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## Constitutional protection of land in the Slovak Republic\*

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### Introduction

Constitutional protection of agricultural land and forest land represents a significant impulse for the development of the land law in the Slovak Republic. This is mainly related to the inclusion of land protection into the constitutional framework of the Slovak Republic, which occurred through the adoption of the Constitutional Act no. 137/2017 Coll. amending the Constitution of the Slovak Republic no. 460/1992 Coll. as amended (hereafter: Constitutional Act). The constitutional protection of agricultural land and forest land is included in Title Two of the Constitution of the Slovak Republic – “Fundamental Rights and Freedoms”, Section Six: The right to protection of the environment and of cultural heritage.<sup>1</sup> Paragraph 4 of Article 44 of the Act. no. 460/1992 Coll. Constitution of the Slovak Republic, as amended (hereafter: Constitution of the SR) was amended by the Constitutional Act and nowadays states: “The State shall ensure the careful use of natural resources, *the protection of agricultural land*

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<sup>1</sup> Act. no. 460/1992 Coll. Constitution of the Slovak Republic, as amended.

*and forest land*,<sup>2</sup> the ecological balance and the effective management of the environment and shall ensure the protection of specified species of wild plants and wild animals.”<sup>3</sup> The Constitutional Act also added paragraph 5 to Article 44 of the Constitution of the SR.<sup>4</sup> It is important to indicate one more provision – paragraph 6 of the Article 44 of the Constitution of the SR, which states: “Details of the rights and obligations under paragraphs 1 to 5 shall be laid down by law.”<sup>5</sup> It is crucial to explain that by the usage of the word “law” the Constitution of the SR established the form, degree of the force of the source of the law – only the Acts adopted by the National Council of the Slovak Republic. It is also noteworthy that such rights and obligations are provided in a relatively large number of Acts.<sup>6</sup>

However, it is not possible to invoke the rights provided in the already mentioned provisions of the Constitution based solely on the Constitution, but through the law(s).<sup>7</sup> It is also presupposed by the provision of paragraph 6 of Article 44, which is characteristic for enforceability of so-called third-generation human rights, also referred to as solidarity rights, including the right to the protection of the environment and cultural heritage. According to the Constitution: “Everyone shall have the right to favourable environment.”<sup>8</sup> Despite the foregoing, this right cannot be perceived as an individual right. Its purpose is mainly for the benefit of society and must be seen inter-generationally. This feature of the right to favourable environment conceals its important feature – solidarity. Nevertheless, it is a subjective right that can be enforced and protected by the courts. All persons are subject to these rights. The bearers of such obligations are natural persons, but also legal entities and the state itself.

Land protection must be ensured by the state. On the one hand, by setting obligations, and on the other hand, through supervisory activities supported by functional sanction mechanisms. These instruments must therefore be legally

<sup>2</sup> Authors’ note: the amended part is in italics.

<sup>3</sup> Paragraph 4 of Article 44 of the Constitution of the SR.

<sup>4</sup> Paragraph 5 of the Article 44 of the Constitution of the SR: “Agricultural land and forest land as non-renewable natural resources shall enjoy special protection by the State.”

<sup>5</sup> Paragraph 6 of the Article 44 of the Constitution of the SR.

<sup>6</sup> Act. no. 364/2004 Coll. on Waters and on the Amendment of the Act of the Slovak National Council no. 372/1990 Coll. on Offenses as amended (Water Act) as amended; Act no. 137/2010 Coll. on Air Protection as amended; Act no. 543/2002 on Nature and Landscape Protection as amended; Act no. 245/2003 Coll. on Integrated Prevention and Control of Environmental Pollution and on Amendments to Certain Acts as amended; Act no. 326/2005 Coll. Forest Act as amended; Act no. 15/2005 Coll. on the Protection of Species of Wild Fauna and Flora by Regulating Trade Therein and amending certain laws as amended; etc.

<sup>7</sup> Paragraph 1 of the Article 51 of the Constitution of the SR: “The rights listed under Article 35, Article 36, Article 37, paragraph 4, Articles 38 to 42, and Articles 44 to 46 of this Constitution can be claimed only within the limits of the laws that execute those provisions.”

<sup>8</sup> Paragraph 1 of the Article 44 of the Constitution of the SR.

binding, and the state has already responded to them before the mentioned Constitutional Act was adopted. From this point of view, it might seem that accession to constitutional land protection was more declaratory. Such arguments also arose when this provision was adopted. However, as it turned out, ever since the adoption of the Constitutional Act this change has so far created a space for the adoption of laws based on its incorporation into the Constitution of the SR.

## 1. The role of the European Union in the area of land protection

“The decisive entry into the protection [...] of land was the scientific and technical ‘revolution’ beginning in the 19th century. A separate science about the land was also developed, an epoch of soil recognition commenced along with the creation of unprecedented means to support the growth of soil-harvested crops (e.g. industrial fertilizers). The growing body of knowledge about land increased the level of human assistance in obtaining land benefits, which required regulatory action. It was deployed at the turn of the 19th and 20th centuries when professional and legislative activities began to notably accelerate the new evolution of the relationship of man to land and its protection.”<sup>9</sup> At the present, an important role concerning land protection from the perspective of the Slovak Republic plays the European Union, which provides a legislative environment. The European Parliament and the European Commission concluded that a significantly deteriorating condition of land in Europe needs to be addressed through the legislation. The deterioration of land caused by intensive agricultural activity has resulted in declining soil production capacity. The ability to perform non-productive soil functions has been reduced and a significant loss of soil cover has been observed. Experts for soil across the whole community agreed that soil is essentially a non-renewable resource. Its degeneration is much faster than its recovery.

The turning point came in 2002 with the Decision of the European Parliament and of the Council establishing the Sixth Community Environment Action Programme of the European Community.<sup>10</sup> In this Decision it is stated that in the relation to land the human activity causes considerable pressure on nature and biodiversity. It considers it to be necessary to counteract the pressure, which is mainly caused by pollution, the introduction of alien species, and

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<sup>9</sup> P. Bielek: *Legislatívna podpora ochrany pôdy: obsahové súvislosti a vývoj v zahraničí*. In: *Piata Pôdoznalecké dni*. Ed. J. Kobza. Sielnica 2008, p. 9.

<sup>10</sup> Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme.

the potential risks from the release of genetically modified organisms and the way land and seas are used. It defines soil as a limited resource that is under environmental pressure. The programme also supports the adoption of policies and approaches that will contribute to achieving sustainable development in the candidate countries, with an emphasis on “promotion of a sustainable use of the soil, with particular attention to preventing erosion, deterioration, contamination and desertification.”<sup>11</sup>

Despite the facts that there are many reasons based on which the directive would be the most appropriate form of a legislative instrument<sup>12</sup> and that there was a proposal for a directive that would establish a functional framework for the protection of soil,<sup>13</sup> which was not adopted, and the land itself is still not protected by the European Union law.

The last act in this area concerned the sale of agricultural land. In October 2017, at the request of the European Parliament, which asked the Commission to establish a clear and comprehensive set of criteria for the regulation of land markets to ensure a level playing field under European Union law, the Commission issued a guideline which states that member states are competent to decide about the measures to control the sales of agricultural land.<sup>14</sup>

According to the said guideline, the acceptable restrictions are: prior authorisations of national authorities, which should be issued before the acquisition of farmland, and limits on the size of the land that can be acquired. It concerns also the pre-emption right to farmland or the price intervention of the state. As unacceptable intervention by the State, it considers the imposition of an obligation of self-management of land or prohibition of purchase of land as well as requiring qualifications in agriculture as a precondition for the purchase of land. As the report of the European Commission shows, this guideline concerns the protection of economic interests and investment in land and resulted from non-compliance with EU rules on the sale of agricultural land.

These rules arose from the 2003 Accession Treaty, in which the new Member States were granted a transitional period during which they were to align their land sale legislation with that of the European Union. Following the harmonisation process, the European Commission voiced some reservations about

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<sup>11</sup> Subparagraph (c) of paragraph 2 of Article 6 of the Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme.

<sup>12</sup> L. Čerňanová: *Návrh rámcovej smernice na ochranu pôdy*. In: *Pôda v právnych vzťahoch – aktuální otázky*. Eds. J. Tkáčiková, V. Vomáčka, D. Židek et al. Brno 2020, pp. 283–287.

<sup>13</sup> Proposal for a Directive of the European Parliament and of the Council establishing a framework for the protection of soil and amending Directive 2004/35/EC.

<sup>14</sup> European Commission – Press release: *Sales of farmland: Commission issues guidelines to Member States*, [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_17\\_3901](https://ec.europa.eu/commission/presscorner/detail/en/IP_17_3901) (accessed: 21.02.2021).

the legislations of Bulgaria, Lithuania, Latvia, Hungary, and Slovakia. “The main concern in Bulgaria and Slovakia is that buyers must be long-term residents in the country, which discriminates against other EU nationals. Hungary has a very restrictive system that imposes a complete ban on the acquisition of land by legal entities and an obligation on the buyer to farm the land himself. In addition, as in Latvia and Lithuania, buyers must qualify as farmers.”<sup>15</sup> Therefore, it could be concluded that the last act of the European Commission is the protection of commercial interests relating to farmland management and not the protection of soil as such.

## **2. The most significant legislative changes in the area of land protection in the Slovak Republic**

Notwithstanding the fact that the land and/or farmland is not protected by a single complex act of the European Union, the accession of the Slovak Republic has been causing the adoption of the new pieces of the national legislation in the area of land protection.

The most noteworthy in this context is the amendment of the Constitution of the SR by the Constitutional Act. The explanatory statement to the proposal reads: “Nowadays the Slovak Republic faces the threat of speculative purchase of agricultural land. The present constitutional act aims to establish a constitutional framework for the protection of land against this speculative buyout, which could have widespread adverse consequences.”<sup>16</sup> The phenomenon of speculative land purchase intensified after the accession of the Slovak Republic to the EU. This could be attributed particularly to the European single market and to the differences in the subsidy schemes available to farmers in the individual Member States across the EU. Individual circumstances such as the total amount of funds available, methods of their redistribution, and conditions of their acquisition by the farmers make it particularly difficult especially for Central and Eastern European companies to compete with Western European companies. It is not an unusual phenomenon that companies from the western part of the EU purchase the whole farm and thus also acquire all ownership rights and obligations of the purchased farm. This phenomenon is also recognised by

<sup>15</sup> European Commission – Press release: *Financial services: commission requests Bulgaria, Hungary, Latvia, Lithuania and Slovakia to comply with EU rules on the acquisition of agricultural land*. [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_16\\_1827](https://ec.europa.eu/commission/presscorner/detail/en/IP_16_1827) (accessed: 21.02.2021).

<sup>16</sup> The National Council of the Slovak Republic: 7th term of the National Council of the Slovak Republic, parliamentary press no. 348.

the Slovak legislator who defines speculative buyout as the “buyout with the aim of not using agricultural land for agricultural purposes. As a result of the above, there is a risk that the state’s food security will be endangered in the future and, last but not least, the speculative buyout of agricultural land would result in the disqualification of domestic farmers who currently cannot compete with farmers with higher funding in the European single market.”<sup>17</sup> As an example, we present the situation in Malacky district, located in the southwestern part of the Slovak Republic, in the Záhorie region, where up to 43% of agricultural land in the year 2014 was owned by foreign agricultural holdings.

This unfavourable situation was also caused by the mistakes that occurred during the accession negotiations of the Slovak Republic to the EU between the years 2002 and 2004. The Slovak Republic applied a transitional period during which natural and legal persons of other states were excluded from the possibility to obtain land in the Slovak Republic. However, as soon as this transitional period had passed, it became necessary to find an effective legal instrument for land protection and adoption of the constitutional protection seems to be the most appropriate legislative option in this regard.

## 2.1 The importance of the Constitutional Act

Constitutional Act *inter alia* includes an amendment to Article 20 of the Constitution of the SR, through which the concept of food security is introduced into the legal order of the Slovak Republic. The article states: “The Act shall stipulate which other property besides the property mentioned in Art. 4 of this Constitution, necessary to ensure the needs of society and food security of the state, development of the national economy and the public interest, can only be owned by the state, municipality, designated legal persons or designated natural persons. The Act may also stipulate that certain things may only be owned by citizens or legal entities established in the Slovak Republic.”<sup>18</sup> From the perspective of the protection of national and state interests, this provision represents the key element to maintaining national competences in the land sector.<sup>19</sup>

In relation to the EU, both its primary and secondary legislation must be respected by the Member States. The incorporation of the concept of food security into the Constitution of the SR is of great importance especially in correlation with the Treaty on European Union, and in particular with the provision: “[...] the Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, politi-

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<sup>17</sup> Ibidem.

<sup>18</sup> Paragraph 6 of the Article 44 of the Constitution of the SR.

<sup>19</sup> See M. Dufala, L. Dufalová, J. Šmelková: *Land Protection and Land Care in Slovak Republic*. “Bratislava law review” 2017, no. 2, pp. 156–166.

cal and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. In particular, national security remains the sole responsibility of each Member State.”<sup>20</sup>

The concept of national security can also be seen as the basic element of the concept of security of a state, and the concept of state security can also include the concept of food security. According to the Constitutional Act no. 227/2002 Coll. on state security in times of war, state of war and state of emergency the security is “a state in which peace and security of the state, its democratic order and sovereignty, territorial integrity and inviolability of state borders, fundamental rights and freedoms are maintained and in which lives and health of persons, property, and environment are protected.”<sup>21</sup>

In the constitutional definition of security, we can see several parallels with food security. The impact of the food security crisis could result in poor nutrition of the population. The consequences of nutritional deficiency could possibly result in endangerment of health or even life of the population.

Equally important in this respect is compliance with the fundamental rights of persons. According to the Universal Declaration of Human Rights, everyone has the right to a standard of living that helps him to ensure health, welfare, including diet, clothing, housing, medical care, etc. for himself and those around him.<sup>22</sup> The International Covenant on Economic, Social, and Cultural Rights also refers to food security and declares the right of every individual do adequate nutrition.<sup>23</sup> Parties to it also assume the obligation to take measures for the fair distribution of food.<sup>24</sup> Based on these international treaties, the “right to food” is declared, which in some opinions is also a fundamental human right.

With the amendment of the Constitution of the SR the change of understanding and perception of the land can be observed. A significant role here was played by non-uniform opinion for the definition of land. According to some legal theorists, the land was a commodity.<sup>25</sup> From the environmental point of

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<sup>20</sup> Paragraph 2 of Article 4 of the Consolidated Version of the Treaty on European Union, 2008, OJ C115/13.

<sup>21</sup> Paragraph 1 of Article 1 of Constitutional Act no. 227/2002 Coll. on state security in times of war, state of war and state of emergency the security as amended.

<sup>22</sup> Paragraph 1 of Article 25 of Universal Declaration of Human Rights, adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948.

<sup>23</sup> Paragraph 1 of Article 11 the Covenant on Economic, Social and Cultural Rights, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966.

<sup>24</sup> Paragraph 2 of Article 11 of the Covenant on Economic, Social and Cultural Rights, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966.

<sup>25</sup> J. Lazar: *Občianske právo hmotné, I. zväzok, I. vydanie*. Bratislava 2014, p. 29.

view, the definition of land is defined in Act no. 220/2004 Coll. on the Protection and Use of Agricultural Land and amending Act no. 245/2003 Coll. on Integrated Prevention and Control of Environmental Pollution and on Amendments to Certain Acts as amended (hereafter: Act on the Protection and Use of Agricultural Land) as “a natural formation that arises directly on the earth’s surface as a product of the interaction of climatic conditions, organisms, humans, relief and parent rocks.”<sup>26</sup>

On the other hand, the declaratory provision of the Principles of State Soil Policy states that the land of the Slovak Republic is a commonwealth of the citizens of the state and a legacy of future generations. It is a basic and non-renewable natural resource and forms an integral part of the Earth’s ecosystems.<sup>27</sup> It is assumed here that the authors of the Constitutional Act relied on legal acts adopted so far and defines land as non-renewable natural resources.<sup>28</sup> To conclude briefly, the constitutional delimitation of land removes ambiguities with the definition provided therefore. The view of the land is radically changing. From a commodity that is subject to the rules of the free movement of goods and services within the European single market, it has been transformed into a source of particular importance, enjoying special protection by the state and society, and we can see particular importance as strategic in terms of both military and economic considerations.

## 2.2 Legislative changes adopted as a result of the adoption of the Constitutional Act

The new constitutional definition of land represents a new impulse for its application through laws. Seven Acts of the Slovak Republic have been amended in response to its adoption. One of them is Act No. 291/2017 Coll. amending Act no. 504/2003 Coll. on the lease of agricultural land, agricultural holding, and forest land and on the amendment of certain laws as amended, which was adopted in a relatively short time. The fundamental change concerns the maximum length of the lease for which a lease can be concluded for agricultural land. The upper limit was reduced from previously legally established 25 years to only 15 years, while the lower limit remained at 5 years.<sup>29</sup> Such a change appears to be contrary to the principle of land use stability, which can be derived

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<sup>26</sup> Subparagraph a) of Article 2 of in Act. no. 220/2004 Coll. on the Protection and Use of Agricultural Land and amending Act no. 245/2003 Coll. on Integrated Prevention and Control of Environmental Pollution and on Amendments to Certain Acts as amended.

<sup>27</sup> Principles of State Soil Policy SR approved by the decree of the Government of the Slovak Republic no. 1141.

<sup>28</sup> Paragraph 5 of Article 44 of the Constitution of the SR.

<sup>29</sup> Paragraph 1 of Article 8 of the Act. No. 504/2003 Coll. on the lease of agricultural land, agricultural enterprise, and forest land and on the amendment of certain laws as amended.



from Article 8 of the Act. No. 504/2003 Coll. on the lease of agricultural land, agricultural enterprise, and forest land and on the amendment of certain laws as amended. The importance of the principle of land use stability is best defined as: “Land needs to follow production cycles of crop cultivation, pest control, fertilisation cycles, etc. Land use should be of a long-term character. Frequent change of owner or user does not contribute to the production capacity of the land. For example, the temporary user will not fertilise, the grapes will be cut to high crops, which will significantly reduce fertility in the coming years.”<sup>30</sup> Land law experts, represented by M. Štefanovič, express an opposite stance on those legal issues. He considers the need to increase the upper limit lease term up to 35 years, stating that such a lease term is enforceable in many countries and “with more firm guarantees and legal certainty and protection of the lease.”<sup>31</sup>

It should be noted that this amendment did not appear in the original government bill and has been added to the legislative process. It was adopted in the framework of negotiations of the Committee of the National Council of the Slovak Republic for Agriculture and the Environment, which offers the following justification: “It is proposed to reduce the maximum lease time for agricultural purposes when operating an enterprise, from 25 years to 15 years, if a fixed-term contract is concluded. The main reason is to protect the owner and their right to manage their land. The period of 25 years is one generation. The circumstances in which the owner entered into a contract for land lease for the operation of the enterprise may have changed, therefore it is not adequate to require the owner to wait for 25 years for the full exercise of his property rights (even more so if, for example, the landowner has changed).”<sup>32</sup> The legislator views land as an object of property right.

This change strengthens the position of the owner and in particular their right to dispose of their property. It should be stressed that long-term tenancy relations have been maintained before 1989. This is mainly because of one of the biggest problems related to land management in the Slovak Republic – the high fragmentation of land.<sup>33</sup> This causes that the currently applied power approach to ownership is limited to exercising the triad of ownership rights only through legal mechanisms and not factually.

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<sup>30</sup> M. Štefanovič: *Pozemkové právo. III. aktualizované vydanie*. Bratislava 2010, p. 26.

<sup>31</sup> *Ibidem*.

<sup>32</sup> The National Council of the Slovak Republic: 7th term of the National Council of the Slovak Republic, parliamentary press no. 658.

<sup>33</sup> See J. Bažík, Z. Muchová: *Land Consolidation in Slovakia, where it Hangs? Jelgava, Latvia* (<https://www.cabdirect.org/cabdirect/abstract/20163247009>) 2015, pp. 201–207; L. Hudecová et al.: *Slovensko, krajina neznámych vlastníkov*. Bratislava, 2019, p. 19; M. Srebalová, T. Peráček: *Môžu byť efektívne pozemkové úpravy realizované bez efektívneho oceňovania pozemkov?* In: *Zborník z XXI. ročníka medzinárodnej vedeckej česko-poľsko-slovenskej konferencie práva životného prostredia*. Ed. M. Pavlovič. Bratislava, pp. 232–245.

To ensure compliance with legal obligations of the landowners arising, for instance, from the Act on the Protection and Use of Agricultural Land, the owner of agricultural land that is not farming on it often has only one real option – to conclude a lease with a person who will use such land for agricultural purposes. Taking everything into account, it is possible to express an opinion that the strengthening of the institute of private property is a positive step, in the end, it is the private property upon which the market economy is built on.

However, it should be added that land rental is the only viable way to manage fragmented ownership today. The fragmented property must be adjusted by land consolidation, in the implementation of which we have not significantly advanced so far. Among other things, the management of agricultural land is changing, with the trend clearly indicating the return of small farmers, thereby facilitating access to agricultural land by avoiding the burden of long 25-year rents. The competition between tenants may lead to an increase in remuneration for landowners whose remuneration is inadequate due to the high fragmentation of the land owned. It can be stated that this change is in part contrary to the principle of stability of use. The contradiction between a strong property right and the principle of stability of use, in this case, is balanced by the principle of improving the management of agricultural and forestry land, which is also clear from the latest amendment to the Act. No. 504/2003 Coll. on the lease of agricultural land, agricultural enterprise, and forest land and on the amendment of certain laws as amended.

The automatic renewal of the rental relationship has also been removed from the legal order of the Slovak Republic. This main reason was based on the undesirable practice of so-called institute double declarations that have been made in practice – multiple submitted applications for a single area of land in order to receive the payment from the Agricultural Paying Agency where “many cases of double declarations indicate that speculators have also entered the system intentionally to take advantage of a legal loophole, obtaining a payment for themselves or preventing a competitor from receiving subsidy or delaying it.”<sup>34</sup> The example of double declarations also shows the need to regulate this situation, since unfair business practices in the sector are occur and access to land is also impaired. In addition, such an approach undermines the sustainability of land management.

Another Act that is to be amended is Act No. 330/1991 Coll. on land consolidation, land ownership arrangements, land offices, land fund, and land communities as amended (hereinafter: Act on Land Consolidation) based on the information provided in the non-legislative materials of the Ministry of Agriculture and Rural Development of the Slovak Republic. These are, in particular,

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<sup>34</sup> The National Council of the Slovak Republic: 7th term of the National Council of the Slovak Republic, parliamentary press no. 1683 – explanatory memorandum.

the non-legislative material entitled *Analysis of the state and proposal of the solution of some land adjustments according to the Act no. 66/2009 Coll. on certain measures in the proprietary arrangement of lands under buildings that passed from state ownership to municipalities and higher territorial units, and on amendments to certain Acts*<sup>35</sup> and the material entitled *Proposal of Measures for Accelerated Implementation of Land Consolidation in the SR*.<sup>36</sup>

The latter was also focused on amending Act no. 180/1995 Coll. on certain measures to regulate ownership of land as amended. The government proposal was approved by the National Council of the Slovak Republic on 27 November 2019. However, it was vetoed by the President of the Slovak Republic and this veto, despite the recommendation of professional organisations, was not overridden. The proposed amendment contains changes mainly related to the land consolidation process, which is a prerequisite for consolidating fragmented ownership of land. Their non-acceptance endangers the government's obligation to carry out land consolidation throughout the territory of the Slovak Republic in the period of the next 30 years arising from the Resolution of the Government of the Slovak Republic no. 358 of 21 August 2019 to carry out land readjustments throughout the territory of the Slovak Republic in the period of the next 30 years.

### 3. Conclusions and outlook for the future

To fulfill the purpose of constitutional land protection by the law, it is important to consider problems related thereto on several levels. The most important one is the land consolidation level. In the connection with land consolidation it will be necessary to prepare and adopt amendments to Act on Land Consolidation, Act no. 180/1995 Coll. on some measures for the organisation of ownership of land as amended, but also Act no. 504/2003 Coll. on the lease of agricultural land, agricultural company and forest land as amended.

Furthermore, it is also necessary to answer some questions relating to the exercise of the landowners' rights in the land consolidation procedure. This is related to the fact that there are usually between 500 and 600, often even up

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<sup>35</sup> *Analysis of the state and proposal of solution of some land adjustments according to the Act no. 66/2009 Coll. on certain measures in the proprietary arrangement of lands under buildings that passed from state ownership to municipalities and higher territorial units, and on amendments to certain Acts*, approved by the Government of the Slovak Republic by Resolution no. 350 of 22 August 2018.

<sup>36</sup> *Proposal of Measures for Accelerated Implementation of Land Consolidation in the SR*, approved by the Government of the Slovak Republic by resolution no. 358 on 21 August 2019.

to 1,000 parties to the land consolidation proceeding. Besides, the “unknown” owners also participate in proceedings through the Slovak Land Fund. The ownership of each party to the land consolidation procedure must be viewed individually but also comprehensively from the perspective of the whole territory. Excessive discretion in the exercise of the procedural rights by a single or several owners may cause a significant obstruction in proceedings, in particular concerning the exercise of the institution of appeal or other forms of remedies. On the other hand, excessive strictness of the law may jeopardise the exercise of the landowner’s rights. In the future, therefore, it is necessary to find a mechanism to balance these two categories of rights so that the land consolidation procedure is effective, and the rights of the owners are limited to the lowest possible reasonable extent. For land consolidation to be carried out efficiently, it is necessary to shorten the time required for land consolidation within one land consolidation area, as it is currently composed of several stages and is on average 5 years long. We also know cases where it took more than 10 years to carry out land consolidation.

It is also worth mentioning the absence of specialised state administration bodies in the land sector. In our opinion, the representative of specialised state administration in the field of land could become the Slovak Land Fund, which, under the conditions of the valid legislation of the Slovak Republic, currently operates more as a passive manager than an active supervisor of land relations. The historical basis for a strong land fund can be found in previous land reforms. However, its tasks should be expanded to new areas in the context of the challenges we face, such as the climate crisis and the adaptation of the country.

After carrying out land consolidation as a key instrument for the implementation of land-related legislation, it will be necessary to create space to prevent by adequate legislative instruments any further land fragmentation as due to inheritance, the land may return for several years to an undesirable state of high fragmentation.

The problem of land law in the conditions of the Slovak Republic is also a high number of laws regulating land-legal relations and dispersion of individual legal entitlements in them. The recodification of land law is also a challenge for the future to make control more effective, to increase legal certainty, but also to increase clarity. However, this seems a very compound task, especially from the perspective of the complex relationships regulated by individual laws. They affect a large number of rights and obligations, whether ownership or rent, which arise on land and would have an impact on the vast majority of society. However, recodification is certainly needed in the future. Its main objective should be to create a sustainable state in the land sector.

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### Constitutional protection of land in the Slovak Republic

#### Summary

The significant amendment of the Slovak constitution deals with the protection of the land which it newly characterises as a non-renewable natural resource and provides additional legal protection of it. The article analyses the importance of this amendment from multiple perspectives with emphasis on legislative changes it has brought. The main topics of the article are the need for more effective legislation in the area of land protection and also the long-standing need to carry out land consolidations in the Slovak Republic.

**Key words:** land protection, land consolidation, land, ownership of land, the Slovak Republic

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### Konstytucyjna ochrona gruntów w Republice Słowackiej

#### Streszczenie

Istotna zmiana słowackiej konstytucji dotyczy ochrony ziemi, którą na nowo charakteryzuje jako nieodnawialne zasoby naturalne i zapewnia jej dodatkową ochronę prawną. Artykuł analizuje znaczenie tej poprawki z wielu perspektyw, z naciskiem na zmiany legislacyjne, któ-

re przyniosła. Głównym tematem artykułu jest potrzeba bardziej efektywnego ustawodawstwa w dziedzinie ochrony gruntów, a także długotrwała potrzeba przeprowadzania scalenia gruntów w Republice Słowackiej.

Słowa kluczowe: ochrona gruntów, konsolidacja gruntów, grunty, własność gruntów, Republika Słowacka

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### **Конституционная защита земельных участков в Словацкой Республике**

#### Резюме

Важное изменение в конституции Словакии касается защиты земель, которое вновь классифицирует природные ресурсы как невозобновляемые и обеспечивают их дополнительную правовую защиту. В статье рассматривается важность этой поправки с различных точек зрения, с акцентом на изменения в законодательстве, которые она вызвала. Основной темой статьи является необходимость более эффективного законодательства о в области защиты земель и долгосрочной необходимости проведения укрупнения земельных участков в Словацкой Республике.

Ключевые слова: защита земельных участков, укрупнение земельных участков, земельные участки, землевладение, Словацкая Республика

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### **Protezione costituzionale della terra nella Repubblica Slovacca**

#### Sommario

Un emendamento significativo alla costituzione slovacca riguarda la protezione della terra, che riqualifica come una risorsa naturale non rinnovabile e le fornisce una protezione legale supplementare. L'articolo esamina il significato di questo emendamento da molteplici prospettive, con un'enfasi sui cambiamenti legislativi che ha portato. Il tema principale dell'articolo è la necessità di una legislazione più efficace nell'ambito di protezione di terra, e anche la necessità a lungo termine di consolidamento fondiario nella Repubblica Slovacca.

Parole chiave: protezione di terra, consolidamento di terra, terra, proprietà di terra, Repubblica Slovacca