



Nuovi Autoritarismi e Democrazie:
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Referendum on early elections in Slovakia: Constitutional challenges in times of crisis

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Abstract

In 2020, the tenth democratic and free elections after the fall of the communist regime in Slovakia resulted in a broad coalition government, which obtained its mandate mainly to fight corruption. However, the global pandemic of COVID-19 has fundamentally changed priorities. Indeed, growing dissatisfaction with the governance of the state in early 2021 has led to the organization of a referendum on early parliamentary elections. The article draws attention to the constitutional problems associated with holding such a referendum in the conditions of the Slovak Republic, not only in general, but also, and especially, in times of crisis.

Keywords: constitutionality – COVID-19 – early elections – elections – referendum – Slovakia.

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1. Introduction

In 2020, the tenth democratic and free elections after the fall of the communist regime in Slovakia resulted in a broad coalition Government (four very different political parties, including conservatives, liberals and also populists)¹, which obtained its mandate mainly to fight corruption. Although the governing coalition appears to have achieved some success in that field, the global pandemic of COVID-19 has fundamentally changed priorities.

After a relatively mild beginning, the pandemic situation in Slovakia deteriorated significantly, especially at the turn of 2020 and 2021, which resulted in Slovak hospitals reaching full capacity. Therefore, not only opposition forces, political parties *Smer – Sociálna demokracia* (*Direction – Social Democracy*) and *Hlas – Sociálna demokracia* (*Voice – Social Democracy*), but also experts and the general public had started to rebuke the Government of the Slovak Republic (hereinafter referred to as the ‘Government’) for failing to manage the State in times of crisis. The problem was not only the poor communication of restrictive measures, but also selection and frequent changes thereof, which often gave an impression that the Government was working by the method of trial and error. Also, other problems were raised up, such as cases concerning doubts about the authenticity of the final university theses of both Boris Kollár, the Speaker of the National Council of the Slovak Republic (hereinafter the ‘National Council’ or the ‘Slovak Parliament’) and Igor Matovič², the Prime Minister himself. Growing dissatisfaction with the administration of the Country during the crisis in early 2021 resulted in efforts of the two most relevant opposition political parties³ to hold early parliamentary elections. Instead of elections in 2024, they demanded that elections take place in the autumn of 2021.

As the bill proposing a constitutional act which would shorten the Slovak Parliament’s running term- did not pass, the opposition came up with an initiative to reach early parliamentary elections by a referendum. The referendum on shortening the parliamentary term leading to early elections is nothing new in Slovakia, despite the fact that the Constitution does not explicitly mention that possibility. Since the establishment of an independent State in 1993, two such referendums have been held. The first in 2000, the second in 2004. However, none

¹ Namely, *Obyčajní ľudia a nezávislé osobnosti* (*Ordinary people and independent personalities*); *Sme Rodina* (*We are the family*), *Sloboda a solidarita* (*Freedom and solidarity*) and *Za ľudí* (*For the people*).

² On 1 April 2021, Igor Matovič was replaced as Prime Minister by Eduard Heger, former Minister of Finance.

³ These opposition political parties are *Smer – Sociálna demokracia* (*Direction – Social Democracy*), led by former Prime Minister Robert Fico (Prime Minister in 2006-2010, 2012-2016 and 2016-2018), and *Hlas – Sociálna demokracia* (*Voice – Social Democracy*), led by other former Prime Minister Peter Pellegrini (Prime Minister from 2018 to 2020), which was created only in September 2020 by the split of the first of mentioned parties.

of these referendums was successful, whereby, as we explain below, the validity of the vote presupposes the participation of an absolute majority of all eligible voters⁴.

From the Constitution of the Slovak Republic (hereinafter referred to as the ‘Constitution’) point of view⁵, the referendum on early elections is more than problematic, despite the fact that it has already taken place twice. In addition, holding a referendum and consequently parliamentary elections in the time of crisis caused by the pandemic raises further constitutional issues. Therefore, the aim of this article is to briefly draw attention to the constitutional problems associated with holding a referendum on early elections in the conditions of the Slovak Republic, not only in general, but also in times of crisis specifically.

2. Parliamentary elections and national referendum in Slovakia

Before addressing the problematic aspects of the referendum on early elections, it is appropriate to provide the non-Slovak reader with basic information about constitutional and legal regulation of parliamentary elections and national referendum in Slovakia.

The foundations of the constitutional regulation of parliamentary elections, elections to the National Council, can be found in the first section of the fifth chapter of the Constitution (Articles 73 to 92) devoted to legislative power. The National Council is the supreme representative and sole legislative body of the Slovak Republic consisting of 150 deputies elected for a four-year term. All citizens of the Slovak Republic older than 18 years have the right to elect Members of the National Council. The right to be elected belongs to citizens older than 21 years of age with a permanent residence in the Country. Details on obstacles to exercise the right to vote and the right to be elected are governed⁶, on the basis of a constitutional blanket norm, by the Electoral Act⁷. The Electoral Act regulates electoral system too, as the Constitution remains silent on this issue. Members of the Slovak Parliament are elected through a proportional electoral system with bound candidates’ lists. Candidates’ list can only be submitted by registered political parties or their coalitions, and only by parties or coalitions that payed an election deposit of EUR 17,000 and meet the minimum number of members. All 150 seats in the National Council are distributed in a single national constituency. An electoral quota system, namely the Hagenbach-Bischoff electoral quota, is used for the distribution.

⁴ The 2000 referendum was attended by 20.03% of citizens entitled to vote. Participation in the second referendum was slightly higher, namely 35.86%. The slightly higher turnout in the second referendum was probably because it took place on the same day as the first round of election of the President of the Slovak Republic.

⁵ Constitution of the Slovak Republic, no. 460/1992 Coll. as amended till date.

⁶ For more details on obstacles in exercising the right to vote in Slovakia as one of the persistent problems of the right to vote, see M. Domin, *Thirty Years of Democratic and Free Elections in Slovakia: Can really Everyone Vote?*, in *Acta Universitatis Danubius*, Vol. 16 No. 3, 2020, pp. 7-20, <https://dj.univ-danubius.ro/index.php/AUDJ/article/view/590/921>.

⁷ Act no. 180/2014 Coll. on the Conditions for Exercising the Right to Vote, as amended till date.

As regards the referendum, the Constitution envisages several types thereof. In addition to the referendum at the municipality level and another one at the self-governing region level, the Constitution refers to a national referendum regulated in the second section of the fifth chapter (Articles 93 to 100). Involving a national referendum in the part of the Constitution regulating legislative power suggests that this referendum is considered, in addition to the activities of the National Council, to be the second possible way of exercising legislative power⁸. All citizens of the Slovak Republic who have the right to elect Members of the National Council are eligible to participate in the national referendum. Organizational details are left to the Electoral Act. However, the Constitution governs the subject of the referendum and who and under what conditions can call it. In accordance with Art. 93 par. 2, a referendum may decide on important issues of public interest⁹. However, the following paragraph 3 adds that «No issues of fundamental rights and freedoms, taxes, levies and the State budget may be decided by a referendum». The referendum is called by the President of the Slovak Republic (hereinafter referred to as the ‘President of the Republic’). Nevertheless, the President of the Republic can only do so, if the National Council or a group of at least 350,000 citizens ask them to call a referendum. Even before the referendum is called, the President of the Republic may apply to the Constitutional Court of the Slovak Republic (hereinafter referred to as the ‘Constitutional Court’) to examine the compliance of the subject of the referendum with the Constitution. If the conclusion is the inconsistency of the subject of the referendum with the Constitution, the referendum cannot be called and held. Therefore, the President of the Republic calls a referendum only if all formal and material conditions are met. If so, the President of the Republic is obliged to declare a referendum¹⁰. For the results of the referendum to be valid, the participation of an absolute majority of all citizens entitled to vote is required. The proposal adopted in the referendum is subsequently to be promulgated by the National Council in the same way as a law, it means in the Collection of Laws.

3. Problems of a referendum on early elections in general

The institute of national referendum belongs, together with the position of the President of the Republic, to the most problematic parts of the Slovak constitutional system. The key issues of the referendum are related to the question, whether or not

⁸ That conclusion was even repeatedly confirmed by the Constitutional Court of the Slovak Republic, namely in its decisions II. ÚS 31/97 of 1997 and PL. ÚS 24/2014 of 2014.

⁹ Article 93 par. 1 of the Constitution presupposes a referendum confirming a constitutional act on the entry of the Slovak Republic into a State union with other States or on the withdrawal from such a union. However, this type of referendum, referred to by the Slovak constitutional doctrine as the so-called mandatory referendum, has never been used in practice. Also the 2003 referendum on the accession of the Slovak Republic to the European Union was held under the Art. 93 par. 2, thus, as a referendum on other important issues of public interest.

¹⁰ The same opinion in M. Giba *et al.*, *Ústavné právo*, Wolters Kluwer, Bratislava, 2019, p. 211 or J. Drgonec, *Ústavné právo hmotné*, C.H. Beck, Bratislava, 2018, p. 257.

the Members of the National Council (hereinafter also referred to as the ‘MPs’), for whom the Constitution determines the prohibition of imperative mandate, are bound by the results of a referendum, as well as how to force MPs to reflect the will of citizens expressed in the referendum in the legal order. However, the following lines abstract to a certain extent from the above-mentioned problems and focus only on the question of constitutionality of a referendum on early parliamentary elections.

The fundamental problem of a referendum on early parliamentary elections lies in the fact that the Constitution does not mention it at all. On the one hand, the Constitution does not explicitly prohibit it, for example in the calculation referred to in Art. 93 par. 3., on the other hand, the Constitution does not explicitly allow the referendum in question either. The wording of a law, all the more so the wording of a constitution, cannot cover everything, but as a matter of fact, the Slovak constitutional regulation of the referendum is not sufficient. However, holding a referendum on early parliamentary elections, due to the absence of explicit regulation, may contradict various other provisions and principles of the Constitution.

Due to the insufficient wording of the Constitution, controversy about the constitutionality and admissibility of holding a referendum on early elections has arisen and persisted among Slovak constitutional law experts, despite the fact that such a referendum has already taken place twice, as we have mentioned. Therefore, the following lines will briefly present basic arguments of both groups, advocates and opponents of a referendum on early elections¹¹.

Perhaps the most common argument for stating that a referendum on early parliamentary elections is contrary to the Constitution is the one saying that such a referendum would essentially be the referendum on fundamental rights and freedoms, which is explicitly prohibited by the Art. 93 par. 3 of the Constitution. This argument was already presented in 2004 by Ernest Valko and Katarína Babiaková¹² with regard to the then held referendum on early elections. In connection with the forthcoming referendum in 2021, this argument was repeated

¹¹ Other constitutional problems, such as the enforceability of its results, are linked to the referendum on early election. For details, see M. Kajla, *Referendum o predčasných parlamentných voľbách v podmienkach Slovenskej republiky (Referendum on early parliamentary elections in Slovak Republic)*, in *Studia Iuridica Cassoviensia*, Vol. 7 No. 1, 2019, pp. 21-29, https://sic.pravo.upjs.sk/ecasopis/72019-1/2_kajla_referendum_o_predcasnych_parlamentnych_volbach.pdf.

¹² See E. Valko, K. Babiaková, *Fenomén predčasných parlamentných volieb a referenda (The phenomenon of early parliamentary elections and referenda)*, in *Justičná revue*, Vol. 56 No. 3, 2004, pp. 291-298.

by Eduard Barány¹³ and especially by Vincent Bujňák¹⁴. The logic of this so-called human rights argument lies in the fact that shortening the Parliament's term otherwise than explicitly envisaged by the Constitution (dissolution of the National Council by the President of the Republic) or by the decision of the members of Slovak Parliament themselves, violates Art. 30 par. 4 of the Constitution, which guarantees the right of citizens to equal access to elected and other public offices. Therefore, MPs serving for a term shortened by a referendum would not be able to exercise their electoral programmes in the same way as MPs who would serve for the full term. Following the above-mentioned, Bujňák adds that the acceptance of a referendum on early parliamentary elections could lead to even greater excesses. If we accepted referendum question on shortening the term of the entire National Council, what would prevent the acceptance of a question leading to expiration of the mandate of a particular Member of the National Council for the specific way in which they have voted in parliamentary debate¹⁵?

Advocates of the constitutionality of a referendum on early elections, such as Tomas Ľalík¹⁶, also accept the inadmissibility of the outlined question concerning the duration of the mandate of a particular Member of the National Council. However, Ľalík considers deprivation of mandate of all deputies acceptable as a result of the referendum on early elections, because restriction of the rights of MPs, if any at all, would be only mediated and institutional, not individual¹⁷. However, general principles of the Constitution, in particular the principle of the sovereignty of the people and the principle of democracy, speak in favour of the constitutional acceptability of a referendum on early parliamentary elections. The above-mentioned principles expressed in the first chapter of the Constitution (Art. 1 and Art. 2) suggest that all power in the State begins and ends with the people (citizens) and therefore the people cannot be considered just as an object of public power, but, on the contrary, as its subject¹⁸. According to advocates of the constitutionality of a referendum on early elections, the nature of representative democracy in general and the nature of a mandate of MPs in particular, should also support their conclusions. Namely, a Member of the National Council, as well as any other representative of a public authority, is only a representative of citizens and exercises public power only because it has been entrusted to them for a limited period of time by citizens, especially through elections. As Ľalík aptly points out, a representative

¹³ See E. Barány, *Protipandemické opatrenia, ústavné limity a ľudské práva (Anti-pandemic measures, constitutional limitations and human rights)*, in *Slovenské národné noviny*, 22 February 2021, <https://snn.sk/news/protipandemicke-opatrenia-ustavne-limity-a-ludske-prava/>.

¹⁴ See V. Bujňák, *Predčasné voľby. Prečo skrátenie volebného obdobia referendom nie je ústavné (Early elections. Why shortening parliament's term is unconstitutional)*, in *Postoj*, 22 February 2021, <https://www.postoj.sk/72745/preco-skratenie-volebneho-obdobia-referendom-nie-je-ustavne>.

¹⁵ *Ibidem*.

¹⁶ See T. Ľalík, *Prečo je skrátenie volebného obdobia referendom ústavné (Why is the shortening of the Parliament's term through referendum constitutional)*, in *Postoj*, 24 February 2021, <https://www.postoj.sk/72915/preco-skratenie-volebneho-obdobia-referendom-je-ustavne>.

¹⁷ *Ibidem*.

¹⁸ *Ibidem*.

cannot be more than the one he represents. The possibility of early parliamentary elections following a referendum could ultimately strengthen the responsibility of MPs, which should be present at all times, and not just every four years when regular parliamentary elections are held.

The third possible approach, but probably not the last, is an approach that can be described as a systemic one. It was presented in 2008¹⁹ and recently further developed by Marián Giba²⁰. He points out that in the Constitution one can find both arguments for and against a referendum on early elections. However, he arrives at conclusion that the referendum on early elections is contrary to the ‘spirit’ of the Constitution, more specifically, it is contrary to the constitutional system of the Slovak Republic that can be described as a parliamentary form of government²¹. Giba emphasizes, and one can only agree with this, that early elections should be an exceptional way out of crisis and not a tool for reviewing or denying the results of previous elections²². The possible establishment of the referendum on early elections practice would be dangerous, as it would lead to relativization of the importance of parliamentary elections as such. Why would voters attach any special importance to elections if they knew that their results would not be ‘valid’ for four years, but could be changed in a relatively short time, thanks to a referendum? The sketched relativization of the significance of elections could ultimately be understood as an interference with fundamental rights and freedoms, specifically with the suffrage. However, it would not be the interference with the right of MPs but with a voting right.

The efforts of opposition political parties to change the balance of political forces in Parliament, which we are witnessing in Slovakia even today, are understandable, but they are not compatible with how the parliamentary form of government should work. It must not be forgotten that a change in the balance of forces in the Slovak Parliament is conceivable even without elections. The Constitution provides MPs with various tools to do so²³.

¹⁹ M. Giba, *Referendum o predčasných voľbách: niekoľko úvah (Referendum on early elections: some considerations)*, in *Mil'niky práva v stredoeurópskom priestore 2007*, Univerzita Komenského v Bratislave, Právnická fakulta, Bratislava, 2008, pp. 572-579.

²⁰ M. Giba, *Referendum o predčasných voľbách alebo rozklad suverenity ľudu pod zámkou jej výkonu (Referendum on early elections or decay of people's sovereignty under the pretext of its exercise)*, in *Denník N*, 26 February 2021, <https://dennikn.sk/2287699/referendum-o-predcasnych-voľbach-alebo-rozklad-suverenity-ludu-pod-zamienkou-jej-vykonu/>.

²¹ In Slovak literature, one can also find a certain relativization of the conclusion that the Slovak Republic is a parliamentary form of government. However, a key feature of the parliamentary form of government, the formation of the Government based on the results of parliamentary elections, holds valid.

²² M. Giba, *Referendum o predčasných voľbách: niekoľko úvah (Referendum on early elections: some considerations)*, in *Mil'niky práva v stredoeurópskom priestore 2007*, Univerzita Komenského v Bratislave, Právnická fakulta, Bratislava, 2008, p. 574.

²³ For example, MPs could by an obstruction achieve the reason prescribed by the Constitution for the dissolution of the National Council by the President of the Republic (inability to pass resolutions lasting more than three months). Another possibility lies in the adoption of a Constitutional Act on shortening the term of the Slovak Parliament. Although this solution is also not explicitly envisaged

4. Problems of a referendum on early elections in times of crisis

The admissibility is not the only issue of a referendum on early elections, which should be held in the current times of crisis. The constitutional system of the Slovak Republic, through the Constitutional Act on the Security of the State (hereinafter referred to also as the ‘Constitutional Act’)²⁴, allows to declare war, the state of war, the exceptional state or the state of emergency in times of crisis. The threat to human life and health due to a pandemic is specifically the reason for declaring the state of emergency, which has been declared twice in Slovakia due to the COVID-19 pandemic. For the first time the state of emergency lasted from March 2020 to June 2020, for the second time it was declared with effect from 1 October 2020 and continues to this day²⁵. The Constitutional Act on the Security of the State during the state of emergency allows a broader restriction of fundamental rights and freedoms than at the time of standard constitutional regime. This possibility has been used in practice by the Slovak Government. In the following lines, we will briefly look at how the state of emergency, or even another crisis situation, could affect the practical implementation of a referendum on early elections and subsequent parliamentary elections.

Restrictions on fundamental rights and freedoms that may occur during the state of emergency or other crisis are understood by the Constitutional Act on the Security of the State as the maximum acceptable. Therefore, restrictions on rights other than those expressly mentioned in the Constitutional Act are not permissible. At the same time, the rights which the Constitutional Act provides for a possible restriction can be restricted only to the extent and for the time necessary. In other words, the restrictions must be in accordance with the principle of proportionality. As the Constitutional Act does not mention the restriction of the right to vote in a referendum or a referendum itself at all, the conclusion must be that a declaration and holding of a referendum, regardless of its subject, is possible even during the state of emergency or other crisis.

Yet, in the case of elections, the situation is different. The Constitutional Act on the Security of the State presupposes that during war or the state of war²⁶ it is permissible not to call and therefore not to hold elections, including parliamentary elections. However, the Constitutional Act speaks of the possibility of not calling

by the Constitution and is criticized by constitutional lawyers, from a systemic point of view, it is more acceptable than shortening the term by a referendum. Namely, such a solution requires a consensus of three fifths of the Members of the National Council to shorten their term and to achieve early elections.

²⁴ Constitutional Act no. 227/2002 Coll. on the Security of the State in Time of War, State of War, Exceptional State and State of Emergency, as amended till date.

²⁵ At least until 1 March 2021, when these lines are written.

²⁶ It is not clear whether a restriction on the right to vote consisting in the non-holding of elections is possible even in the event of the exceptional state. Although the Constitutional Act on the Security of the State does not mention this possibility among the measures permitted at the time of the exceptional state, the opposite can be deduced from its final provisions.

elections «during regular election terms», suggesting that the possibility of not calling and not holding elections and thus restricting the voting right only applies to regular elections. However, such an interpretation would be contrary to the essence of the restriction in question. Not only regular elections but any elections could contribute to the spread of COVID-19 and negative consequences associated with it. Therefore, one can incline to the conclusion that the possibility of not voting also applies to early elections, that is to say, to elections that do not take place in the end of regular parliamentary terms. However, this does not apply at the time of emergency state. Therefore, according to the Constitutional Act, elections are to be held even during the state of emergency.

If there is a political will to avoid a referendum on early elections, which cannot be completely ruled out in the conditions of Slovak political culture, one can see the solution in the restriction of other fundamental rights and freedoms important for the initiation and practical conduct of the referendum. In connection with a petition aimed at obtaining signatures to require a referendum, the Slovak Ministry of the Interior reminded that during the state of emergency, government-imposed restrictions of freedom of residence and movement in the form of curfew apply²⁷. Participation in a petition aimed at collecting signatures for the request for a referendum is not among the permitted exceptions for that curfew. However, the proposed approach would be in conflict with the Constitutional Act on the Security of the State and with the Constitution. It would mean a restriction on the right to petition and, ultimately, the right to take part in a referendum. But the Constitutional Act does not allow restricting one fundamental right as a result of formal restriction imposed to another. However, such a procedure, which would make it possible to prevent any activity of people, in extreme cases also participation in early elections as such, is clearly inadmissible in a state governed by the rule of law. Finally, the Slovak Republic is also proclaimed the State governed by the rule of law²⁸. The basic principles of the rule of law, which form the common legacy of not only European democracies, must always apply, even in times of ‘bad weather’, which means also in crisis due to pandemic.

5. Conclusions

The article tried, especially focusing on a non-Slovak reader, to summarize the current controversies regarding the possibility of holding a referendum on early parliamentary elections in Slovakia. As it is clear from the above lines, there are relevant arguments in favour of both the conclusion on the constitutionality of the referendum and the opposite one. The only entity empowered to decide authoritatively on this dispute is the Constitutional Court. As we have already said, the Constitution entrusts it with the power to decide on the conformity of the subject

²⁷ It should be added that various exceptions exist for that curfew: a trip to work, a trip to purchase food or medicines etc.

²⁸ Article 1 par. 1 of the Constitution states that «the Slovak Republic is a sovereign, democratic State governed by the rule of law».

of a referendum with the Constitution. An unavoidable precondition, however, is that the President of the Republic turns to the Constitutional Court after receiving the request for a referendum²⁹.

Whatever decision the Constitutional Court arrives at, it will almost certainly become the target of criticism, either by the governing coalition or by opposition political parties³⁰. Although such criticism must be taken into account, as constitutional law and politics are close, the ideal solution would be to amend the wording of the Constitution to consider a referendum on early elections. The author of this article favours the possibility of the Constitution allowing a referendum on early parliamentary elections. However, there is a need to ensure that such preconditions are met, which would reduce the chance of abusing this institute in the competition of political forces. Namely, a referendum on early elections should be used only if it appears to be a really inevitable and effective way out of a constitutional political crisis. One option would be to set particularly strict conditions for initiating such a referendum (more than just 350,000 signatures for the request of a referendum). Another solution could be to determine that such a referendum cannot be held, for example, earlier than 1 or 2 years after the last parliamentary elections and later than a year before the next ones. Abuse of a referendum on early elections could also be prevented by a measure based on the prohibition of the repeated referendum during one term of Slovak Parliament in the event of failure of the previous one (invalidity or negative result).

Controversy over the admissibility of a referendum on early elections would probably not have arisen at all if the level of political culture in Slovakia was higher. Under ideal conditions, a strong criticism of the ruling representatives in a substantial part of the society, reflected in the high number of signatures on the petition calling for a referendum on early elections, should lead to the end of the term of political representatives and to new elections by their own action. Unfortunately, in Slovakia, such an approach is something so far comparable to films in Sci-Fi genre.

Regarding the connection of a referendum on early elections with the ongoing COVID-19 pandemic, it is still to be added that although the Constitutional Act on the Security of the State does not preclude holding a referendum or election during the state of emergency, it is worth considering whether this solution would be a good one. Yet, this is not the case if the inability of political representatives to

²⁹ So far, the Constitutional Court decided on the constitutionality of the subject of a referendum only in 2014. The referendum in question, called the referendum on family, was finally held in 2015. However, it consisted of three instead of the original four questions, because one of questions was declared unconstitutional. For more details see. M. Rybár, A. Šovčíková, *The 2015 Referendum in Slovakia*, in *East European Quarterly*, Vol. 44 No. 1-2, 2016, pp. 79-88, https://politicalscience.ceu.edu/sites/politicalscience.ceu.hu/files/attachment/basicpage/1096/mare_krybar_0.pdf.

³⁰ However, it is sad if academics are the target of criticism of political parties for commenting on the issue of constitutionality of the referendum in question. An example of such inappropriate involvement of academics in political rivalry is, for example, the press conference of representatives of the political party *Smer – Sociálna demokracia*, which took place on 23 February 2021.

manage the State in times of crisis exceeds a tolerable level. However, it is questionable whether this has already happened in Slovakia.