

Draft comparative study of national solutions to the question of the relationship between international and domestic law and recommendations relating thereto

Slovak Republic

Supplement to the comparative study

The present supplement has become necessary due to the dissolution of the Czech and Slovak Federative Republic, for, according to article 1 of the Constitutional Law No. 542/92 of the Collection of Laws (R.-J.O. slovak) on the dissolution of the Czech and Slovak Federative Republic, this State ceased to exist on the 31 December 1992 and in its place the Czech Republic and the Slovak Republic came into existence. The text relates to the main questions concerning the relationship between international law and domestic law in the legal system of the Slovak Republic.

1. Organ invested with treaty making power

According to article 102 a) of the Constitution of the Slovak Republic (No. 460/92 of the Collection), it is the President of the Republic who concludes and ratifies international treaties on behalf of the Slovak Republic. He can entrust the Government of the Slovak Republic, or with its consent, different members of the Government, with the right to conclude international treaties which do not require the authorisation of the National Council of the Slovak Republic. In accordance with the Constitution of the Slovak Republic, the President of the Slovak Republic is the only body authorised to conclude international treaties in the name of the Slovak Republic.

The Government and the members of government of the Slovak Republic

The President of the Republic, in his decision of 30 August 1993, gave the right to conclude and approve international treaties which do not require the approval of the National Council of the Slovak Republic to the government of the Slovak Republic.

In the same decision, the President of the Republic (with the government's approval) entrusted different members of the government with the right to conclude and to give consent to be bound by international treaties which do not require the approval of the National Council of the Slovak Republic and which do not exceed the limits of the powers of the central organ of national administration (ministry).

Parliament

The National Council of the Slovak Republic does not possess the right to conclude international treaties, but it gives its consent to treaties which require ratification by the President of the Republic. At the same time, article 86 e) of the Constitution of the Slovak Republic states the types of international treaties which require ratification by the President of the Republic and consequently also the prior approval of the National Council of the Slovak Republic. According to the provision mentioned, the treaties in question are 'international political treaties, international economic treaties of a general nature as well as international treaties for the implementation of which a law is required'. At the same time, the result of the provision mentioned above is that intergovernmental and interministerial agreements do not require the consent of the National Council of the Slovak Republic. According to article 86 e) of the Constitution of the Slovak Republic, the Parliament gives its approval to an international treaty in the form of a decision. For this decision, the consent of an absolute majority of deputies must be obtained (art. 84 para. 2 of the Constitution) regardless of the type (or content) of the treaty approved by Parliament. The Constitution of the Slovak Republic does not however recognise the rule of tacit approval of international treaties.

2. The standing of international treaties in domestic law

Superiority over domestic law

All human rights treaties ratified by the former Czech and Slovak Federative Republic in accordance with para. 2 of the Constitutional Law No. 23/91 of the Collection which introduces the Rights and Fundamental Freedoms Charter, are superior to domestic law. The relationship between human rights treaties ratified by the Slovak Republic and domestic law is governed by article 11 of the Constitution of the Slovak Republic, according to which human rights treaties have pride of place over laws 'if they guarantee more extensive rights and fundamental freedoms'. Other international treaties have pre-eminence over domestic laws provided that the latter mention that 'the provisions of the present law do not apply if the international treaty, binding upon the Slovak Republic and published in the Collection of Laws, contains another provision'.

3. International customs and general principles of law

Neither the Constitution of the Slovak Republic nor any other domestic legal instrument establishes the hierarchical position of international customs and general principles of law in the domestic legal system of the Slovak Republic, or their relationship with domestic law in the Slovak Republic. The Parliament of the Slovak Republic in its 'Proclamation to the Parliaments and the Nations of the world' of 3 December 1993 declares that 'the Slovak Republic, in its international relations, will apply the rules of international law'. The Slovak Republic succeeded to the Czech and Slovak Federative Republic in the Vienna Convention of 1969 on the Law of Treaties.

4. Decisions of international organisations

The Slovak Constitution, like other domestic legal instruments, does not regulate the question of the place and hierarchical position of decisions of international organisations.

As for the decisions of the UN Security Council taken in accordance with Chapter VII of the Charter, the response of the government of the Slovak Republic is 'ad hoc', by decision on the measures necessary for the application of sanctions adopted and by decrees from different ministries by virtue of which commercial, economic or military sanctions become obligatory, in the form of a legal act, for every Slovak individual and legal entity. The decisions of the International Court of Justice are treated in a similar way.

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