

## 5. ГІСТЬ НОМЕРА.

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### CRIMINAL JUDICIARY IN SLOVAKIA

*The aim of the paper is to draw the attention to the criminal justice in the conditions of the Slovak Republic. Criminal judiciary is a relatively frequently overlooked topic and therefore the status thereof in the legislation of the Slovak Republic needs to be specified. The Code of Criminal Procedure in force in the territory of Slovak Republic has brought about changes in the status, jurisdiction and competence of courts in criminal matters since 2006. Simultaneously, it is necessary to point out to the new institute of Slovak criminal judiciary, the Specialized Criminal Court, which has been in our legislation since 2004 or 2009.*

**Keywords:** Court. Judge. Judiciary. Chairman of the Panel. Single judge Criminal proceedings.

Hardly any human activity has such mythological roots as the exercise of judiciary. The person of a judge in the exercise of judiciary is given the unprecedented authority in democratic as well as in less democratic state regimes. The judge has the right and generally also the last word in determining the destiny of man, even in the most fundamental dimensions. In the most extreme case, the judge's right to sentence the man to the death penalty competes with the God's righteousness on the Earth. Especially in the eyes of a medieval man, the judge had often become the embodiment of the God on Earth, and such a view was not evading the professional public.<sup>1</sup>

In the execution of the judiciary the courts in the Slovak Republic hear and decide criminal matters pursuant to regulations on criminal proceedings.<sup>2</sup> Judge is a representative of the judiciary. Jurisdiction of the court is executed by a judge in an independent and impartial court separately from other state bodies.<sup>3</sup> Court decision-making is independent and impartial. This is the institutional independence of the courts at all instances from any other bodies, even from superior courts, as well as to the impartiality to the parties to the criminal proceedings. No petition may interfere with in the independence of the courts.<sup>4</sup>

The independence of courts on other branches of state power is a determining feature of the judiciary, which determines the proper performance of its functions. It presupposes the existence of constitutional and other guarantees that protect courts and judges from duress and influence from other branches of state power, but also from the influence of the judicial system itself. However, the constitutional principles of the independence of courts and judges cannot be separated because the independence of the judiciary is a prerequisite for the independence of judges.<sup>5</sup>

The decision-making activity of the courts in the Slovak Republic is governed by the Constitution of the Slovak Republic in the Chapter 7, Section 2. Specifically, in the Article 142, which states that the courts shall decide in civil and criminal matters; the courts shall also examine the legality of decisions of the public authorities and the legality of decisions, measures or other interventions by public authorities, if so provided by law.<sup>6</sup> The system of courts comprises of the Supreme Court of the Slovak Republic and other courts.<sup>7</sup> More detailed regulation of the role and tasks of courts is included in the Act No. 757/2004 Coll. on courts, Act No. 385/2000 Coll. on judges and lay judges, Act No. 549/2003 Coll. on court officers, Act No. 371/2004 Coll. on seats and districts of courts of the Slovak Republic and Act No. 291/2009 Coll. on Specialized Criminal Court.<sup>8</sup>

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<sup>1</sup> SVÁK, J.: *Judiciary and power of judges in Slovakia*. Bratislava: EUROKÓDEX, s.r.o., 2011, pg. 6.

<sup>2</sup> Act. No. 757/2004 Coll. on courts, Sec. 2 par. 1 letter. b).

<sup>3</sup> Act. No. 385/2000 Coll. on judges and lay judges, Sec. 2 par. 2 letter. b).

<sup>4</sup> IVOR, J., POLÁK, P., ZÁHORA, J.: *Trestné právo procesné I*. Bratislava, Wolters Kluwer, 2017, pg. 136.

<sup>5</sup> ČENTĚŠ, J. et al.: *Trestné právo procesné. General part*. Šamorín: Heuréka, 2016 pg. 88.

<sup>6</sup> Act No. 460/1992 Coll. - Constitution of the Slovak Republic, Article 142 par.1.

<sup>7</sup> Act No. 460/1992 Coll. - Constitution of the Slovak Republic, Article 143 par.1.

<sup>8</sup> IVOR, J., POLÁK, P., ZÁHORA, J.: *Trestné právo procesné I*. Bratislava, Wolters Kluwer, 2017, pg. 136.

The purpose of the independence of the courts is to ensure that they are in a position corresponding to their role in the rule of law, both in relation to other state bodies and in relation to entities subject to their jurisdiction (vertical level). In general, the notion of the independence of the courts may be characterized by the fact that the decision-making process as well as the decisions of courts themselves take place without any legal or factual influence on the exercise of their competence; the independence of judges means that they are not subject to anybody else in the performance of their functions. The independence of the judiciary and the independence of judges are therefore connected with the fulfilment of those tasks conferred on them by the Constitution of the Slovak Republic in the rule of law. Legal guarantees of judicial and judiciary independence usually do not form a coherent system but they are a part of legislation of a different kind in each country (Constitution of the SR, law). In principle, they may be divided into guarantees securing the institutional independence of the judiciary as a whole, individual courts and judges (in the sense that they do not have to be subordinated to any other component of state authority), furthermore so-called procedural guarantees for the independence of judges arising directly from procedural regulations, such as the principles of the publicity of court hearing, the verbalisation, directness of the free assessment of evidence, and finally the so-called personal guarantees of judicial independence (functional stability, non-transferability during the term of office), manner of their appointment to office, incompatibility of the function of judge with other functions, remuneration and social security of judges corresponding to the nature and importance of their activities,<sup>9</sup>

The principle of the independence of the judiciary is one of the essential features of the democratic state and the rule of law (Article 1 par. 1 of the Constitution of the SR) resulting from the neutrality of judges as a guarantee of fair, impartial and objective judicial proceedings. This principle contains a number of aspects to create prerequisites for courts to be able to fulfil their roles and responsibilities, in particular, to protect the fundamental rights and freedoms of citizens.<sup>10</sup>

Impartiality may be subjective or objective. Subjective impartiality is a mental category expressing the inner mental relationship of the judge to the present case in a broader sense, the relationship with the subject matter, parties to proceedings, their legal representatives, etc., which the judge himself is able to consider. Subjective impartiality is presumed until the opposite is proven, generally assessed by the judge's behaviour. Objective impartiality is not assessed by the judge's subjective opinion but in accordance with the objective criteria. The judge may make a subjective decision with absolute impartiality, but his impartiality may be subject to legitimate doubts with regard to his status or functions he performed in the case. The theory of delusion is applied right here, pursuant to which it is not enough that the judge is subjectively impartial, but shall also appear objectively as such in the eyes of the parties, while the meaning itself might be delusive. It may be emphasized that justice shall not only be provided, but shall also appear to be provided.<sup>11</sup>

In proceedings before a court the Chairman of a Panel or court shall decide not only about all apprehending operations and on executing evidence but also whether they shall request information that is subject to trade secret, bank secret, tax secret or data from the records of booked securities, and in pre-trial proceedings on apprehending actions and on executing the evidence except decisions falling within the jurisdiction of a prosecutor.

The system of courts in criminal cases consists of: a) district courts (there are 54), b) regional courts (there are 8), c) Specialized Criminal Court, d) Supreme Court<sup>12</sup>

The decision-making process of the courts of the Slovak Republic is not divided only pursuant to the district of the court system, but also pursuant to the individual procedural stages. Thus, in the hierarchy of courts, the power to decide in selected procedural acts is being divided as well.

In court proceedings, a Panel, single judge or judge decide on the pre-trial.

Lay judges from the public participate alongside with judges in the Panel at the first instance in the District Court. The Chairman of the Panel, single judge or judge for the pre-trial may only be a judge<sup>13</sup> The citizen of the Slovak Republic who may be elected to the National Council of the Slovak Republic, has reached the age of 30, has a university degree in law and fulfils the prerequisites of the judge's competence, which guarantee that they will perform the function of the judge properly, may be appointed a judge. Further prerequisites for an appointment of a judge and their functional advancement as well as the extent of the immunity of judges shall be stipulated by law.<sup>14</sup>

**Interpretation of terms.** The Chairman of the Panel or the single judge decides in the criminal proceedings before the court. The single judge tries any summary or indictable offence for which the law prescribes a sentence

<sup>9</sup> ČENTĚŠ, J. et al.: *Trestné právo procesné. General part*. Šamorín: Heuréka, 2016 pg. 88 – 89.

<sup>10</sup> ČENTĚŠ, J. et al.: *Trestné právo procesné. General part*. Šamorín: Heuréka, 2016 pg. 89.

<sup>11</sup> ČENTĚŠ, J. et al.: *Trestné právo procesné. General part*. Šamorín: Heuréka, 2016 pg. 89.

<sup>12</sup> ČENTĚŠ, J. et al.: *Trestné právo procesné. General part*. Šamorín: Heuréka, 2016 pg. 91.

<sup>13</sup> OLEJ, J., ROMŽA, S., ČOPKO, P., PUCHALA, M.: - *Trestné právo procesné*. Košice: UPJŠ 2012, pg. 37.

<sup>14</sup> Act No. 460/1992 Coll. – Constitution of the Slovak Republic, Article 145 par.2

of imprisonment with the upper limit of no more than eight years if the Code of Criminal Procedure does not stipulate otherwise («otherwise! The Code of Criminal Procedure stipulates, for example, in Sec. 349 par. 2, pursuant to which the case shall not be tried by a single judge but the Panel if a total punishment or a joint punishment is to be imposed within the meaning of Sec. 42 or Section 41 par.3 of the Criminal Code and the earlier sentence was imposed in the proceedings before the Panel)<sup>15</sup> The institute of a single judge is only a District Court, a District Court in the seat of a Regional Court and a Specialized Criminal Court.

In cases of more serious criminal offences, where the upper limit of the sentence exceeds eight years, the decision-making power in the first instance shall be vested on the Panel. The Panel of the District Court and District Court in the seat of the Regional Court consists of the Chairman of the Panel and the two lay judges, with the Chairman of the Panel governing and organizing the activity of the Panel.<sup>16</sup>

**The single judge** acts and decides in court proceedings - after filing an indictment or proposing to approve a plea bargain (hereinafter referred to as the «plea bargain») for summary offence and indictable offence with an upper limit of imprisonment not exceeding eight years. The single judge has the same rights and responsibilities as the Panel and its Chairman. However, the single judge does not hear in private.<sup>17</sup> The single judge does not hear in private and never tries the indictment. The single judge only examines the indictment or provides solid grounds for further proceedings or whether the pre-trial proceedings were performed in accordance with the law. If they decide on custody, they proceed pursuant to Sec. 72 par. 2 of the Criminal Code, even if they do not decide at the main trial or public hearing.<sup>18</sup>

**The Chairman of the Panel** manages and organizes the activities of the Panel. The Chairman of the Panel acts in some cases separately, e.g. decides on the detention of the arrested accused in the case of proceedings pursuant to Sec. 73 of the Criminal Code. For the purposes of the Code of Criminal Procedure, the Chairman of the Panel shall also be understood as a single judge if no other provision of this Act state otherwise.<sup>19</sup>

The Panel of the District Court acts and decides, in particular, in court proceedings - after filing an indictment or proposing to approve the plea negotiation for an indictable offence with an upper limit of imprisonment of more than eight years. The Panel consists of a Chairman and two law judges. The Chairman of the Panel may only be a judge. The Panel may also act in pre-trial proceedings, Sec. 190 par. 3 of the Criminal Code.<sup>20</sup>

**A lay judge** is a citizen who has attained the age of at least 30 years, has a legal capacity and is competent in the performance of their duties, is of no integrity and their moral qualities guarantee that they will perform the function properly, have a permanent residence in the Slovak Republic and agree with their choosing to a particular court (Sec. 139 of the Act on judges and lay judges). The lay judges are elected by the general councils in the district of the competent court from the candidates of citizens who reside or work in the district of the court. Lay judges are proposed by mayors of municipalities and mayors of cities. To candidates nominated for election, Municipal Board shall request the statement of the Chairman of the competent court (Section 140 par. 1 of the Act on judges and lay judges). Lay judges are elected for a four-year term. The function of a lay judge shall continue to be valid after the expiry of such period until the lawful decision in the case if it is necessary to complete the case in which the lay judge acts (Sec. 141 par.1 of the Act on judges and lay judges).<sup>21</sup>

**District court.** Seats and districts are regulated by Act No. 371/2004 Coll. on seats and districts of courts of the Slovak Republic. The territorial districts of district courts, which are 54, do not, in each case, correspond to the territorial districts of districts as administrative units, which are 76. Therefore, the territorial district of thirty-six district courts forms the territorial district of one district as an administrative unit; the territorial district of twelve district courts is the territorial district of two districts as administrative units, and the territorial district of six district courts forms even a territorial district of three territorial districts of districts as administrative units. If the territorial district of the District Court is identical to the territorial district of the administrative district, the seat of the district is also the seat of the court. In the case where the territorial district of the District Court comprises of several territorial districts of administrative districts, the seat of one of these districts is the seat of the court. The Act on seats and court districts also determines the seats and districts of regional courts, which seats are identical with the seats of the regions as administrative units. The territorial districts of the eight regional courts are defined

<sup>15</sup> IVOR, J. et al.: *Trestné právo procesné*. Bratislava: Iura Edition, 2010, pg. 600.

<sup>16</sup> Act No. 757/2004 Coll. on courts, Sec. 14.

<sup>17</sup> ČENTÉŠ, J. et al.: *Trestné právo procesné. General part*. Šamorín: Heuréka, 2016 pg. 95.

<sup>18</sup> IVOR, J. et al.: *Trestné právo procesné*. Bratislava: Iura Edition, 2010, pg. 792.

<sup>19</sup> ČENTÉŠ, J. et al.: *Trestné právo procesné. General part*. Šamorín: Heuréka, 2016 pg. 95.

<sup>20</sup> ČENTÉŠ, J. et al.: *Trestné právo procesné. General part*. Šamorín: Heuréka, 2016 pg. 95.

<sup>21</sup> ČENTÉŠ, J. et al.: *Trestné právo procesné. General part*. Šamorín: Heuréka, 2016 pg. 96.

by the districts of the ornamental courts that fall within their competence.<sup>22</sup> The District Court shall consist of the President of the Court, the Vice-President or Vice-Presidents of the Court and other judges. District courts act and decide in principle as first instance courts in criminal cases, unless the court rules provide otherwise<sup>23</sup>

District court primarily:

a) executes criminal proceedings at first instance essentially on all criminal offences,  
b) in the proceedings on remedies take measures before the case is referred for a decision to the court of appeals,

c) decides on a motion for permission to resume proceedings in cases where they decided or will decide at first instance,

d) in the case of auto-remedy on complaints against own resolutions

e) on complaints against the prosecutor's decisions in the case of Sec. 191 of the Code of Criminal Procedure.

f) in the pre-trial decides on the acts pursuant to Sec. 24 of the Code of Criminal Procedure.

g) performs acts in the execution proceeding<sup>24</sup>

The judge or the Panel decide at the District Court.

District courts decide on both the pre-trial and trial. In pre-trial, they decide through a judge for the pre-trial.

The role of the judge for pre-trial in pre-trial proceedings is a decision-making

a) on the interference with fundamental rights and freedoms,

b) on complaints against the prosecutor's decisions, if the Criminal Procedure Code stipulates so,

c) in other cases provided for by the Code of Criminal Procedure.<sup>25</sup>

Ad a): The judge for the pre-trial decides on interventions in the fundamental rights and freedoms in the pre-trial proceedings, especially in the decision on custody (Sec. 72, par. 1), the issuance of the arrest warrant (Sec. 73), the home search (Sec. 100), the confirmation of the prosecutor's order for seizure of monetary funds (Sec. 95 par.2), on the confirmation of the prosecutor's order for seizure of booked securities (Sec. 96 par.2), on the obstruction of mail (Sec.108, par. 2 and 3), on the issuance of an order for the monitoring of persons and things (Sec. 113 par. 4), for the production of images, audio or video recordings (Sec. 114 par.2), the issuance of a command for the interception and recording of the telecommunication operation (Sec. 115 par. 2), the seizure and notification on data of the telecommunication operation (Sec. 116 par.2) and issuance of an order for the use of an agent (Sec.117 par.2).<sup>26</sup>

Principal issues, which are highly essential in relation to the criminal process, should be handed over to courts. Therefore, in our criminal-law system, the courts shall be given the opportunity to decide on fundamental issues even in the pre-trial proceeding. We could consider the issues that are relevant to the personal freedoms of individuals or issues relating to interference with the personal freedoms of such persons as principal issues. Thus, the court, as an impartial subject of criminal proceedings, may adequately assess the merits of the interference with such legally protected rights. These issues may be deemed to include the decision of the court on the detention of the accused, the home search, the issuance of a command for the interception and recording of a telecommunication operation, thus, the lawful interference with the rights of the person (guaranteed, inter alia, by the basic law of the state - the Constitution of the Slovak Republic and the Charter of Fundamental Human Rights and Freedoms).<sup>27</sup>

Ad b) The judge for the pre-trial proceedings decides on a complaint against a decision, by which the prosecutor

– seized the property of the accused for securing the claim of the aggrieved person pursuant to Sec.50, par. 1,  
– dismissed the petition of the aggrieved party to secure the petition pursuant to Sec 50 par. 5,  
annul or limit the securing of the claim of the aggrieved party pursuant to Sec. 51 par.1 or 2, or removed things affected by seizure and belonging to another person as an accused or a legal person pursuant to Sec.50 par.1 or  
– seized the property of the accused pursuant to Sec. 425 par. 1.<sup>28</sup>

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<sup>22</sup> IVOR, J., POLÁK, P., ZÁHORA, J.: *Trestné právo procesné I*. Bratislava, Wolters Kluwer, 2017, pg. 140.

<sup>23</sup> ČENTĚŠ, J. et al.: *Trestné právo procesné. General part*. Šamorín: Heuréka, 2016 pg. 91.

<sup>24</sup> OLEJ, J., ROMŽA, S., ČOPKO, P., PUCHALA, M.: - *Trestné právo procesné*. Košice: UPJŠ 2012, pg. 35.

<sup>25</sup> PETRIČKO, D. 2016. *Judge in a pre-trial proceedings*. IN *Prípravné konanie – možnosti a perspektívy 2016*. Bratislava: Pan\_European University, 2016, pg.217.

<sup>26</sup> IVOR, J. et al.: *Trestné právo procesné*. Bratislava: Iura Edition, 2006, pg. 576 – 577.

<sup>27</sup> PETRIČKO, D. 2016. *Judge in a pre-trial proceedings*. IN *Prípravné konanie – možnosti a perspektívy 2016*. Bratislava: Pan\_European University, 2016, pg.217.

<sup>28</sup> IVOR, J. et al.: *Trestné právo procesné*. Bratislava: Iura Edition, 2006, pg. 576–577.

In these exhaustively defined procedural procedures, the legislator gives the prosecutor the opportunity to decide on more important matters of the pre-trial proceedings, however they do not belong to the strongest by their nature. It may be therefore said that decisions on less serious interference with individuals' rights are left to prosecuting authorities (prosecutor) but give real opportunity to the parties concerned to seek review of this procedure in the remedial proceeding. The legislator has put the judge for the pre-trial proceeding to the position of the so-called appellate body, which in the case of a remedy decides at second instance.<sup>29</sup>

Ad c) In other cases provided for by the Code of Criminal Procedure, the judge for the pre-trial proceedings shall decide on the appointment of a guardian (Sect. 35 par. 2), the appointment of a counsel (Sec. 40 par. 1), the appointment of a joint representative to the aggrieved party (Sec. 47, par 2.) on a procedure pursuant to Sec. 204 and the like.<sup>30</sup>

A special procedure where the judge decides on the pre-trial proceedings is the procedure pursuant to Sec. 204 of the Criminal Code. This is the so-called special reduced investigation (accelerated investigation, super-fast proceeding). The purpose of accelerated and reduced investigation is to bring the accused before the court (the judge for the pre-trial proceedings) in justified cases within a given time period, and thus to reach a fair decision. For the application of Sec. 204 of the Criminal Code, several conditions shall be cumulatively met: (a) the proceedings on an offence for which the Criminal Code prescribes the sentence of imprisonment with the maximum limit of no more than five years; b) the detention of a person in the commission of the offence referred to in letter a) or immediately after, c) handing that person (the accused) to court within 48 hours, along with other documents, i.e. along with the indictment and investigative briefs.<sup>31</sup> The judge's institute for pre-trial proceedings is only in the District Court, District Court in the seat of the Regional Court and the Specialized Criminal Court.

**District Court in the seat of Regional Court.** The District Court in the seat of the Regional Court performs at first instance the proceedings on particularly serious felonies for which the law prescribes a sentence of imprisonment with a lower limit of at least twelve years, or if the act was committed by an organised group, criminal group or terrorist group.<sup>32</sup> The District Court in the seat of the Regional Court has the same authority as the District Court in general, but the substantive jurisdiction has been extended pursuant to the provisions of Sec. 16 of the Code of Criminal Procedure on the conduct of the proceedings at first instance.<sup>33</sup> In the case of a distinction between District Courts and District Courts in the seat of the Regional Court, there can be no question of substantive jurisdiction in the sense of the district of criminal offences between courts of different degrees within one type. They are courts of the same instance. However, for the propeutic purposes, we will use the criterion of substantive jurisdiction in order to distinguish the scope of jurisdiction between the District Court and the District Court in the seat of the Regional Court, even if the conditions for applying this jurisdiction criterion are not fully met. This is the so-called extended substantive jurisdiction, since the District Court in the seat of the Regional Court has the jurisdiction of the District Court in addition to the jurisdiction of the District Court in the seat of the Regional Court. In fact, it is a disproportionate adjustment of the jurisdiction of District Courts, since some District Courts (in the seat of the Regional Court) have to try a legally extended range of criminal offences, and some District Courts (out of the seat of Regional Court) have to try a narrower range of criminal cases. The jurisdiction of District Courts in the seat of the Regional Court, pursuant to the Explanatory Report to the Code of Criminal Procedure, is given «where there are the more realistic conditions for their flexible handling in superior courts». The district of the District Court in the seat of the Regional Court for criminal offences in the extended part of the scope (Sec. 16 par.1 of the Code of Criminal Proceedings) is the district of the District Court, in the seat of which that District Court is located (Sec. 17 par. 2), but in the narrower part of the scope (Sec. 15 of the Code of Criminal Procedure) is its territorial area actually its territorial district as of a District Court. However, the larger District Court is not a court of another instance because it is still a District Court.<sup>34</sup>

To be more specific, a specific concept of which courts are affected can be found in the Act No. 371/2004 Coll. on seats and districts of courts of the Slovak Republic. In Sec. 7 par. 2, the jurisdiction of these District Courts in the seat of the region is precisely defined. The legal regulation of this Act valid until December 31, 2016 recognized 8 District Courts in the seat of the region. It was each District Court with the seat in the capital of the region (since there was only one court), and in Bratislava it was the District Court Bratislava I and in Košice it was the court

<sup>29</sup> PETRIČKO, D. 2016. *Judge in a pre-trial proceedings*. IN *Prípravné konanie – možnosti a perspektívy 2016*. Bratislava: Pan\_European University, 2016, pg.217.

<sup>30</sup> IVOR, J. et al.: *Trestné právo procesné*. Bratislava: Iura Edition, 2006, pg. 576–577.

<sup>31</sup> IVOR, J. et al.: *Trestné právo procesné*. Bratislava: Iura Edition, 2010, pg. 568.

<sup>32</sup> Act No. 301/2005 Coll. – Criminal Code, Sec. 16 par. 1.

<sup>33</sup> OLEJ, J., ROMŽA, S., ČOPKO, P., PUHALA, M.: *Trestné právo procesné*. Košice: UPJŠ 2012, pg. 35.

<sup>34</sup> IVOR, J. et al.: *Trestné právo procesné*. Bratislava: Iura Edition, 2010, pg. 116.

Košice I. Amendment No. 371/2004 Coll. on the seats and districts of courts of the Slovak Republic in force since 1 January 2017, extended these District Courts in the seat of the Regional Courts to all courts located in the region. This amendment affected only the Bratislava I - V and Košice I and II District Courts. For territorial district of Bratislava I to V, the jurisdiction pertains to districts (i.e. Bratislava I District Court for Bratislava I District, Bratislava II District Court for Bratislava II District etc. with the designation of the districts of Malacky, Pezinok and Senec for the Bratislava I District Court). In the case of Košice's courts, this specific jurisdiction also extended to the Košice II District Court. Thus the Košice Region has divided these two District Courts in the seat of the region as follows:

District Court Košice I for the district of Gelnica, Košice I, Košice III, Košice - surroundings, Levoča, Rožňava and Spišská Nová Ves District Court Košice II for the district of Košice II, Košice IV, Michalovce, Sobrance and Trebišov.<sup>35</sup> Nowadays, there are 13 District Courts in the territory of the Slovak Republic in the seat of the region.

**District court stated in a special regulation.** The District Court referred to in a special Act (Sec. 7 par.2 letter i), and to Act No. 371/2004 Coll., on seats and districts of courts of the Slovak Republic) shall, at first instance, perform proceedings on criminal offences:

a) of soldiers, i.e. persons, who conduct the military service, aliens for criminal offences committed in the territory of the Slovak republic to the extent stipulated in the relevant Treaty on prisoners of war (Sec.128 par. 3 letter a),

b) and d) of the Criminal Code) - does not apply to offences falling within the competence of the Specialized Criminal Court (Sec. 14 of the Code of Criminal Procedure)

war treachery, service in foreign military and non-service in the armed forces.

These courts also conduct proceedings on the accomplice and the participant in such criminal offences. In particular, there are three courts, namely the District Court Bratislava I, the District Court in Banská Bystrica and the Prešov District Court, which extended the substantive jurisdiction in the first instance to the offences listed in Sec. 16 par. 2 of the Code of Criminal Procedure from 1 April 2009. Circuit of the District Court pursuant to a special act in matters pursuant to Section 16 par. 2 of the Code of Criminal Procedure, there are more districts of regional courts (for the District Court Bratislava I they are the districts of the Regional Courts of Bratislava, Trnava, Nitra and Trenčín; for the District Court of Banská Bystrica they are the districts of the Regional Courts of Banská Bystrica and Žilina and for the Prešov District Court are the districts of the Regional Courts Prešov and Košice: The delegation from the District Court pursuant to a special act on matters pursuant to Sec. 16 par. 2 of the Code of Criminal Procedure applies the same as to the District Court in the seat of the Regional Court.<sup>36</sup>

**Specialized Criminal Court.** Since 1 September 2004, 458/2003 Coll. established the Special Court. The purpose of the legislation was to create specialized bodies for the detection, investigation and prosecution of bribery, organized crime and criminal offences of constitutional officials. The Special Court has a jurisdiction for the entire territory of the Slovak Republic. The aim was to improve the specialization of judges and, at the same time, to protect and, in the case of bribery offences, to break the local ties that could affect the detection, investigation and eventual legal proceedings in such cases. The jurisdiction of the Special Court included offences of organized crime, bribery and the most serious crimes of financial and property criminality. On July 17, 2009, the Special Court was abolished on grounds of a finding of the Constitutional Court of the Slovak Republic file No. PL. CC 17/08 of 20 May 2009. On this day, a finding of the unconstitutionality of the Special Court was published in the Collection of Laws. At the same time, a Specialized Criminal Court was established on this day, which took over its unfinished agenda, employees and judges. A Specialized Criminal Court was established by Act No. 291/2009 Coll. on a specialized criminal court and on the amendment and supplement to certain acts. However, the status of the Specialized Criminal Court is different from the former Special Court of the Slovak Republic. The seat of a Specialized Criminal Court is Pezinok (+ workplace in Banská Bystrica)<sup>37</sup>

The jurisdiction of the Specialized Criminal Court applies to:

(a) the offense of an intentional murder

b) the offence of machinations in public procurement and public auction pursuant to the Sec. 266 par. 3 of the Criminal Code,

(c) the offence of forgery and illegal alternation and unauthorized manufacturing of money and securities Sec. 270 par. 4 of the Criminal Code,

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<sup>35</sup> Act No. 371/2004 Coll. On seats and districts of courts of the Slovak republic, Sec. 7 par.1.

<sup>36</sup> IVOR, J., POLÁK, P., ZÁHORA, J.: *Trestné právo procesné I*. Bratislava, Wolters Kluwer, 2017, pg. 146.

<sup>37</sup> <https://www.specializovanytrestnysud.sk/#> and Wikipedia.

- (d) a criminal offence of misuse of the authority of a public official pursuant Sec. 326 par. 3 and 4 of the Criminal Code in concurrence with criminal offences pursuant to letters b), c), e), f), g), h), i), l) or m),  
 f) criminal offences of a bribery pursuant to sec 328 to 330 of the Criminal Code,  
 F) criminal offences of bribery pursuant to sec 332 to 334 of the Criminal Code,  
 g) criminal offences of an indirect bribery pursuant to Sec. 336 of the Criminal Code,  
 h) criminal offences of an electoral bribery pursuant to Sec. 336a of the Criminal Code,  
 i) criminal offences of a sport bribery pursuant to Sec. 336b of the Criminal Code,  
 (j) the offence of founding, devising and supporting the criminal group, and serious felonies committed by the criminal group,  
 k) criminal offences of terrorism.  
 (l) offences against property pursuant to the fourth chapter of the special section of the Criminal Code or economic offences pursuant to the fifth Chapter of a specific section of the Criminal Code, if such an offence was caused by damage or gaining a profit of at least twenty-five fold of the amount of minor damage of the Criminal Code, or if such an Act has been committed in the extent of at least twenty-five fold the amount of minor damage of the Criminal Code,  
 m) a criminal offence of impairing the financial interests of the European Union,  
 (n) offences related to the criminal offences referred to in letters a) to l) or m) if the conditions for joint action are met.  
 o) crimes of extremism pursuant to Sec. 140a of the Criminal Code.<sup>38</sup>

**Regional Court.** The Regional Court is competent to decide on appeals against decisions of District Courts (on appeals against judgements pursuant to Sec. 315 and on appeals against resolutions). However, the law has also entrusted the Regional Courts with deciding on criminal matters at first instance, such as the issuing or refusal of a European Arrest Warrant (Sec. 5, Sec. 22 and Sec. 23 of Act. No 154/2010 on European Arrest Warrant), on the admissibility of extradition of the requested person abroad, including the decision on the pre-trial detention, the extradition detention, the restoration of the detention (§ 505, Sec. 506, Sec. 507A Sec. 509 of the Code of Criminal Procedure) on the recognition and enforcement of a foreign decision (Sec. 518 A Sec. 521 of the Code of Criminal Procedure). The Regional Court in Trenčín decides on appeals against decisions of District Courts pursuant to a special act in matters pursuant to Section 16 par. 2 of the Code of Criminal Procedure.<sup>39</sup> (criminal offences of soldiers<sup>40</sup>). Nowadays, there are 8 Regional Courts in the territory of Slovakia, the seats and districts of which are identical to the territorial division of Slovakia.

Competences of the Regional Court are not only in court proceedings, but also in pre-trial proceedings for the purpose of criminal proceedings conducted in the territory of Slovakia. The acts of the judge of the Regional Court in the pre-trial proceedings also count on with so-called service emergency, in which they perform such procedural acts, which are not within the jurisdiction of District Courts.<sup>41</sup>

Their competences include the following:

- a) the order for the interception of telecommunication operation prior to the charges, pursuant to Act No. 166/2003 coll. on the protection of privacy against unauthorized use of information and technical means and on the amendment and supplement of certain acts (Act on protection against interception), as amended,  
 b) proceedings concerning the request of foreign authorities to extradite a person from the Slovak Republic to another country for criminal prosecution or execution of a sentence,  
 c) prosecutor's application to take the person to preliminary custody, extraditing custody and decision  
 d) on the admissibility of extradition,  
 t) an application for recognition and enforcement of a foreign decision, if the jurisdiction of Regional Court is set,  
 f) an application for a decision on the execution of a European Arrest Warrant,  
 g) a request of the judicial authority of the State of origin to detain a convicted person or to take another measure to ensure that the sentenced person remains on the territory of the Slovak Republic until the decision on enforcement is accepted pursuant to Act No. 549/2011 Coll. on the recognition and enforcement of decisions imposing a criminal penalty involving imprisonment in the European Union and amending Act No. 221/2006 Coll. on the exercise of custody as amended by the Act No. 344/2012 Coll.,

<sup>38</sup> Act No. 301/2005 Coll. - Criminal Code, Sec. 14.

<sup>39</sup> IVOR, J., POLÁK, P., ZÁHORA, J.: *Trestné právo procesné I*. Bratislava, Wolters Kluwer, 2017, pg. 146.

<sup>40</sup> Author's note.

<sup>41</sup> PETRIČKO, D. 2016. *Judge in a pre-trial proceedings*. IN *Prípravné konanie – možnosti a perspektívy 2016*. Bratislava: Pan\_European University, 2016, pg.21ž.

h) a request by the competent authority of a Member State to grant consent to take a decision on its recognition and enforcement in the Slovak Republic pursuant to Act No. 549/2011 Coll. in the wording of Act No. 344/2012 Coll.,

i) the request of the competent judicial authority of the country of origin on custody of the person to whom the decision relates and is located in the territory of the Slovak Republic even before the service of

j) certificates and decisions pursuant to Section 14 par. 2 of Act No. 549/2011 Coll.,

k) an application for the conditional release of a convicted person from serving a sentence of imprisonment pursuant to Act No. 549/2011 Coll. in the wording of Act No. 344/2012 Coll.

l) on complaints against resolutions or detentions, and the exclusion of a judge.<sup>42</sup>

**The Supreme Court of the Slovak Republic.** The Supreme Court is the highest unit of the judiciary in the Slovak Republic with regard to decision-making in criminal matters.<sup>43</sup> The seat of the Supreme Court of the Slovak Republic is Bratislava. Its district is the entire territory of the Slovak Republic.<sup>44</sup> The Supreme Court consists of a President of the Court, a Vice-President, and other judges.<sup>45</sup> The Supreme Court decides in the Panel, which consists of the Chairman of the Panel and two judges. When deciding on extraordinary remedies against decisions of the Panels of the Supreme Court, the Supreme Court Panel shall consist of the Chairman and four judges. Lay judges do not operate at Supreme Court. The Chairman of the Panel manages and organizes the activities of the Panel.<sup>46</sup> The Supreme Court decides on appeals against the decisions of the Specialized Criminal Court (on appeals against judgements pursuant to Sec. 315 of the Code of Criminal Procedure and on complaints against resolutions). It also decides, in accordance with the relevant provisions of the Code of Criminal Procedure, on the decisions of Regional Courts, which they issue at first instance and against which the law allows for a remedy. The Supreme Court of the Slovak Republic also decides on cessation (Sec. 377 of the Code of Criminal Procedure), takes opinions on unification the interpretation of laws and examines the legality of the order for the interception and recording of the telecommunication operation and the order for detection and communication of the data on the telecommunication operation (Sec. 362f of the Code of Criminal Procedure).<sup>47</sup> An important entitlement of the Supreme Court is the taking and publishing of opinions to ensure uniform interpretation of laws and other generally binding legal regulations.<sup>48</sup>

**Conclusion.** The organization of criminal justice has undergone substantial changes in Slovakia. The new criminal codes effective until 1. January 2006 have brought, inter alia, changes in the organization of the criminal justice system. Today it is possible to investigate the strict specialization of criminal justice, since the quality of crime is relatively specific and sophisticated today. It may be worth considering for the future the need for small courts. At such small courts with a number of judges around 8 to 9, it is not possible to objectively ensure strict specialization on just one type of agenda. This is ultimately the cause of the damage. It will also be necessary to consider the need or need for the prosecution of the criminal proceedings and their legal framework when taking part in evidence.<sup>49</sup> Certainly, it will be necessary to mitigate the action District Courts in the seat of Regional Court with the Specialized Criminal Court because their agenda is quite often similar, but the legal status is different.

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<sup>42</sup> PETRIČKO, D. 2016. *Judge in a pre-trial proceedings. IN Pripravné konanie – možnosti a perspektívy 2016. Bratislava: Pan\_European University, 2016, pg.21ž.*

<sup>43</sup> ČENTĚŠ, J. et al.: *Trestné právo procesné. General part. Šamorín: Heuréka, 2016 pg. 96.*

<sup>44</sup> Act No. 371/2004 Coll. On seats and districts of courts of the Slovak republic, Sec. 4.

<sup>45</sup> ČENTĚŠ, J. et al.: *Trestné právo procesné. General part. Šamorín: Heuréka, 2016 pg. 92.*

<sup>46</sup> ČENTĚŠ, J. et al.: *Trestné právo procesné. General part. Šamorín: Heuréka, 2016 pg. 96.*

<sup>47</sup> IVOR, J., POLÁK, P., ZÁHORA, J.: *Trestné právo procesné I. Bratislava, Wolters Kluwer, 2017, pg. 146.*

<sup>48</sup> ČENTĚŠ, J. et al.: *Trestné právo procesné. General part. Šamorín: Heuréka, 2016 pg. 92.*

<sup>49</sup> Today, the law in force says that if the Senate changes (as well as from the people), it is necessary to inform the accused and allow him to repeat all the evidence in the main hearing, which in the end is only a lengthy process.

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  9. Act No. 301/2005 Coll. – Criminal Code.
  10. Act No. 371/2004 Coll. on seats and districts of courts of the Slovak Republic.
  11. Act No. 460/1992 Coll. - Constitution of the Slovak Republic, Article 142 par.1. <https://www.specializovanytrestnysud.sk/#>.

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