Supreme Court, the Constitutional Court
and their relation to other legislative and executive bodies
in Slovakia

The Slovak Supreme Court became the superior judicial authority in Slovakia within the Czech and Slovak Federal Republic already on April 1, 1970. In the Federal Republic, the Supreme Court of Slovakia exercised the powers of the Supreme Court only partially because there was yet another higher court, the Supreme Court of the Czech and Slovak Federal Republic, the court of last resort for all appeals from the Supreme Court of the Czech Republic or the Supreme Court of the Slovak Republic. The Federal Supreme Court also decided matters on admissibility and enforcement of decisions made by foreign courts.

Following the split-up of the Czech and Slovak Federal Republic resulting in the establishment of the two successive states of the Czech Republic and the Republic of Slovakia on January 1, 1993, the powers of the Slovak Supreme Court have been changed. In addition to its original appellate jurisdiction, it has acquired the appellate jurisdiction of the former Federal Supreme Court. Thus, the Supreme Court of Slovakia has the functions of a true Supreme Court in the newly established Republic of Slovakia which hears all final appeals in any judicial matter. The additional powers, however, have brought some problems related to the court system and procedural matters.

Slovakia has a tripartite court system. District courts are at the lowest level, regional courts make the intermediate level and the Supreme Court is the superior tribunal. Should district courts function as the courts of first instance in all matters, an appeal would be made to a regional court, and the Supreme Court would hear exceptional cases of appeal. The situation is, however, complicated by the fact that regional courts have original jurisdiction in some more serious civil and criminal matters, for which the Supreme Court is the ordinary court of appeal. Where the Supreme Court has the ordinary appellate jurisdiction, it also hears exceptional appeals (the so called appeals against violation of law), since there is no other court higher than the Supreme Court.

Thus the Supreme Court exercises two powers, naturally consisting of a different bench (Senate) composed of judges on a different panel. Therefore it is quite difficult to meet the requirements of sufficient number of judges. The current discussions have come up with two solutions of the problem. One alternative assumes the district courts should be the courts of first instance in all matters irrespective of the degree of seriousness involved. This way, regional courts will become courts of appeal in all matters, and the Supreme Court could hear exceptional appeals. The other alternative recommends to retain the present jurisdiction of the lowest and intermediate courts and to establish new courts - similar to Principal Courts constituted in the Czech Republic - which would hear appeals from regional courts sitting as the courts of first instance. The Supreme Court could then become the court of last resort. So far, however, no functional analysis of the new Czech courts has been made, and yet it is not clear whether to change or retain the present system.

Under present jurisdiction, the Slovak Supreme Court hears criminal, civil, commercial and administrative appeals and its decision is final. Judicial review of the decisions made by the Supreme Court in the Constitutional Court is impossible even if a party claims a civil right violation. This is due

