

The Supreme

Court



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Third updated and expanded edition

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Foreword by

the Supreme Court President

Just like the independent Czech Republic and the more than 70 years of Czechoslovakia before that, the Supreme Court has had its share of good and bad times. We can be justly proud of a substantial part of our history, but we must not close our eyes to the period when the Supreme Court, especially in the 1950s, was subservient to the perverse totalitarian regime of the time and, unfortunately, its decisions also helped to keep the regime in power. The publication in your hands is the third expanded and updated edition of the original book from 2018. Since it was written on the occasion of the 100th anniversary of the establishment of the Supreme Court of the Czechoslovak State, it sums up in words and photographs all the main and most important events in the history of the highest judicial instance of the general justice system.

The very establishment of the Supreme Court on 2 November 1918, literally a few dozen hours after the declaration of the common state of Czechs and Slovaks, was an incredibly interesting and even hectic affair. The authentic documents are full of crossed-out bits which show that the first Czechoslovak Government was for a long time unclear even about the actual name of our newly emerging republic and its supreme court, and they paint an absolutely unique picture of that time. In fact, we rediscovered these admirable and long-forgotten historical documents in the archives while compiling this publication and reintroduced them to the public after many decades.

This is the first time that we are introducing all the important personalities who have served at the Supreme Court in its more than 100-year history in a single place. Many started their journeys here, just learning the “craft of the law”; for others, the Supreme Court represented the culmination of their rich career in the judiciary. We commemorate personalities of whom we are rightly proud, but also notorious politically exposed persons

who served as Presidents of the Supreme Court of the Czechoslovak Socialist Republic during its totalitarian period.

It was also necessary to revisit the difficult times during World War II, especially the tragic Anglo-American bombing of Brno on 20 November 1944, during which 16 judges and court employees died in one of the air-raid shelters in the city centre. It was the darkest day in the history of the Supreme Court.

Of course, it is also worth mentioning in more detail the individual, mostly unique historical buildings which have housed the Supreme Court in the past, devoting the largest part to its current seat in Burešova Street in Brno, a listed functionalist building designed and supervised by the eminent Czech architect Emil Králík between 1931 and 1932.

On the following pages, our readers will also discover why the Supreme Court is located in Brno, why it moved between Brno and Prague several times in the past and how many times it actually did. In its conclusion, the book presents in detail the Supreme Court of today as a modern institution, a guarantee of a fair judicial system, and of high-quality and swift decision-making. I am fortunate to be presiding over a Court composed of the highest-quality and humanly impeccable fellow judges, whom I would like to thank for their work.

Petr Angyalossy
President of the Supreme Court



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President of the Supreme Court

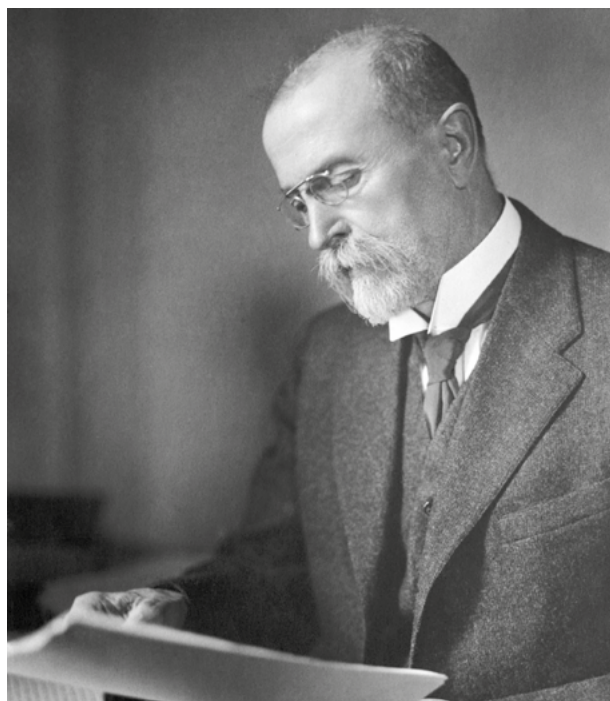
Formation of an Independent Republic,

First Laws

The Czechs and Slovaks spent the whole of the First World War preparing for 28 October 1918, the most important day in the modern history of the Czech state. As early as June 1915, Tomáš Garrigue Masaryk, backed by Czech compatriots abroad, openly declared the Czechs' demand for independence in Geneva. Even so, the rapid sequence of events in autumn 1918 that accompanied the break-up of Austria-Hungary was characterised by many stopgap solutions, including the first-ever "reception" law, the short text of which – according to contemporary accounts – Alois Rašín did not draw up until the night of 27-28 October 1918.

At the turn of 1915, the organisation known as Maffie was the hub of the domestic resistance movement. It had about 200 active members, both Czechs and Slovaks. In 1916, the Czechoslovak National Council was founded in Paris on the initiative of Tomas Garrigue Masaryk and Milan Rastislav Štefánik, Edvard Beneš and others as a representative body of foreign resistance. In July 1918, the Czechoslovak National Committee, chaired by Karel Kramář, was established. It was originally made up of 38 members, including Alois Rašín, Antonín Švehla, Ferdinand Pantůček and Jaroslav Preiss, who were tasked with preparing for the emergence of a new state and, among other things, drawing up the first laws of that state. Jaroslav Preiss, Živnostenská banka's politically active executive director, prepared a draft economic law dealing, in part, with the circumstances under which a new, autonomous currency would be used in the Czech Lands. Ferdinand Pantůček, who went on to become first President of the Supreme Administrative Court, prepared a second fundamental legal norm, the Act on the Provisional Czech Imperial Government, with the ambition to fashion it into the political and constitutional foundation of the state. In the end, however, this draft never became law, although some of its parts were subsequently borrowed by Alois Rašín and incorporated into the wording of the first "Interim Constitution".

There were many matters that had to be resolved in preparations for the new state of Czechs and Slovaks, and it was very difficult to coordinate the individual stages of preparation for the declaration of an independent state by resistance groups at home and abroad.



Tomáš Garrigue Masaryk, © Czech News Agency, 1918

Events in Europe picked up speed in mid-October 1918. In Paris on 14 October 1918, the Secretary of the Czechoslovak National Council, Edvard Beneš, informed the states party to the Entente of the establishment of a provisional Czecho-Slovak government headed by long-term US resident Tomáš Garrigue Masaryk. This government was active only until 14 November 1918, when the first Czechoslovak Government, with Karel Kramář as its Minister-President, was formed and Tomáš Garrigue Masaryk became the President. The provisional government was recognised by France on 15 October, by Great Britain and Serbia on 23 October, by Italy on 24 October, and then by other countries. On 18 October, Tomáš Garrigue Masaryk and his associates delivered the Washington Declaration – in which the foreign resistance proclaimed the independence of the Czechoslovak nation – to the US Department of Foreign Affairs.

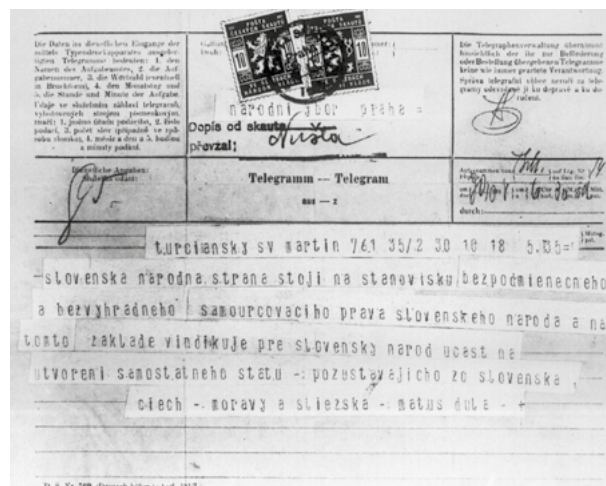
In Bohemia, strikes protesting the export of food to the war front came to a head in October 1918. The population, rife with discontent, was also clamouring for rapid political change. On 16 October, Emperor Charles I announced his plan to federate Cisleithania (the Austrian part of the Monarchy). On 18 October, the Romanians appeared before the Hungarian Parliament with a proclamation of national identity. The next day, the Slovak MP, Ferdiš Juriga, came forward at the same place to announce that the Slovaks had ceased to respect the Hungarian Parliament and henceforth would decide on their future themselves.

When, on 27 October, Austro-Hungarian Foreign Minister Count Gyula Andrassy the Younger sent US President Woodrow Wilson a Diplomatic Note indicating a readiness to enter into armistice with immediate effect, this act was perceived as a sign that the Austro-Hungarian monarchy was capitulating. Following the publication of Andrassy's Note on 28 October, the people of Prague took to the streets in an event that served as a direct impetus for the proclamation of Czechoslovak independence. Independence was first declared in the morning by the priest Isidor Zahradník at the statue of St Wenceslas in Wenceslas Square, and shortly afterwards by the Czechoslovak National Committee.

Still on 28 October 1918, the Czechoslovak National Committee issued the first law of the newly established Czechoslovak state, the aforementioned "Reception Act", though it was not until 6 November 1918 that this legislation was promulgated in the Collection of Legislative Acts and Decrees (under number 11/1918). In the meantime, the public had been apprised of this law by posters and on the pages of the daily press; post offices across the land were tasked with sending special telegrams to local national committees and the self-governing bodies, ensuring that the text of the Reception Act reached even the more remote parts of the newly established state of Czechs and Slovaks.

Article 2 of the Reception Act provided that "any and all existing provincial and imperial laws and regulations shall remain in force for the time being". The author of the text, Alois Rašín, pointed out that this law had to be drawn up and issued in haste because the above-mentioned statutory regulations originally being prepared were not yet of sufficient quality by the time the independent Czechoslovak state was declared. Consequently, the Reception Act

was the only way to prevent lawlessness from descending over the new Republic from the first day of its existence.



The president of the Slovak National Council, Matúš Dula, announces the adoption of the Martin Declaration in a telegram to Prague, © Czech News Agency, 1918

The Slovaks definitively confirmed their wish to co-exist with the Czechs in the so called Martin Declaration (the Declaration of the Slovak Nation) on 30 October 1918. Officially, the assembly in Martin also established the Slovak National Council as the sole body mandated to represent the Slovaks, but not all Slovaks were enamoured of the new Czecho-Slovak political representation, with some calling directly for Slovak autonomy.

On 13 November 1918, the Czechoslovak National Committee approved the first Interim Constitution as Act No 37/1918, upon which, on 14 November, the National Assembly was established by expanding the National Committee to 256 Deputies according to the so called "Švehla key" (i.e. broadly according to the results of the 1911 Imperial Council elections) and by inviting representatives of Slovakia to join.

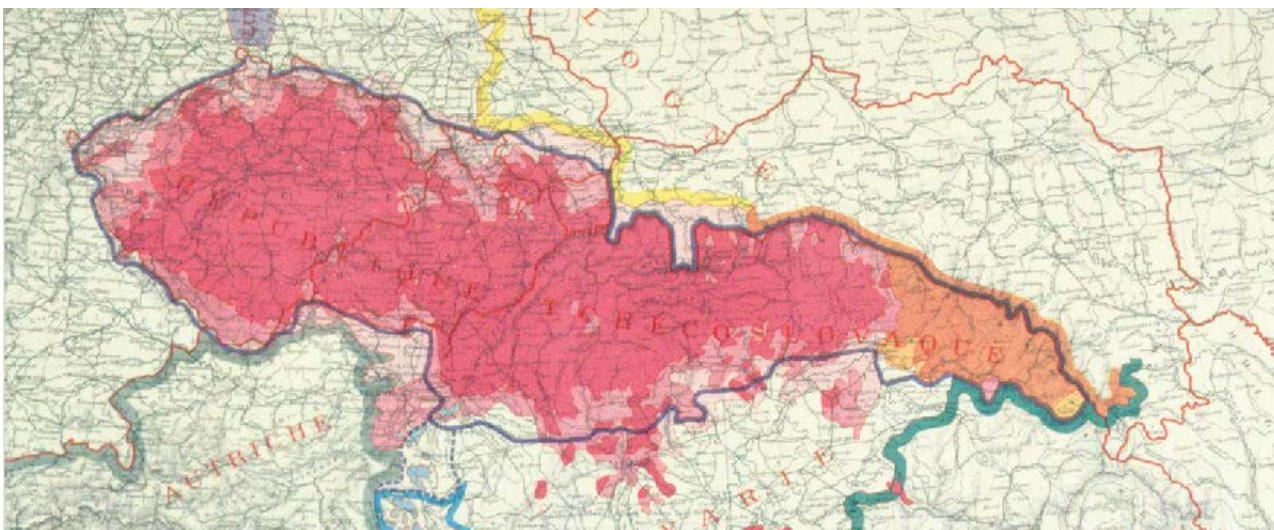
On 14 November 1918, the day of its establishment, the National Assembly also elected the country's first President, Tomáš Garrigue Masaryk. The Liberator President, as he was nicknamed, was still living in the United States at this time, and did not return to Prague until 21 December 1918, when the public welcomed him ecstatically.

The Czechoslovak political representation had numerous tasks to get done. Tasks of paramount importance included negotiations with geographic neighbours and the European powers on the fixed demarcation of national borders and the need to define the activities and competence of state bodies and the President, establish new legal standards, set up a judicial system and spell out the precise jurisdiction of the courts and the judicial hierarchy, and reform municipal self-government, all of which as quickly as possible.

The approval of the Reception Act introduced legal dualism into the newly established republic. In Bohemia, Moravia and Silesia, the law drew on the former Austrian legal system, whereas Slovakia and Carpathian Ruthenia borrowed from the Hungarian legal model. Consequently, the structure and organisation of the judiciary lacked homogeneity under the so called First Republic, and the public found it difficult to navigate. It was not until 1928 that the titles, names and references to various courts and judicial ranks were unified nationally. However, no solution was found to the divergent wording of procedural regulations and differences in the regulations and rules determining the jurisdiction of individual courts, despite the active efforts of the Ministry for the Unification of Laws and the Organisation of Administration (known by its abbreviated name of the Unification Ministry), which was active from 1919 to 1938.



Small national emblem of the Czechoslovak Republic, National Archives



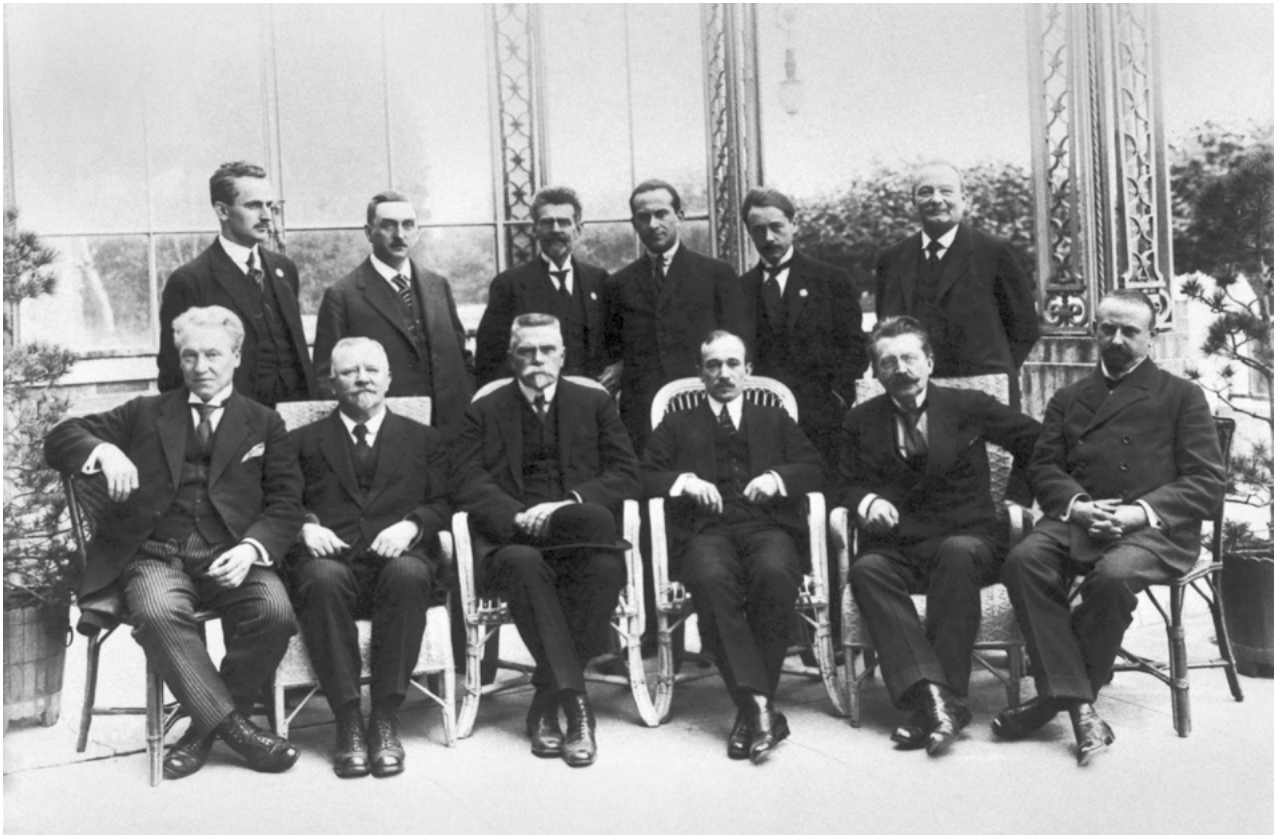
The national and political landscape of Central Europe after the First World War; map printed on the occasion of the Versailles Peace Conference, National Archives



People in Wenceslas Square, Prague, celebrate the formation of the new republic on 28 October 1918, © Czech News Agency, 1918

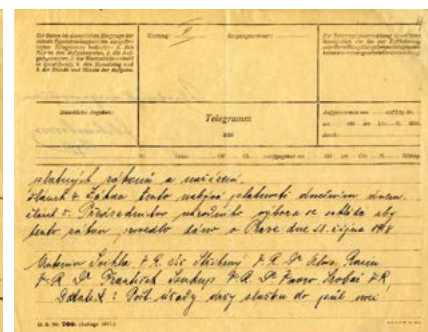
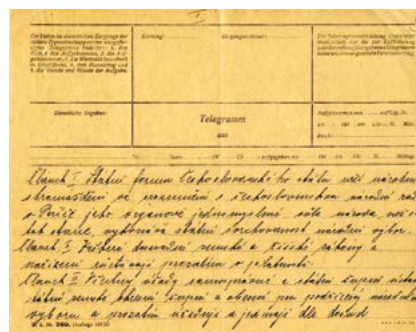
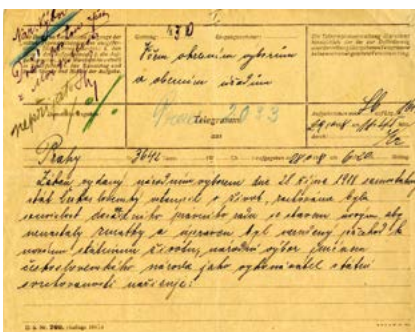
The Marian column in the Old Town Square, Prague, regarded as a symbol of Habsburg rule, is torn down (3 November 1918), © Czech News Agency, 1918

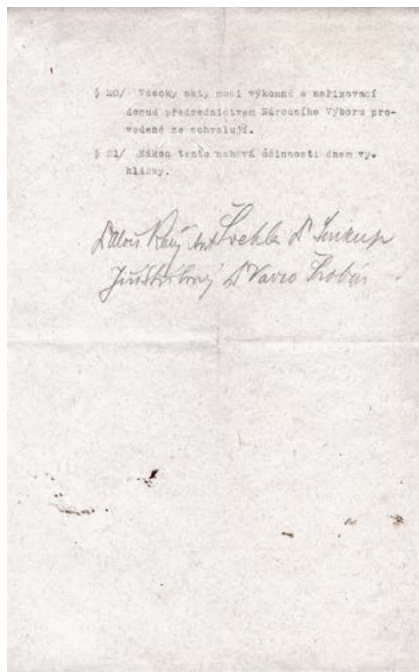
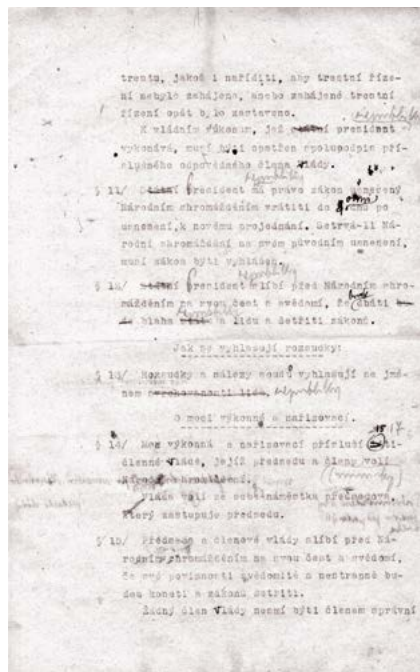
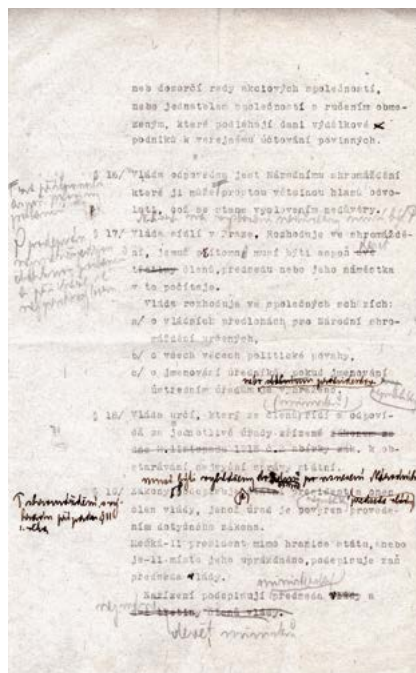
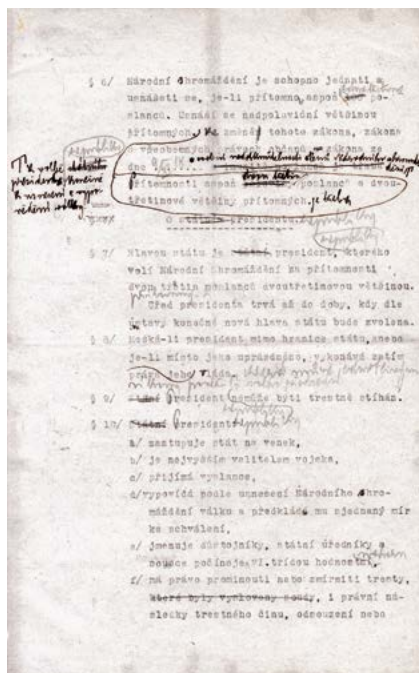
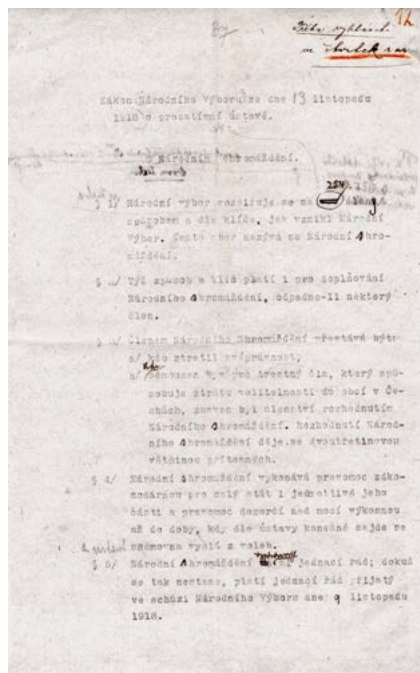




Members of the Czechoslovak National Committee,
© Czech News Agency, 1918

Original telegram used to circulate the text of the
Reception Act via post offices throughout the newly
established Czechoslovak state, National Archives





Authentic draft of the Interim Constitution of 13 November 1918, signed by members of the Czechoslovak National Committee, National Archives



Ladislav Pluhař, chairman of the Provincial Committee (Landesausschuss), welcomes President Masaryk to Brno in Moravia Square (1924), Brno City Archives

Official march-past of legions, Moravia Square, during President Masaryk's visit to Brno (1924), Brno City Archives



Establishment of the Supreme Court

and its Activities until 1938

The National Committee established the Supreme Court on 2 November 1918 under Czechoslovak Act No 5. On 4 November 1918, this Law was published in the Collection of Legislative Acts and Regulations of the Czechoslovak State. In 1918, the decision-making activity of the newly established Supreme Court of the Independent State of Czechs and Slovaks primarily built on the work and organisation of the Supreme Court of Justice and Cassation in Vienna. The Supreme Court was the third instance for civil and criminal matters, and could also propose the issuance or amendment of laws.

This authentic document – the final Bill signed by the Czechoslovak National Committee – illustrates how hectic the period of the autumn of the 1918 was. Here, we discover that the name originally proposed for the Supreme Court was the Supreme Court of Justice and Cassation. However, National Committee members shortened the name at the last minute. In fact, many more modifications were made to the original draft, including the addition of the final provision of Section 14, which was made in pencil.

The Supreme Court's jurisdiction was set out in Sections 3, 4 and 5 of Act No 5/1918.

"Section 3

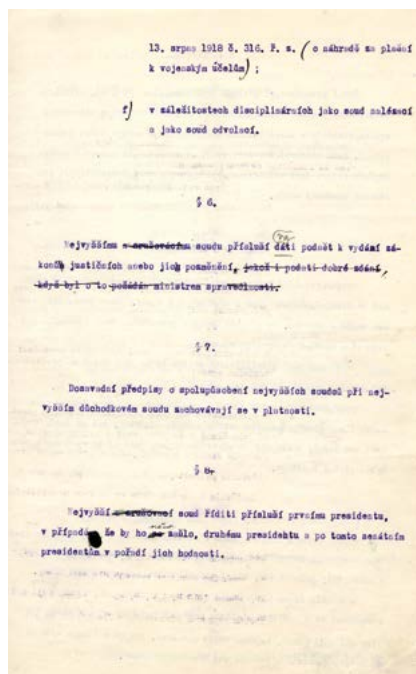
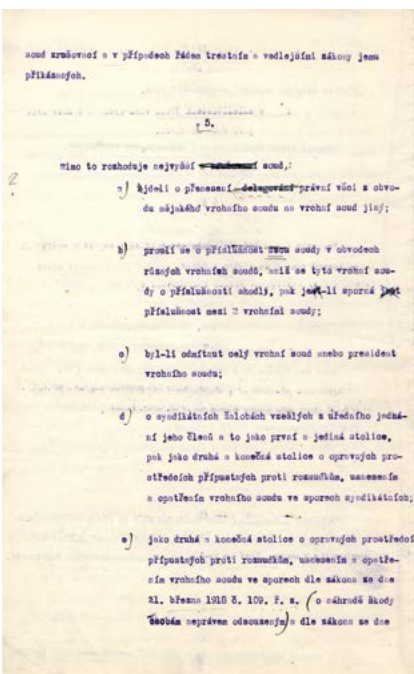
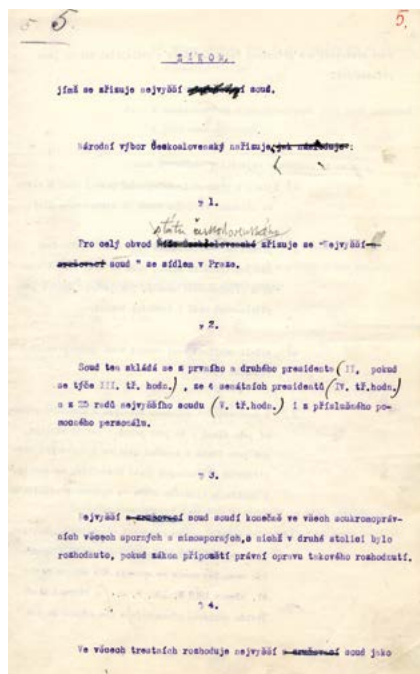
The Supreme Court shall adjudicate with finality on all private adversarial and non-adversarial matters on which a ruling has been rendered in the second instance, provided that the law admits the legal correction of such a ruling.

Section 4

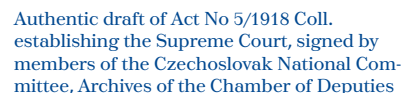
The Supreme Court shall hear criminal matters as a court of cassation and cases assigned to it by the Code of Criminal Procedure and secondary laws.

Section 5

In addition, the Supreme Court shall adjudicate on the following:



and its Activities until 1938



- in disciplinary matters, as a court of first instance and a court of appeal.*

Section 6

It shall be incumbent on the Supreme Court to propose the issuance of judicial acts or amendments thereto."

Section 1 of Act No 5/1918 proclaimed that the Supreme Court was to be seated in Prague. The government chose the building of the former cadet school in the Hradčany district of Prague as the first ever seat of the Supreme Court, which it shared with the Supreme Administrative Court and the Ministry of Justice. Today this same building, in what is now Na Valech Street, houses the Ministry of Defence.

The building was built on the site of Bastion XV, one of the twenty castle fortifications with a tower that had continued to protect Prague's Lesser Quarter and Hradčany into the 19th century. It opened as an infantry cadet school in 1900. When the First Republic was formed, the school was closed and the building became a "refuge" for some of the newly established state bod-

Establishment of the Supreme Court

and its Activities until 1938

ies and institutions. Act No 322/1919 of June 1919 on the Seizure of Buildings for Public Purposes returned the site to the military administration, which set up the new War College here in 1921.

Meanwhile, the Supreme Court, almost exactly a year after its inception, relocated to the city of Brno, where it started operating on 5 November 1919. In the face of considerable opposition from the acting First President of the Supreme Court, August Popelka, the move was pushed through by the MP František Weyr, the first ever dean of the Faculty of Law at Masaryk University in Brno (later also the university's rector).

František Weyr co-authored Act No 216/1919 on the Supreme Court, which the National Assembly passed on 16 April 1919. This Act amended the aforementioned Act No 5/1918. One of the changes it made, naturally, was to Section 1 of the original Act so that it read (by now as Section 1 of Act No 216/1919): "The Supreme Court shall be established in Brno with jurisdiction encompassing the territory of the Czechoslovak state in its entirety." Coincidentally, this Act also had 14 provisions in all.

In the first few years of its existence, the Supreme Court consisted of a First and Second President, seven Pres-



František Weyr



Augustin Popelka, First President of the Supreme Court, 1918-1930

idents of Panels (rising to nine Presidents of Panels from 1930) and forty counsels, i.e. judges (forty-eight as of 1930). Augustin Popelka was the First President of the Supreme Court until 1930, when he retired. In 1920 and 1921, Augustin Popelka was also briefly the Minister of Justice in the then caretaker government.

The Supreme Court's relocation from Prague to Brno in 1919 was mainly a pragmatic decision. It was in the then

The former infantry cadet school, historically the first seat of the Supreme Court when it was in Prague (1918-1919), Prague City Archives



Czechoslovak judiciary's interest to fill the Supreme Court with acclaimed judges from the former Supreme Court of Justice and Cassation in Vienna. At the same time, placing the Supreme Court in the more centrally

situated Brno also benefited the Slovak part of the republic and Carpathian Ruthenia.

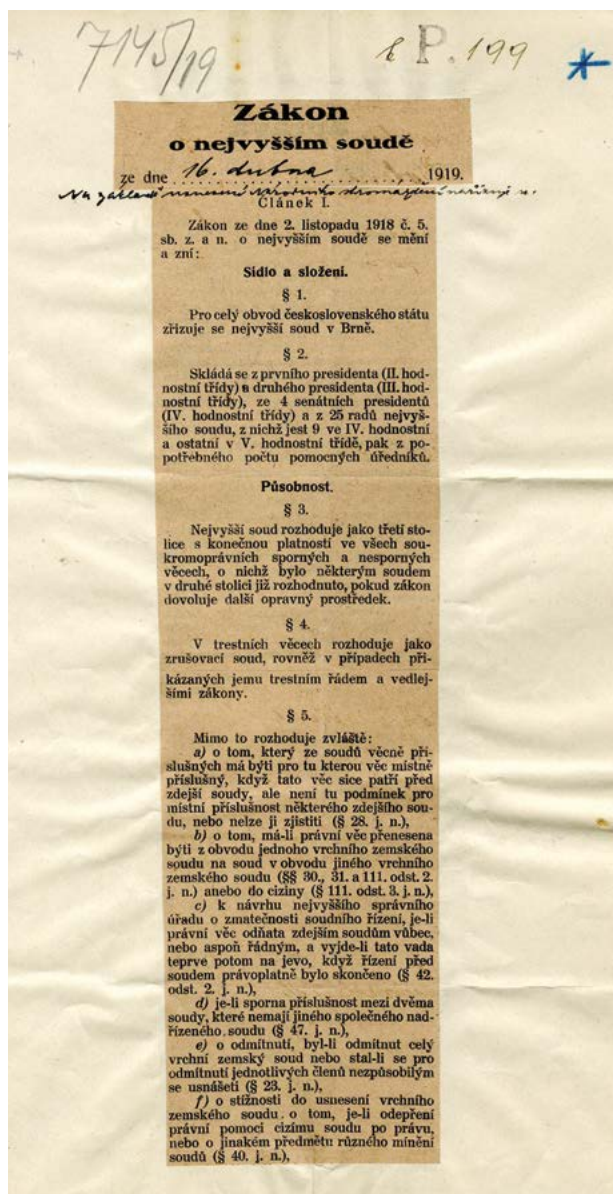
The Supreme Court's first seat in Brno, the Palace of Justice in Na Hradbách Street (now Roosevelt Street), is currently home to the Regional Court. Construction of the Palace of Justice began in 1906 according to a design by Alexander Wilemans von Monteforte. It occupied the site of a former Jesuit college, which had been demolished shortly before.

Wilemans was an architect who had been hailed in Austria-Hungary as a specialist in "palaces of justice". He was made famous by his construction of the Justizpalast on Schmerlingplatz in Vienna, which opened in 1881. Though opponents of this boldly designed project lambasted it for being overly megalomaniac, it earned the architect admiration on the whole and led to further large-scale commissions from the then Austro-Hungarian judiciary. Alexander Wilemans von Monteforte went on to design, for example, the Palace of Justice on today's Liberty Avenue in Olomouc.

The construction of the Palace of Justice in Brno was completed in May 1908, but the building was not handed over to the judicial institutions until a year later. When the Supreme Court moved to Brno in 1919, it had to share the Palace of Justice with institutions including the then Regional Civil Court and not one, but two, district courts. That was how matters remained throughout the many years that the Supreme Court's judges handed down their rulings in Brno's Palace of Justice.

In the early days, the Supreme Court would typically use three highly improvised courtrooms at the Palace of Justice in Brno. Only one was a purpose-built courtroom, the second was created by reconstructing part of a hallway, and the last had to be prepared on a case-by-case basis in one of the currently available offices. Rulings would be rendered by seven Panels. More specifically, that was the number of Presidents of Panels at the Court. There were 40 judges, known at the time as "Supreme Court counsels". Panels would normally have five members. In camera sessions were held – just as they are today – in the offices of the Presidents of Panels. When the 11-member Plenum was to convene, two desks would be jammed together in one of the offices. The even larger Supreme Court Board would borrow one of the high court's rooms.

Cover page of the authentic draft of Act No 216/1919 Coll. on the Supreme Court, National Archives





The building site where the Jesuit college had been demolished (1905). Construction of Brno's Palace of Justice was completed here in 1908, Brno City Archives

The Supreme Court's initial seat in Brno, the Palace of Justice, in what is now Roosevelt Street (around 1920), Brno City Archives



In 1923 the First Republic's State Court was set up in the Brno Palace of Justice in response to the assassination of finance minister Alois Rašín. According to Section 36 of Act No 50/1923 on the Protection of the Republic, the State Court's role was to adjudicate on particularly serious acts against the state, such as the betrayal of state secrets, the prejudicing of state interests abroad, attempted assassination, and physical harm to constitutional agents. The Supreme Court had the jurisdiction to hear appeals against State Court judgments. The autonomous State Court operated in Brno until 1935, when it was abolished and its jurisdiction, once revised, was transferred to the high courts.

In 1930, the number of Supreme Court Presidents of Panels increased to nine, with the number of judges (counsels) rising to 48. At this time, the Supreme Court

– like today – also recorded an increase in its agenda. It was the court of final instance in all criminal and civil matters, determined the territorial jurisdiction of ordinary courts, ruled on disciplinary actions brought against judges, and heard appeals against the decisions of bar associations.

The Supreme Court's Plenum was also responsible, among other things, for delegating two of the Constitutional Court's seven judges. The then Prosecutor-General's Office was closely associated with the Supreme Court. The Prosecutor-General, along with his deputies and advocates general, worked right next to the Supreme Court's offices leased in the courtyard of the State House, now the seat of the South Moravia Regional Authority. However, the Prosecutor-General was answerable to the Minister of Justice, as the highest



Interiors of the Palace of Justice in Brno, published in the Prager Presse magazine (1927), Brno City Archives



The Národní listy's front page on 5 January 1923, reporting on the assassination of Alois Rašín



The State House in Brno, where the Supreme Court leased courtyard offices, Brno City Archives

placed figure in the structure of the then prosecutors' offices.

During the inter-war First Republic, virtually from the start of the Supreme Court's operations in Brno, the State House was not its only "field office". Because the Palace of Justice was so overcrowded, the judges did not have the facilities they needed for their work, and the conditions in which they had to perform their duties were below the dignity of the Supreme Court. This is eloquently documented by an interpellation made by 24 MPs to the Ministers of Justice, Public Works and Finance of 19 December 1929, published in Parliamentary Press 27 of the Chamber of Deputies of the National Assembly of the Czechoslovak Republic, 1929-1935, Part 2. It is worth quoting some rather long authentic passages from this appellation:

"The Supreme Court was transferred to Brno in 1919. It had rooms both in the Palace of Justice and in the former Noblewomen's Institute at the corner of Kobližná Street and Běhounská Street. As the Palace of Justice housed not only the high court, but also the regional civil court and the two district courts, few rooms here were placed at the disposal of the Supreme Court, and the remainder had to be found in the former Noblewomen's Institute. This building, however, was built for residential rather than official purposes, hence the rooms here were of limited suitability in their lightning or otherwise. When the rooms in the former Noblewomen's Institute were vacated, the judicial administration rented rooms for the Supreme Court at the Moravian Provincial Insurance Company [Moravská zemská pojišťovna] in Brno, opposite the Palace of Justice, and in the Hotel Plzeňský dvůr. Following this stopgap solution of three separate locations, the judicial administration rented rooms in an



Vladimír Fajnor, First President of the Supreme Court, 1931–1939

must be served properly and as fast as possible. In addition to the lack of staffing facilities, local conditions delay the handling of the Supreme Court's acts and are partly accountable for the fact that up to 30% of cases heard by the Supreme Court take up to 10 months to be resolved. Furthermore, the working stamina of the Supreme Court judges must not be squandered, nor should the public interest in the speedy handling of court cases be underestimated. Moreover, it is demeaning to our Republic that in its eleventh year, and 10 years after the relocation of the

Supreme Court to Brno, it has no purposeful and dignified buildings, nor efficient and dignified rooms, for this supreme instance of the judiciary, despite the fact that the question of a building plot could be resolved by the suitable location on Husova Avenue...".

Shortly after the MPs' interpellation, the building plot on Husova Avenue in Brno, between Pražák Palace and the then Museum of Decorative Arts, which the City of Brno offered for use by the Supreme Court, was rejected by then the First President of the Supreme Court, Vladimír Fajnor, because he deemed it to be too small and therefore undignified. In 1931, the Supreme Court's then management showed a keen interest in a new project on the planned "Academic Square", near Veveří Street, just below Brno's Kraví Hora district. However, the worsening economic crisis, combined with disputes on the final appearance to be taken by the Academic Square project and on the exact location of the Supreme Court building, meant that, ultimately, construction work did not go ahead here either. Instead, the Supreme Court had to continue its heavy reliance on rented office space away from its seat in the Palace of Justice. In the 1930s and 1940s, most of these offices were in the Palác Morava complex, also known as

The Brno Palace of Noblewomen, viewed from today's Liberty Square (the building with a tower), which was mentioned in the MPs' interpellation (photo from the turn of the 20th century), © Brno City Museum





Palác Morava shortly after its reconstruction (1936), © Brno City Museum

Palác Kapitol because of the Kapitol Picture House in the basement of the building. This magnanimously designed residential block, reconstructed in 1926-1929 on what is now Malinovské Square, and extending into Divadelní Street and Benešova Street, was fronted by the building of the Moravian Provincial Life Insurance Company.

The Supreme Court

in 1939 – 1989

The legal dualism of the First Republic lasted all the way through to the Second World War, when the establishment of the Slovak State saw that territory create its own judiciary in 1939. While, formally, there was no change to the organisation of the judiciary in Bohemia and Moravia, the structure of the Czech courts, which was based on the prewar model, was joined by the Reichsdeutsche judiciary. This was transferred from Germany to the territory of the Protectorate of Bohemia and Moravia to serve German citizens, including, of course, citizens of German nationality living in the Protectorate. Three judicial instances were formed in the Protectorate of Bohemia and Moravia: the Oberlandesgericht in Prag (High Provincial Court in Prague), the Landesgericht in Brünn/Prag (Provincial Courts in Brno and Prague), and the Amtsgerichte (local courts). The German Landesgericht in Brünn also resided in the Palace of Justice. In addition, there were Sondergerichte ("special courts"), which, in summary proceedings, handed down punishments for activity against the occupying power, the military establishment, political organisations and members of those organisations. These Sondergerichte decided without preliminary investigation and judgments were executed immediately, without any right of appeal. Over the time it was in operation, the Sondergericht in Brno sentenced 477 people to death.

During the Second World War, the Supreme Court was headed by Theodor Nussbaum. He was originally appointed by the Court's management as its Second President (i.e. vice-president), while the post of First President remained vacant until 1944, when Theodor Nussbaum himself was promoted to this position. In 1940, besides Theodor Nussbaum, there were "only" five Presidents of Panels and 23 judicial counsellors (judges) at the Supreme Court. The Supreme Court's importance was marginalised in the occupied territo-

ry. Over time, the German courts increasingly also tried the Czech population.

As end of the Second World War loomed, the Supreme Court suffered the greatest tragedy in its history, when the Anglo-American air raid on Brno on 20 November 1944 dropped a bomb directly on the air-raid shelter used by the Supreme Court's branch at the Palác Morava. Inside the shelter, seven Supreme Court judges, three court clerks, two officials, and four court officers lost their lives. The fact that the consequences were so devastating was pure misfortune, as the bomb slid down the wall of the building and only exploded underground, in the immediate vicinity of the shelter. When the bomb went off, the shelter ceiling collapsed.

Names of the judges and employees of the Supreme Court who died in the air-raid shelter during the raid on Brno on 20 November 1944:

František Benda, chief judicial counsellor, born 1884
Karel Gerlich, judicial counsellor, born 1905
Jan Kopta, chief judicial counsellor, born 1900
Vladimír Marvan, President of Panel of the Supreme Court, born 1885
Bořivoj Pekárek, counsellor of the Supreme Court, born 1890
Augustin Pokorný, counsellor of the Supreme Court, born 1883
Bertold Sotona, judge, born 1909
Františka Faustková, chief clerk, born 1898
Štěpánka Šabatová, chief clerk, born 1895
Marie Saitzová, court office assistant, born 1895
Karel Moučka, court office auditor, born 1893
Antonín Ošmera, court office auditor, born 1891
Jan Mrázek, junior court clerk, born 1901
Fridolín Navrátil, junior court clerk, born 1890



Palác Morava following the air raid on 20 November 1944, Brno City Archives



Palác Morava following the air raid on 20 November 1944, Brno City Archives

Václav Budík, court officer, born 1903
Josef Kroupa, assistance court officer, born 1894

The Supreme Court commemorated these victims of the largest and most devastating air raid on Brno with a large-scale memorial service on 17 December 1945. According to historical sources, the Brno air raid on 20 November 1944 resulted in 578 fatalities and left some 6,000 people from the city homeless. Brno was not even the original target of the raid, which was initially meant to be directed against cities in the south of Poland. At a quarter to twelve in the morning, nearly 150 B-24 Liberators and Boeing B-17s dropped around 2,500 bombs, some of them weighing half a tonne, over the city. The raid comprised three waves of carpet bombing, with just minutes between them, in foggy weather.

Though the main targets were the railway station in the centre and industrial complexes on the outskirts of Brno, in reality the raid struck the entire city. It was the second wave, beginning at precisely 11.48 a.m., that proved fateful for the Supreme Court's judges and staff. Some of the bombs had timers, resulting in random delayed explosions which, for several days after the event, complicated efforts to rescue survivors buried under the rubble.

Since 1994, this tragedy has been commemorated by a plaque on a corner of the building, with the inscription: *"In memory of the judges and staff of the Supreme Court in Brno who perished here on 20 November 1944"*. The commemorative plaque was made by Bedřich Čelíkovský.

However, the victims of the tragic air raid of November 1944 were not the only Judges or court employees to lose their lives in the Second World War. On 26 April 1945, chief judicial counsellor Miloslav Dostal was killed by retreating Germans in Brno as he stood in the street welcoming the Red Army. On 8 May 1945, the chairman of the local national committee and court Judge František Štěpán died during the bombing of Hrotopice. The Supreme Court also remembers the court office assistant Eduard Ryšánek, arrested by the Gestapo in January 1944, who died on 29 January 1946 as a result of his interrogations in Nazi prisons and his suffering in concentration camps.



In 1945, the Supreme Court commemorated its judges and staff who had died in the Second World War by producing a special publication

Even after the Second World War and the dissolution of the Slovak State, the Supreme Court in Bratislava and the Supreme Court in Brno continued to work side by side. In June 1945, the Czechoslovak government and the Slovak National Council agreed that the supreme judicial instances (the Supreme Court and the Supreme Administrative Court) would no longer be dual, but would be common to the country as a whole. This arrangement was subsequently revised in April 1946 to the effect that the Supreme Courts in Brno and Bratislava, while preserving their existing organisation and jurisdiction under regulations in force for them, would be considered part of the single Supreme Court headquartered in Brno.

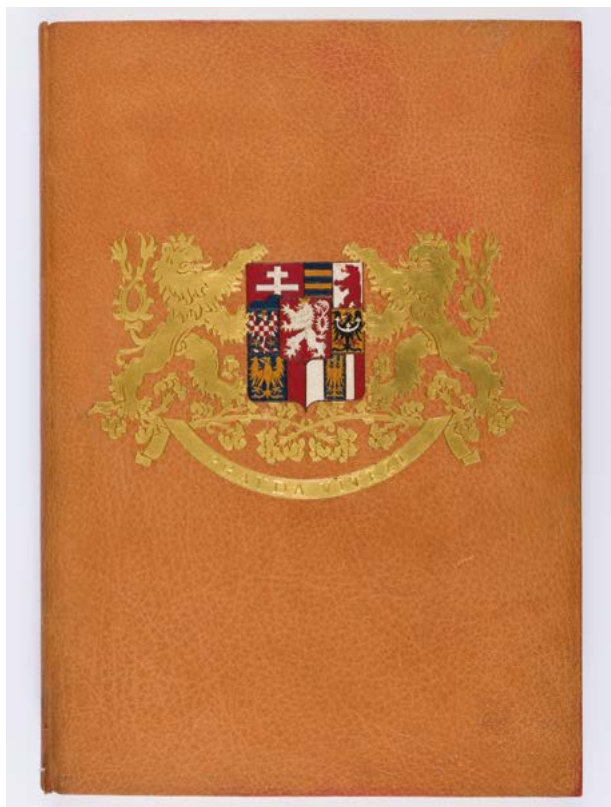
Courts in postwar Czechoslovakia had to grapple, among other things, with punishments for collaborators and members of the occupying powers. With this in mind, three of President Edvard Beneš's decrees served as a conduit for the establishment of "retribution courts". History refers to three retribution decrees: Decree No 16/1945 of 19 June 1945 (the "Great Retribution Decree"), Decree No 17/1945 of 19 June 1945 on the National Court, and Decree No 137/1945 of 27 October 1945 (the "Lesser Retribution Decree"). A Constitutional Decree of 27 October 1945, on the Detention of Persons Considered Unreliable for the State During the Revolution, was also part of this retributive legislation. In Slovakia, Regulation of the Slovak National Council No 33/1945, on the Punishment of Facist Criminals, Occupiers, Traitors and Collaborators and on the Estab-



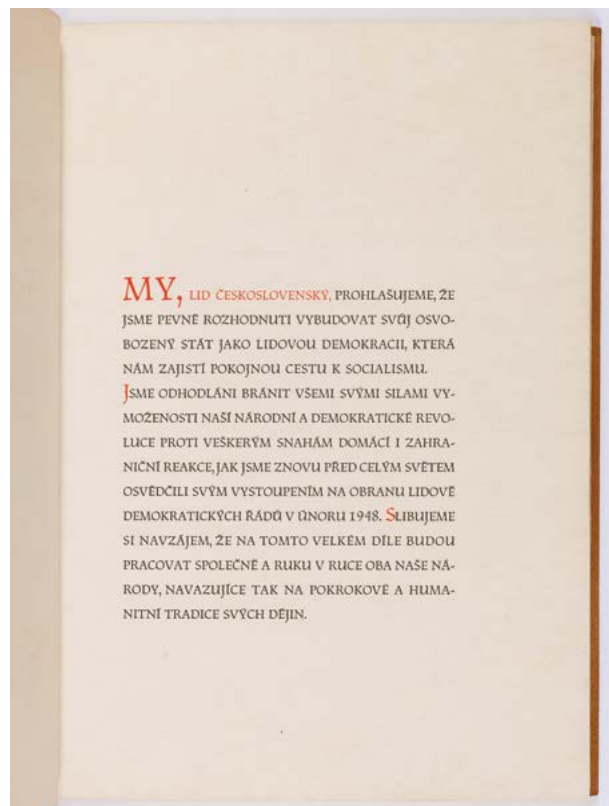
Palác Morava following the air raid on 20 November 1944, Brno City Archives



A plaque on the wall of the Palác Morava commemorates the harrowing air raid on Brno



The Constitution of 9 May, kept in the Archives of the Chamber of Deputies of the Parliament of the Czech Republic



Introductory passages of the Constitution of 9 May

lishment of the People's Judiciary, had been in force since 15 May 1945. In Prague and Bratislava, "National Courts" meted out punishments for the most serious crimes perpetrated by collaborators. The activities of retribution courts were wound down in 1947.

The year 1948 ushered in the Constitution of 9 May. This was a move by the Communists to lay the groundwork, among other things, required for them to hold systematic sway over the judiciary in the coming years. As President Edvard Beneš refused to sign the Constitution, this act was left to his successor, the Communist Party's Klement Gottwald. It anticipated the involvement of judges appointed from among the people. This was subsequently facilitated directly by Act No 319/1948, on the popularisation of the judiciary, for the entire terri-

tory of the then Czechoslovakia. This also saw the necessary number of "lay judges" join the Supreme Court. Consequently, the Supreme Court would sit most often in Panels comprising two professional judges and three lay judges, all wielding the same decision-making power. The lay element prevailed in most proceedings before the Supreme Court.

The number of lay judges was determined by the President of the Supreme Court. They were nominated by the government itself, unlike lower-instance judges, who were approved by Regional or District National Committees. This system constituted categorical interference with the independence of the judiciary and courts.

When the Communists definitively came to power after the February events of 1948, one of their first steps was to attempt to unify the judiciary. The dual system was transformed into a unitary structure, mainly in the virtue of Act No 320/1948 on the Territorial Organisation of Regional and District Courts.

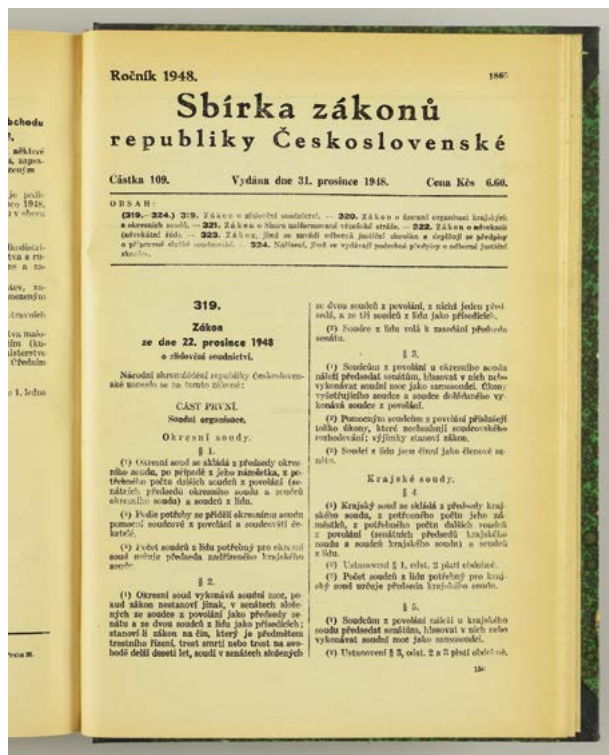
In addition to the first-instance district courts, regional courts existed as an intermediate link in the judicial chain, with the Supreme Court topping the judiciary. At this time, the “special courts” – such as the labour courts, insurance courts, some arbitration courts, and jury courts – were abolished.

The State Court, which was to become notorious, was re-established and started operating at the Palace of Justice in Pankrác, Prague, on 24 October 1948 (Act No 232/1948 on the State Court was revoked with effect from 1 January 1953). It heard cases in five-member

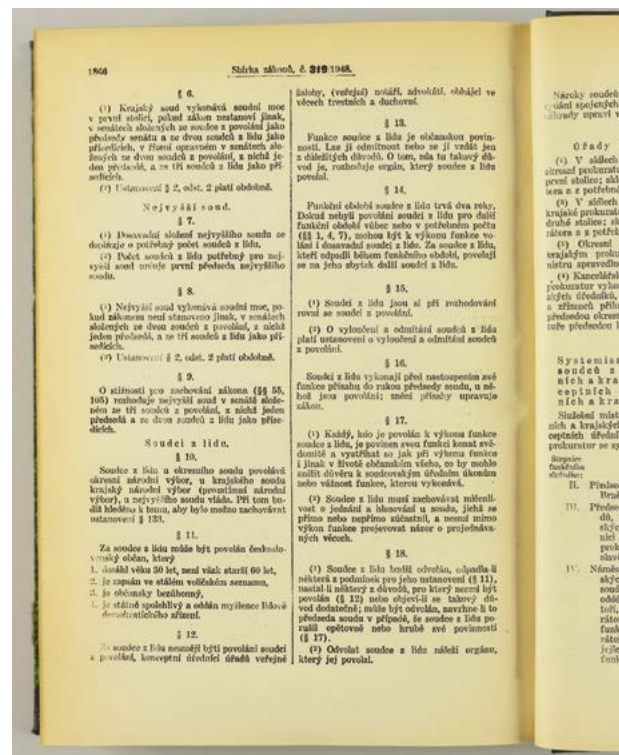
Panels where, besides the President of Panel (a professional judge), there were always two other professional judges and two lay judges.

The ruling Communists placed public prosecutions in the hands of the State Prosecutor's Office. In these cases, only attorneys listed in a special registry compiled by the then Ministry of Justice and Defence could defend the accused. Acting upon an application by the State Prosecutor's Office, the State Court heard crimes classified under the Act on the Protection of the People's Democratic Republic, most often where the sentence would be imprisonment for at least ten years or the death penalty.

The State Court's short history is sullied by a number of political show trials ending with the imposition of numerous death penalties, as well as life or otherwise high prison sentences. The most famous of these were the trials of Milada Horáková's alleged anti-state group and of



Act No 319/1948 Coll. on the Popularisation of the Judiciary, recitals, Archives of the Chamber of Deputies



Act No 319/1948 Coll. on the Popularisation of the Judiciary, provisions on the Supreme Court

the anti-state group led by the Communist Party's former general secretary, Rudolf Slánský. These trials shaped the notoriety of the prosecutor, Josef Urválek, whom the Communists subsequently appointed to the head of the Supreme Court for the period from 1953 to 1963.

Judgments handed down by the State Court, like regional court judgments, could be appealed. Defendants could appeal against other decisions of the State Court only if explicitly allowed by law. Subject to a ruling by the State Court, extraordinary remedies – such as appeals in cassation seeking to enforce the law and applications for extraordinary review – could also be submitted to the Supreme Court.

In 1949, the National Assembly of the Czechoslovak Republic decided to move the Supreme Court from Brno to the Palace of Justice in Pankrác, Prague, as of 1 January 1950. According to the explanatory memorandum:

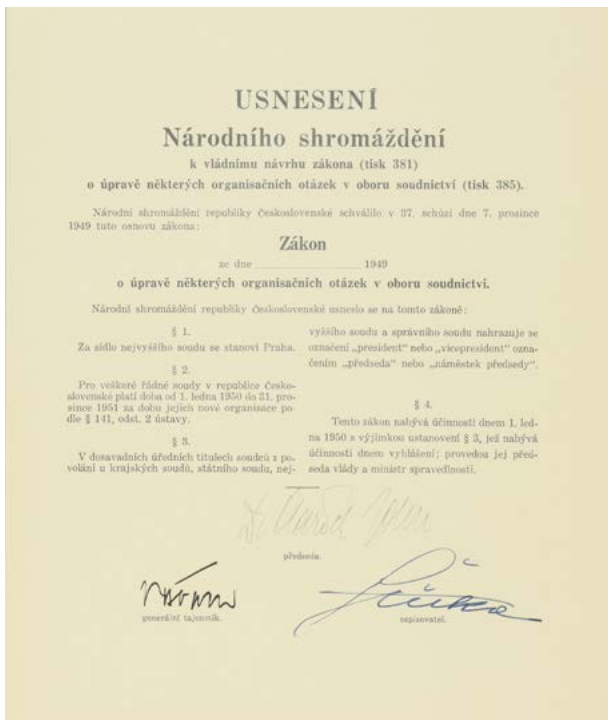
“Act No 216/1919 declared that the seat of the Supreme Court would be in Brno. This pandered to the urgent requirement for the seat of the Supreme Court to be centrally located. The Supreme Court used to serve, first and foremost, as a third instance in private adversarial and non-adversarial cases, and also as a court of dismissal in criminal cases assigned to it by the Code of Criminal Procedure and bylaws.

However, this jurisdiction of the Supreme Court was changed root-and-branch by Act No 319/48 on the Popularisation of the Judiciary. In the new organisation of the judiciary, the Supreme Court is primarily called upon to hear applications concerning the enforcement of the law, that is, to ensure and strengthen the unity of case-law. Conversely, the jurisdiction of the Supreme Court has been substantially watered down by the Act on the Popularisation of the Judiciary. Nowadays, the Supreme Court is a court of appeal only for the judgments of re-



Palace of Justice, Prague (1958), Prague City Archives

in 1939–1989



gional courts in adversarial property-law cases in which one party is a national enterprise and in disputes on benefits under national pension insurance, as well as judgments of the State Court.

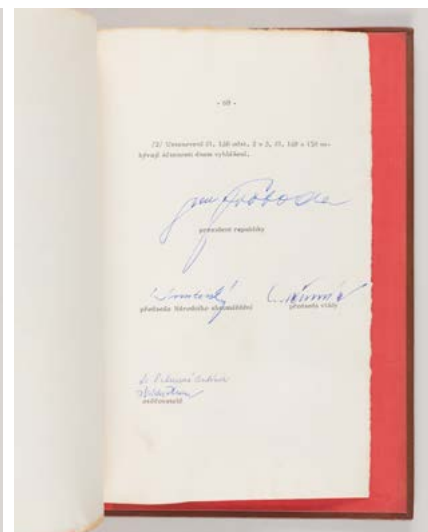
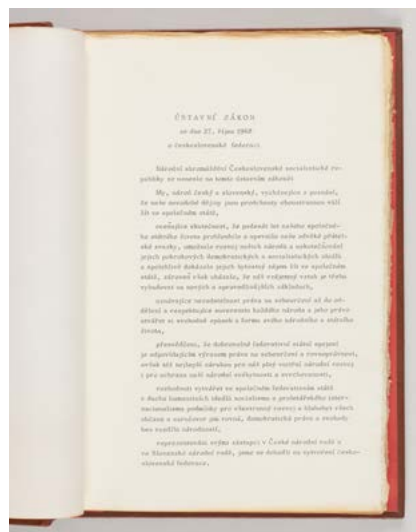
The considerably reduced jurisdiction of the Supreme Court no longer requires the presence of the parties, as far as their representatives are concerned, to the same extent as before. Consequently, public interest in having the seat of the Supreme Court centrally located has waned significantly, to the point where it may have no vestiges at all."

Constitutional Act No 64/1952, on Courts and Prosecutor's Office, and Act No 66/1952, on the Organisation of the Courts, are just two of the laws that encroached on the organisation of the courts in the 1950s.

The district courts gradually became people's courts, while special military courts were divided into district military courts and higher military courts. The Supreme Military Court in Prague was discontinued and its agenda was transferred to the Supreme Court's newly created Military Division.

Resolution of the National Assembly of the Czechoslovak Republic
on the transfer of the Supreme Court from Brno to Prague with
effect from 1 January 1950, Archives of the Chamber of Deputies

Authentic appearance of the resolution of the National Assembly of the Czechoslovak Socialist Republic approving the promulgation of the Constitutional Act on the Czechoslovak Federation, Archives of the Chamber of Deputies



The new organisation of the courts was also covered by the Socialist Constitution of 1960 (Constitutional Act No 100/1960). This was followed by Act No 40/1960 on the Implementation of the New Territorial Organisation of the Courts.

It is widely held that, rather than bringing about positive changes, this law actually complicated the judicial structure. Soon after (in 1964), then, the new Act No 36/1964 Coll. was issued, though this was also short-lived, only governing the organisation of the courts until 1968.

On 27 October 1968, the National Assembly of the Czechoslovak Socialist Republic adopted the Constitutional Act on the Czechoslovak Federation, published in the Collection of Legislative Acts under number 143/1968. This legislation transformed the Republic into a Federation, which meant establishing a federal structure of bodies and institutions. Besides the supreme judicial

body of the Czechoslovak Federation, Supreme Courts were set up for each of the Republics.

The Supreme Court of the Czechoslovak Socialist Republic, seated in Prague, was then the highest judicial authority for the whole of Czechoslovakia. It reverted to a system of professional judges only, who sat in three – or five – member Panels. There were three Divisions – Civil Law, Criminal Law and Military Law Division.

The Supreme Court was in charge of deciding on ordinary appeals and applications concerning violations of the law, and was tasked with issuing opinions on the correct and consistent interpretation of legislative acts and other legal regulations. It also took decisions on the recognition of foreign courts' judgments in the then Czechoslovak Socialist Republic and heard disputes on territorial jurisdiction, as well as on substantive jurisdiction between military and other courts.

Palace of Justice, Prague (1970), Prague City Archives



Presidents of the Supreme Court

1918 – 1989



Augustin Popelka

First President of the Supreme Court, 1918-1930

The first President of the Supreme Court following the establishment of the independent Czechoslovak state was a native of Brno, Augustin Popelka, also mentioned in certain sources as August Popelka.

Augustin Popelka's successor, Vladimír Fajnor, wrote in 1938 that Popelka was *"an excellent representative of patriotic Czech officials, spending by far the majority of his life in Vienna in the state services of the former Austria, but always, and in all circumstances, maintaining his pure Czech-ness in and beyond his official capacity."*

Augustin Popelka was a member of a prominent Czech family of lawyers. His father, Adolf Popelka, was a counsel of the Supreme Court of Justice in Vienna, and his son, also Augustin Popelka, worked for the Presidential Office from 1918 to 1945.

Augustin Popelka was born on 25 April 1854, shortly before his father was transferred to Slovakia and Carpathian Ruthenia. The family returned to Brno in 1861, after Alexander von Bach's fall. Like his father and, ultimately, his son, Augustin Popelka graduated from the Law Faculty in Vienna. This was certainly partially due to the fact that Popelka's father was transferred there in 1871. Thanks to the ups and downs of his childhood and youth, the First President of the Czechoslovak Su-

preme Court had an in-depth awareness of life and institutions throughout the First Republic of Czechoslovakia, on the one hand, and of Austrian law, adopted under Act No 11/1918 on the Establishment of the Independent State of Czechoslovakia as part of the new country's dualistic legal order, on the other hand.

"First and foremost, Dr Popelka was a practical lawyer, and although he excelled in all fields of law, he harboured a particular fondness for criminal and administrative law right to the end. And yet, when we characterise Dr Popelka primarily as a practical lawyer, that is not to say that he would ever be hesitant to work out in detail the theoretical and literary aspects of any subject that was particularly close to his heart, and he took this upon himself not only in legal journals, but also in the wider press, always with immaculate expertise and energetic persuasiveness," explains Popelka's obituary in a 1938 issue of the journal titled *Právník* [The Lawyer].

Augustin Popelka became a judge at the age of forty. After gaining his doctorate, he spent the years at the Financial Prosecutor's Office in Brno. Once he had seven years' experience, he qualified for enrolment in the register of attorneys at law maintained by the Moravian Bar Association. As a lawyer, his forte was criminal defence.

Augustin Popelka was appointed a counsel of the Administrative Court in Vienna in 1894. He gave up practising law for good and from then on devoted all his attention to engagement in the judiciary. Working his way

up the ladder, Augustin Popelka was appointed a President of Panel of that court in 1912, and in 1909-1918 he edited a collection of its judgements in administrative matters. In addition, in 1899 he was appointed a member of the State Court of Justice by the House of Deputies of the Imperial Council. Vladimír Fajnor noted that Augustin Popelka *“was one of the outstanding Czech lawyers of old Austria, and he often distinguished himself as an arduous advocate of the Czech legal position in important administrative cases, mostly with national economic reach... He worked and presented himself in Vienna always as an honest Czech and, with Dr Pantůček, who later orchestrated the emergence of the Supreme Administrative Court in Prague, he paved the way for the coming legal architecture of his own nation, whose liberation – like all loyal Czechs – he so eagerly awaited.”*

Augustin Popelka became the Supreme Court's President soon after the creation of the independent state. There are many reasons why he was chosen. *“It is primarily down to his extensive legal knowledge, as well as his ingenuity and initiative, that our nation's transition to an independent supreme judiciary, while retaining a general acceptance of the Austrian legal order, even with its Hungarian aspects, was so smooth and poignantly effective.”*

However, we cannot gloss over another factor much discussed throughout the First Republic. Pursuant to Act No 216/1919 transferred the Supreme Court from Prague to Brno.

“This fact is of great significance for all of the Czecho-Slovak state's judiciary when we consider that all Czechoslovak citizens, in all legal matters of the highest instance, must turn to Brno, thus conferring on Brno a position in the civil and criminal judiciary which had been held by the privileged Vienna for centuries, right up until the revolution. Furthermore, it is inescapable that the removal of Czech staff of the highest judicial instance from Prague to Brno, with all auxiliary offices, is also of local economic significance for the city, translating into a palpable gain on the one hand, but a relative loss on the other. Nevertheless, we wholeheartedly and unreservedly approve of this of this momentous act by our government, as this is sound proof of the fact that, in Czechoslovakia, we wish to foster the well-being of every part and fraction of our entire state with equal affection, and far be it from us to impoverish its extremities and members

with selfish centralism intended for the benefit of a single centre – that wilful policy witnessed for centuries in the Austrian state to the detriment of the Czechoslovak nation and its territory,” wrote Professor Jiří Hoetzel in journal *Právník* [The Lawyer] in 1919.

For Augustin Popelka, unlike many judges of the Supreme Court, this decision meant a return to his place of birth, a city he knew intimately. However, it also meant that he was faced with the task of setting up a seat for the displaced Supreme Court. While Augustin Popelka was undoubtedly an eminent judge, he was rather less adept at running the institution. Indeed, when he retired in 1930, there was still criticism in some quarters that the Supreme Court was operating in undignified conditions in the State House. In his defence, Augustin Popelka was 65 when he took up the reins of office and was 77 by the time he left; for obvious reasons, this type of organisational matter was not a professional priority for him.

During his time as the first President of the Supreme Court, Augustin Popelka left Brno for one year, from the autumn of 1920 until the autumn of 1921. This was when, after the fall of Vlastimil Tusar's cabinet, he was appointed Minister of Justice in Jiří Černý's caretaker government. It is in this context that we have become accustomed to Popelka's ties to the Castle being mentioned, compounded by his son's work for the Office of the President of the Republic. According to Ferdinand Peroutka's article *Building of the State*, Minister of Justice Augustin Popelka was not a *“strong, but an obedient man, sensitive to the wishes of the parties – but primarily heeding the instructions of the Head of State.”* For the first time in its history, there was a one-year gap in which the Czechoslovak Supreme Court was not directly governed by its First President; the contemporary view of the incompatibility of public offices within the doctrine of separation of powers was not as strictly interpreted as it is today.

Last but not least, we cannot refrain from drawing attention to Augustin Popelka's publishing activity. He spent years dwelling in particular on the rights of minorities and foreigners related to use of their language, and published articles on this subject, especially in the journal *Právník* [The Lawyer]. His line of reasoning was then adopted in the case-law of the Supreme Administrative Court.

Augustin Popelka died on 22 May 1938 in Brno.

“Dr August Popelka, as a long-running Supreme Judge of our state and as a head of high office, left behind pre-

cious memories in legal and, especially, judicial circles,”
wrote Vladimír Fajnor.



Vladimír Fajnor

First President of the Supreme Court, 1930-1939

Vladimír Fajnor (1875-1952), as Jozef Vozár, the author of a monograph on the President of the Supreme Court from 1930 to 1939, aptly wrote, was *“a person who passed through the spectrum of legal professions. He was the most versatile lawyer of his time... He was not afraid to stand up for the rights of the weak and to fight iniquity. Living in truth and for justice, and championing those ideals, is a difficult but worthwhile path. Fajnor’s life and work also are a timeless legacy for our own generation of lawyers, and they show the importance of robust figures in the application of law, especially when the state is in transition.”*

Vladimír Fajnor was born in Senica on 25 October 1875.

His professional career was truly versatile and varied, and can be divided into three stages: the period up to his appointment as President of the Supreme Court, his time in office, and the stage after 24 March 1939, when he applied for permanent retirement.

In Vozár’s monograph *Významní slovenskí právnici – Vladimír Fajnor* [Significant Slovak Lawyers – Vladimír Fajnor] (Bratislava: VEDA – Vydavateľstvo Slovenskej akadémie vied, 2017), we can trace Fajnor’s activities over the individual chapters.

Vladimír Fajnor was a lawyer before the First World War. He worked in the Slovak finance sector and journalism. He founded the newspaper *Zvolenské noviny* [The newspaper of Zvolen Town] and a printing plant. He attended the First Congress of Slovak Lawyers and was also active in the evangelical church. In the interwar First Republic, he was involved in the unification of law. Besides his participation in the judiciary, he worked for the Faculty of Law at Comenius University and for Legal Unity in Slovakia. Vladimír Fajnor’s academic scope was broad. In addition to civil law, he preoccupied himself with legal history and legal terminology. Vladimír Fajnor maintained friendly and collegial relations with a number of prominent figures and wrote biographies of Slovak lawyers – the nationalists active in the period before 1918. He rounded off his career after the Second World War representing Czechoslovakia at the Permanent Court of Arbitration in The Hague.

We can make several observations to expand on this summary. Vladimír Fajnor, like his predecessor Augustin Popelka, came from a family of legal professionals; his father, Štefan Fajnor, was an attorney at law. Vladimír Fajnor himself started out by practising law as an attorney, and did not switch to the judiciary until after Czechoslovakia had come into being. From 1919 until the end of 1930, he was President of the High Court in Bratislava. Prior to his appointment as the President of the Supreme Court, he was also active in politics. In 1919, Vladimír Fajnor had a brief stint as a district administrator in Zvolen, and from September 1920 to September 1921 he was the Minister responsible for the unification of laws and the organisation of administration in Jiří Černý's caretaker government, in which Augustin Popelka served as Minister of Justice. From 22 September to 4 October 1938, he was the Minister of Justice in Jan Syrový's first caretaker government. From 4 October to 14 October 1938, he was the Minister of Justice and the administrator of the Ministry for the Unification of Laws and Organisation of Administration in Jan Syrový's second cabinet.

Unlike his predecessor, Vladimír Fajnor was also active in academia as a senior lecturer and, from 1936, a professor of civil law at the Faculty of Law of Comenius University. He was a prolific author of commentaries, textbooks and other forms of academic legal literature. Not least, he co-founded and then spent years chairing the Legal Unity in Slovakia, and edited the journal *Právny obzor* [Legal Horizon]. The work that Fajnor put into legal congresses was also phenomenal. The Third Congress of Lawyers of Czechoslovakia, hosted by Bratislava on 11-14 October 1930, was the first time that this event had been held in Slovakia. *"The presence of the President of the Republic and the associated embellishment of the city added a special lustre to this Congress. The opening meeting in the Slovak National Theatre was particularly successful. The Chairman of the Congress – the President of the High Court, Dr Fajnor – did a splendid job, delivering a speech that, in form and substance, was perfect in several languages (Slovak, Latin, French, German and Hungarian),"* reported the journal *Právnik* [The Lawyer].

Clearly, then, Vladimír Fajnor was viewed as one of the leading figures of the Czechoslovak legal community, no matter what professional role he happened to be playing at any particular time. What is more, Vladimír

Fajnor was always able to adapt his angle of vision to his profession. In other words, he was not an attorney in the role of judge, but when he was practising law as an attorney he was an excellent attorney, when he was a judge he was an outstanding judge, and as a university teacher he was highly acclaimed, and he even handled his ministerial offices with aplomb. In contrast to his predecessor, he devoted himself not only to law and its application, but also to legal professions, their problems and professional ethics. In this area, he has left us with the still topical discourse *Sudca a advokát* [Judge and Attorney at Law], in which he made the following challenge: *"Only by joining forces will judges and attorneys be able excite the interest of our decision-makers in the precarious defects within our judicial apparatus. Attorneys as MPs, attorneys as ministers, attorneys as journalists, attorneys freely active in all spheres of public life, may they make hearty use of their information, their forums and their contacts to bring Lady Justice and her princes to the centre of interest, the centre of knowledge and the centre of relief. The flawed functioning of the judiciary, overburdened and overworked judges, and the subpar organisation of the courts are topics that need to be raised until they are included in the list of subjects covered by national policy, the handling of which brooks no delay."*

Vladimír Fajnor took office on 31 December 1930. Some parts of the legal community had expected the current Second President of the Supreme Court, František Vážný, to be appointed; this would have been more in line with the traditional customs. *"On the occasion of the change in the person of the First President, Dr František Vážný, the Second President of the Supreme Court, received a letter of recognition from the Czechoslovak government, stating that the government, for reasons unrelated to his person, was unable to nominate him as First President, but fully acknowledged his outstanding merit at the Supreme Court, having devoted himself to it since its establishment, and, not wanting to see the Supreme Court lose judges of such characteristics and experience, expressed its wish for him to retain his current position and to serve the Supreme Court and the Czechoslovak judiciary at large,"* reported *Právnik* in its first issue of 1931.

Vladimír Fajnor continued to focus on the civil agenda at the Supreme Court. He remained in office until the German occupation of the Czech Lands and the emergence of the Slovak State in March 1939. A loyal Czecho-

slovak, he decided to live in the Protectorate of Bohemia and Moravia. He did not return to the Supreme Court after the liberation.

Vladimír Fajnor died in Bratislava on 5 January 1952.



Theodor Nussbaum

The Second President, tasked with heading the Supreme Court from 1939 to 1944; the First President of the Supreme Court from 1944 to 1946

Following the German occupation on 15 March 1939 and the establishment of the Protectorate of Bohemia and Moravia, the post of President of the Supreme Court remained vacant for five years. Over this time, the Supreme Court was managed by Theodor Nussbaum as the most senior President of Panel, and then from 1940 in the position of Second President.

Theodor Nussbaum was formally appointed the First President of the Supreme Court by a decision of 27 October 1944. There was meant to be an official investiture ceremony held for him on 21 November 1944. However, on the day before that, Brno was heavily bombed by the USAAF – the US Air Force, which tragically killed Supreme Court members and employees. Consequently, according to a report in the journal *Právní prakse* [Legal Practice], “broader celebrations consistent with the significance of the occasion were abandoned”.

The appointment of Theodor Nussbaum was a statement of the intent to maintain continuity in the decision-making and running of the Supreme Court. In the speech he had prepared but – for the above reason – did not deliver (it was published in *Právní prakse* instead), Theodor Nussbaum himself emphasised:

“I have been a member of this high-level Court for 21 years; I am aware of the great importance of this institution and of the high professional and moral standards of its Board. I therefore earnestly appreciate the fact that I have been entrusted with the leadership of this Court, and I thank you for the confidence that has thereby been shown in me.”

Theodor Nussbaum was born on 29 December 1880 in Boskovice. Like his predecessor, he was the son of a man working in a judicial environment. His father, Antonín Nussbaum, was a clerk at the Imperial and Royal District court in Boskovice, and later an office manager at the Imperial and Royal High Provincial Court (*Oberlandesgericht*) in Brno.

After studying at the Law Faculty in Vienna, Theodor Nussbaum was briefly assigned to the Austrian Ministry

of Justice, and then worked for courts and prosecutors' offices in Moravia until the establishment of Czechoslovakia as an independent state. In 1910, for example, he was at the Imperial and Royal District Court in Slavkov (Austerlitz), while in 1913 – according to a report in the journal *Právník* [The Lawyer] – he was appointed as an imperial and royal Public Prosecutor in Brno.

After the establishment of the independent state, Theodor Nussbaum worked for the Ministry of Justice between 1918 and 1923. In 1923, he was appointed a counsel and, ten years later, a President of Panel of the Supreme Court.

As a Judge, Theodor Nussbaum focused on the criminal agenda.

“All of us in this legal community of the Supreme Court are always aware that its reliable and consistent case-law is one of the pivotal factors in maintaining the rule of law and legal certainty of this section of public life, the adjudication on which, in the final instance, has been placed by law into the jurisdiction of the Supreme Court. We also fully and constantly realise that judicial decisions encroach deeply and often very painfully into the most important civil interests of the people, and that jurisprudence must not engage in the absurd formalistic extremes of fiat justitia, et pereat mundus.

However, in order to be able to accommodate these great demands placed on the Court, a judge who takes final-instance decisions at the Supreme Court must have not only excellent professional qualifications, but also high moral standards, a broad outlook on and knowledge of life,” wrote Theodor Nussbaum on the occasion of his investiture in November 1944.

As judge of the Supreme Court, Theodor Nussbaum did not focus solely on adjudication. Between 1926 and 1939, initially alone, subsequently together with the Supreme Court counsel Ján Soukup, he regularly published decisions handed down by the Supreme Court in criminal matters in *Právny obzor* [Legal Horizon], a journal issued by the Legal Association in Slovakia.

“The Supreme Court is clearly not only a procedural instance tasked with hearing specific legal cases within the framework of appellate procedure. Rather, its mission is far wider, more thorough and nobler – to seek, within the

scope of binding legal norms, the greatest possible fairness in all fields of law that fall within its jurisdiction. Its rulings do not only address specific cases, but are also a guide for the lower courts and the entire legal public engaged in various levels of the judiciary, grouped together to resolve the legal matters of the national community,” Theodor Nussbaum realised.

In 1937, Theodor Nussbaum received further recognition. On behalf of the Supreme Court, he was posted as a replacement for the then Second President, Adolf Zaturecký, to the Constitutional Court, and from 1939 he combined his work at the helm of the Supreme Court with his role as a judge of the Constitutional Court.

Theodor Nussbaum was also active in the legal community, especially in legal associations – both the Bohemian and the Moravian Legal Associations. In 1947, this latter association elected him as its leader, succeeding Hynek Bulín.

In the post-war era, Theodor Nussbaum also had a brief stint heading the Bohemian-Moravian Hunting Association.

After the liberation, Theodor Nussbaum worked at the Supreme Court, remaining there until 1948, i.e. even after ceding his office to Ivan Dérer. This shows that, at this time, Theodor Nussbaum was not considered to have been a traitor nor a collaborator during the occupation. His political persecution, culminating in his forced relocation from Brno to Uherské Hradiště, did not take place until after February 1948, when he became incompatible with the concept of the “people’s judiciary”. The events that followed shortly after February 1948 prompted him to take early retirement.

Theodor Nussbaum died on 31 October 1965 in Uherské Hradiště.



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Ivan Déřer

President of the Supreme Court, 1946-1948

Ivan Déřer (1884-1973), who headed the Supreme Court in the pre-February (1948) period, was primarily an attorney, a politician and a journalist. Like Vladimřr Fajnor, he was another versatile figure, though in Déřer's case it could be argued that the stage in his life when he acted as President of the Supreme Court was rather episodic.

It should also be noted that the biography of Ivan Déřer, in a monograph by Miroslav Pekník et al. entitled *Dr. Ivan Déřer – politik, právník a publicista* [Dr Ivan Déřer – Politician, Lawyer and Journalist] (Bratislava: Institute of Political Science, SAV – VEDA, Vydavateľstvo SAV, 2010), places particular emphasis on Ivan Déřer the “Czechoslovak”, the Minister of the Governments of the Czechoslovak's First Republic, a Social Democrat, a political opponent of Zdeněk Fierlinger, and a political prisoner under both the Nazi and Communist regimes.

Ivan Déřer was born into a family of lawyers in Malacky on 2 March 1884. His father, Jozef Déřer, was an attorney at law.

Ivan Déřer, too, practised law as an attorney after studying law in Bratislava and Budapest. As an amendment to the Code of Legal Practice (40/1922) made it possible to hold the office of Minister and practise law as an

attorney at the same time, Ivan Déřer was a registered attorney for full thirty years, until 1939. Even as a young man, however, he was very politically active. During the First Republic, he was regularly elected as an MP, he managed the Ministry for the Administration of Slovakia, the Ministry for the Unification of Laws and the Organisation of Administration, the Ministry of Education and National Awareness and, ultimately, the Ministry of Justice in 1934-1938.

After March 1939, Ivan Déřer lived in the Protectorate of Bohemia and Moravia, where he engaged in activities labelled by the regime as unlawful. In August 1944, he was arrested by the Gestapo and imprisoned in Pankrác and Terezín.

Following the liberation, Ivan Déřer was appointed a professor of the sociology of law at the Faculty of Law of Comenius University, but his teaching activities were brief because, on 5 February 1946, he was appointed as the President of the Supreme Court. As the last pre-revolution President of the Supreme Court, Ivan Déřer was also the last President to serve at the Supreme Court's seat in Brno. Throughout the period of Communist totalitarian regime, the Supreme Court resided in Prague.

Ivan Déřer headed the Supreme Court for two and a half years. However, we cannot overlook the fact that, in 1947-1948, he was simultaneously a highly active member of the expert Commission for the Preparation of the People's Democratic Constitution.

In the postwar period, the Supreme Court lost some of its status as the highest judicial institution within the unified judicial system. Alongside the ordinary courts, there were Extraordinary Retribution courts, comprising the Extraordinary People's Courts in the Czech part of the country and District People's Courts or Local People's courts in Slovakia, as well as the National Courts established by Presidential Decree No 157/1945 in Prague and Regulation of the Slovak National Council No 33/1945 in Bratislava.

In his work on the new constitution, Ivan Dérer espoused the concept of a single Supreme Court common to the Czech and Slovak Republics, a Constitutional Court with clearly defined powers and, in addition, the autonomous organisation of the administrative judiciary. He also sought to harmonise case-law and unify the legal system. He pitched his ideas for the new judiciary in his lectures. The text of his lecture *The Judge and the New Constitution*, delivered on 24 March 1947 in Brno and on 10 April 1947 in Prague, was published by the Prague-based bookseller and publishing house *Právnické knihkupectví a nakladatelství V. Linhart* [Lawyers' Bookshop and Publishing House]

Dérer's views can be traced in many of his publications, including his sequentially published political memoir *Antifierlinger I-III*, covering the period from 1914 to 1949.

At the First Congress of Czechoslovak Lawyers held on 26-28 September 1936 in Prague, when he was the Minister of Justice, Ivan Dérer called for the following:

"We must always, under all circumstances, abide by the rule of law. That is, we must reject each and all means that run counter to the idea of the strictest legality. Post-war turmoil in Europe was mostly caused by the undermining of this principle. We do not want such turmoil to naturalise itself in our country, too; we would not be able to withstand it. We are a nation strong in culture and labour, but weaker in numbers, and experiments that do not harm bigger nations could prove fatal for us. It follows, then, that we also need to keep to the second fundamental principle of our state constitution, enshrined in our constitutional charter, in laws and in legal practice. We are a smaller nation, dependent on the collaboration and cooperation of all of our people of good will. However, we are also a cultural nation with a high standard of education even among the broader masses; we are also

ripe for democracy. The President of the Republic has just coined an excellent phrase in Slovakia: 'There are no miracles in a democracy.' He was pointing to the solidity and spruceness of the democratic order, where only the labour of everyone joined together can build great works. And I would take the liberty of adding to and extending this presidential sentence in the sense – important for us lawyers – that in a democracy not only are there no miracles, but there are no surprises either. Legal security, legal certainty, citizens' rights are best secured in a democratic regime; the rule of law is possible only in a democracy."

Ivan Dérer clung to that idea even after February 1948. In July 1948, after the then Minister of Justice Alexej Čepička had begun illegally intervening in the Supreme Court's decision-making, Dérer resigned and applied for retirement. Later – on 22 February 1955, in his defence in a political trial that was brought against him for failing to report a criminal offence, he declared before the Supreme Court:

"I was not removed from office. On the contrary, I was told by the Action Committee that it had no objection to my work."

Ivan Dérer is the only President of the Supreme Court to have been convicted in a political trial. For failing to report a criminal offence, he was sentenced to imprisonment for three and a half year. In May 1955, however, he was released due to an amnesty. He was only fully judicially rehabilitated posthumously, in 1990.

Ivan Dérer, who was also involved in the political events of 1968-1969, in part as an opponent of the federalisation of Czechoslovakia, died in Prague on 10 May 1975.



Igor Daxner

President of the Supreme Court, 1948-1953

Igor Daxner (1893-1960) was the first post-February 1948 events' President of the Supreme Court. He worked in a period initiated by the adoption of Act No 319/1948 on the Popularisation of the Judiciary.

According to the MP- Rapporteur (incidentally, the first Czechoslovak woman judge, Zdeňka Patschová), this law, adopted by the National Assembly on 22 December 1948, *"also changes the functions of the Supreme Court, which will be an appeal instance only where a regional court has ruled in the first instance. This will be the case for dealing with property disputes in which one of the parties is a national enterprise. Here, the fundamental principle is that the collective property of the state is property of a higher order than private property and that it is therefore to enjoy greater protection. In addition to its status as a court of appeal, however, the Supreme Court plays another important role: it guarantees the lawfulness of decision-making and ensures popular democratic decision-making in all instances and proceedings. It is a step forward in that, according to the new legislation, there will be a body here that will ex officio keep watch over everyone's rights and service of justice. This body will be the Prosecutor-General's Office, which is ex officio entitled to seek, at any time, by an application to the Supreme Court, a decision that the law has been violated."* Another change was that *"the Supreme Court has*

also been supplemented by the necessary number of lay judges, and adjudicates in five-member Panels, where three of the members are lay judges in cases where it performs the role of a court of appeal in respect of decisions of the regional courts as courts of first instance. In cases where it is decided, upon an application by the Prosecutor-General's Office, that the law has been violated, or where an application by law enforcement has been filed, the Supreme Court has five-member Panels, consisting of three professional judges and two lay judges. Here, the professional element prevails because, in this role, the Supreme Court guides and unifies the decision-making of courts throughout the State from a legal aspect."

Igor Daxner, as the President of the Supreme Court, was to bring this new legislation into practice.

Igor Daxner was born in Tisovec on 20 September 1893.

He came from a family of legal professionals boasting four generations of attorneys.

Igor Daxner did not start studying law until his return from the First World War as a legionnaire. In 1929, after graduating from the Faculty of Law at Comenius University, he worked for the judiciary, first at the Main Court in Bratislava, then at the Prosecutor-General's Office in Brno. During the period of the so called Second Republic, he was briefly at the Supreme Court, and then, between 1939 and 1943, he sat at the Slovak Supreme Court in Bratislava.

In the Slovak State, Igor Daxner was active in the Justícia resistance organization, which saw him stripped of office in 1943 and briefly jailed. He personally participated in the Slovak National Uprising, and in 1944 he joined the Communist Party of Slovakia.

Another reason Igor Daxner was named President of the Supreme Court was his postwar role as President of the National Court in Bratislava in 1945-1947. Within the “retribution” judiciary, Igor Daxner presided over the Panel which tried Jozef Tiso, Ferdinand Ďurčanský and Alexander Mach.

It is interesting to note that, in the seven-member Panel, Igor Daxner was the only professional judge; the other six were lay judges chosen from among members of the resistance. Jozef Tiso, sentenced to death, was executed on 18 April 1947. Alexander Mach was sentenced to thirty years’ imprisonment, and Ferdinand Ďurčanský, sentenced to death in absentia, escaped execution because he had fled the country.

After the National Court was abolished, the Supreme Court took over its agenda, and Igor Daxner then worked on this agenda at the Supreme Court.

Igor Daxner’s time at the Supreme Court came to an end on 20 September 1953, following his resignation upon reaching retirement age. In 1953, he was nominated for the post of Ambassador and Plenipotentiary of the Minister of Justice in The Hague, but was not appointed. After leaving the Supreme Court, Igor Daxner worked externally at the Institute of the State and Law, Slovak Academy of Science, Bratislava.

Igor Daxner died in Bratislava on 18 April 1960. As noted by the author of a study on the Daxner family of lawyers, Peter Kerecman, this was “thirteen years to the day after the execution of Jozef Tiso”.



Josef Urválek

President of the Supreme Court, 1953-1963

“By detecting and destroying that traitorous band of American and British imperialism, Slánský, Šling, the Švermas, Clementis and others, our people’s democratic

state, the state of the working class, fulfilling all the functions of the dictatorship of the proletariat as one of their historically conditioned forms, was greatly strengthened and consolidated,” wrote the then Minister of Justice Štefan Rais in the first half of 1952 for journal *Právnik – Právní praxe* [Lawyer - Legal Practice]. The Chief Prosecutor in the trial, which ended on 3 December 1952

with the execution of Rudolf Slánský, Otto Šling and Vladimír Clementis, was Rudolf Urválek, who – as prosecutor – was also active in the trial of Milada Horáková and other co-defendants.

On 2 October 1953, the Communist Party of Czechoslovakia's official daily journal *Rudé právo* [Red Justice], ran a note that *"by a decision of the President of the Republic of 28 September 1953, Dr Josef Urválek, the former regional prosecutor in České Budějovice, was appointed as the President of the Supreme Court. On Thursday 1 October, the newly appointed President of the Supreme Court, Dr Josef Urválek, took the statutory oath to the Minister of Justice, Dr Václav Škoda."*

It would be no exaggeration to say that, when President Antonín Zápotocký – a quarter of a year after the monetary reform, incidentally – appointed as President of the Supreme Court Josef Urválek (1910-1979), he installed in office a man who contributed greatly to the crimes of the Communist regime during the Stalinist trials.

Josef Urválek was born in České Budějovice on 28 April 1910.

Prior to his appointment, Josef Urválek had been involved in judicial practice since 1935 and had worked for the State Prosecutor's Office and the Public Prosecutor's Office. He joined the Communist Party in 1945.

During the presidency of Josef Urválek, political trials continued at the Supreme Court instead of the State Court. One of those convicted, as noted above, was Ivan Dérer, the former President of the Supreme Court.

The political thawing and critical reflection on the political trials of the 1950s made Josef Urválek's position as the President of the Supreme Court untenable. Change was also made possible by new legislation on the judiciary under Act No 62/1961 Coll. on the Organisation of the Courts.

At the 18th session of the National Assembly on 6 March 1963, National Assembly chairman Zdeněk Fierlinger stated that *"the current President of the Supreme Court, Dr Josef Urválek, applied to the National Assembly to be relieved of the office of judge and President of the Supreme Court on grounds of his medical condition. Dr Josef Urválek will work in the scientific research section of*

the judiciary." In fact, the Party had already decided to terminate Josef Urválek's work at the Supreme Court by a resolution of the Presidium of the Central Committee of the Czechoslovak Communist Party of 4 March 1963.

Josef Urválek then acted as Head of the Research Institute of Criminology at the Prosecutor-General's Office of the Czechoslovak Socialist Republic.

Josef Urválek died in 1979.



Josef Litera

President of the Supreme Court, 1963-1968

Josef Litera was the first President of the Supreme Court elected by the National Assembly, in his case in accordance with Act No 62/1961 on the Organisation of the Courts. Section 43(1) of this Act, in keeping with the Constitution of the Czechoslovak Socialist Republic (Constitutional Act No 100/1960), provided that *“Judges of the Supreme Court shall be elected by the National Assembly; from the midst of the elected professional judges of the Supreme Court, the National Assembly shall elect the President of the Supreme Court and his Deputies”*.

Josef Litera was elected at the 18th session of the National Assembly, held on 6 March 1963. The sole candidate, Josef Litera was elected simultaneously as both a judge and the President of the Supreme Court unanimously.

Josef Litera was born on 1 May 1918 in Budiměřice.

Directly prior to his election, Josef Litera spent 10 years as Deputy Minister of Justice. According to the Chairman of the National Assembly, Zdeněk Fierlinger, *“he has the necessary attributes to serve as the President of the Supreme Court”*. The MPs also had a rundown of Josef Litera’s characteristics at their disposal. He originally trained as a machine fitter, and formally obtained the legal training – allowing him to practise – at a one-year

Workers’ Law School in 1948-1949. He was then a Prosecutor in Náchod for two years, before joining the Minister of Justice in 1951. A major role in his career was played by his earnest activity within Communist Party bodies, including his work for the Legal Committee of the Central Committee of the Communist Party.

Josef Litera was the Supreme Court’s President at a time of amnesty for those convicted in political trials, accompanied by the re-codification of major substantive and procedural rules.

In his letter of resignation, he had the following to say about his reasons for stepping down:

“From 1953, I served as First Deputy Minister of Justice, and in 1963 I was elected to my current office. While I did not personally engage in the hearing of so-called political trials or other anti-state crimes, I must undeniably shoulder my share of responsibility for the distortions that have occurred in recent years in the violations of socialist law witnessed in the work of the courts. This does not alter the fact that a number of positive results have been achieved in the decision-making process of judicial bodies in the last few years. It is also common knowledge that I have been in a very poor state of health, especially recently, so I could hardly carry out challenging tasks in our efforts to consolidate socialist law and stamp out the unlawful judgments of previous years.”

The National Assembly accepted Josef Litera's resignation at its 22nd session, held on 18 April 1968.

Josef Litera died in 1978 in Prague.



Otomar Boček

President of the Supreme Court, 1968-1970

Otomar Boček was the Supreme Court's President during the Prague Spring and under the occupation of Czechoslovakia by Warsaw Pact troops. His political stance in this period meant that it was completely unacceptable for him to hold this office during the "normalisation" era.

Otomar Boček, whose Christian name in sources can also be found spelt as Ottomar, was born on 11 January 1926 in Deštná.

Unlike his predecessor, Josef Litera, Otomar Boček was a full-time student who graduated from the Faculty of Law of Charles University. He practised law at a Public Prosecutor's Office and was later a court clerk (judicial assistant) at the Regional Court in České Budějovice; however, in 1953 he became an attorney at law and a member of the Legal Advice Office. At the seventh plenary meeting of the Central Legal Advice Office, held on 9-10 October 1958, he was elected Chairman of the Central Office.

The gradual progression in Otomar Boček's political views can be traced in numerous reports in the legal

journal *Zprávy advokacie* [News of the Attorneys] on the practice of law during Boček's presidency. At a seminar organised by the Central Office of the Czechoslovak Legal Association, he discussed how *"the legal profession is facing the challenge of grappling with the last remnants of bourgeois, liberalist advocacy practice that have survived – and are desperately trying to cling on – in the concept of the role of the legal profession, and the content and methods of work, despite the fact that party, organisational and economic conditions conducive for them to be surmounted and destroyed have been devised; we also have to content with the task of summing up the experience gained from ten years of aiming to establish a new profession of an attorney at law, and resolving certain divisive issues that have arisen as we have completed this process"*. At the first conference of the Czechoslovak Legal Association on 19-20 November 1963, when delivering the *Report on the Activities of the Central Office of the Czechoslovak Legal Association*, he gave his first critical assessment of the political trials and the role of the defence in these trials.

A year later, Otomar Boček switched to the judiciary, starting out at the Regional Court in České Budějovice. In September 1964, the National Assembly elected him as a judge of the Supreme Court, where he went on to

serve as a President of Criminal Law Panel. He heard a number of rehabilitation cases, including the judicial rehabilitation of Rudolf Slanský and Rudolf Barák.

Otomar Boček was elected as the President of the Supreme Court at the 22nd session of the National Assembly, held on 18 April 1968.

Shortly after that, in an article in the journal *Socialistická zákonnost* [Socialist Lawfulness] - titled *Twenty Years of the People's Judiciary. A Time for Reflection*, Otomar Boček wrote the following about the post-February judiciary: *"The whole area of a judge's ethics was narrowed down into several categorical imperatives – act in the interests of the Party and, as a derivative of that maxim – be careful not to offend your surroundings with your actions. Yet judges should not have examined what was or was not in the interests of the Party. They were quite precisely advised of this by the competent authorities, the Ministry of Justice (and in some cases the Party leadership), and even the District Secretary. Socialist law had a role to play here, but in many respects it simply gave external shape to these processes. Thus it was that, even in the arena of ethics, judges were corralled and incorporated into the system as a whole. Much of what had made them human was abstracted from them to the extent that they viewed justice in a completely impersonal light, and consider today's criticism of them to be wrong. Needless to say, some judges became system bearers and propagators, others were merely executors, and yet others dutifully sought to maintain a clear conscience and moved out to the margins of the system. But anyone crossed that moving dam that was shoring up the system found themselves embroiled in personally very unpleasant conflicts. I would point out that, in 1949-1954, this system was very narrow and constricting for criminal judges. However, it has existed in a certain, watered-down form until recently. While this created leeway for judge's true ethics, with which real justice is inextricably linked, this platform would differ vastly. For example, it was much broader for criminal offences than for anti-state cases, or cases that were outwardly prosecuted as criminal offences, but in reality were of a totally different content (e.g. May Day demonstrations)."*

Otomar Boček did not limit himself to pieces in journals. On 28 April 1968, just ten days after he was elected President of the Supreme Court, he appeared on Czechoslovak Television with a member of the Presidium of

the Central Committee of the Communist Party, Zdeňek Mlynář, where they were guests on the discussion programme *Kde je záruka* [Where is the Guarantee] to talk about political trials and the deformation of the judiciary in the 1950s.

As a member of the Central Committee of the Communist Party, Otomar Boček also participated in political affairs. No wonder, then, that – for political reasons – he could not remain in office. A proposal to remove him from office was raised at the eighth session of the Federal Assembly by Rudolf Rejhon, the MP and a member of the Central Committee of the National Front. He gave the following reasons:

"In connection with the deepening process of consolidation in society and the overall situation at the Supreme Court of the Czechoslovak Socialist Republic, it has become clear that the current President of the Supreme Court, Dr Otomar Boček, needs to be removed from the office. He was very politically engaged in 1968. He published his views and opinions in the daily press, in various magazines and in journals. His publishing activity objectively contributed to the disorientation of the courts, to the right-wing attacks on the judiciary and state authorities, and to the deepening of the crisis at the Supreme Court of the Czechoslovak Socialist Republic and the courts in general. Dr Otomar Boček was elected a delegate at the fourteenth Communist Party Congress. He attended the 'Vysočany Congress', where, dramatically, he presented his experiences of the Government Presidium of 20 August 1968. He made similar appearances at meetings and sessions at the Supreme Court. As the Supreme Court's President, he did not make a strong enough stand against those spouting right-wing opportunist opinions at the Supreme Court, particularly by way of Party measures in the workplace. He bears full responsibility for the fact that the unifying and recourse activities of the Supreme Court were, to all intents and purposes, not applied in the form of resolutions of its Plenum, measures of its Presidium or Opinions of its Divisions. This is all the more serious when we consider that, at the time of attacks by right-wing opportunist and anti-socialist forces from the outside, and in the beginnings of right-wing opportunistic action within the judiciary, practices were destabilised, making the need for direction and unification all the more urgent. This essential need was manifested primarily after the law on judicial rehabilitation took effect, especially after the

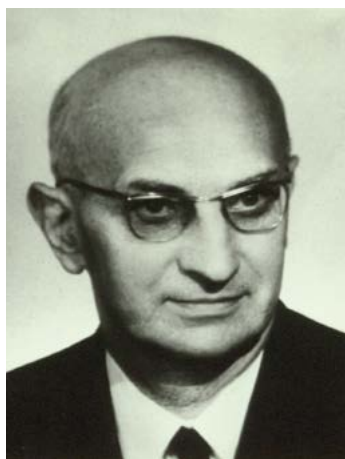
decision-making activities of the rehabilitation Panels of the regional courts conflicted with the preamble of the law on judicial rehabilitation.”

On 27 May 1970, Otomar Boček was unanimously removed from office as President and a judge of the Supreme Court.

Prior to November 1989, Otomar Boček worked at the Institute of the State and Law of the Czechoslovak

Academy of Science. After 1 July 1990, he returned to the legal practice as an attorney. In addition, he was the Managing Director of the publishing house AXIÓMA, spol. s r.o. until his death.

Otomar Boček died on 26 February 1993 in Prague.



Vojtěch Přichystal

President of the Supreme Court, 1970-1972

President Vojtěch Přichystal ushered in the normalisation era at the Supreme Court.

Vojtěch Přichystal, on the basis of an additional motion by the Central Committee of the National Front of the Czechoslovak Socialist Republic, was elected as a professional judge and then, unanimously, as the President of the Supreme Court at the same session of the People's House of the Federal Assembly, held on 27 May 1970, where his predecessor, Otomar Boček, was removed from office and where the judges Otakar Adamec, Milena Hoferová, Július Lehotský, František Paldus, Josef Šilínek and Lubomír Veleta were dismissed.

In the context of the time, it is intriguing that Vojtěch Přichystal was elected as President of the Supreme Court after he had already reached the retirement age of sixty years. The fact that he was not even among the original candidates for the judges of the Supreme Court shows how carefully and cautiously a politically fully reliable future President of the Supreme Court was singled out.

Vojtěch Přichystal was born on 27 November 1909 in Vanovice.

Looking at the course of Vojtěch Přichystal's professional career, he was a graduate of the Faculty of Law of Charles University during the First Republic, he was a legal practitioner, an articulated clerk, and a junior judge at several district courts in Slovakia up to 1938, before moving in 1939 to Brno, where he was the judge of the

district court and then of the regional court until 1961, when he was called to the Ministry of Justice. Here, he worked primarily on legislation.

Vojtěch Přichystal main area of expertise were criminal matters. He was handpicked by the Communist regime for the “people’s judiciary”.

Vojtěch Přichystal became a member of the Communist Party of Czechoslovakia in 1948. During the Prague Spring, he was part of the Party’s conservative wing. The selection of candidates for judges and the President of the Supreme Court was presented to the People’s House by Rudolf Rejhon, the MP and member of the Presidium of the National Front, as follows:

“I would like to take this opportunity to underline the idea pursued in negotiations on the motion by the governing bodies of the National Front, i.e. the idea that, regarding the candidates nominated, the professional and political qualities of the proposed judges should be optimally aligned in terms of the needs of the socialist judiciary. In its deliberations on the motion for the election of these judges, the Presidium of the Central Committee of the National Front also considered the political positions of the nominated candidates in 1968 and 1969. It noted that the candidates submitted to you for election have the prerequisites required for both the Supreme Court and the military courts to carry out their basic tasks. In particular, this concerns the protection of the socialist state, its social establishment and its relations with the global socialist system, the protection of the rights and legitimate interests of citizens and state, social and economic organisations, and the protection of the armed forces and the armed corps’ readiness for action.”

As the Supreme Court’s President, Vojtěch Přichystal presented a report and draft of the subsequently adopted *Resolution of the Plenum of the Supreme Court on the Tasks of Courts (State Notaries) After the 14th Communist Party Congress* of 2 October 1971. This document stated that “the Congress appreciated the consolidation efforts of the state authorities, the army, security, the prosecution service and the courts”. The resolution introduces a whole raft of tasks for the judiciary, including the consolidation of the principle of the lead role played by the Communist Party. For the criminal judiciary, it states, among other things, that:

“It is necessary to put an end to the remnants of the non-engaged approach and to liberalist tendencies in the assessment of certain types of crime, tendencies that, for a number of years, have dangerously undermined and sometimes even overlooked the protection of important interests of socialist society. This concerns, in particular, acts interfering with the interests of the state, socialist state and social institutions, international relations, the socialist economy, the authority and protection of state authorities and public officials in general, and public order.”

Vojtěch Přichystal died in 1972 in Prague, during his term of office as the Supreme Court’s President. MPs at the Federal Assembly honoured his memory at a meeting held on 31 October 1972.



Josef Ondřej

President of the Supreme Court, 1972-1990

The Supreme Court's last pre-November President, Josef Ondřej was the longest serving President of the Czechoslovak Supreme Court. He was in office from 1972, i.e. for most of the normalisation era, and did not resign until 1990, after the events of November 1989. His successor was Otakar Motejl.

Josef Ondřej was born on 2 March 1924.

Originally a painter and a decorator, Josef Ondřej began his legal career by attending an abridged course at the Faculty of Law of Charles University, where he was admitted as a graduate of a one-year vocational course. As a member of the Communist Party, which he joined in April 1948, he was actively engaged in holding Party assigned offices, initially at the Faculty, where he briefly taught Marxism-Leninism, then also in the judiciary and at the Ministry of Justice, where he would alternate. At the time of the Prague Spring, he was President of the Regional Court in Ostrava. After the occupation of 1969-1970, he was a Deputy to the Minister of Justice Jan Němec. He was also the Chairman of the steering committee of the Central Committee of the Czechoslovak Communist Party for the screening of staff of the Supreme Court of the Czech Socialist Republic and the Czechoslovak Socialist Republic.

At the seventh session of the Czech National Council, held on 16 April 1970, Josef Ondřej was elected as the First President of the Supreme Court of the Czech Socialist Republic, one of the two republic-based Supreme Courts within the framework of the then federal structure of the judiciary. He was quick to stress, at the 12th session of the Czech National Council, held on 7 July 1971, in the *Report of the Supreme Court of the Czech Socialist Republic on the State of Socialist Law*, that “the imposition of punishment and sentencing is a particularly important and sensitive area; extremely important here is the punishment for crimes stemming from the events of 1968 and 1969. From this point of view, the state of social development has required the courts to focus on the rigorous protection of the socialist state and social establishment in the Czechoslovak Socialist Republic and its friendly and allied relations with other countries in the global socialist system, especially relations with the USSR. The need for the vigorous prosecution of crimes against the republic is sometimes paralysed by claims that there is a risk that the deformation witnessed in the 1950s will return. In response, we must say upfront that we are not here to abuse the Criminal Code to punish people who have not committed criminal offences. We are not here to fabricate artificially engineered accusations. Rather, we need to call things what they are in order to give passage to justice where crimes against the republic have been committed. Crimes against the republic are also anti-social acts if they meet the constituent elements of the relevant provisions of the Criminal Code. Therefore, we need to put an end to these acts, and

offenders must be subject to legal punishment. It is necessary to stop practices which, even in the recent past, almost saw patriotism in crimes of a political nature. The punishment of crimes violating the fundamental political values of our socialist society is an inalienable right of the state and a duty of its authorities to the ruling working class."

Following the death of Vojtěch Přichystal, Josef Ondřej's views saw him elected as the President of the Supreme Court of the Czechoslovak Socialist Republic by the Federal Assembly in 1972. He was re-elected in 1982. At the time, judges had a mandate of just ten years. When that time was up, they were required to defend their role. The National Front's motion of 28 October 1982, seeking the re-election of Josef Ondřej as the President of the Supreme Court, stated that *"throughout his term of office, he has focused on his political, professional and theoretical knowledge, many years' experience of management in the judiciary, and his organisational ability to ensure consistent observance of socialist law in the work of Czechoslovak courts in the conditions of the Czechoslovak federation. He ensures close cooperation with the Supreme Courts by the national Justice Ministries. He pays constant attention to the creation and improvement of the overall concept of work carried out by the Supreme Court of the Czechoslovak Socialist Republic. He is uncompromising in his efforts to promote the leading role of the Communist Party of Czechoslovakia in the work of Czechoslovakian courts. He regularly reports to MPs at the Federal Assembly of the Czechoslovak Socialist Republic on matters concerning the protection of the rights and legitimate interests of citizens and socialist organizations."*

Josef Ondřej was awarded the Order of Labour in 1974, the Order of Victorious February ten years later, and numerous other Party and state honours. Josef Ondřej was also a member of the Central Committee of the Communist Party. In addition, from 1970 he was Chairman of the Union of Czechoslovak Lawyers and Chairman of the International Association of Democratic Lawyers.

Josef Ondřej was a specialist in civil law, his publishing activity, especially in the journal *Socialistická zákonnost* [Socialist Lawfulness]; where he worked on the editorial during the normalisation era, focused on ideologically conceived contributions encompassing the judiciary and the Supreme Court.

Josef Ondřej resigned as President of the Supreme Court and was relieved of this office by the Federal Assembly at its 22nd session, held on 23 January 1990. Josef Ondřej cited retirement as his reason for stepping down.

Josef Ondřej died in 2006.

Historical Appraisal of the Supreme Court's Role

in 1918 – 1989

prof. JUDr. Jan Kuklík, DrSc.

On 28 October 1918, the Czechoslovak National Committee passed the first law of the newly formed Czechoslovakia. This act was then published in slightly modified form in the Collection of Legislative Acts and Regulations under No 11/1918. Article II laid the groundwork for the reception of Austrian and Hungarian law, stating that *“all existing provincial and imperial laws and regulations shall provisionally remain in force”*. The term “provincial laws” also encompassed legislation applicable in Slovakia and Carpathian Ruthenia, while “provisionally” indicated that this was to be a transitional solution until the rules and regulations of the newly created state had been adopted. It was unclear whether all imperial and provincial laws, i.e. including those inconsistent with the independence and the republican form of the state, had actually been incorporated into the legal system. The fact that the text of the Reception Act gave no categorical answer meant that there was an opening for the Supreme Court to provide an interpretation here.

The Reception Act made no explicit mention of the judiciary. Until the adoption of the interim constitution, these matters were addressed by the National Committee, which – along with the National Council in exile – was declared by Article I of the Reception Act to be a body of the “unanimous will of the nation” temporarily “exercising state sovereignty”. The adoption of new legislation by the National Committee removed the question-mark hanging over how long the Austrian authorities – including judicial authorities – would be operating in Czechoslovak territory. Act No 2/1918 of 2 November 1918 established the supreme administrative authorities, including the Ministry of Justice. Straight after that, the National Committee adopted laws of seminal importance for the judiciary: Act No 3/1918 and Act No 5/1918. Act No 3/1918 governed the Supreme Administrative Court, while Act No 5/1918 established the Supreme Court *“with jurisdiction for the Czechoslovak State in its entirety”*. When this law took effect, the Supreme Court replaced the Supreme Court of Justice and



The big coat of arms of the Czechoslovak Republic, National Archives

Cassation in Vienna. The establishment of the Supreme Court for the entire territory of the state meant that the Supreme Court also decided the cases concerning Slovakia. In reality, Czechoslovak state power was not secured over the entire territory until 1919.

Act No 5/1918 was lambasted in early 1919, particularly by Prof. Václav Hora, who criticised it for numerous “serious oversights”. According to the Ministry of Justice, an amendment to the law was meant to clarify up how the establishment of the Supreme Court affected the imperial judicial laws that had been borrowed and to unify terminology. The Ministry was even wary that there could be “confusion in proceedings and in appeals to higher instances”. What also makes the amendment interesting is the way the discussion on the seat of

the Supreme Court evolved. Under Act No 5/1918, the court was to be based in Prague. However, at the Revolutionary National Assembly, the MPs František Weyr, Josef Matoušek and Jaroslav Stránský, backed by the likes of Viktor Dyk, Karel Engliš, Antonín Hajn and Josef Svatopluk Machar, pushed for the seat to be moved to Brno and, in November 1918, made a proposal to that effect (Revolutionary National Assembly Press No 57). This was rebutted not only by the Court's First President, Augustin Popelka, but also by the Ministry of Justice, as reflected in the government's draft amendment to the Supreme Court Act of April 1919 (Press No 417). Numerous reasons were cited, especially the advantage of having both supreme courts in Prague and the financial cost of relocation. In this context, there was a proposal for the Supreme Court's case-law to be published



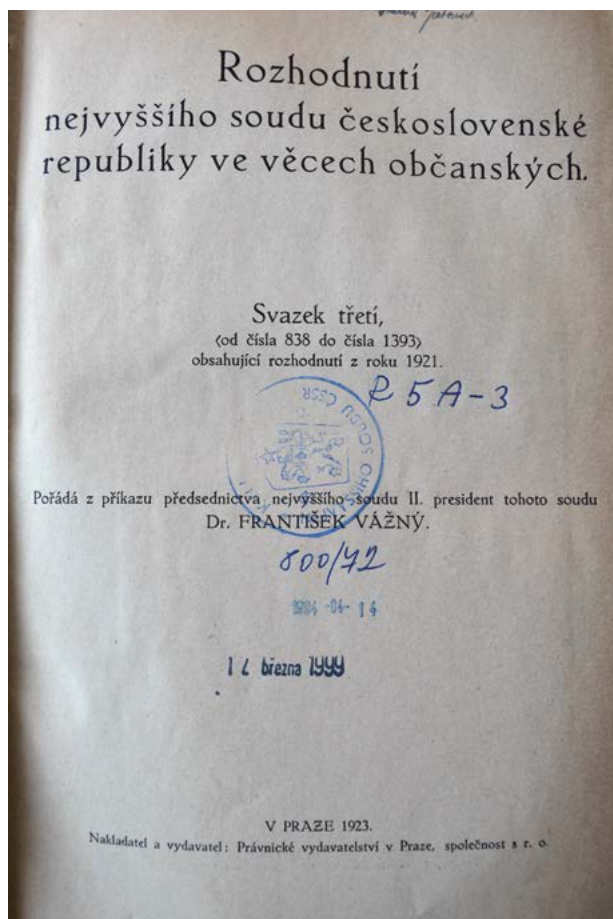
The entrance hall of historically the first seat of the Supreme Court, former cadet school of infantry in Prague, Hradčany, Prague City Archives



Adolf Záturecký

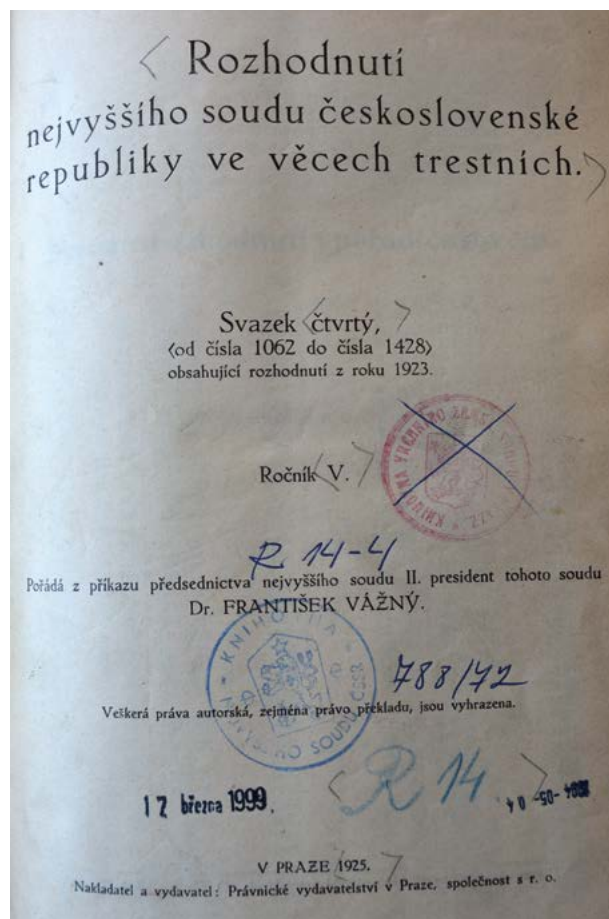


František Vážný



Vážný's Collection of Decisions of the Supreme Court of the Czechoslovak Republic in Civil Cases

in order for it to “stabilise and be unified”. This was a process the Ministry of Justice intended to address in its Journal. The Ministry was insistent that the Supreme Court should be in Prague as this would make it easier to coordinate the selection of case-law. Starting in early 1921, following the Court’s move to Brno, the Ministry went ahead with its plan anyway, selecting the Supreme Court’s case-law itself and publishing it in the *Collection of Supreme Court Decisions in Civil Cases* and the analogous collection for criminal cases. In this way, the Ministry created a counterweight to the collection being prepared by the Supreme Court. The Court’s Collection, however, was limited only to certain decisions, primarily “plenary resolutions” and “plenary decisions”.



Vážný's Collection of Decisions of the Supreme Court of the Czechoslovak Republic in Criminal Cases

The Revolutionary National Assembly eventually succeeded in changing the seat when it adopted Act No 216/1919, amending the Supreme Court Act. It did so because of “*deep-seated political sentiment seeking to meet the concordant wishes of the Moravian-Silesian and Slovak members of the National Assembly for the Supreme Court to be moved to Brno as proof that the separate interests of not only the Moravian-Silesian and Slovak, but also the Bohemian, population would gladly conform to the ideal of the unity of the Czechoslovak Republic*”. The reluctance of judges from Prague “*to spend the late days of their careers in Brno and to move there at an advanced age will easily be overcome by the fact that noble service in the interests of the Republic is a calling,*

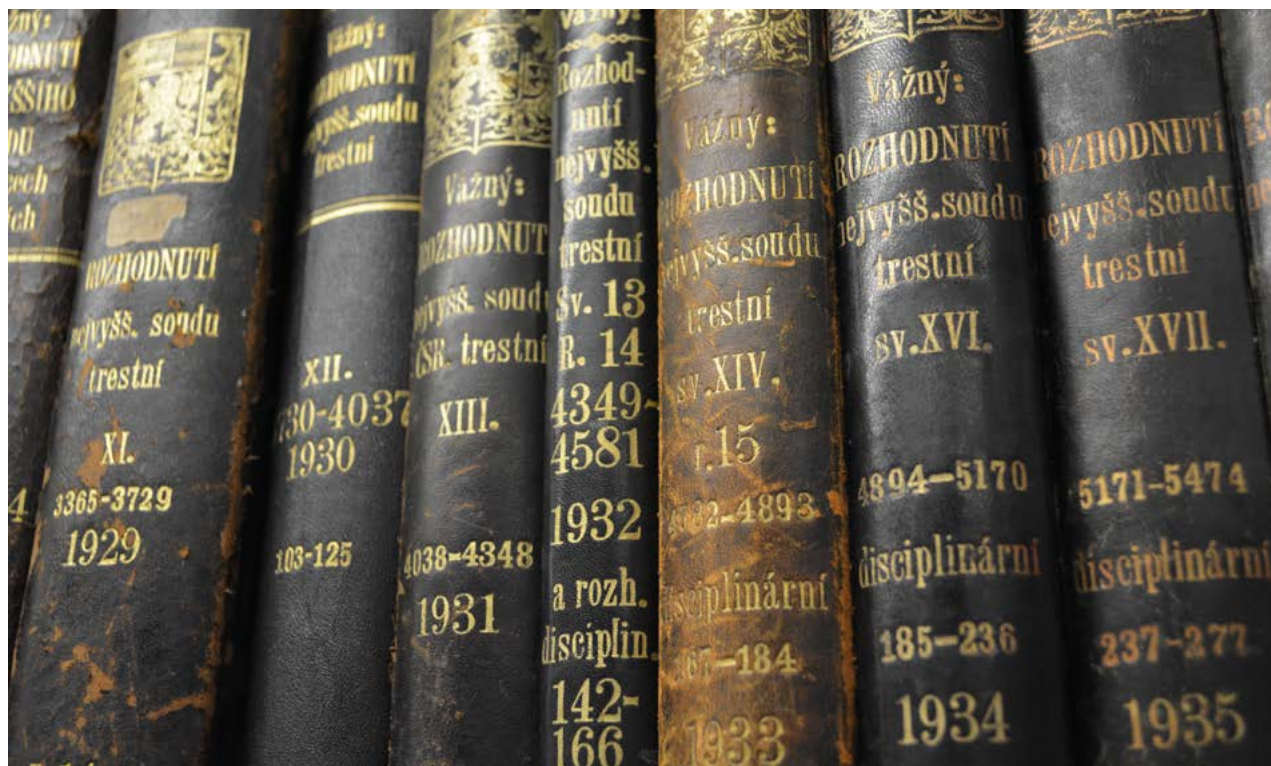
the faithful and selfless observance of which rewards a good official with a joyous awareness that he has done his duty...". Act No 216/1919 rounded off the legislative enshrinement of the Supreme Court and, in addition to its jurisdiction in both civil and criminal matters, entrusted it, albeit in a watered-down form, with the role of overseeing lower-instance courts (however, it was required to notify the Ministry of Justice of any deficiencies identified and of the measures taken), and of holding disciplinary proceedings involving judges, attorneys at law and notaries.

Having resolved these issues, the Supreme Court was able to truly commence its activities in 1919 (it handed down decisions on its first cases in early January of that year). Continuity with Austrian law was reflected not only in the adoption of imperial regulations, but also in personnel matters, as some judges had been working in Vienna or at the provincial courts. As this was the high-

est instance for the entire state, it was also important to find enough judges from Slovakia. Adolf Záturecký was the first person to be appointed as a judge of the Supreme Court.

In the Supreme Court's first years, continuity was also manifested in decision-making, although it was reflected in civil law matters differently from criminal law matters.

The Supreme Court's decisions, published in special collections in keeping with Austrian legal tradition and style, stood testament to this. As Lukáš Králík pointed out in the peer-reviewed journal *Právněhistorické studie*, these collections were often published by co-authors of the "Viennese pre-revolution collections". At the Supreme Court, this was a task for the second President of the Court, František Vážný.



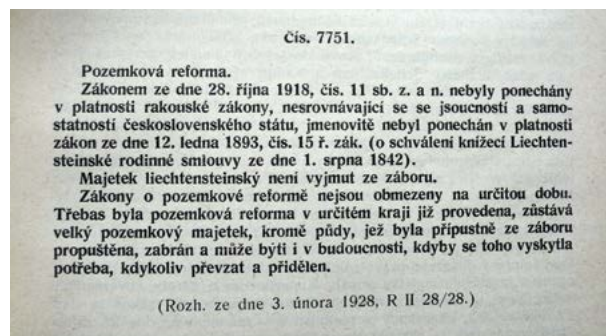
Vážný's Collections of the decisions of the Supreme Court of the Czechoslovak Republic kept in the Library of the Supreme Court of the Czech Republic

Vázný's Collection was divided into two separate series. The first of these was *Decisions of the Supreme Court of the Czechoslovak Republic in Civil Cases*; the second was *Decisions of the Supreme Court of the Czechoslovak Republic in Criminal Cases*. Vázný's Collection, together with the Bohuslav Collection, which centred on decisions rendered by the Supreme Administrative Court, formed the *Collection of Decisions of the Highest Court Instances of the Czechoslovak Republic*, which was published by Právnícké vydavatelství Tomsa [Legal Publishing House Tomsa].

We cannot but agree with Králík's assessment that "its structure and the breakdown of the body of case-law, together with indexation and index data, as well as the creation of legal propositions, set the highest standards in this area, which should be mirrored by today's collections". The Supreme Court's decisions from 1919/1920 were published in the first volume in 1921. As regards civil matters, the bulk of the Supreme Court's decision-making practice and its published case-law concerned the Civil and Commercial Codes and, where appropriate, the new Czechoslovak law amending and supplementing them, regulations on bills and notes, procedural standards borrowed from imperial law, including enforcement, and also areas such as the Mining Act, trading regulations and social security.

The Supreme Court also addressed issues related to the newly created state, such as peace treaties and exemptions from the principle of the reception of Austrian regulations. Many decisions were triggered by land reform. It was when deciding on cases related to land reform that the Supreme Court arrived at fundamental decisions stating that Czechoslovakia was not the legal successor of Austria-Hungary. In addition, land reform relied on a Supreme Court decision on whether there was also legislation that had not passed into the legal order of the First Republic. The decision in question was issued on 3 February 1928 and concerned the possibility of exempting the estate of the Liechtensteins from land reform. The Court assessed whether Act No 15/1893, as published in the Imperial Law Gazette, approving the Liechtenstein family contract, had passed into Czechoslovak law. It ruled that the law could not be valid in the Czechoslovak Republic because Czechoslovakia was not "the legal successor of the former Austria, which had issued the law, but was formed originally, created by the will and power of the Czechoslovak nation directly against the will of the

former Austria." The initial recital of the Reception Act "does not allow those imperial Austrian laws which are incompatible with the existence and independence of the newly established Czechoslovak state to remain in force".



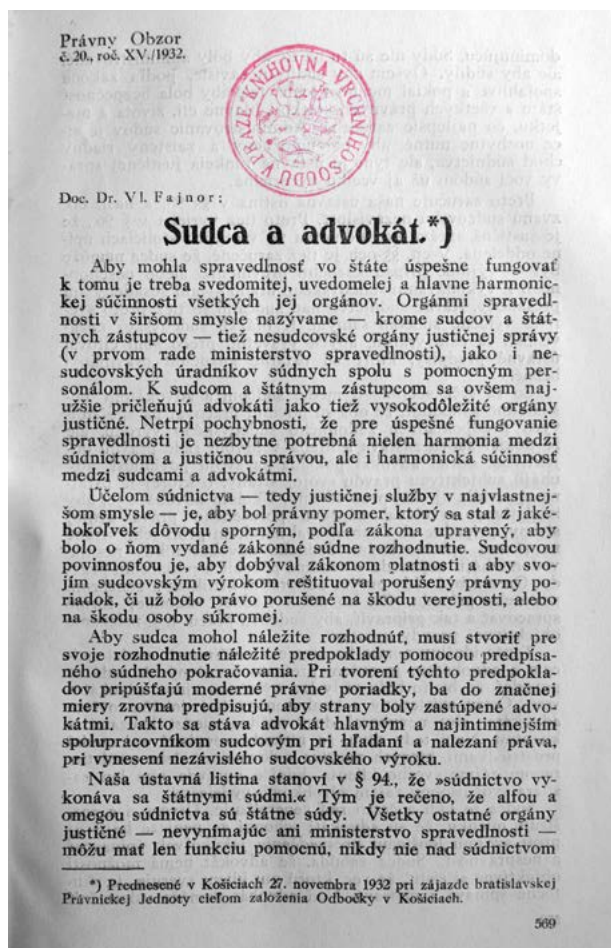
Annotations of the decision concerning the property of the Princely House of Liechtenstein, Vázný's Collection of the Decisions of the Supreme Court of the Czechoslovak Republic, 10th volume, No. 7678 to No. 8598, Legal Publishing House Tomsa, 1929

As this was a national court in a dualistic legal system, it was important for the Supreme Court's decisions to be published in Slovakia, too, and for Czech lawyers to have the opportunity to apprise themselves of Slovak law. Fajnor and Záturecký published *Fundamental decisions of the former Hungarian Royal Curia and the Supreme Court of the Czechoslovak Republic in civil matters in the field of private law applicable in Slovakia and Carpathian Ruthenia* in Právnícká jednota in 1927. The Supreme Court's case-law was also published in Právní obzor [Legal Horizon]. Thanks to Záturecký's efforts, the Slovak-language Official Collection of Decisions of the Supreme Court of the Czechoslovak Republic in Civil Cases from the Legal Area of Slovakia and Carpathian Ruthenia was published as of 1929.

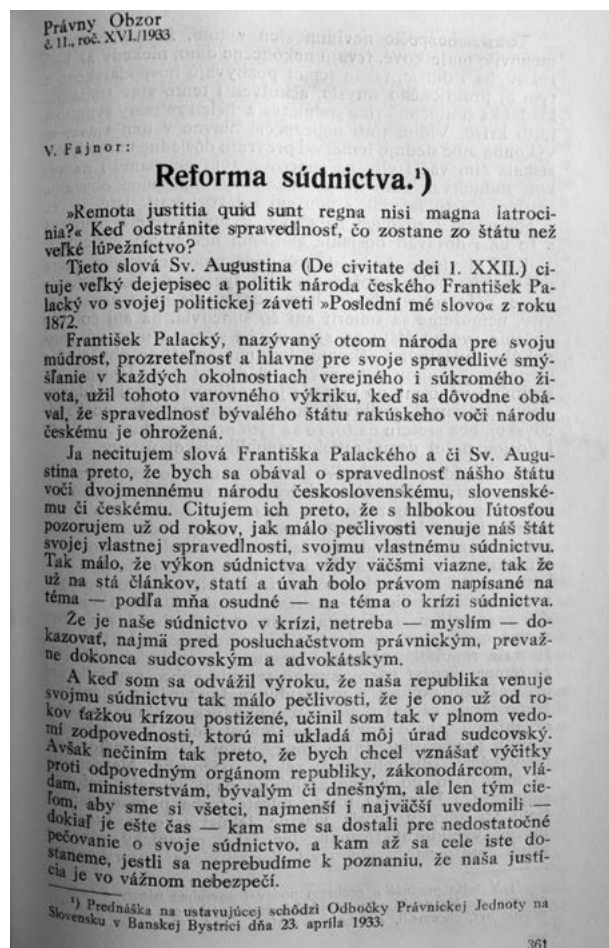
In the interwar period, the Supreme Court became an institution contributing to the high standard of developments in the law in Czechoslovakia. This was not to say, however, that there were no problems in its activity or that its work was not criticised. In the early 1930s, as part of a retrospective assessment of 10 years of the Court's existence, there was a debate on its standing and reputation. A certain disenchantment prevailed among the Supreme Court's judges and legal professionals about conditions within the judiciary and the status of the Supreme Court in the system of courts.

In 1930, in an article in *Soudcovské listy*, the Supreme Court counsel Václav Cícha discussed the status of the Court and the reasons why prominence tended to be given to the Supreme Administrative Court. According to that article, some of the Supreme Court's judges were still having considerable difficulty coming to terms with the move to Brno. Yet they were also faced with more pressing issues, such as the lack of a separate budget for the Court, and hence its dependence on the Ministry of Justice, problems with the remuneration of judges (attributable in part to the crisis at this time), the heavy caseload, and threats to judicial independence.

Cícha was even more frank in an article published in *Právník [The Lawyer]* journal in the same year. Here, he responded to parliamentary criticism of the Supreme Court, levelled partly due to specific decisions that had displeased German MPs and when the former Minister of Justice Robert Mayer-Harting highlighted how much more accommodating than the Supreme Court the Supreme Administrative Court was. Cícha acknowledged that certain problems did exist. He had the following to say about the inconsistency of case-law: *"There can be no denying that fluctuating case-law at the Supreme Court is a serious defect, yet nor can we overlook the fact*



The Judge and the Lawyer – the article of Vladimír Fajnor in the journal *Právní obzor*, No. 11, volume XV, 1932



The Reform of the Judiciary – the article of Vladimír Fajnor in the journal *Právní obzor*, No. 11, volume XVI, 1933



Václav Cícha

that, given the ambiguity of our laws, the complications of our living conditions, and the large number of Panels, which are often in session simultaneously... preservation of the unity of case-law is a phenomenally difficult task." He also criticised the legions of cases, "where backlogs are rising into the thousands", and claims that each judge averaged "210 cases a year from the most areas of law". Indeed, the Supreme Court was gaining criticism for sluggishness in handling its criminal agenda shortly after its formation. Problems were caused by the large numbers of cases. For example, in 1926 the Supreme Court heard 2,833 appeals in cassation (rejecting 2,779 of them) and 668 ordinary appeals. No wonder lawyers had been debating – on the pages of *Právník* [The Lawyer] journal and elsewhere – possible legislative amendments since 1921.

The Supreme Court eventually succeeded in pushing through the adoption of Act No 56/1935, supplementing the provisions of the Codes of Criminal Procedure on appeals in cassation, in order to limit the number of cases heard by the Supreme Court.

In 1933, the Supreme Court's new First President, Vladimír Fajnor, published an article entitled *Reform of the Judiciary* in *Právní obzor* [Legal Horizon] journal. In this piece, he flagged a number of problems faced by the Czechoslovak judiciary where the executive meddled with judicial independence. In *The Judge and the Lawyer*, an article published in *Právní obzor* [Legal Horizon] journal in 1932, he pointed out that the Ministry of Justice exercised too much influence over the

professional career of a judge, and he thought that the engagement of judges in political parties posed a potential threat to their independence. Thanks to Fajnor, then, the Supreme Court became more involved in the debate on issues surrounding the Czechoslovak judiciary.

The Supreme Court also played an important role in attempts to re-codify and unify Czechoslovak law. This was reflected both in the Civil Law Commission – where the Supreme Court voiced comments and suggestions during the codification work and where the Supreme Court's president Vladimír Fajnor, together with Adolf Záturecký, drew attention to Slovak aspects – and in preparations for the new Criminal Code. Supreme Court representatives were contributing to these preparations as early as June 1920, when they were launched by Minister of Justice Alfréd Meissner. This involvement was stepped up when Augustin Popelka served as Minister. In 1926, the Supreme Court also submitted an opinion on the proposed Preparatory Tenets of the Criminal Code on Crimes and Offences and the Misdemeanours Act.

Supreme Court judges also contributed to the operation of other judicial institutions during the interwar period. The most important of these was the Constitutional Court, which was established on the basis of the 1920 Constitution and Act No 162/1920, in keeping with which two judges of this court were posted by the Supreme Court. The members of the first Constitutional Court, constituted on 17 November 1921, included the



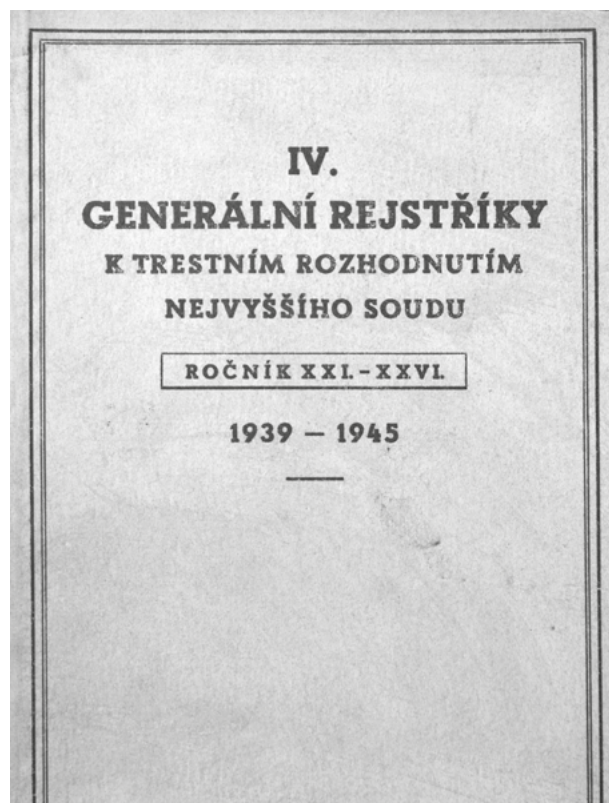
Antonín Bílý

Supreme Court's Antonín Bílý and František Vážný. Bílý was named the Constitutional Court's Vice-President.

However, after he took up the position of President of the District Court in Prague, his place was taken by František Vážný. The politically motivated stifling of the Constitutional Court's activities meant that the members representing the Supreme Court did not participate in any groundbreaking decisions here. Nevertheless, in 1936 the Supreme Court filed an application with the Constitutional Court to have the Enabling Act No 95/1933 reviewed. There was no one available to decide on this application. It was not until May 1938 that the Constitutional Court was constituted for its second term. Adolf Záturecký was appointed as Vice-President and Rudolf Procházka was made a member. The Supreme Court also applied for a review of Act No 147/1933 on the Prosecution of Activities against the State by Civil Servants and on the Transfer of Judges without their Consent. The Constitutional Court issued a ruling on 28 June 1939, in which it partly held in favour of the Supreme Court.

The Supreme Court's judges also played an important role in the creation of the State Court further to Act No 51/1923. This court was closely associated with the Supreme Court in terms of both its hub of activity and its judges. Josef Růžička, for example, was a member of the State Court's Panel which, on 4 July 1923, handed Josef Šoupal an eighteen-year prison sentence for the assassination of Alois Rašín in the first case to be heard by the State Court. Supreme Court judges also acted as judges at the Supreme Financial Court or in a Special Panel with the jurisdiction to hear disputes on competence under Act No 3/1918.

After the declaration of the independent Slovak state and the Protectorate of Bohemia and Moravia on 14-16 March 1939, there was a change in the form and, especially, the role of the Supreme Court. The establishment of Slovak Supreme Court, already in the pipeline as part of the country's autonomy during the Second Republic, saw staff numbers contract and the territorial jurisdiction of the court diminished. For example, Adolf Záturecký, who had accepted a position within the Slovak judiciary, was relieved of his services at the Supreme Court on 7 April 1939. Following the establishment of the Protectorate, judges of German nationality, such as Maxmilian Pokorný, joined the Reich judiciary.



Post-war edition of the register

This period also resulted in rivalry from German judicial institutions, with the Supreme Court having to deal with a tangled legal system – different for the Reich and Protectorate nationals – which was fraught with legal problems and clashes.

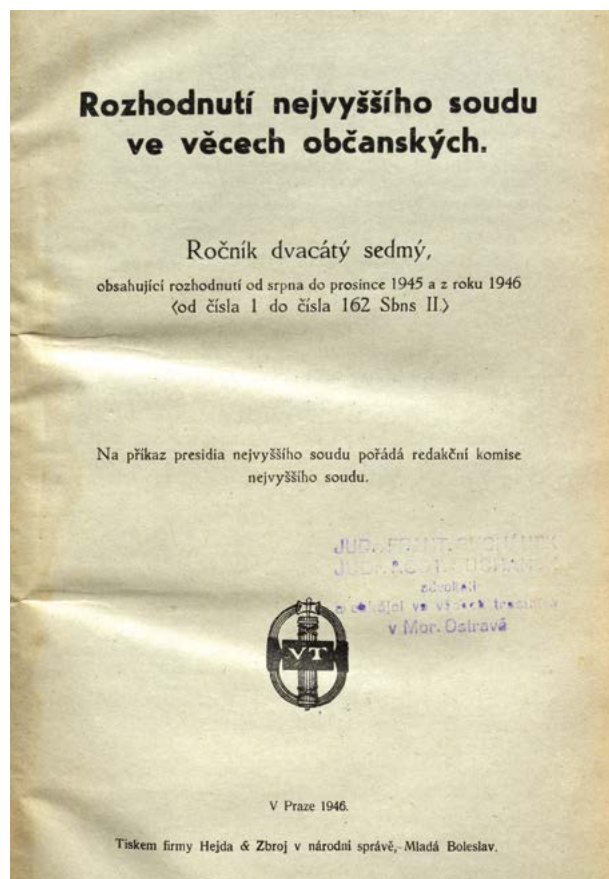
Until 1944, the Supreme Court remained without a President and was headed instead by its Second President, Theodor Nussbaum. Though this circumstance was put right in 1944, it was accompanied by significant interference in the Supreme Court's powers by the Protectorate Ministry of Justice due to pressure from the German authorities to implement extraordinary measures, including the forced labour (*Totaleinsatz*) of judicial workers. On 26 August 1944, the Ministry of Justice issued two regulations. The first of these was Regulation No 183/1944 on the Introduction of Forced Wartime Labour in the Civil Judiciary of the Protectorate of Bohe-

mia and Moravia and on the Simplification of the Civil Judiciary. Many minor cases were removed from the courts' remit, to be heard at a "later date". Regulation No 184/1944 simplified criminal proceedings. The subsequent Regulation No 194/1944 of 2 September 1944, to implement *Totaler Einsatz* in the judicial organisation of the Protectorate of Bohemia and Moravia, reduced the number of members of the Supreme Court's Panels. Supreme Court judges faced not only complex legal issues, but also moral dilemmas, as undemocratic, openly discriminatory and persecution-driven elements made their way into Protectorate law. This was combined with pressure from the German occupation authorities, particularly in the field of criminal repression and the implementation of anti-Semitic measures. Despite this, the Supreme Court of the Protectorate of Bohemia and Moravia maintained continuity with the interwar period in some of its decisions, as documented by its collection of decisions, known as the *Collection of Decisions of the Supreme Court in Brno* from 1940. Between 1941 and 1945, case-law was published bilingually in German and Czech. However, the post-war edition of the register omits decisions which, from the perspective of Czechoslovakia's restored autonomy in 1945, were deemed to be void.

The government in exile in London planned that the Supreme Court would resume its work on a state-wide scale following Czechoslovakia's liberation. A Constitutional Presidential Decree on the restoration of the legal order, dealing not only with the validity of regulations from the era of "non-freedom", but also judicial decisions, was meant to become a key regulation. Despite efforts by the government in exile to unify the judiciary in liberated Czechoslovakia, legislative activities by the Slovak National Council (SNR) thwarted the plan, so the decree on the restoration of the legal order applied solely to the Czech Lands. The SNR had decided that it wanted the Slovak Supreme Court to continue its operations. A compromise solution was found to the issue of restoring a joint Supreme Court. The "First Prague Agreement" concluded between the Czechoslovak government and the SNR presidium on 2 June 1945 envisaged a joint Supreme Court where specialised Panels composed of Slovak judges "for law in force in Slovakia" would be set up. However, it was not until the government and the SNR reached an agreement on 11 April 1946 that the Supreme Court in Bratislava was considered to be part of the unified Supreme Court in

Brno. The existing Supreme Court in Bratislava, though, retained its organisation and decision-making in cases concerning the Slovak judicial system. New governance of the entire judicial system was to be introduced by a new constitution.

Presidential Decree No 79/1945 of 19 September 1945 on the Provisional Governance of the Judiciary in the Bohemian and Moravian-Silesian Lands applied to the Czech Lands. It regulated the organisation of the judiciary, which, bar the odd exception, kept to the structure that had been in place up to 29 September 1938. It also addressed the extraordinary circumstances arising in areas severed after Munich, and in its derogating provisions it declared that not only German regulations, but also some regulations from the era of "subjection",



The Collection of Rulings of the Supreme Court in the Civil Matters

were expressly annulled. It dismantled the German judiciary in civil and criminal matters. The annex provided an overview of courts active in the Czech Lands, headed by the Supreme Court in Brno.

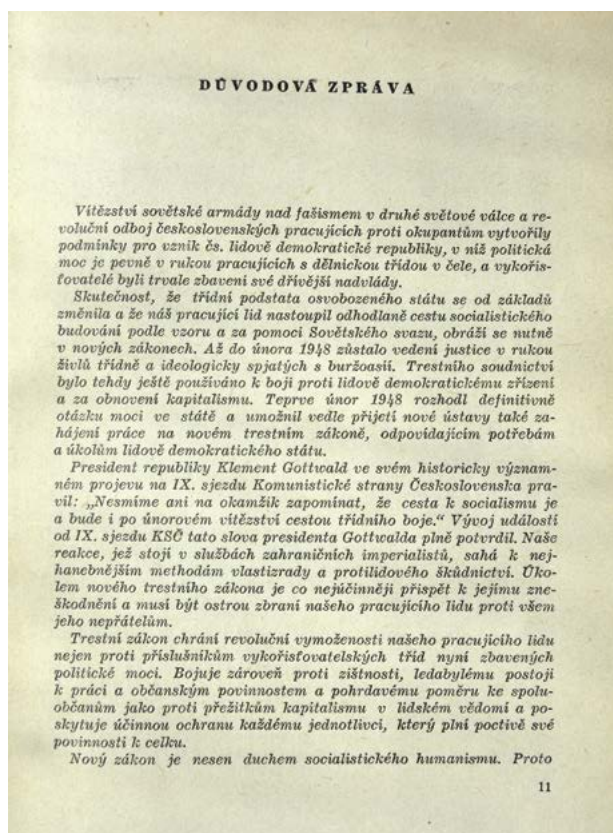
Besides restoring the judicial organisation and implementing regulations on the resumption of the legal order, the Supreme Court also intervened in “retributive” justice. Responding to doubts, the retributive process was described in *Právník* [The Lawyer] journal by Prof. Vladimír Solnař, who concluded that, even in proceedings before extraordinary people’s courts, it was possible to turn to extraordinary remedies such as the application for de novo proceedings and the filing of appeals in cassation, with the Supreme Court, against rulings of such courts. The Supreme Court engaged in such activities, as evidenced by its judgments in the files of ex-

traordinary people’s courts. We can gain an insight into the Supreme Court’s decision-making from published case-law. As of the first post-war year (decisions from August to December 1945 and 1946), collections were published as *Collections of Findings of the Supreme Court in Civil and Criminal Cases*, where the new numbering of decisions started with the number 1.

After 1948, with the emergence of the Communist regime, there was a significant change in the Supreme Court’s role. Not even the Supreme Court escaped the purging of the state apparatus by National Front action committees. At the Supreme Court, the President and 11 other judges were affected. The purges were organised by Alexej Čepička, the new Minister of Justice. The new “socialist-type” judiciary was introduced by the Constitution on 9 May 1948. Under Article XI, paragraph 2, there were to be both professional judges and lay judges, who were equal in the decision-making process. In accordance with Article 137 of the Constitution, one Supreme Court was established for the whole territory of the state. In 1949, it moved from Brno to Prague.

On 27 September 1948, the Ministry of Justice discussed the creation of “people’s” courts “where a lay element will be applied”. These materialised under Act No 319/1948 of 22 December 1948 on the Popularisation of the Judiciary. The “popularisation of the judiciary” was intended to secure political control over the judiciary via lay judges. The organisation of the judiciary was adapted to the regional system, there were plans to remove formalism in the exercise of justice, and the judiciary was made cheaper and faster. Lay judges were also appointed at the Supreme Court, where they were “to create a counterbalance to the existing bureaucratic court apparatus and contribute with their experiences in life”. Consequently, the first lay judges appointed by the government to the Supreme Court included factory workers and clerks. Fast-track courses for high ranking party members could take participants all the way up to the Supreme Court. Of the 280 graduates of five rounds of Law School for Workers, 55 were appointed as District Court Presidents and 115 as Prosecutors, while one was soon appointed to the Supreme Court.

The Supreme Court also contributed to preparations for a two-year legal course. The aims of codification work were to adapt Czechoslovak law to Soviet legislation, to simplify and popularise the legal order, to elim-



Politically motivated introductory parts of the explanatory memorandum of the Act No. 86/1950 Coll., the Criminal Code



The Statute book including the Act No. 63/1956 Coll., Amending and Supplementing the Act No. 86/1950 Coll., and the Act No. 64/1956 Coll., the Code of Criminal Procedure, Archives of the Chamber of Deputies

inate the “anachronisms” of unnecessary formalism, to reject the division of law into private and public, and to maintain a class-based approach. Other aspects, such as the separation of family law, the rejection of the Roman basis of civil law, the abolition of commercial law, and the articulation of the suppressive nature of criminal law, were also reflected here. Changes to key areas of the legal order were proposed at a meeting of Supreme Court judges with Ministry of Justice representatives in August 1948. In addition, the Supreme Court was represented by its President, Igor Daxner, in the Legal Council of the Central Committee of the Czechoslovak Communist Party, where numerous issues were consulted. Supreme Court Judges were then invited to assess the results of the work carried out by codification committees.

In the first half of the 1950s, the Supreme Court also became a pillar of support for the new regime through its decision-making, which was intended to respond to the “people’s concept of justice”. This was followed by an assault on legal formalism and the bourgeois concept of law. In this context, Prof. Zdeněk Kühn speaks of “activistic” decision-making. We can get an idea of this style, again, by referring to published decisions, which were issued as the *Collection of Decisions of Czechoslovak Courts* as of 1949. The Supreme Court’s main tasks were to unify the decision-making of the lower courts and put the finishing touches to the Law

as amended by the Constitution on 9 May and the two-year legal course. Act No 66/1952 on the Organisation of the Courts handed the Minister of Justice the right to supervise how the courts perform their tasks and observe socialist law and order. He could propose that the Supreme Court issue Directives on the correct interpretation of legislative acts and other regulations. Starting in 1953, the Supreme Court indeed issued “directives on the correct interpretation of legislative acts and other legislation”, establishing a binding interpretation of the law. It continued this activity beyond the 1950s. The Supreme Court was given the power to rule on applications submitted by the Prosecutor General for Law Enforcement not only concerning criminal court decisions infringing the law, but also concerning the rulings in civil cases. Law enforcement complaints could not be lodged against Supreme Court decisions.

Particularly striking was the new concept of decision-making in criminal law, and the Supreme Court played an inauspicious role in political trials when deciding on appeals against rulings of the newly established State Court. Political trials targeting the Communist regime's political opponents, the church, soldiers and farmers who rejected collectivisation resulted in unjust and disproportionate punishment, including misuse of the death penalty. Many trials were fabricated, politically prepared and decided "in advance". In specific cases at the beginning of the 1950s, the Supreme Court tend-

ed to side with the State Prosecutor's Office, and, in relation to strict punishments, we can find in its decisions expressions such as "hatred of the people's democratic order" or "treasonous attempts to subvert the people's democratic order", and recommendations to consider the overall class, political and character profile of perpetrators when gauging the danger they posed.

The Supreme Court also significantly affected changes in civil, family and labour law. Following the adoption of the Civil Code in 1950, it was the Supreme Court which guided interpretation of the law, including decision-making in cases in keeping with the interests of society or taking into account the class origin of one of the parties to the dispute. The Supreme Court's decisions also contributed to the finalisation of property ownership - related changes associated with the collectivisa-

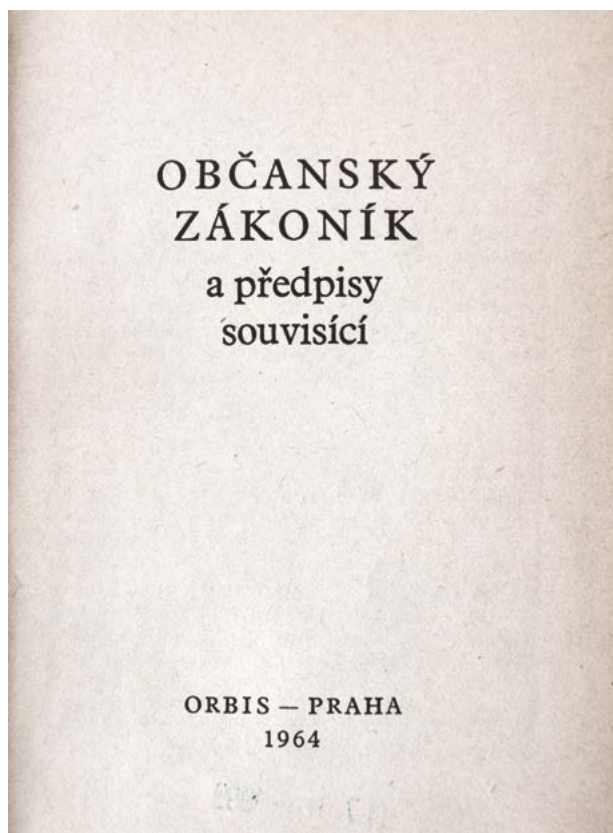
tion, nationalisation or liquidation of private businesses. The Supreme Court was instrumental in the interpretation of new concepts in, for example, ownership relating to newly introduced personal property. It was the Supreme Court which explained to the courts the correct manner in which divorces were to be handled in order to protect the principles of the socialist family.

In the second half of the 1950s, de-Stalinisation prompted changes. In June 1956, the Communist Party congress called for the "most glaring examples of unlawfulness" to be corrected and for those parts of criminal law facilitating them in political trials to be changed. In this respect, Act No 63/1965 and Act No 64/1956 amended both the Criminal Code and the Code of Criminal Procedure. Title 18 of the Code of Criminal Procedure, on the death penalty, was revised.

Every final judgment imposing the death penalty was submitted to the Supreme Court for review. A death penalty could only be enforced if the Ministry of Justice informed the Court that the judgment had remained unchanged after review by the Supreme Court and that no request for a pardon had been made or that any such request had been rejected. The death penalty could not be enforced on a pregnant woman or imposed on a person under the age of 18. The Supreme Court's role in these discussions was tarnished by the fact that it was headed by Josef Urválek, who also happened to be a state prosecutor in political trials. Urválek, in his capacity as Court President, also exercised influence over the Kolder Rehabilitation Commission, which began operating in September 1962. He helped to champion the view that political trials were "an effective weapon in curbing the class enemy, but harsh penalties were a violation of socialist law", and that it was only individuals who had failed.

From the mid-1950s, in "civil" law there was a departure from openly activist decision-making when greater weight was ascribed to the interpretation of statutory provisions, paving the way for a partial remedies of decision-making in the previous period. Demand for greater "expertise" came to the fore, although Supreme Court decisions continued to reflect the legal reasoning of the 1950s.

In connection with the declaration of the socialist phase of development in Czechoslovakia and its en-



Act No 40/1964, the Civil Code Coll.

trenchment in the 1960 Constitution, the role of the Supreme Court was also to be transformed. According to Act No 62/1961 on the Organisation of the Courts, the courts were responsible for protecting the “socialist state, its social order and relations with the world socialist system”, as well as “the rights and legitimate interests of citizens, and of state, cooperative and other social organisations”. The courts were also tasked with educating citizens, guiding them, for example, towards “devotion to the homeland, socialism and communism, law enforcement, the protection of socialist property, the observance of labour discipline, the rigorous fulfilment of duties towards the family and minors, and respect for the rights and esteem of fellow citizens.”

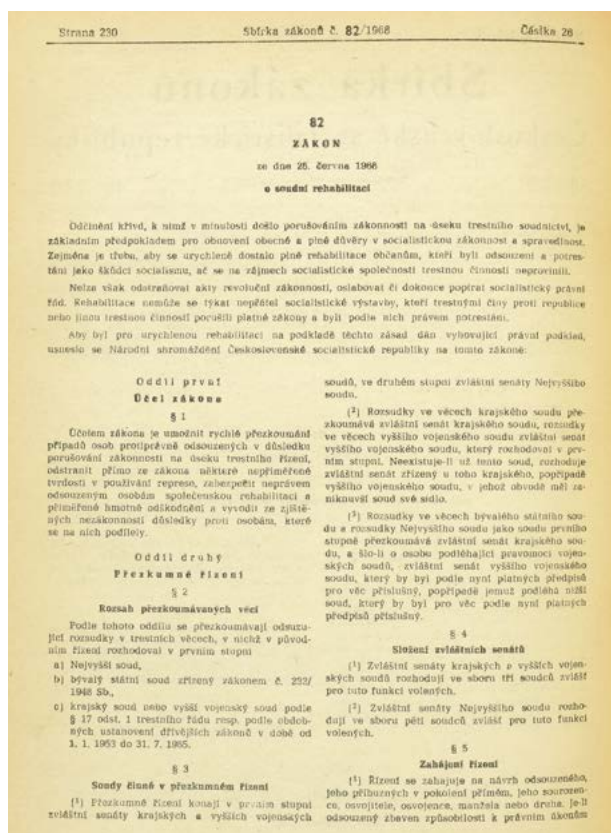
From the early 1960s, the Supreme Court (now the Supreme Court of the Czechoslovak Socialist Republic)

played an important role in the re-codification of criminal, family, civil and labour law, and then interpreted the Codes, again, in the form of binding Directives. In criminal law, this is clear from decisions concerning both the general and, in particular, the special part of the 1961 Criminal Code. For example, the Supreme Court issued more than 10 such opinions on the criminal offences of intoxication and parasitism between 1963 and 1972. Numerous issues were cleared up during the actual criminal proceedings. Although we still encounter ideologically conditioned formulations here, the decision-making process was more professionally competent than in the 1950s. The Supreme Court's published opinions also affected commentaries and professional publications on criminal law. The Supreme Court's influence was just as appreciable following the adoption of the new Civil Code (for example, as regards the interpretation of joint community property of spouses) and the new Code of Civil Procedure.

The Supreme Court also conducted analysis in the various areas of its decision-making activity, and the Supreme Court's Presidium meted out tasks to regional courts. *Reports* by the Presidents of Divisions became new documents generalising the work of the Supreme Court.

Starting in the mid-1960s, we can see how Czechoslovak society is becoming more liberalised, a development that also affected the Supreme Court. A symbolic issue here was the relationship between 1950s illegality and rehabilitation. The Prague Spring of 1968 ushered in great changes. The Communist Party's action programme of April 1968 criticised the fact that rehabilitation thus far had been insufficient. The Central Committee of the Czechoslovak Communist Party established a new Rehabilitation Commission chaired by Jan Piller. The Supreme Court drew up a report for the Presidium of the National Assembly in March 1968, on the basis of which the Presidium condemned the “illegality” and “methods applied in proceedings” and called on the Supreme Court to take remedial action. Josef Litera was relieved of his presidency of the Supreme Court. On 26 June 1968, Act No 82/1968 on Judicial Rehabilitation – opting for the principle of individual review – was adopted.

It established Special Panels at the Supreme Court that excluded the participation of those who had been



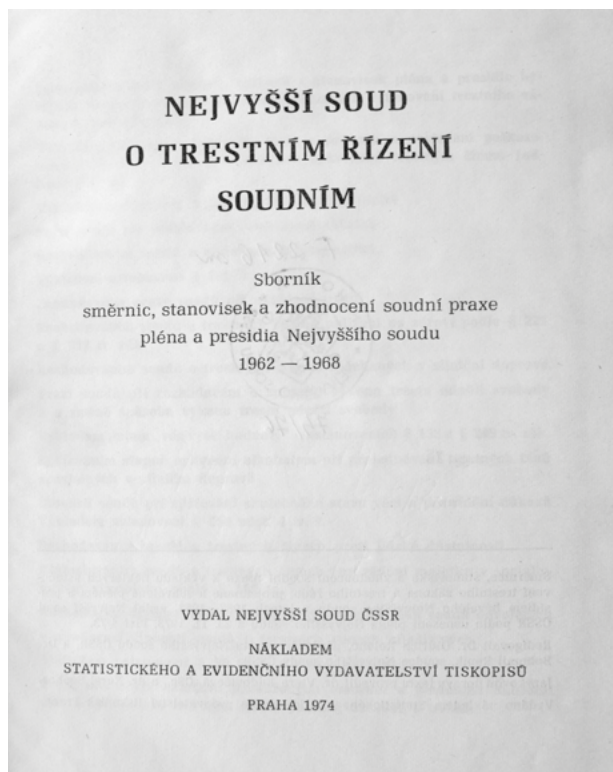
The introductory parts of the Act No. 82/1968 Coll., on Judicial Rehabilitation, published in the Statute book

involved in the proceedings under review. However, as judicial rehabilitation was not to come into play until after the occupation of Czechoslovakia by the Warsaw Pact troops, the courts only had time to handle part of the agenda. As at September 1969, 23,306 review applications had been registered and 2,900 people were actually rehabilitated.

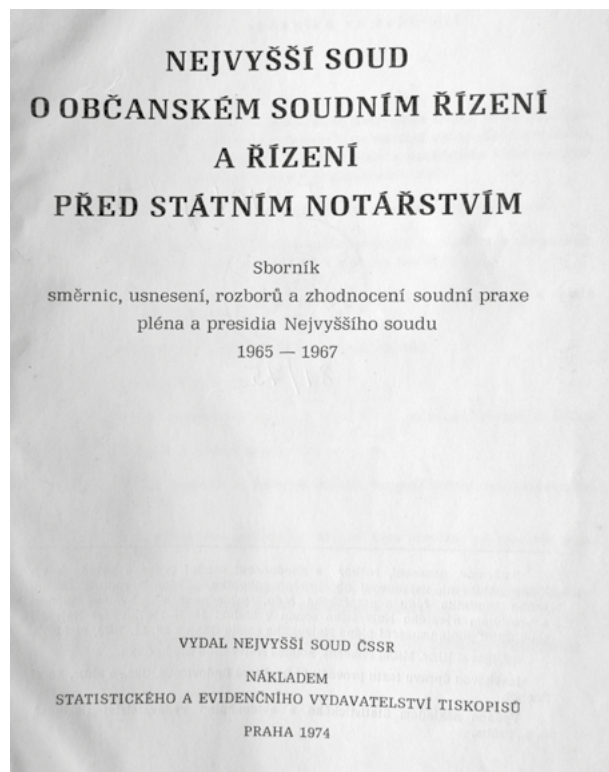
Besides discussions on other significant, but often unfinished, amendments in law, 1968 brought about the fundamental transformation of the system of governance when Constitutional Act No 143/1968 on the Czechoslovak Federation was adopted and the Act on the Organisation of the Courts was subsequently amended. The Supreme Court of the Czechoslovak Socialist Republic, seated in Prague, was established to supervise the activities of the courts and to standardise their decision-making. The Supreme Courts of the two

Republics took decisions on ordinary remedies and on applications concerning violations of law. The Supreme Court of the Czechoslovak Socialist Republic issued “opinions on the uniform interpretation of legislation”. The judges of the Supreme Courts of the Czech Republic and the Slovak Republic were elected by the National Councils and those of the Supreme Court of the Czechoslovak Socialist Republic were elected by the Federal Assembly for ten-year terms of office from 1970. The Federal Assembly’s stenographic records show how these elections took place: in May 1970, Supreme Court judges were elected by acclamation.

The onset of the “normalisation” era was accompanied by staff purges at the Supreme Court and a reassessment of its rehabilitation activities. According to a report of the Supreme Court of the Czechoslovak Socialist Republic of June 1970, these had been “abused by



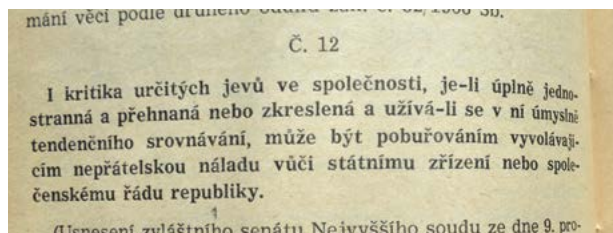
Special Collection of the Supreme Court on Criminal Proceedings



Collections published by the Supreme Court in 1974 and 1980, describing decision-making in substantive and procedural civil law

anti-socialist forces and the demand for rehabilitation became one of the mainstays negating the whole development of socialist society over the last twenty years." Act No 70/1970 amended the original Act No 82/1968 and some favourable rehabilitation judgments were reviewed. This affected 1,714 people.

According to Otakar Motejl, normalisation in the judiciary meant the "revival of a highly politically tainted agenda". The Supreme Courts contributed significantly to criminal-law persecution both in 1969 and in subsequent politically motivated proceedings. In 1969, further to Legal Measure of the Presidium of the Federal Assembly No 99/1969, 1,526 people were convicted, 609 of criminal acts under the first title of the Criminal Code. The number of criminal convictions for sedition and defamation of the Republic under Sections 102-104 of the Criminal Code continued to rise. In December 1969, the Supreme Court of the Czechoslovak Socialist Republic adopted an opinion on this, stating that sedition could include *"criticism of certain phenomena in society if it is unilateral and exaggerated and if it draws on a wilfully tendentious comparison", especially if it stoked a hostile or even just an "unfavourable frame of mind in relation to the state or social order of the republic"*.



Decision of the Special Panel of the Supreme Court, published under No. 12/1970 of the Collection of Decisions of the Courts of the Czechoslovak Socialist Republic

The Supreme Court of the Czech Republic subsequently participated in criminal persecution of both Charter 77 and the Committee for the Defence of Unjustly Prosecuted Persons. Appeal proceedings involving six of its members, including Václav Havel, Petr Uhl and Jiří Dienstbier, took place before the Supreme Court of the Czech Socialist Republic with the assistance of police. On 20 December 1979, the Supreme Court upheld the decisions of the Municipal Court (five prison sentences ranging from three to five years) for subversion of the Republic "by forming an organised illegal group out

of hostility towards the socialist social and state order of the Republic." It accepted the prosecutor's application for property seized during house searches to be confiscated. In criminal cases, differences between the Supreme Court's assessment of "political crimes" and general crime were exposed. The unifying and interpretative practices of the Supreme Court, summarised in 1974 in a special collection of the directives, opinions and appraisals of judicial practices of the Supreme Court relating to criminal proceedings, wielded major influence.

The general public mainly associated the Supreme Court with decisions on the death penalty, especially in cases attracting a lot of coverage, such as that of Olga Hepnarová. The Supreme Court did actually find procedural errors or erroneous legal classifications in a relatively high percentage of cases.

In the 1970s and 1980s, the Supreme Court of the Czechoslovak Socialist Republic also significantly influenced developments in other legal branches – in substantive and procedural civil law, for example, in two collections from 1974 and 1980. The first of these, concerning civil proceedings and proceedings before a state notary, included a selection of directives, resolutions, analysis, and assessments of the judicial practices of the Plenum and Presidium of the Supreme Court from 1965 to 1967. The Supreme Court's 1980 collection summed up the work of the Supreme Courts in the areas of labour, civil and family law. All three of the Supreme Courts, following the adoption of a significant amendment to the Civil Code, arrived at joint conclusions on the interpretation of some of its provisions in 1984.

This was followed in 1986 by a further collection containing all three Supreme Courts' opinions on civil proceedings.

Changes in the late 1980s, as part of the "redevelopment" process, were also intended to be reflected in the work and status of the Supreme Courts. As late as 1989, a new constitution was being prepared in this sense, which was also to include certain reforming elements such as the declaration that the Czechoslovak Socialist Republic pursued the rule of law, the return to a constitutional judiciary, and reporting on the state of socialist law by the Supreme Court of the Czechoslovak Socialist Republic. Nevertheless, the Supreme Courts continued

to provide significant support to the regime until the very last. Even in the last proposal – on 27 September 1989 – by the presidium of the Central Committee of the National Front of the Czechoslovak Socialist Republic to elect and remove judges of the Supreme Court of the Czechoslovak Socialist Republic, “political and professional” characteristics were used for new members, and devotion to socialism was employed as an argument in their favour. Of the ten judges nominated, only one was not a member of the Communist Party. Consequently, it was not until after the events in November 1989 that the Supreme Court was able to return to the ideas of an independent judiciary and to its democratic traditions from the interwar period.

The Supreme Court

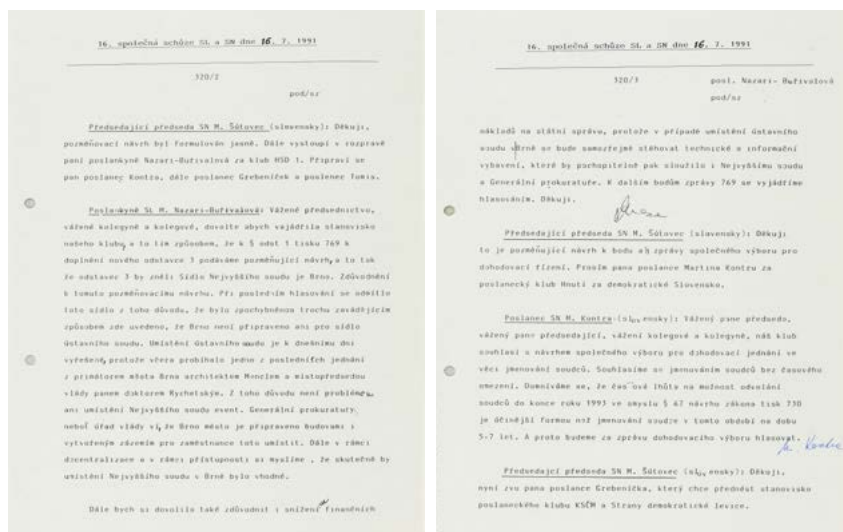
after 1989

The Supreme Court's modern history in the wake of the Velvet Revolution can generally be dated to January 1990, when Otakar Motejl was appointed as its President. At first, he had to clean the Federal Supreme Court up from the judges closely connected to the Communist Party. Some judges quit on their own; the systematic cleansing of the judiciary was resolved by the adoption of Act No. 451/1991 Coll. The still applicable statute in its Section 2 determinates, that obstacles to the performance of the function of judge are for example membership in the former People's Militia, collaboration with the communist State Security and other performance in the posts listed under letters (a) to (h) of this provision.

The common Czech and Slovak state split as of 1 January 1993, rendering the federal structure of the judiciary defunct. The Supreme Court, as the successor of the federal Supreme Court of the Czech and Slovak Federative Republic, made its way back from Prague to Brno in 1993. However, its relocation to Moravia was not prompted directly by the federation's disintegration, as the move had been mooted – and even subjected to a vote in the Chamber of Deputies – back in 1991. At the time, Moravian MPs – striving to emphasise the importance of Moravia and Silesia – were a potent political force. It came as no surprise, then, when Marta Nazari-Buřivalová, an MP from the HSD-SMS (Movement for Self-Governing Democracy – Society for Moravia and Silesia) moved for the transfer of the federal Su-



Otakar Motejl

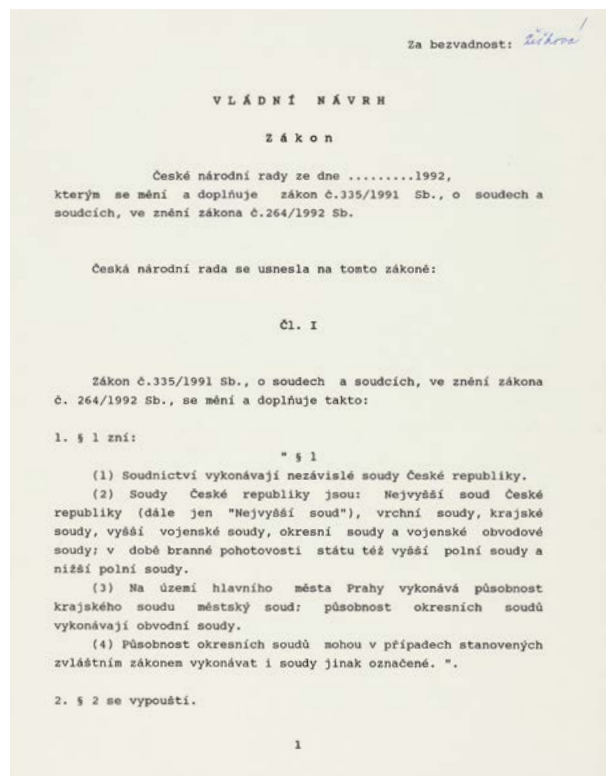


Authentic stenographic record of MP Marta Nazari-Buřivalová's proposal submitted to the 16th joint session of the People's Chamber and the Chamber of Nations at the Parliament of the Czech and Slovak Federative Republic on 16 July 1991, Archives of the Chamber of Deputies

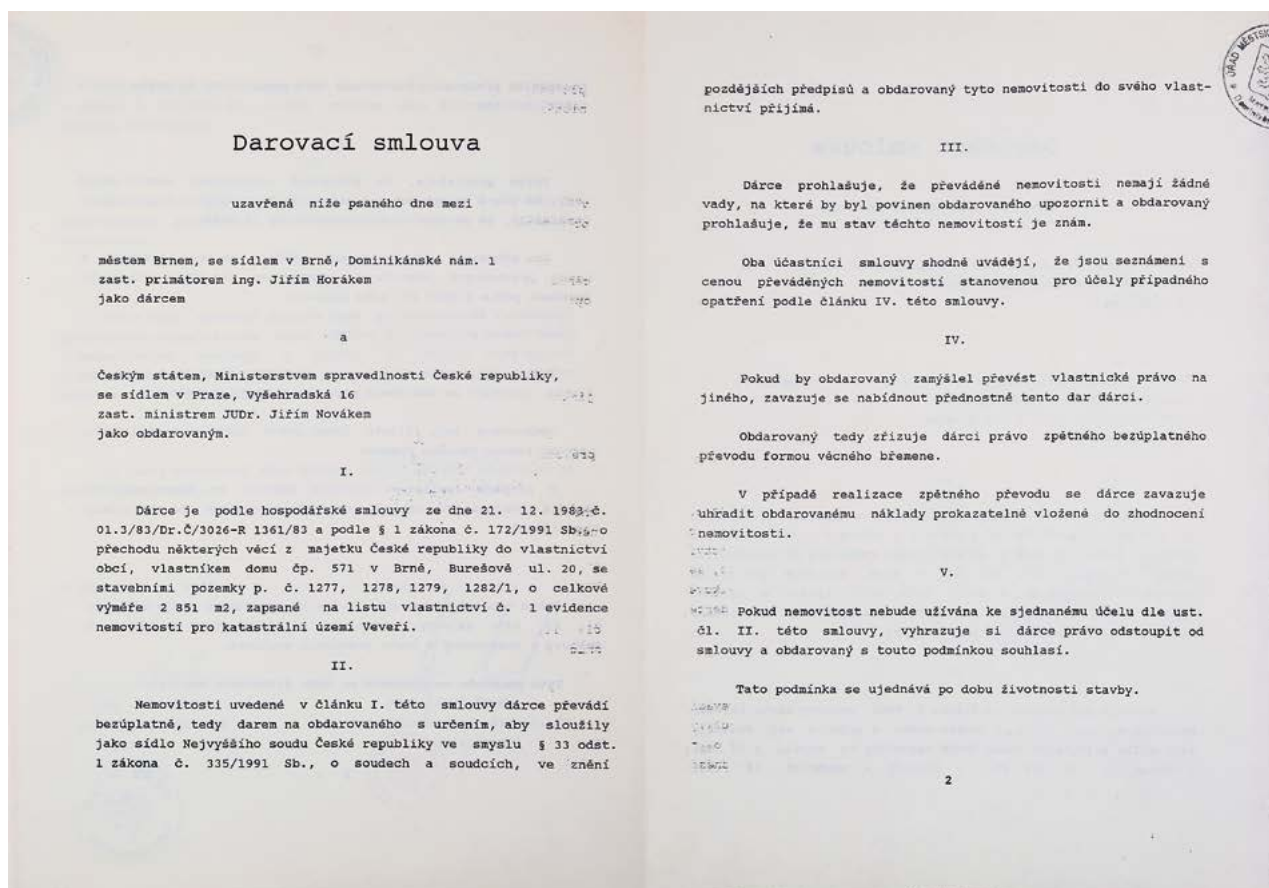
preme Court from Prague to Brno at the 16th joint session of the parliamentary People's Chamber and Chamber of Nations. Some MPs believed that, by throwing their weight behind such a proposal, they would be taking further steps to maintain a common state with the Slovaks. Moves were also afoot by the leadership of Brno to augment the importance of their city. They repeatedly advertised how gladly they would place one of the city's buildings at the Supreme Court's disposal free of charge. However, Marta Nazari-Buřivalová's proposal had yet to garner the support it needed among MPs.

Nevertheless, about a year and a half after the MPs' vote, Brno was decisively named as the seat of the highest body of the general judiciary in Section 33(1) of Act of the Czech National Council No 17/1993. That Act, taking effect on 1 January 1993, amended and supplemented Act No 335/1991 on Courts and Judges, as amended by Act No 264/1992. Section 1(2) spelt out the individual judicial instances as follows: *"The courts of the Czech Republic are: the Supreme Court of the Czech Republic (hereinafter referred to as the 'Supreme Court'); high courts; regional courts; higher military courts; district courts and military district courts; and, at a time when the state is on defence alert, higher field courts and lower field courts"*.

This amendment named the Supreme Court in Brno as the de facto successor of the original Supreme Court



Government Bill containing amendments to the Act No. 335/1991 Coll., Archives of the Chamber of Deputies



The opening pages of the deed of gift, under which Brno donated the building of the Supreme Court to the Ministry of Justice

of the Czech and Slovak Federative Republic; the successors of the erstwhile Supreme Court of the Czech Republic were the High Court in Prague and the High Court in Olomouc – this last court had yet to be created, but was foreseen by the amendment to the Act on Courts and Judges. Using the same key as that for the individual courts, judges and employees were also transferred from the original courts of the Czechoslovak Federation. This was extraordinary because, when the federation broke up, most of the Czech Republic's new institutions were formed from the original Czech state bodies and the federal authorities were dissolved.

Brno City Hall kept its promise and donated a building in Burešova Street – originally belonging to the pension

funds institution Všeobecný pensijní ústav – to the Supreme Court for free. The Supreme Court has remained here to this day. The contract on the free transfer of ownership of the current seat of the Supreme Court from the city to the Ministry of Justice was signed on behalf of Brno by the mayor, Jiří Horák.

The Supreme Court's homecoming to Brno after decades away was nothing unusual in the European context. There are numerous countries where the highest judicial institutions are located away from the capital and the seat of government or parliament. They are said to be better shielded from political influences and from politicians' efforts to meddle with judicial independence.

Opening ceremony of the building of the Supreme Court of the Czech Republic in Brno, Supreme Court President Otakar Motejl and Minister of Justice Jiří Novák



Opening ceremony of the building of the Supreme Court of the Czech Republic, from left: Hana Pazderová, the Court's HR Manager, Minister of Justice Jiří Novák, and Deputy Prime Minister Jan Kalvoda



Opening ceremony of the building of the Supreme Court of the Czech Republic, from left: Minister of Justice Jiří Novák, Supreme Court President Otakar Motejl, and MP Vladimír Šuman

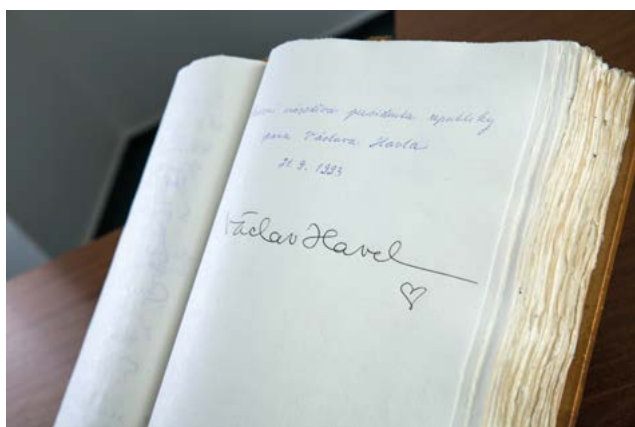
The individual Divisions of the Supreme Court, then officially known as the Supreme Court of the Czech Republic, did not start moving from Prague to Moravia until August 1993, as the building in Brno was still being reconstructed to accommodate the Court until shortly before the relocation. The opening ceremony on 10 September 1993 was attended by Minister of Justice Jiří Novák and Deputy Prime Minister Jan Kalvoda.

Originally, 13 Supreme Court judges moved to Brno: four from the Criminal Division, four from the Commercial Division, and five from the Civil Division. The Military Division was closed down at the end of 1993, when the military judiciary was abolished. On 21 September

1993 – before the end of that first month – President Václav Havel also visited the new seat of the Supreme Court in Brno for the first time. He was to come here three times while in office.

In the early days of its existence, the Supreme Court of the Czech Republic in Brno wielded only the powers it had inherited from the Supreme Court of the Czech and Slovak Federative Republic, hence most of the decision-making agenda now covered by the Supreme Court was carried out by the High Court in Prague. With effect from 1994, the Supreme Court's Criminal Division took decisions on exclusions from the competence of law enforcement agencies. The Supreme

Václav Havel, Brno Mayor Jiří
Horák, Supreme Court President
Otakar Motejl (September 1993)



Václav Havel's signature in the visitors' book (September 1993)



Václav Havel (December 2001)



Václav Havel and Dagmar Havlová (December 2001)



Václav Havel and the Presidents of Panels of the Supreme Court, Jiří Spáčil and Petr Vojtek (December 2001)



Photograph of Supreme Court judges at the official farewell to Otakar Motejl (1998)



Symbolic handover not only of a bouquet of roses, but also of the office of the President of the Supreme Court of the Czech Republic, Otakar Motejl and Eliška Wagnerová (July 1998)

Court also heard disputes between courts on jurisdiction, on the removal and assignment of cases, on motions to exclude judges from hearing and adjudicating on cases, and on complaints about court decisions to extend remand. In matters of legal relations with other countries, the Supreme Court of the Czech Republic was responsible for reviewing decisions on the admissibility of extradition, decision-making on the authorisation of transit for the purposes of proceedings abroad, and decision-making on the recognition of foreign judgments in criminal cases. Effective from 1 September 1995, the Supreme Court of the Czech Republic had exclusive jurisdiction to decide on complaints on the violations of the law in criminal matters. Until 31 August 1995, it had only addressed complaints on the violations of the law lodged against decisions of the High Court in Prague; beyond that date, it dealt with all such complaints.

In civil cases, the Supreme Court of the Czech Republic had exclusive jurisdiction to handle extraordinary appeals with effect from 1 January 1996. Following the establishment of the independent Czech Republic, the Supreme Court's Civil Division had initially only heard extraordinary appeals concerning the decisions handed down by the High Court in Prague. Since 1996, it has dealt with such extraordinary appeals against the decisions of regional courts and the High Courts in Prague and Olomouc. This change finally elevated the Supreme Court to the top of the judicial system, as envisaged by Chapter Four of the Constitution of the Czech Republic.

The extension to the competence of the Supreme Court at the end of 1995 and the beginning of 1996 was accompanied by a significant increase in the number of judges, as these legislative changes triggered a huge rise in the civil and criminal caseload. Consequently, in 1996 the Supreme Court in Brno had 20 judges in its



Appointment of Eliška Wagnerová as Vice-President of the Constitutional Court and the simultaneous appointment of Iva Brožová as the President of the Supreme Court, Prague Castle, 20 March 2002



Pavel Kučera, Vice-President of the Supreme Court, 1993–2010

Civil Division, 7 in its Commercial Division, and 22 in its Criminal Division.

In July 1998, Otakar Motejl gave up the presidency of the Supreme Court to head the Ministry of Justice from August 1998. On 22 July 1998, he was replaced by Eliška Wagnerová.

Eliška Wagnerová was the first to introduce judicial assistants to the Supreme Court. Since 2000, they have greatly assisted the judges in their decision-making activities. Initially, the assistants were restricted to the Civil Division, but soon they were increasingly needed at the Criminal Division as well. This was prompted by a further extension to the decision-making agenda of the Supreme Court's Criminal Division, which again pushed up the caseload. The change came into effect on 1 January 2002, when extraordinary appeals were



Iva Brožová, President of the Supreme Court, 2002–2015

introduced into the Code of Criminal Procedure as another means of extraordinary remedy in criminal cases.

Eliška Wagnerová remained the President of the Supreme Court until 20 March 2002, when she was appointed as a Vice-President of the Constitutional Court of the Czech Republic. The President of the Supreme Court was then Iva Brožová, who held this position until January 2015, when President Miloš Zeman appointed Pavel Šámal as her successor. Iva Brožová has thus been the longest-serving President of the Supreme Court in its history, holding this position longer than any other President of the highest body of general judiciary.

Pavel Šámal, who held the position of the President of the Supreme Court for approximately half of his originally planned term of office, was appointed a judge of the Constitutional Court on 20 February 2020, which by default terminated his position as the President of the Supreme Court. For approximately three months, that is until 20 May 2020, when President Miloš Zeman

appointed the current President, Petr Angyalossy, the Supreme Court was headed by the then Vice-President, Roman Fiala, on the basis of the competences associated with this position.

Until 2002, the Supreme Court was officially referred to as the Supreme Court of the Czech Republic on the basis of Article 91(1) of the Constitution of the Czech Republic; since then, in accordance with the designation in Act No 6/2002, on Courts and Judges, it has been referred to only as the Supreme Court. If the Court uses its previous name, it is only for better clarity in texts in which the highest courts of other countries are mentioned.

Until the end of 2002, the Supreme Court's judges also heard cases as part of its administrative judiciary agenda. On the basis of remedial measures, they addressed the legality of decisions made by public authorities; they also handled disciplinary proceedings with judges. Following the establishment of the Supreme Administrative Court on 1 January 2003, the Supreme Court's de-



Appointment of Pavel Šámal to the position of the judge of the Constitutional Court, Prague Castle, 20 February 2020



Roman Fiala, Vice-President of the Supreme Court, 2011–2020

cision-making in administrative matters was restricted to cases governed by Sections 244 to 250l under Part Five of the Code of Civil Procedure.

As of 1 November 2004, decision-making on the recognition of foreign judgments in criminal cases was shifted from the Supreme Court's Criminal Division to regional courts. On the other hand, in connection with the establishment of surrender procedures between the Member States of the European Union, the Supreme Court started to decide on the authorisation of prisoner transits and transfer of detained persons for surrender purposes. Since 1 July 2004, the Supreme Court has also ruled on motion seeking to have periods of limitations set for procedural acts under Section 174a of Act No 6/2002 on Courts and Judges, as amended.

Apart from its decision-making activities, post-1989 the Supreme Court naturally also worked on the unification



Appointment of Petr Angyalossy, to the position of the President of the Supreme Court. Prague Castle, 20 May 2020

of case-law. Its judges were involved in the procedure of drafting comments for new bills. Some of them directly helped to shape new legal standards. On 1 May 2004, when Iva Brožová was President of the Supreme Court, the Czech Republic joined the European Union. This made it necessary to gradually begin studying the case-law of EU Member States and the EU's highest judicial institutions, and to apply it not only at the Supreme Court, but also to pass on this knowledge to courts across the Czech judicial system. To accommodate this requirement, the International Department, now called the Department of Analytics and Comparative Law, was set up at the Supreme Court.

Since 1 September 2017, in connection with the entry into effect of the amendment to Act No 159/2006 Coll., on Conflict of Interest, the Supreme Court has been responsible for receiving and recording notifications of activities, assets, income, gifts and liabilities of judges of the Czech Republic, as well as for storing the data of these notifications and supervising the completeness thereof. All judges of the Czech Republic whose names are entered in the Central Register of Notifications compiled by the Ministry of Justice are obliged to submit notifications to the Supreme Court periodically within the statutory time limits specified. To manage this agenda, the Conflict of Interest Department was created.

Presidents of the Supreme Court

after 1989



Otakar Motejl

President of the Supreme Court of the Czechoslovak Socialist Republic (Czech and Slovak Federative Republic), 1990-1992, President of the Supreme Court, 1993-1998

Otakar Motejl (born 1932 in Prague, died 2010 in Brno) graduated from the Faculty of Law of Charles University, Prague, in 1956. Following his studies, he practised law, first in Slovakia, later in Kladno and Prague. From the beginning of his time as a lawyer, he defended people persecuted by the Communist regime, such as families of farmers who refused to hand over their property to cooperatives. In 1966, he had a brief stint at the Law Institute of the Ministry of Justice of the Czech Socialist Republic, but went back to practising law after two years. As political tensions eased in the late 1960s, he became a Supreme Court judge in 1968, despite refus-

ing to join the Communist Party. With the advent of normalisation, however, Otakar Motejl was forced to leave the federal Supreme Court of the Czechoslovak Socialist Republic in 1970, when he again returned to his legal practice. By defending many Czech dissidents, including journalists such as Jiří Ruml, Vladimír Škutina, Svatopluk Karásek and Jiřina Šiklová, as well as members of music band The Plastic People of the Universe, he became a thorn in the side of the governing regime. Consequently, he had to methodically withstand pressure to leave the legal profession. He was successful in fending off such coercion.

During the demonstration in Národní třída, Prague, on 17 November 1989, he transported wounded demonstrators to Prague hospitals in his own car. Subsequently, in December 1989, he became one of the members of the Federal Assembly's investigative commission for

the supervision of the investigation into the events of 17 November.

In January 1990, Otakar Motejl was elected President of the Supreme Court of the Czechoslovak Socialist Republic. From 1 January 1993, he was the President of the newly established Supreme Court of the Czech Republic. Otakar Motejl contributed considerably to the smooth progress of the transformation of the original federal Supreme Court of the Czech and Slovak Federative Republic into the Supreme Court of the Czech Republic.

In 1998, Otakar Motejl resigned as Supreme Court President, and shortly after was appointed Minister of Justice in Prime Minister Miloš Zeman's government. In this post, he was responsible, among other things, for the new Act No 349/1999 on the Ombudsman. In December 2000, after leaving the Ministry, he became the first ever Ombudsman in the Czech Republic. In 2006, the Chamber of Deputies confirmed that Otakar Motejl would continue to hold this office for another six-year term.

In 1991, he was awarded the Human Rights Award, presented to prominent figures by the US government, for his long-standing efforts to protect the law and promote justice. He was also a holder of the French Order of the Legion of Honour (Commander class), awarded in 2000. As a lawyer, he was awarded the Lawyer of the Year title in the civil and human rights category. Three years later, he was inducted into the Law Hall of Fame. In addition, he held Antonín Randa Gold and Silver Medals, awarded by the Association of Czech Lawyers since 1992.



Eliška Wagnerová

President of the Supreme Court, 1998-2002

Eliška Wagnerová (born 1948 in Kladno) graduated from the Faculty of Law of Charles University, Prague, in 1974. Initially a corporate lawyer, she went on to practise as an attorney of law. In 1982, she emigrated to the then Federal Republic of Germany, where she worked, inter alia, for Radio Free Europe; after that, she also resided briefly in Canada.

In 1993, Eliška Wagnerová returned to the Czech Republic and was appointed as a judicial assistant of the President of the Constitutional Court. In 1996, she was awarded a political science PhD by the Faculty of Arts, Masaryk University, Brno. She began her career as a judge at the Civil Division of the Supreme Court,

where she was appointed as a judge in 1996. From July 1998 to March 2002, Eliška Wagnerová was the President of the Supreme Court. She was instrumental in introducing the first judicial assistants to the Supreme Court in 2000, and helped to enshrine this position in the Act on Courts and Judges. On 20 March 2002, President Václav Havel appointed her as a Vice-President of the Constitutional Court. Eliška Wagnerová's ten-year stay at the Constitutional Court is associated with many fundamental rulings. As a Judge Rapporteur, she is best-known for her findings that remedied or directly annulled some of the government's controversial political decisions. One particular example that stands out is the Constitutional Court's judgement of March 2011 under which it abolished the law, coined the "Social Cuts Package", by which the government of prime minister Petr Nečas (ODS) had intended to save billions of crowns in sickness benefits and in welfare that would

otherwise be granted to the unemployed and families with children during the economic crisis. According to the Constitutional Court's judges, the government had erroneously applied a state of legislative emergency to push through the law, and the government parties (the ODS, Věci veřejné, and TOP 09) had violated the rights of the political opposition. The Constitutional Court's 2006 judgement that abolished the government regulation on sugar production is also frequently mentioned. The Panel in which Eliška Wagnerová was the Rapporteur pointed out that, by adopting that regulation, the government had inappropriately encroached on an area governed by European Union standards. As such, the Constitutional Court historically allowed European Union law to influence legislation in the Czech Republic.

After her term of office at the Constitutional Court ended, Eliška Wagnerová decided to engage in politics. In the 2012 autumn Senate elections, she successfully ran as a Green-backed independent in the Brno-město constituency and became a Senator for the next six years.

In 2009, Eliška Wagnerová was awarded an Antonín Randa Silver Medal. In 2012, she was named Lawyer of the Year in the fields of civil and human rights and constitutional law. From 2002 to 2010, she was as an alternate member of the Venice Commission, the Council of Europe's advisory body on constitutional law issues.



Iva Brožová

President of the Supreme Court, 2002-2015

Iva Brožová (born 1951 in Brno) graduated magna cum laude from the Faculty of Law at Masaryk University, Brno, in 1974, and became a trainee judge of the Regional Court in Brno. In 1975, she was awarded the doctoral degree title in law. From 1975 to 1990, she was a judge at the Municipal Court in Brno. As she refused to join the Communist Party and she was the daughter of a pilot who flew with the RAF during the war, for most of the time she was entrusted with minor administrative matters, e.g. in the field of insurance, while she was at this court. In 1990, she became a judge at the Regional Court in Brno and an adviser to the Constitutional Court of the Czech and Slovak Federative Republic. In July 1993,

she was appointed a judge of the Constitutional Court and remained in that position until December 1999. From 2000, she was a judge of the Supreme Court and the President of its Civil Division. Iva Brožová became the President of the Supreme Court in March 2002. Iva Brožová has been the longest-serving President in the Court's modern history, heading this institution until her resignation in January 2015. She then worked as a judge at the Supreme Court's Civil and Commercial Division until 30 April 2015.

Iva Brožová's presidency of the Supreme Court is closely associated with the fight for judicial independence. When, in February 2006, President Václav Klaus removed her from her position as President of the Supreme Court with reference to the then applicable provisions of the Act on Courts and Judges allowing those who appoint the Presidents and Vice-Presidents of courts to

remove them, too, Iva Brožová lodged a constitutional complaint against the President of the Republic. The Constitutional Court found in her favour, abolished the relevant provisions of the Act on Courts and Judges as unconstitutional, and subsequently also overturned the President's removal of Iva Brožová from her position as President of the Supreme Court. The Constitutional Court again found in Iva Brožová's favour in her legal dispute with President Václav Klaus after she opposed the appointment of Jaroslav Bureš as Vice-President of the Supreme Court. The Constitutional Court held that Jaroslav Bureš could not become Vice-President of the Supreme Court because the President of the Republic may only appoint a Vice-President of the Supreme Court from the ranks of judges who have been duly assigned to that Court. Jaroslav Bureš's assignment to the Supreme Court, however, had been unconstitutional because the Ministry of Justice did not solicit the assent of the Court's President, i.e. Iva Brožová, for that assignment.

Iva Brožová also faced a disciplinary action filed against her by Minister of Justice Jiří Pospíšil for allegedly covering up a 40-million-crown fine from the tax office. However, the Disciplinary Panel noted that the Supreme Court's President had not committed an act of misconduct as it had been proposed for an administrative error, specifically the failure to comply with the final evaluation of the Supreme Court's construction investments in 2003 and 2004, which was unrelated to the exercise of judicial power.

In 2013, Iva Brožová was awarded an Antonín Randa Silver Medal for repeatedly championing judicial independence. In 2016, she was inducted into the Law Hall of Fame for her extraordinary lifelong contribution to Czech law.



Pavel Šámal

President of the Supreme Court, January 2015-2020

Pavel Šámal (born 1953 in Náchod) graduated from the Faculty of Law at Charles University, Prague, in 1977. From 1979, he was a judge of the District Court in Most. In 1980, he earned a doctoral degree title in law from Charles University's Faculty of Law. He became a judge of the Regional Court in Ústí nad Labem in 1982. In 1991, he was appointed as a judge of the Supreme Court of the Czech Republic (within the framework of the federal structure of supreme courts), which was later transformed into the High Court in Prague. Pavel Šámal was a judge and President of Panel at the Supreme Court's Criminal Division from 1993. He was granted the academic title of Ph.D. by the Faculty of Law at Masaryk University, Brno, in 1999. Two years later, he

was awarded his habilitation degree in criminal law at the same Faculty of Law. In 2006, he was appointed as a professor of criminal law, criminology and forensics at the Faculty of Law of Charles University, Prague. He lectures at the Faculty of Law of Charles University and also at the Faculty of Law of Comenius University in Bratislava (Slovak Republic). He is a member of scientific boards of these Faculties as well as of the Faculty of Law of Masaryk University in Brno and the Faculty of Law of Palacký University in Olomouc. He is the author and co-author of a number of professional legal monographs, the leading author of textbooks and commentaries of all fundamental criminal laws and of more than 250 professional articles and papers, many of which have been published abroad. He is a member of the editorial boards of many professional and scholarly journals.

In 2007, Pavel Šámal was awarded the Antonín Randa Silver Medal for his significant contribution to legal theory and practice in the field of criminal law, which is partly based on his long-term participation on the Ministry of Justice committees working on legislation in the field of criminal law. In 2008, Pavel Šámal was awarded the title of Lawyer of the Year in the Criminal Law category.

On 1 January 2011, Pavel Šámal assumed the position of the President of the Grand Panel of the Criminal Division of the Supreme Court, and he served as the President of the Supreme Court from 22 January 2015 to February 2020, when his office ceased by default because he was appointed a judge of the Constitutional Court on 20 February 2020.

Pavel Šámal has long devoted himself to legislative activities and is known, in particular, as the principal author of the new Criminal Code from 2009. He has also worked on the preparation of the Act on the Judiciary in Juvenile Matters, along with the Probation and Mediation Service Act. He co-authored the sweeping amendment to the Code of Criminal Procedure from 2001. He is currently the Chairman of the Justice Ministry's large-scale Committee for Preparations of the re-codification of the Code of Criminal Procedure.

As the President of the Supreme Court, Pavel Šámal has contributed to significantly improving the credibility of this institution in the eyes of the public. In 2019, the Supreme Court was ranked as the most trustworthy of all Supreme Courts in the Czech Republic in an extraordinary survey by STEM. 65% of respondents found the Court trustworthy. At that time, public opinion was improved by, among other matters, the significant reduction in the length of extraordinary appeal proceedings, in both criminal and especially civil proceedings. During the negotiations on the systematisation of posts, Profesor Pavel Šámal, managed to grow both Divisions of the Supreme Court with new judges, and the Personnel Department was also able to employ a significant number of new judicial assistants after 2015. On 1 October 2019, Pavel Šámal, in co-operation with the Ministry of Justice, managed to open the new wing of the Supreme Court building, which finally provided adequate facilities for the judicial assistants of the Supreme Court. The Supreme Court had been trying unsuccessfully to expand its headquarters since 2000.



Petr Angyalossy

President of the Supreme Court from 20 May 2020

Petr Angyalossy, who was born in 1964 in Přerov, graduated from the grammar school in Dunajská Streda and then took studied a socio-legal extension course in Nitra. He studied remotely at the Faculty of Law of Masaryk University in Brno while working in various blue-collar, technical and administrative jobs. After graduating, he subsequently received his JUDr. and Ph.D. degrees in 1998 at the same Faculty. He was appointed a judge in 1996; from that year, he served as the President of the Panel of the District Court in Olomouc. In 1999, he became the President of the Panel of the Regional Court in Ostrava, Olomouc branch. In 2004, he became a judge of the High Court in Olomouc, for ten years he was also the spokesperson. He gradu-

ally discovered how the public needed to be informed about events in the judiciary and what could and could not be disclosed about judicial proceedings in popular cases. He was appointed as a judge of the Panel of the Criminal Division of the Supreme Court on 1 April 2017 and has been the President of the Panel of the Criminal Division of the Supreme Court since the summer of 2018. Petr Angyalossy was appointed President of the Supreme Court by the President of the Czech Republic Miloš Zeman for a 10-year term of office on 20 May 2020.

In his first year on the Supreme Court, he was appointed as an ad hoc judge for the Czech Republic to the joint supervisory body of Eurojust. In 2019 and 2020, he led a working group that prepared the Code of Ethics for Judges of the Czech Republic. On 23 April 2021, Petr Angyalossy was elected to the Council of the Network

of the Presidents of the Supreme Judicial Courts of the European Union.

Petr Angyalossy, has set as one of his main priorities to further reduce the length of the extraordinary appeal proceedings, to improve public confidence in the judicial system and thus to increase its prestige. He is aware that the Supreme Court is undergoing a generational change, which is why he is emphasising the careful selection of new judges to replace those who will leave the Supreme Court in the coming years after they reach the age of 70.

The lecturing activity of Petr Angyalossy is focused primarily on the interpretation of case law and procedures necessary for courts to decide in adhesion proceedings on claims for compensation for other than proprietary harm caused by criminal activity. In addition to this topic, he also lectures on the ethical behaviour of judges and public prosecutors, judges' public image and appearance and communication with the media. This is aimed primarily at aspiring judges and public prosecutors to equip them with the right skills to act as representatives of the judiciary.

The merits of President Petr Angyalossy in developing co-operation with the supreme judicial courts of other European countries are also undeniable. In spite of the coronavirus pandemic, he has further deepened the Court's co-operation with the Supreme Court of the Slovak Republic and kept in regular contact, either online or in person, through mutual visits, with the highest representatives of the judiciary from Austria, Germany, France, the Netherlands, Hungary and the countries of the former Yugoslavia and the Balkan Peninsula.

The Supreme Court

Today



Group photograph of Supreme Court judges (November 2024)

The Supreme Court is the highest judicial authority in matters within the jurisdiction of the courts in civil court proceedings and in criminal proceedings. Its Panels decide on extraordinary appeals, with the exception of matters within the jurisdiction of the Constitutional Court and the Supreme Administrative Court.

Extraordinary appeals are appeals against decisions of the second instance courts and also complaints on the violation of the law submitted to the Criminal Division by the Minister of Justice. The Supreme Court also decides, in cases provided for by law, on the territorial and substantive jurisdiction of the courts, on recognition of foreign judgments, on permissions to surrender persons upon European arrest warrants, on review of telecommunications survey warrants, and inquiries concerning the removal of cases from the scope of powers of the law enforcement and criminal proceedings authorities.

The extraordinary appeal proceedings pursuant to the Civil Procedure Code (Act No. 99/1963 Coll., as amended) primarily reflect modifications in the extraordinary appeal proceedings implemented by Act No. 404/2012 Coll., effective as of 1 January 2013. Extraordinary appeals are only directed against judgments issued by appellate courts if such courts have decided on appeals against decisions of courts of first instance; however, it may also be directed against certain resolutions of an appeal court, which were issued in the course of the appeal proceedings and are provided for by the Section 238a of the Code of Civil Procedure.

An extraordinary appeal is admissible under Section 237 of the Code of Civil Procedure. The admissibility conditions set forth herein must be stated by the applicant, otherwise the extraordinary appeal will be deemed defective and will be dismissed. The Supreme Court does handle extraordinary appeals that are not admissible, and will reject such appeals as inadmissi-



The Plenary Hall of the Supreme Court before the major renovation, which was the biggest investment event of 2022



Photo of the renovated Plenary Hall



Gowns of judges of the Supreme Court

ble. Extraordinary appeals against decisions of the appellate courts issued as of 1 January 2013 may only be lodged on the grounds of the decision of the appellate court being based on an erroneous determination of law (Section 241a (1) of the Code of Civil Procedure). In particular, the appellant must specifically state which legal assessment made by the appellate tribunal is allegedly unlawful and must also explain what the alleged unlawfulness rests in. The unlawfulness of legal assessment of a case may concern both the interpretation of substantive law and the interpretation of procedural law which the appellate court has adopted in the contested decision.

Unless otherwise specified, the appellant must be represented by an attorney at law or a notary. The notary may only represent the appellant within the scope of their authority, as provided for by special legal regulations. The above does not apply if the appellant is a person who has received legal education or is a legal entity, a state, a municipality or a higher territorial self-governing body or unit, if they are represented by a person specified in Section 21, 21a or Section 21b of the Code



The meeting room in the new wing of the Supreme Court building serves as one of two meeting rooms



Office of Petr Angyalossy, the President of the Supreme Court of the Czech Republic

of Civil Procedure, who has received legal education or if the appellant is a municipality, which, under the terms of Section 241 (3) of the Code of Civil Procedure, is represented by the State.

Prior to the competent Panel of the Civil and Commercial Division of the Supreme Court commencing the actual review of the contested decision of an appellate court, it may suspend the enforceability of such decision (Section 243 of the Code of Civil Procedure). Suspension of enforcement implies a considerable interference with the right to legal certainty of the parties and as such only takes place in cases in which it can be justified by extraordinary circumstances. The suspension of enforceability is intended to prevent the immediate enforcement of the decision and thus any harm suffered by the appellant on their rights. In cases of the

suspended decision or decision that is not enforced, the court may suspend the finality of the decision. This also applies if there is a serious threat to the rights of the appellant and where the suspension does not affect legal relationships of persons other than the parties to the proceedings.

The Supreme Court essentially decides extraordinary appeals in civil matters without holding a hearing, however, in exceptional cases a hearing may be listed as provided for by Section 243a (1) of the Code of Civil Procedure.

In the Supreme Court Criminal Division, the fundamental remedy is the extraordinary appeal, which may only challenge a final decision of the court on the merits, provided that court ruled at the second instance (i.e.



Petr Angyalossy, President of the Supreme Court



Petr Šuk, Vice-President of the Supreme Court

where a regional or high court has decided on an appeal or in complaints proceedings), and provided the Act No. 141/1961 Coll., the Code of Criminal Procedure, as amended, allows it. An extraordinary appeal in criminal matters may only be filed on the grounds provided for by the law, as defined in Section 265b of the Code of Criminal Procedure, and an extraordinary appeal solely contesting the grounds of the decision is not admissible. The extraordinary appeal must be filed by an attorney at law in a capacity of a defence counsel, and besides the general requirements, must also contain extraordinary particulars as defined in Section 265f (1) of the Code of Criminal Procedure.

The primary format for hearing of the extraordinary appeals in criminal matters is a public session in which all decisions of the court that decides on extraordinary ap-

peals on the extraordinary appeal lodged, as provided for by the Code of Criminal Procedure (Section 265r (1)) may be arrived at. Some decisions may only be adopted in public sessions, in some cases a closed session is also possible, at the discretion of the court that decides on extraordinary appeals.

Another extraordinary remedy is a complaint on the violation of the law, which may only be filed by the Minister of Justice, to the benefit or to the detriment of the accused or a third party. The Supreme Court will dismiss a complaint on the violation of the law if it is not admissible, if it is filed late or if it is not justified (Section 268 of the Code of Criminal Procedure). If the Supreme Court finds that the law has been violated, it decides by judgment that the law has been violated by the contested decision, or its part, or the proceedings which

preceded such a decision. If the Supreme Court finds that the law has been violated in favour of the accused or in favour of or to the detriment of another person, its decision shall only constitute an academic declaratory statement to the effect that such a violation of the law has occurred, but the Court does not have authority to annul nor set aside the contested decision nor the proceedings that preceded it. The contested decision or the proceedings preceding it shall only be set aside by the Supreme Court (the Court has an obligation to do so), should it find on the basis of a complaint on the violation of the law, that the law has been violated to the detriment of the accused.

The Supreme Court plays a crucial role in unifying the case law. In particular, it does so not only by deciding on extraordinary appeals but also by issuing Opinions on

uniform interpretation of the law. The most important decisions of the Supreme Court, or of lower courts, and the Opinions of the Divisions or of the Plenary Session of the Supreme Court, are published in the Collection of Decisions and Opinions of the Supreme Court.

According to Act No. 159/2006 Coll., on Conflict of Interest, as amended, since 1 September 2017, the Supreme Court is also in charge of collecting, recording and checking notifications of the activities, property, income, gifts and obligations of all, more than 3,000, judges of the Czech Republic. The recorded notifications are not public.

The Court is chaired by the President of the Supreme Court, who was appointed by the President of the Republic on 20 May 2020 Mr Petr Angyalossy, and the



František Půry, President of the Criminal Division



Pavlína Brzobohatá, President of the Civil and Commercial Division

Vice-President of the Supreme Court, Mr Petr Šuk, appointed on 17 February 2021. The Supreme Court also consists of the Presidents of Divisions, Presidents of Panels and other judges. The President and Vice-President of the Court are appointed by the President of the Republic for term of office of 10 years.

The President of the Supreme Court is primarily a body of state administration of courts, whose competences are exhaustively defined in Act No. 6/2002 Coll., on Courts and Judges, as amended. The specific ways in which the Supreme Court President conducts the state administration of the Supreme Court are defined in Section 124 of this Act. The primary task of the state administration of the courts is to create for the courts the conditions for proper administration of the judiciary, mainly in the areas related to staffing, organisation, economic, and financial issues, and education and training. Court administration is strictly separate from the jurisdiction of the courts, since the exercise of state administration of judiciary must not interfere with the principle of the independence of the courts.

The activity of other judges of the Supreme Court is organised by the President of the Court in particular through issuing work schedules, annually for the period of the calendar year, having discussed it with the Council of Judges, issuing the Rules of Procedure of the Supreme Court, issuing the Office Rules and the Rules of Organisation, presiding over the Plenary Sessions, he may take part in sessions of any Division, he presides over or sits in a Panel according to the Work Schedule, convenes the sessions of the Supreme Court Plenary Session, determines their programme and presides over their sessions, on the basis of final courts' decisions makes proposals addressed to the Divisions or the Plenary Session for adoption of opinions on the courts decision-making in matters of a particular kind, takes heed of the dignity of the proceedings, of the observance of judicial ethics and the smoothness of proceedings, deals with complaints of delays in the proceedings. He also deals with complaints about inappropriate behaviour or non-compliance with the dignity of court proceedings of judges and other employees working with the Supreme Court or the President of the high courts.

The Vice-President of the Supreme Court primarily contributes to the administration of justice by representing the President during his absence and, in the presence

of the President, by exercising the powers entrusted to him or her by the President. During official proceedings on comments on bills, he or she collects comments from the Supreme Court judges on newly drafted laws and bills.

Supreme Court judges act within Divisions, based on the relevant area of law. The Supreme Court currently has two Divisions. The Criminal Division, which, since 1 January 2016, has been presided by Mr Frantisek Pury, who was entrusted to head this Division even prior to his appointment, on September 1, 2015, and the Civil and Commercial Division, which has been presided – since 1 January 2024 – by Ms Pavlína Brzobohatá. Presidents of Divisions manage and organise the work of the respective Divisions. Presidents of Divisions are appointed by the President of the Supreme Court for a term of five years.

In order to ensure the legality and consistency of court decisions, the Divisions monitor and evaluate the judgments of the judiciary and generalise the acquired insight and knowledge, they submit proposals for an



Jiří Doležilek, President of the Grand Panel of the Civil and Commercial Division



In October 2023, the last three-day meeting of the criminal judges of the Supreme Courts of the Czech Republic and the Slovak Republic took place in Třebíč. The meeting of about forty judges dealt mainly with the agreement on guilt and punishment, declaration of guilt, admission of undisputed facts and the institute of the so-called cooperating defendant. The last meeting of the judges of the Civil Divisions of the two highest courts took place in mid-June 2023 in Trnava, Slovakia

Opinion on the decision-making activity of the courts for a particular type of case by Plenary Session to the President of the Supreme Court, adopt Opinions at the request of the Supreme Court President, Presidents of Divisions or the Grand Panel, select and decide on the inclusion of decisions in the Collection of Decisions and Opinions. The proceedings of the Divisions are not public.

Judges decide in accordance with their own conscience and are bound by law alone. As a rule, the Supreme Court sits in Panels composed of the President of Panel and two judges or sits in Grand Panels of the Divisions. The Panels made up of three members have jurisdiction to decide on extraordinary appeals, in criminal matters also on complaints on the violation of the law and on the recognition and enforcement of judgments issued by foreign courts on the territory of the Czech Republic, where this is required by a special legal regulation or an international treaty.

The Grand Panels of the Divisions were constituted at the Supreme Court by Act No. 30/2000 Coll., which, with effect as of January 1, 2001, amended the original Act on Courts and Judges No. 335/1991 Coll. (Act No. 6/2002 on Courts and Judges, as amended, is now in effect). Grand Panels are composed of at least nine judges from the respective Division of the Supreme Court. However, if a Division consists of more than 27 judges, the Grand Panel of this Division shall consist of one-third of all judges in the Division; if one-third of all the Division judges does not amount to an odd number, the Grand Panel shall consist of a number of judges corresponding to the odd number greater than 9 immediately following that proportion. There is only one Grand Panel in each Division. The Grand Panel of the Division decides when a case has been referred to it by one of the Supreme Court Panels because, in its decision, it has reached a legal opinion that differs from the legal opinion already expressed in the Supreme Court's decision. The President of Grand Panel of the Supreme Court's

Criminal Division is František Půry, the President of Grand Panel of the Civil and Commercial Division is Jiří Doležilek.

The President of Panel is at the head of each Supreme Court Panel and organises its work. The allocation of cases to individual Panel members is governed by the Work Schedule.

The most important collective body of the Supreme Court is the Plenary Session consisting of the President and Vice-President of the Supreme Court, Presidents of Divisions, Presidents of Panels and other Supreme Court judges. The meetings of the Plenary Session are not public, but the Minister of Justice has the right to attend its meeting, and there is also the option of inviting Presidents of the high courts, regional courts and other persons. The Plenary Session addresses the Rules of Procedure of the Supreme Court, and in the interests of consistent decision-making of the courts, it adopts Opinions on the courts' decision-making in cas-

es concerning both Divisions or in disputes between Divisions.

Under Section 23 (2) of Act No. 6/2002 Coll. on Courts and Judges *"The Supreme Court Plenary Session may validly rule in the presence of at least two-thirds of its members. The adoption of the resolution requires the consent of an absolute majority of the members present; however, the approval of an absolute majority of all members is required to obtain an opinion, to merge the Civil and Commercial Division or to redivide it."* Then, subsection 23 (3) of Act No. 6/2002 Coll. states: *"The President of the Supreme Court convenes the Plenary Session, determines its agenda, and chairs its sessions. The President of the Supreme Court is obliged to convene a Plenary Session if at least one-third of all Supreme Court judges so request; in which case the President of the Supreme Court shall determine the agenda for the Plenary Session on the basis of the proposal of the person who requested the session."* The last Opinion was approved at the Plenary Session meeting on



Supreme Court judges during a meeting of the Plenary Session (2016)

5 January 2017 where the judges present signed the Opinion on Electronic Submissions and the Delivery of Electronically-Prepared Court Documents Executed Through the Public Data Network. Here, the Supreme Court Plenary Session first defined its legal opinion on the issue of the service of court documents using data boxes, clarified the situation where an electronic signature is needed when electronic communications are used, and when this is not necessary. The adopted Opinion also deals with how to serve or receive submissions from persons who have multiple mailboxes, or from legal entities. This plenary Opinion has a major influence on the service of documents and the effects of filing in court proceedings at all levels of the Czech judicial system.

Another meetings of the Plenary Session were held on 10 November 2022 and 26 November 2024. At both meetings, amendments to the Organisational Rules were discussed.

The Supreme Court has a five-member Council of Judges consisting of elected judges of the Civil and Commercial Division, Lubomír Ptáček, who is the President of the Council, Petr Gemmel, Václav Duda and judges of the Criminal Division, Jan Engelmann and Tomáš Durdík. The Council of Judges is a consultative body of the Supreme Court President. Its jurisdiction is regulated under Section 50 of Act No. 6/2002 Coll., on Courts and Judges, as amended.

Section 50 (1) The Council of Judges of the Supreme Court

- a) *expresses its views on the candidates for appointment as President of Division and President of the Supreme Court Panel,*
- b) *expresses its views on judges who are to be assigned or transferred to the Supreme Court or to be transferred from the Supreme Court to another court,*
- c) *discusses the proposals for the Work Schedule of the Supreme Court and changes thereto,*
- d) *expresses its views on crucial issues relating to the state administration of the Supreme Court,*
- e) *may request that the Supreme Court President con-*

vene the Supreme Court Plenum and propose an agenda for the Plenary Session,

- f) *also performs other tasks as specified in this Act or specific legislation.*

Section 50 (2) Proposals pursuant to paragraph 1 (a), (b), (c) and (d) shall be submitted by the President of the Supreme Court to the Council of Judges; it shall at the same time specify the time limit within which the proposal shall be dealt with by the Council of Judges, which shall not be shorter than five working days. If the Council of Judges fails to express its opinion within this time limit, it shall be presumed to have agreed with the proposal.

Supreme Court Judges, as well as Judges of the Supreme Administrative Court, rule on jurisdictional disputes over jurisdiction or substantive jurisdiction to adjudicate in matters where the parties are civil and administrative courts or courts and self-governing executive, territorial, interest-related or professional authorities. Such jurisdictional disputes are decided by a Special Panel set up under Act No 131/2002, composed of three Supreme Court Judges and three Supreme Administrative Court Judges. This Panel acts and decides at the seat of the Supreme Administrative Court in Brno.

In 2024, it took exactly 150 days to issue a decision in the civil extraordinary appeals agenda, a year earlier it took only 143 days, but two and three years ago it took 160 days, and in 2020 it took 186 days, so the result for last year is very good in historical comparison. For the second year in a row, the length of the proceedings concerning incidental disputes in insolvency proceedings was 10 months (in the years 2020 to 2023, these proceedings lasted on average over 13 months), and for cases submitted to the Court for a decision in insolvency proceedings, the length of the proceedings was reduced to 7 months compared to the previous year (in 2023, these proceedings lasted 9 months, and in 2021 and 2020, even one month longer). The Criminal Division of the Supreme Court has long been able to achieve a very favourable length of extraordinary appeal proceedings in the range of 40 to 50 days, while in the case of complaints on the violation of the law it took exactly 80 days to process the case, which represents a slowdown of more than 20 days compared to previous years (in the years 2021 to 2023 the length of



Lawyer of the Year gala evening, where the President of the Panel of the Civil and Commercial Division of the Supreme Court Lubomír Ptáček was named Lawyer of the Year 2019 in the Family Law category



President of the Criminal Division of the Supreme Court, František Půry, receives the title Lawyer of the Year 2018 in the Criminal Law category at a gala evening

proceedings lasted between 50 and 60 days, but in 2020 it was 75 days). Given the lower number of proceedings in this agenda, however, it is virtually impossible to draw any deeper conclusions from the above; each year this agenda is very specific due to the cases in which a complaint on the violation of the law is filed by the Minister of Justice.

Achieving a very good average length of proceedings at the Supreme Court across the various agendas was partly made possible by the gradually decreasing case-load, i.e. the number of cases submitted to the Supreme Court for decision. Reaching a historic peak in the number of newly received cases in 2016, with over 6 000 civil extraordinary appeals alone, the number of extraordinary appeals dropped below 4 000 after legislative adjustments; in 2024, the Cdo agenda had 3 609 cases. Also, in the case of criminal extraordinary appeals, we can observe a long-term decline in the number of

proceedings initiated before the Supreme Court – in 2016 there were 1 804 proceedings, in recent years the threshold of the newly received cases is around 1 200.

As of 1 January 2025, the Supreme Court had a total of 69 judges, 23 in the Criminal Division and 46 in the Civil and Commercial Division. In addition to them, 5 trainee judges were temporarily assigned to the Supreme Court. The judges were assisted by 163 judicial assistants, and the court employed another 122 staff members.

While the number of judges has increased only slowly, for example by only 9 Judges since 2008, the number of staff has increased by 85 over the same period. These are mostly new judicial assistants, who helped, among other things, to maintain the average length of proceedings at a level comparable to years when individual Panels had to deal with far fewer cases.



Lawyer of the Year 2020 and 2021 gala evening, where the Vice-President of the Supreme Court, the President of the Panel of the Civil and Commercial Division, Petr Šuk, was named Lawyer of the Year in the Civil Law category

Supreme Court judges traditionally receive a number of significant professional recognitions. For example, they are ranked every year at the top of the national Lawyer of the Year competition organised by the Czech Bar Association and the Prague-based joint-stock company EPRAVO.CZ. One of the winners of this prestigious award in the Civil Law category is the Vice-President of the Supreme Court, Mr Petr Šuk. He was awarded the Lawyer of the Year title at the gala evening on 27 May 2022 in Prague jointly for the years 2020 and 2021, as the organizers had to exceptionally combine both years due to the coronavirus pandemic. The anti-epidemic measures in force did not allow the gala evening to be held in 2021 and the winners for the separate year 2020 to be announced. In 2019, the winner in the Criminal Law category of this competition was Mr Robert Fremr, now a former Supreme Court judge, who was released as a judge of the Supreme Court to serve at the International Criminal Court in The Hague (ICC) from 2013



Roman Fiala, President of the Panel of the Civil and Commercial Division of the Supreme Court, Vice-President of the Supreme Court, 2011–2020, awarded an Antonín Randa Bronze Medal by the Union of Czech Lawyers, in 2021

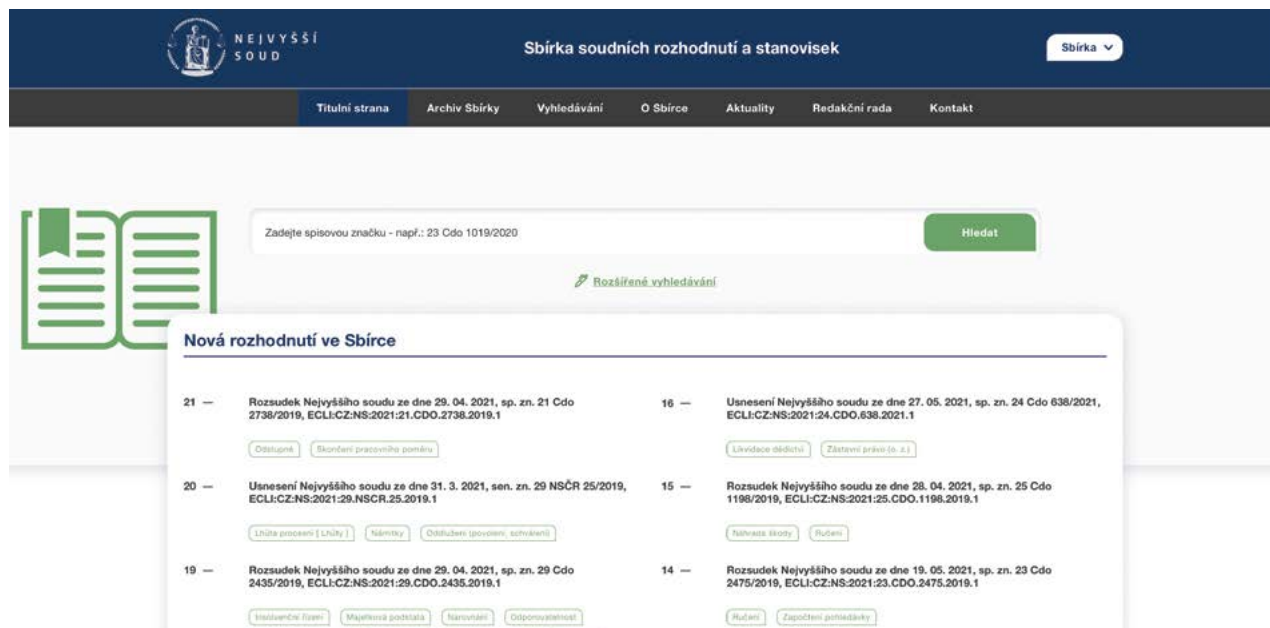


Pavla Brzobohatá, President of the Panel of the Civil and Commercial Division of the Supreme Court, awarded an Antonín Randa Bronze Medal by the Union of Czech Lawyers, in 2019

to 2021; he was also the First Vice-President of the ICC from 2018 to 2021. The 2019 Lawyer of the Year in the Family Law category was the President of Panel of the Civil and Commercial Division, Mr Lubomír Ptáček;

only a year earlier, the Criminal Law category was dominated by the President of Criminal Division of the Supreme Court, Mr František Půry; in 2017, the Civil Law category was won by the renowned labour-law expert, Mr Zdeněk Novotný; in 2015, in the Civil Law category, the Lawyer of the Year was the then Vice-President of the Supreme Court, Mr Roman Fiala, who specialises in inheritance law; a year earlier, the Lawyer of the Year in the Civil Law category was awarded to the President of Panel of the Civil and Commercial Division of the Supreme Court and specialist in deciding the amount of compensation for other than proprietary harm, Mr Petr Vojtek; in 2012, the President of Panel of the Civil and Commercial Division of the Supreme Court, Mr Zdeněk Krčmář, became the Lawyer of the Year in the Insolvency Law category.

The judges are also very appreciative of the Antonín Randa Medals awarded by the Czech Lawyers' Union. The first President of the Supreme Court in its modern history, Otakar Motejl, was the recipient of the Gold and Silver Medal of Antonín Randa. Another former President of the Supreme Court, Mr Pavel Šámal, won the Silver Medal in the Criminal Law category in 2008. Furthermore, the Silver Medal was awarded to our Judges



Cover of the Collection of Decisions and Opinions of the Supreme Court



Karel Jungwiert, a judge of the federal Supreme Court since 1992, subsequently a judge of the Supreme Court of the Czech Republic, seated in Brno, 1993-2012 a judge of the ECtHR, on the right Iva Brožová

on the following occasions: in 2017 to Mr Vladimír Kůrka, President of the Civil and Commercial Division, for his lifelong contribution to legal theory and practice; in 2015 to Mr Jiří Spáčil, President of Panel of the Civil and Commercial Division, for his extensive publishing and educational activities; and in 2010 to Mr Antonín Drašík, President of Panel of the Criminal Division, in recognition of his long-standing judicial practice and extensive educational activities. The Antonín Randa Bronze Medal was awarded in October 2021 to former Vice-President of the Supreme Court Mr Roman Fiala for his significant contribution to civil law, especially for his merits in the field of inheritance law, and for his long-standing active co-operation with the Czech Lawyers Union. Mrs Pavlína Brzobohatá, the President of the Panel of the Civil and Commercial Division, who specialises in decisions on tenancy disputes, disputes over evictions of houses or flats, or non-residential premises, in matters of associations of unit owners, in matters of payments and claims for limitation of the right of ownership due to State-regulated rents, and in matters of enforcement of decisions and executions, was awarded the Bronze Medal in 2019. The President of the Panel of the Civil and Commercial Division, Mr Petr Vojtek, had been honoured with the medal a year earlier. In 2015,

the Antonín Randa Bronze Medal was also awarded to the President of the Panel of the Civil and Commercial Division, Mr Michal Králík.

In 2021, the former President of Panel of the Civil and Commercial Division, Mr Mojmír Putna, became the first Czech judge to be awarded the Jan Vyklický Award. The award, given for exceptional achievements in the judiciary, was established by the professional association of judges only in 2018 as a memorial to former union president Jan Vyklický, who had just passed away. Austrian judge Mr Günter Woratsch was the first person to be awarded in 2019 for his outstanding achievements in the judiciary at a broad international level, including his extraordinary contribution to the development of the professional organisation of judges in the Czech Republic.

In terms of improvement of the legal awareness of the professional and lay public, one of the most important activities of the Supreme Court is the publication of the Collection of Decisions and Opinions, pursuant to Section 24 (1) of Act No. 6/2002 Coll., on Courts and Judges. This is the only official collection of court decisions in cases both in civil and criminal proceedings. They con-

tain all the Opinions of both Divisions of The Supreme Court, opinions issued by the Plenary Session of the Supreme Court, as well as selected decisions of various Panels of the Divisions (including the Grand Panel) and also selected decisions of lower courts.

Once the decisions selected for a potential publication in the Collection of Decisions and Opinions have been assessed by the Records Panel of the relevant Supreme Court Division, they are distributed to the relevant bodies for comment, i.e. regional and high courts,⁷ law faculties of universities, the Czech Bar Association, the Ministry of Justice, for criminal matters also to the Prosecutor General's Office and potentially, depending on the nature and importance of the questions being addressed, other bodies and institutions. The proposed decisions and the comments received are then considered and approved at a meeting of the relevant Supreme Court Division, which is quorate if attended by a simple majority of its members. A decision is taken at the meeting of the Division to approve the proposed decisions for publication by a vote from all the Division judges present. A simple majority of votes of all Division judges is required to approve a decision for publication in the Collection of Decisions and Opinions.

For many decades, the Supreme Court published the Collection of Decisions and Opinions only in printed form, in the form of ten comprehensive volumes per year. At the beginning of 2017, co-operation with the publishing house Wolters Kluwer ČR allowed the Court to create a user-friendly digital form of the Collection that is available at *sbirka.nsoud.cz*; this digital Collection contains not only all the new decisions, but also the complete previous content from the beginning of the Collection's periodical publication in the 1960s. Another radical change occurred at the start of 2022, from when all decisions in the Collection are published exclusively in digital form; the printed form has been dropped for environmental reasons and due to the increasing popularity of the digital version. Furthermore, the Supreme Court will publish the Collection independently from 1 January 2022, so its finalisation is no longer carried out in co-operation with Wolters Kluwer ČR.

At the beginning of 2017, a new, user-friendly electronic form of the Collection of Decisions and Opinions had been produced in collaboration with the Wolters Kluwer publishing house, available on *sbirka.nsoud.cz*, into

which not only all the new decisions are included as they are issued, but the complete previous content published since the beginning of the 1960s has also been incorporated respectively.

Similarly, the "Blue Collection", containing important decisions of the European Court of Human Rights (ECtHR) in Strasbourg, has also been available in digital form since 2017. Its printed version was also available in parallel until the end of 2021. The Supreme Court Blue Collection began to appear four times a year as an attachment in the Collection of Decisions and Opinions in 1995, titled *Selection from the European Court of Human Rights judgments in Strasbourg*. The creation of this appendix was influenced not only by the increasing interest of the legal public in the decisions of the European Court of Human Rights after the Czech Republic became a party to the Convention for the Protection of Human Rights and Fundamental Freedoms but also by the unforgettable personal contribution of Mr Karl Jungwiert, the then judge of the Supreme Court of the Czech Republic, who in September 1993 became the first Czech Judge of the European Court of Human Rights, where he worked until 2012.

The Supreme Court's endeavour was to make the current case-law of the Strasbourg court available not only to Supreme Court judges but also to judges at lower levels of the judiciary. The emphasis on the practical applicability of the ECtHR case law to the Czech courts was highlighted in 2014 not only with the new title of the periodical, which is based on the number 2/2014 as "*Selection of European Court of Human Rights judgments considered by the Supreme Court important for judicial practice*", which increased the professional standards of this collection.

The current concept of the annotations being processed is based on the need to inform the professional public about the up-to-date decisions that are of final nature. However, the facts of the cases and proceedings before the national courts are briefly summarised, so that the reader has a good overview of the underlying legal issues and the grounds for the application. Emphasis is then put on a careful selection of the most important parts of the reasoning of the decision, which are then translated. The author's comments, drawn up by most of the Supreme Court's judges, illustrate the benefits of the decision; references to the Articles of the

Convention and the relevant national legal provisions along with the inclusion of keywords increase the professional standard and value of the periodical. The selection of case law to be included in the Blue Collection is entrusted to a group of judges of the Supreme Court, a government agent representing the Czech Republic before the European Court of Human Rights and employees from the Department of Analytics and Comparative Law of the Supreme Court. The exclusively digital version of the “Blue Collection”, whose title has since been established as “Selection of the Decisions of the European Court of Human Rights for Judicial Practice”, is available from 1 January 2022 at <https://eslp.nsoud.cz>.

Given the increasing volume of case law at the European level, mutual cooperation between the top European judicial institutions and the national courts of the Member States is rapidly gaining in importance, which in turn ensures compliance with and implementation of international undertakings at a national level. That is why the Department of Analytics and Comparative Law has been functioning at the Supreme Court since 2005, primarily focused on analytical work for the needs

of the Supreme Court and lower courts, especially in the field of European and comparative law. Its activities primarily include the drawing up of analyses for decision making, whether in the area of the case law of the Court of Justice of the European Union and the European Court of Human Rights, or in legislative and decision-making practice in other EU member states and non-EU countries. The role of this Department was already mentioned when choosing a decision to publish in the so-called Blue Collection.

However, the Department does not just focus on analytical work. It is in charge of a broad agenda related to diverse international issues, legal assistance, and helps maintain close contact with individual foreign courts. Employees of this Department are also involved in the work of the Comparative Law Liaisons Group, which seeks to cooperate closely in the exchange of legal information, in particular the content of legislation and case law. The Group was formed as part of the Network of Presidents of the Supreme Courts of the Member States of the European Union and alongside the Supreme Court of the Czech Republic, the Supreme



Department of Analytics and Comparative Law

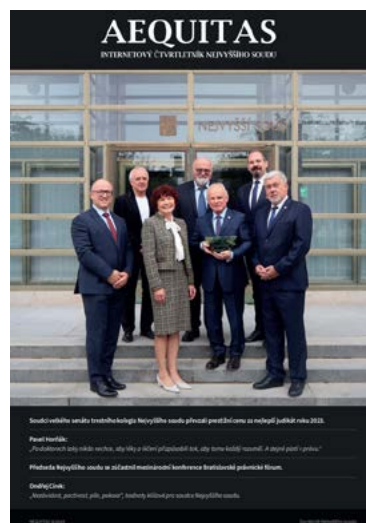
Courts of Germany, France, Great Britain, Belgium, the Netherlands, Finland and since 2023 also Slovenia are other members of this exclusive international group.

One of the series of outputs where the Department of Analytics and Comparative Law presents its work is also the Bulletin, quarterly published on the Supreme Court's website.

Professional legal analytical activity in the field of Czech case law in matters within the jurisdiction of the Czech courts in civil and in criminal proceedings has been dealt with since 2011 in the Department of Documentation and Analysis of Czech Case Law. Recently, it has completed an analysis of the issue of monetary penalties imposed in criminal proceedings, analysed the issue of the disciplinary liability of judges, and processed dozens of decisions handed down by lower courts concerning parallel proceedings for claims for non-pecuniary damage. The Department cooperates closely with the Records Panels of the Supreme Court Divisions, where it carries out extensive searches of case law concerning specific legal issues, assesses its applicability to the given case and formulates partial conclusions, which serve as basis for the work of the Records Panels and proceedings in both Divisions. In addition, it also processes background material for the Supreme Court's comments on emerging legislation or changes to it, or legal documents such as complaints about delays.

Especially in recent years, the Supreme Court has been trying to open up to the public more. In addition to daily updates to the website www.nsoud.cz, where all the judgments of its Panels have been published in anonymised forms since 2001, it also publishes its contributions and information of the court's activities on social networks, such as X, LinkedIn and Instagram.

Since April 2017, the Supreme Court has published an electronic quarterly AEQUITAS. This periodical places emphasis on the inclusion of images and a magazine format for contributions, by which the Supreme Court is attempting to reach out to the general public by promoting the Court's activities and the work carried out by the judges and court employees. AEQUITAS has received a number of positive feedbacks, its articles are also used by other media.



Example of the cover page of the electronic quarterly issued by the Supreme Court, AEQUITAS

The DATANU web application, launched in January 2018, has become a highly beneficial and, according to numerous responses, highly popular tool used by dozens of professional and lay users on a daily basis, containing information from hundreds of court decisions that dealt with the claims for compensation for pain and suffering, for harm to social inclusion and claims by the bereaved in death of a relative. This application also includes an online calculator for approximation of the extent of impairment of the abilities of the injured person (assessment of the extent of the harm to social inclusion as recommended in line with a Methodology). The application on the website www.datanu.cz, created in cooperation with the Centrum dopravního výzkumu, v. v. i., (Centre for Transport Research).

The Library of the Supreme Court is registered at the Ministry of Culture as a specialized public library and offers over 31 000 books, brochures, as well as CDs and DVDs. The library contains 35 rare 18th-century items, including the oldest calendar dating back to 1748. Another 885 pieces of the collection were published in the nineteenth century. Other rarities are two large-format albums, bound in leather, which include photographs of all the Supreme Court's judges who worked there from 1918 to 1939. The catalogue of the library is publicly available on the website of the Supreme Court. Apart from predominantly scientific publications, it is also possible to borrow belles-letters; there is a selection of approximately 3,000 titles.


CENTRUM
DOPRAVNÍHO
VÝZKUMU

Databáze judikatury k náhradě újmy na zdraví

O aplikaci

Nacházíte se v databázi soudních rozhodnutí týkajících se náhrady nemajetkové újmy na zdraví (bolest a ztížení společenského uplatnění) a nemajetkových nároků pozůstalých při usmrcení osoby blízké. Databáze obsahuje rozhodnutí spadající do období účinnosti zákona č. 40/1964 Sb. (starého občanského zákoníku) a průběžné jsou a budou doplňována rozhodnutí podle zákona č. 89/2012 Sb., občanského zákoníku, účinného od 1. 1. 2014. Rozhodnutí lze vyhledávat podle množství klíčových parametrů případu s následnou možností exportu zobrazených dat. Webová databáze má sloužit široké i odborné veřejnosti jako komplexní zdroj informací v problematice náhrady nemajetkové újmy na zdraví a má přispět ke sjednocování rozhodovací praxe. Součástí databáze je

Přihlášení uživatele

Uživatelské jméno (e-mail):

Heslo:

☐ Zůstat přihlášen(a)

The DATANU web homepage

The Supreme Court is developing its activities in a number of international clusters. In the first place, we should mention the Network of the Presidents of the Supreme Judicial Courts of the Member States of the European Union, which forms a well-functioning platform for promoting cooperation amongst Supreme Courts in the European Union and for generally beneficial exchanges of information and experience of judicial practice. The President of the Supreme Court, Mr Petr Angyalossy, regularly participates in the meetings of the Network of the Presidents of the Supreme Judicial Courts of the European Union, where the highest representatives of the European judiciary discuss current problems of the judiciary and take joint positions on some of them, doing so online because of the pandemic. In April 2021, Petr Angyalossy was elected directly to the Council of the Network of the Presidents of the Supreme Judicial Courts of the European Union.

In 2002, the Supreme Court co-founded the Permanent Conference of Presidents of the Visegrad Four, Croatia and Slovenia. Representatives of the highest courts of the Czech, Slovak and Slovene Republics and Croatia, Hungary, Poland meet every year to discuss current issues of civil and criminal law in Europe. The Supreme Court has already hosted this Permanent Conference on three occasions.

In 2012, the Supreme Court acquired the status of an institutional observer in the European Law Institute ("ELI"). The Institute is an independent non-profit organisation based in Vienna, bringing together lawyers from practice, academics and professional institutions involved in the development of EU law. It launched its operations on June 1, 2011.



Interiors of the new Supreme Court Library

President of the Panel of the Civil and Commercial Law Division of the Supreme Court, Mr Lubomír Ptáček has been the so-called liaison judge of the Hague Network of Judges since 2006 for the Czech Republic, established on the basis of the Hague Convention on the Civil Aspects of International Child Abduction. Lubomír Ptáček is also a member of the European Association of Labour Court Judges, and from 2019 even its President, whose term of office is planned to end in June 2022. The Supreme Court has been a member of this Association since 2009, when JUDr. Zdeněk Novotný, the former President of Panel of the Civil and Commercial Division of the Supreme Court, made a significant contribution to the co-operation with this international institution.

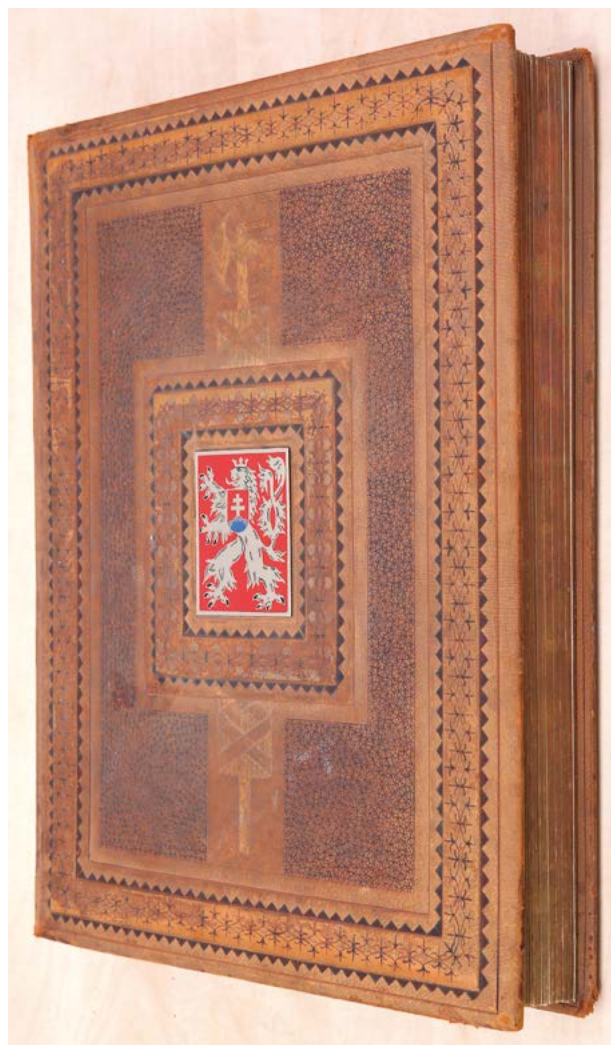
The President of the Supreme Court Petr Angyalossy, was appointed as the ad hoc judge representing the

Czech Republic on the Joint Supervisory Body of the Eurojust in 2017. He will follow on from the work of the late long-time President of the Panel of the Supreme Court Criminal Division in this international institution, Mr Jindřich Urbánek.

It should be recalled once again that in 2013, Mr Robert Fremr left his position as the President of Panel of the Criminal Division of the Supreme Court to become a judge of the International Criminal Court (ICC) in The Hague, where he ended his tenure in 2021 as the First Vice-President. Previously, in 2006–2008 and 2010–2012, he served as a judge ad litem at the International Criminal Tribunal for Rwanda, where he tried those accused of genocide. Nowadays, Mr Robert Fremr is the Vice-President of the High Court in Prague, where he was permanently assigned at his own request.



Rare albums with photographs of all the First Republic judges of the Supreme Court, album of Judges of the Supreme Court from 1918 to 1930



Images from the historical albums are used throughout this publication, album of Judges of the Supreme Court from 1930 to 1939

The fact that the Supreme Court in its recent history subsequent to 1993, and especially nowadays, has literally opened up to the whole world is witnessed by the number of important foreign guests who have been welcomed to Brno, many of whom have done so as participants in successful international conferences the Supreme Court has organised in the recent past.

The best witness of the prominent personalities hosted by the Supreme Court in Brno is the Memorial Book, which has recorded over two hundred and sixty entries since 1993. Let us first take note of the important foreign visits. As early as 1994, the Supreme Court held its first international conference to which it invited the Presidents of the Supreme Courts of its neighbouring countries to enable Czech judges to engage in joint discussions to define relations between the Supreme



Petr Angyalossy during an online meeting of the Network of the Presidents of the Supreme Judicial Courts of the European Union

and Constitutional courts in Central Europe. The conference was attended by former President of the German Federal Court of Justice Mr Walter Oderski, Austrian Supreme Court President Mr Herbert Steininger, President of the Supreme Court of Poland Mr Adam Strzembosz and President of the Supreme Court of the Slovak Republic Mr Karol Plank. In the same year, the

Supreme Court was also visited by the Papal Nuncio Giovanni Coppa, British Justice Officer Lord Mackaye of Clashfern, the President of the Constitutional Council of France, Mr Robert Badinter, and the President of the Supreme Court of Arbitration of the Russian Federation, Mr V. F. Jakovlev.



Lubomír Ptáček



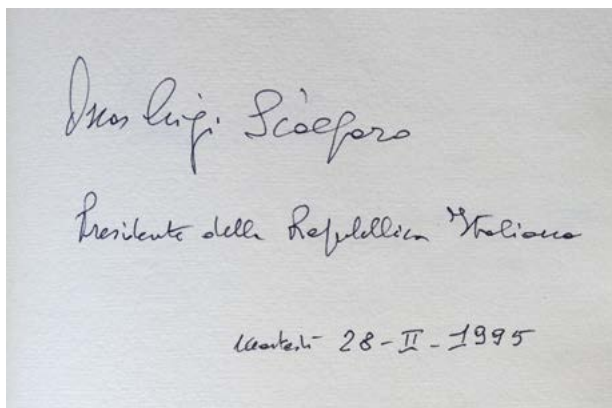
Robert Fremr



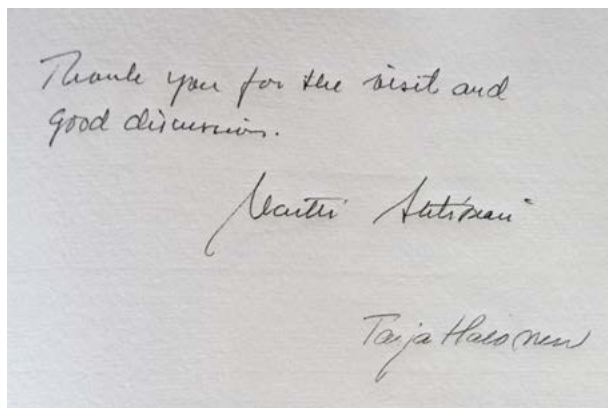
Supreme Court Memorial Book



Walter Odierski, President of the German Federal Court of Justice (1994)



Entry by the President of the Republic of Italy, Oscar Luigi Scalfaro in the Supreme Court Memorial Book



Entry by the President of the Republic of Finland, Martti Ahtisaari in the Supreme Court Memorial Book



President of the European Court of Human Rights Luzius Wildhaber, to the left the President of the Supreme Court Eliška Wagnerová (1999)



Madeleine Albright, US Secretary of State for Foreign Affairs, during a visit to the Supreme Court (2000)

In February 1995, the President of the Republic of Italy, Mr Oscar Luigi Scalfaro, visited the Czech Republic and the Supreme Court in Brno. A visit by Polish President Mr Andrzej Zolla, the President of the Hungarian Supreme Court, Mr Pál Solta, was attended by the President of the Supreme Court of Cassation of France, Mr Pierre Drei, and Mr Pierre Truche, General Prosecutor, in June. In the same year, the Supreme Court also hosted Mr Gheorghe Uglean, the President of the Romanian Supreme Court, and Mr Ludwig Adamowicz, the President of the Austrian Constitutional Court.

March 1996 was marked by a visit by Mr Rolv Ryssdal, the then President of the European Court of Human Rights. The Supreme Court also hosted the President of the Supreme Court of Slovakia, Mr Milan Karabín this year, and Mr Vittorio Sgroi, the then President of the Supreme Court of Cassation in Italy and the President of the Supreme Court of Zimbabwe Mr Roy Anthony Gubbay, visited the city. At the end of the summer of

1996, the Supreme Court had the honour of welcoming Finnish President Mr Martti Ahtisaari.

In 1997 the Supreme Court saw Mr Américo Luz, President of the Supreme Court of Brazil, as well as members of the European Commission for Human Rights headed by its President Mr Stephan Trechsel. The President of the Supreme Court of Slovakia Mr Štefan Harabín made the first of his visits in 1998 (he also arrived in 2002). The President of the Supreme Court of Slovenia Mr Mitja Deisinger visited Brno in May 1999, he also repeated his visit (in 2001). Even in 1999, the Supreme Court also hosted Mr Erwin Felzmann, the President of the Austrian Supreme Court, as well as the President of the European Court of Human Rights, Mr Luzius Wildhaber.

Mr Guy Canivet, the President of the French Court of Cassation visited the Supreme Court twice in 2000. In the same year, the President of the International Court of Justice Mr Gilbert Guillaume and Norwegian's President of the Supreme Court Mr Carsten Smith also held



President of the Court of Justice of the European Union Vassilios Skouris accompanied by the President of the Supreme Court Iva Brožová (2010)



President of the European Court of Human Rights, Dean Spielmann (centre) during a visit to the Supreme Court. To the left Pavel Rychetský, President of the Constitutional Court (2014)

discussions with the leadership of the Supreme Court. Mrs Madeleine Albright, US Secretary of State for Foreign Affairs, was one of the most important guests in 2000.

In May 2001, the leadership of the Supreme Court received a delegation of Israeli judges led by Israeli Supreme Court President Aharon Barak. In September 2001, the President of the Court of Justice of the EU, Gil Carlos Rodriguez Iglesias, became the guest of the Supreme Court. Marek Safjan, the President of the Constitutional Court of Poland, visited the Supreme Court in Brno in September 2002, followed in November of that year by the President of the Supreme Court of Poland, Lech Gardocki. In 2003, the President of the German Federal Court of Justice, Günter Hirsch, Croatian Supreme Court President, Ivica Crnić, and Pim Haak, Supreme Court President of the Netherlands visited the Supreme Court in Brno. Austrian Supreme Court President Irmgard Griss received an invitation to the Supreme Court in Brno in 2008. In 2010 the Supreme Court hosted the President of the Court of Justice of the EU, Vassilios Skouris, as well as the President of the Supreme Court of Hungary András Baka.



Lecture by the President of the German Federal Court of Justice, Bettina Limperg, in the Supreme Court courtroom, October 11, 2017

In 2015, the Supreme Court, in collaboration with the Judicial Academy and the Czech Society for European and Comparative Law, organized an international conference on the proposed establishment of the Supreme Judicial Council in the Czech Republic, titled "Supreme Judicial Council: Quo vadis?" The discussions primarily focused on the extent to which the Supreme Judi-



Lady Hale: The President of the Supreme Court of the United Kingdom of Great Britain and Northern Ireland visiting the Supreme Court (2019)



Elizabeth Lovrek, President of the Supreme Court of Austria; Petr Angyalossy, President of the Supreme Court of the Czech Republic

cial Council is necessary for the Czech Republic, what form it could take, what examples it should follow from abroad, and what it should avoid. Contributions were made by Geoffrey Vos, President of the European Network of Councils for the Judiciary, Gerhard Reissner, former President of the Consultative Council of European Judges, Ján Svák, Rector of the Pan-European University and former member of the Judicial Council of Slovakia. Among the leading figures of the Czech judiciary, speakers included Pavel Rychetský, President of the Constitutional Court, Pavel Šámal, President of the Supreme Court, Josef Baxa, President of the Supreme Administrative Court, Daniela Zemanová, President of the Union of Judges, and Robert Pelikán, Minister of Justice.

In March 2017, Supreme Court President Mr Pavel Šámal met Mr Giovanni Canzi, then President of Italy's Court of Cassation, and 1st Vice-President of the Supreme Judicial Council of Italy, Mr Giovanni Legni. It was a meeting that initiated preparations for a process that led to the signing of a joint memorandum in Rome in July 2018. The Supreme Court and the Su-

preme Judicial Council of Italy hereby declare through this Joint Memorandum mutual support for the core values of the rule of law and the reform of the justice system in the Czech Republic with the aim of establishing the Supreme Council of the Judiciary, which should contribute to greater judicial independence. The establishment of the Supreme Council of the Judiciary as the legal representative of the judiciary in relation to legislative and executive power has become, in recent years, one of the most discussed topics of Czech justice. The establishment of the Supreme Judicial Council is considered a priority not only by the leadership of the Supreme Court, represented today by its President Petr Angyalossy and Vice-President Petr Šuk, but also by the Constitutional Court, the Supreme Administrative Court and representatives of the Judicial Union.

The visit by the President of the German Federal Court of Justice, Bettina Limperg evoked a very positive response from the professional public in October 2017, in particular her lecture in the Chamber of Justice of the Supreme Court on "Challenges for the European Judiciary".



Lord Slynn of Hadley at one of the seminars organised by his foundation for Supreme Court judges

In March 2018, the Supreme Court was visited by the Chief Justice of the Supreme People's Court of Vietnam, Mr Nguyen Hoa Binh; later that year in May, it was also visited by the Vice-President of the Supreme Court of the Kingdom of Thailand, Mr Slaikate Wattanapan, In May 2019, the President of the Supreme Court of the Kingdom of Thailand, Mr Cheep Jullamon, also visited Brno.

In July 2019, the Supreme Court in Brno had the honour of welcoming the President of the Supreme Court of the United Kingdom of Great Britain and Northern Ireland, Lady Hale, who was accompanied by the Vice-President of the Supreme Court of the United Kingdom, Lord Reed, as well as by another Justice of this Court, Lord Kitchin.

On 20 February 2020, Mr Maarten Feteris, President of the Supreme Court of the Netherlands, and Mr Kees Streefkerk, Vice-President of the same, visited the Supreme Court together. Because of the global coronavi-

Pavel Šámal and Secretary General of the Council of Europe Thorbjørn Jagland at a gala reception on the occasion of the opening of an international conference on "The Binding Effect of Judicial Decisions" (June 2017, Brno)





The international conference on “The Binding Effect of Judicial Decisions”, from left the President of the European Court of Justice Koen Lenaerts, President of the Supreme Court Pavel Šámal and President of the Criminal Division František Půry



International conference on “The Binding Effect of Judicial Decisions”, President of the ECtHR Guido Raimondi

rus crisis that came shortly after, this was the last such visit to Brno for a long time.

In June 2021, Mr Petr Angyalossy welcomed Mr Ján Šikuta, the President of the Supreme Court of Slovakia. The two met previously in Bratislava in 2020, and given how closely the two supreme courts intend to continue to work together, they have met several times in Brno and Bratislava since then.

The visit of Ms Elisabeth Lovrek, President of the Austrian Supreme Court of Justice, was planned for almost two years and repeatedly postponed because of the coronavirus. Finally, she visited Brno in October 2021, accompanied by the Vice-President of the Austrian Supreme Court of Justice, Mr Matthias Neumayr, and its judge, Mr Erich Schwarzenbacher.

In the first half of September 2022, the President of the Supreme Court of the State of Israel, Esther Hayut, accompanied, among others, by judge Noam Sohlberg, paid a three-day visit.

On 22 June 2023, the President of the Supreme Court received a delegation from the Constitutional Court of Taiwan, led by President Tzong-Li Hsu.

In April 2024, the President of the Supreme Court of Romania, Ms Corina-Alina Corbu, visited the Supreme Court. The main topics of the visit were the number of judges in view of the number of new cases, the issue of the length of court proceedings and their reduction, as well as, for example, the issue of the digitisation of the judiciary, with which Romania has very good experience.

Participants of the “Supreme Courts in Times of Change” conference in Brno





Chile Eboe-Osuji, President of the International Criminal Court (ICC) in the Hague

The text above briefly summarises the visits of the Presidents of the most important European judicial institutions, the Presidents of some European countries, the Presidents of the supreme courts or the constitutional courts from almost the entire world. Alongside these, however, there were also dozens of other foreign delegations, whose members, such as Prosecutors General, ordinary judges, ambassadors of nearly 30 countries, as well as representatives of many international institutions, who have been meeting the judges of the Supreme Court in Brno over recent years. Among them, we should certainly mention, first of all, that great personality, Lord Slynn of Hadley, who was referred to, with no exaggeration, as an icon of European law. This Judge of the European Court of Justice, Advocate General and member of the House of Lords, through a series of seminars organized by his foundation, taught the Supreme Court judges about EU law just before the accession of the Czech Republic to the European Union – and for a few following following.

It is by organising international conferences that the Supreme Court is now increasingly trying to commu-

nicate on the most important topics in the field across Europe. The largest and most successful event of this kind is considered by the conference on the subject of the *“Binding Nature of Court Decisions”*, which was attended in Brno in mid-2017 by the Secretary General of the Council of Europe Thorbjørn Jagland, the President of the European Court of Human Rights Guido Raimondi and the President of the EU Court of Justice Koen Lenaerts. The speakers included, for example, the Professor of European Union Law at the Faculty of Law at Cambridge University, Catherine Barnard and Jörg Polakiewicz, Director of Legal Counselling and International Public Law at the Council of Europe. The conference was also attended by a number of Presidents of Supreme Courts. Besides Mr Pavel Šámal, as host and the above-mentioned Mrs Daniela Švecová, these included Mr Eckart Ratz, former President of the Supreme Court of Austria, Mr Timo Esko, President of the Supreme Court of Finland, Mr Péter Darák, President of the Curia, the Hungarian Supreme Court, President of the Supreme Court of Lithuania, Mr Rimvydas Norkus, President of the Supreme Court of Albania Mr Xhezair

Zaganjori, Mr Aldis Laviņš, President of the Constitutional Court of Latvia, Mr Tamás Sulyok, President of the Constitutional Court of Hungary, Mr Silvio Camilleri, President of the Constitutional Court of Malta and other well-known personalities from the European judicial world.

The international conference held in Brno and Bratislava a year later, in November 2018, dedicated to the 100th anniversary of the founding of the joint Czechoslovak Supreme Court, received many positive responses and certainly demonstrated a comparable high professional level. The title *“Supreme Courts in Times of Change”* characterises the main content of the individual speakers’ contributions. The fact that it was co-organised with the Supreme Court of the Slovak Republic only confirmed the above-standard relations between the supreme courts of these countries, which they still maintain decades after the division of Czechoslovakia. Several presidents of the supreme courts of the European Union participated in the conference, as well as Chile Eboe-Osuji, President of the International Criminal Court (ICC) in The Hague, Lord Mance, former Vice-President of the Supreme Court of the United Kingdom, and Jean-Claude Wiwinius, President of the Supreme Court and Constitutional Court of the Grand Duchy of Luxembourg, who had just been elected President of the Network of the Presidents of the Supreme Courts of Justice of the European Union.

A new logo was created in connection with the centenary of the founding of the original Supreme Court. The winning design was prepared in two variants by artists Zuzana Bogorová and Tomáš Kopecký. By incorporating the motif of the Greek goddess of justice Themis or her Roman equivalent Iustitia in a circle

with palm branches, the logo represents a traditional historical legacy and symbolism. The goddess sits on a throne, which reflects the Supreme Court’s position at the pinnacle of the general court system, where the judiciary weights everyone equally and its individual decisions are made based on written laws, symbolised by the open code in the goddess’ hands. The logo deliberately does not include a sword, which could be seen as a synonym for favouring repression, making it more of a symbol for the criminal justice system, not the civil one.

In the middle of October 2022, Colloquium of the Network of Presidents of the Supreme Judicial Courts of the Member States of the European Union was held in Brno. It welcomed more than fifty personalities of the European judiciary, mainly the Presidents and Vice-Presidents of the Supreme Judicial Courts, but also other high officials of international judicial bodies. This important international event focused on two main topics. The first was the question of how the highest courts can contribute to increasing public confidence in the judiciary, and the second was the disciplinary responsibility of judges and the code of ethics for judges.

In 2023, On the occasion of 30 years of its modern existence, the Supreme Court held an international conference in Brno titled *“The Role of the Supreme Courts in Providing Effective Legal Protection”*. The two-day conference was held at the seat of the Supreme Court in Brno in the middle of September 2023.

The conference was attended by representatives of the Czech and European judiciary, such as the President of the Court of Justice Koen Lenaerts, President of the Supreme Court of the Netherlands Dineke de Groot, Pres-



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Joint photo of participants of the international conference "The Role of Supreme Courts in Providing Effective Legal Protection"

ident of the Supreme Court of Finland Tatu Leppänen. The conference offered a great platform for an interesting expert discussion, which provided an insight into the issues at stake from both national and European perspective.

When recapitulating the international conferences held recently, it is appropriate to go back in time and recall the international events held earlier.

Participants from 54 countries worldwide considered the 14th International Judicial conference held in Prague in 2006, on the overloading of judicial systems and possibilities of alternative dispute resolution, to be exceptionally successful.

As previously mentioned, the Supreme Court organised meetings of the Permanent Conference of Presidents of the Supreme Courts of the Czech Republic, Croatia, Hungary, Poland, Slovenia and Slovakia on three occasions in 2002, 2006 and 2013. The conference, convened in 2002 at the initiative of the then President of the Supreme Court Eliška Wagnerová was the first ever meeting of Presidents of the Supreme Courts of those countries, and gave rise to the tradition that continues to this day.

In 2015, the Supreme Court, in cooperation with the Judicial Academy and the Czech Society for European and Comparative Law, organised an international conference on the subject of the Supreme Council of the Judiciary in the Czech Republic entitled "*Quo vadis Supreme Council of the Judiciary?*" In particular, it discussed the extent to which the Supreme Council of the Judiciary was necessary for the Czech Republic, in what form it could work, what examples should be followed from abroad and what should be avoided. Papers were presented, inter alia, by the President of the European Network of Councils for the Judiciary, Mr Geoffrey Vos, former President of the Consultative Council of European Judges Mr Gerhard Reissner, Rector of the Pan-European University and former member of the Slovak Judicial Council Mr Ján Svák, President of the Constitutional Court Mr Pavel Rychetský, President of the Supreme Court Mr Pavel Šámal, President of the Supreme Administrative Court Josef Baxa, President of the Union of Judges Mrs Daniela Zemanová and Minister of Justice Mr Robert Pelikán.

If at this point in the publication we are referring to important foreign guests, we can not also ignore the fact that the Supreme Court and its Judges are repeatedly visited by the highest constitutional agents of



Photograph from the session of the 7th Permanent Conference of Presidents of the Supreme Courts of the Czech Republic, Croatia, Hungary, Poland, Slovenia and Slovakia (2006)

the Czech Republic, Prime Ministers, Ministers and representatives of both Chambers of Parliament. Although President Václav Havel's three trips have already been mentioned, it is also appropriate to note

that President Miloš Zeman also visited the Supreme Court twice, for the first time on March 26, 2013, when he met with the President Iva Brožová, and for the second time on November 12, 2015, when he met with



President Miloš Zeman and President of the Supreme Court, Iva Brožová entering the Supreme Court building (March 2013, Brno)



President Miloš Zeman and President of the Supreme Court, Pavel Šámal debating with judges on the occasion of a visit by the head of state (November 2015, Brno)

Pavel Šámál. On this occasion, Miloš Zeman also met the judges.

The Supreme Court was visited by the President of the Czech Republic Petr Pavel in August 2023. During the tour of the functionalist building of the Supreme Court, President Pavel also visited the newly reconstructed František Vážný Hall.



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The Listed Building Housing

the Supreme Court

The Supreme Court's current building in Burešova Street, Brno, its home since 1993, was originally built as the formal seat of the Brno branch of the pension fund institution Všeobecný pensijní ústav. It was erected between 1931 and 1932 on the site of the former Brandt factory and designed by Emil Králík (21 February 1880 – 26 June 1946).

The site selected for the Všeobecný pensijní ústav building completed the block shaped by the streets of Botanická, Burešova and Bayerova, and was meant to form one side of a square – the space in front of the recently completed Masaryk Student Home by Bohuslav Fuchs, a renown architect. Leading Prague and Brno architects, including Prague's Otakar Novotný and Brno's Emil Králík and Bohuslav Fuchs, were invited to participate. By this time, Všeobecný pensijní ústav had already decided on a design for its headquarters in the Žižkov district of Prague (now the headquarters of the Bohemian-Moravi-

an Confederation of Trade Unions), which it had placed in the hands of Josef Havlíček and Karel Honzík. These young architects, inspired by Le Corbusier, designed a ten-storey palace on a free cross-shaped plan. This was the first time architecture was to move away from block-shaped development in Czechoslovakia. Bohuslav Fuchs, in the hope that he would be able to create – together with his Masaryk Student Home – an expansive and architecturally unified spatial unit for the square, designed a building that incorporated a “finger plan” system with three wings and narrower sides facing on to the square, interconnected by an uninterrupted tract lining Burešova Street up to the piano nobile. This radical concept, however, did not find favour with the Judges. In the end, they recommended a design by one of the founders of the Brno architectural school, Professor Emil Králík.

A peer of Josef Gočár's Cubist generation, the main architect behind the Exhibition Grounds, and the



co-founder and chairman of the Group of Visual Artists and the Brno Architects Club, Králík was the real grand seigneur of the local architectural community. After training at the Czech Technical University in Prague, where he assisted Professor Jan Koula at the Institute of Ornamental Drawing, he was appointed by the Fellner & Helmer Vienna office that specialised in architecture. Here, he helped to design the Art Nouveau Theatre in Mladá Boleslav (1906-07). He also worked on Prague's Municipal House for the studio of Osvald Polívka and Antonín Balšánek. He subsequently moved from Prague to Brno to teach at the Industrial School of Civil Engineering, where he worked from 1907 to 1910. One of his pupils was the architect Jindřich Kumpošt.

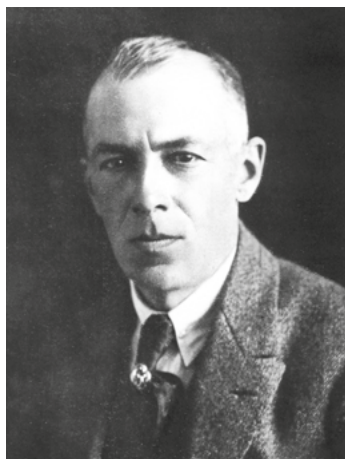
Then he designed the charming Smetana House in Luhačovice and the two villas of brothers František and Josef Kovařík in Prostějov in an elegant late Art Nouveau style. František Kovařík's villa, with its classical

cour d'honneur, lined by avant-corps with loggias on the upper floor and a generous spatial plan for the residential hall, is particularly noteworthy. In Prostějov, he also worked closely with Vulkania, the applied-art workshop, where he held the post of the Artistic Director. The design he entered in the first competition for the Czech National Theatre in Veveří Street, Brno, also earned plaudits. After the First World War, he and Karel Hugo Kepka set up the Department of Architecture at the Czech Technical University in Brno, where he twice held the office of the Dean (1923-1924 and 1933-1934). He also tried his hand at the "national" style – Rondocubism, organising the commercial parterre (no longer in existence) on the northern corner of Česká and Jakubská Streets in Brno, and incorporating a certain classicising Monumentalism into the Nedělník family's tombstone in Prostějov (1923) and a residential building in Kotlářská Street (1923), before progressing to his distinctively refined, slightly classicising





Historic photographs of the current seat of the Supreme Court building from the period just after its completion, © Brno City Museum

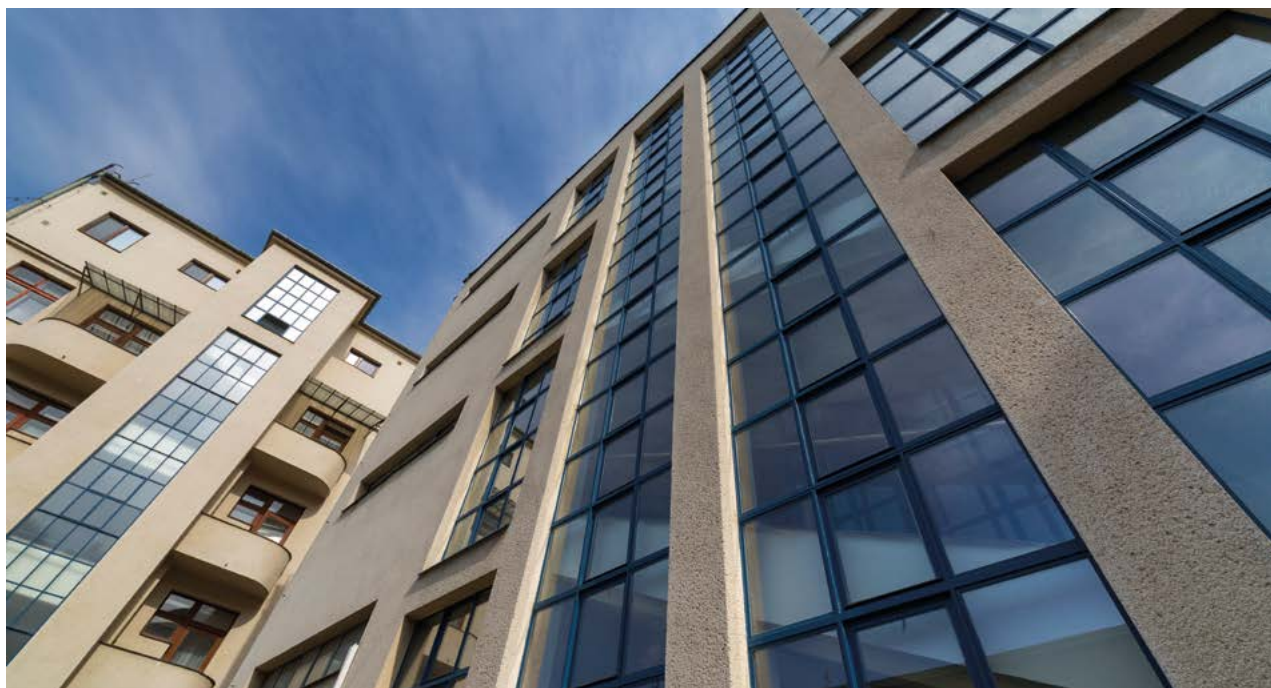


Emil Králík

Functionalism. It was in this spirit that he designed the entry area at the Exhibition Grounds, the Exhibition Theatre, and the Czechoslovak Tobacco Directorate's building.

He also put a lot of effort into planning buildings for the Czech Technical University on Akademické náměstí (Academic Square) in Brno, though these got no further than the drawing-board, and occupied himself with industrial architecture for the Brno gasworks. He was also an excellent artist, exhibiting his sketches and watercolours – from his many study trips across Europe and North Africa – in Prague and Brno even during the war. As a professor, he taught a number of prominent architects of the Brno School's pre-war generation, especially Josef Kranz, Bedřich Rozehnal and Mojmír Kyselka Sr. He influenced them not only with the examples of his work, in which he harmoniously combines classic architectural principles and modernity, but also with his gentlemanly disposition, graceful social manners, and his personal charm. During the war, he was interned at the concentration camp in Svatobořice, which affected his health and resulted in his early death in Prague on 26 June 1946.

His most important buildings from the interwar period are the Exhibition Theatre and the building of the former Všeobecný pensijní ústav. A feature they share



Rear wall of the Supreme Court building, typical semi-circular balconies on the left



Rear wall of the Supreme Court building with illuminated staircase



Detail of a handle and glazing in the corridors of the Supreme Court

is their combination of the Classical feel with elements of Functionalism. The Exhibition Theatre has a clearly arranged symmetrical entrance with a symmetrical glazed façade, contrasting with the “avant-garde” element of the originally open solid-newel winding staircase from the café’s upper terrace. Králík’s attention to delicate detail, a reminiscent of the Art Deco style, is also characteristic of his work.

Unlike Bohuslav Fuchs, representing a younger, more radical Functionalist generation, Emil Králík designed the Všeobecný pensijní ústav building as a tranquil, serene end for the gently sloping area of the square in front of Masaryk Students Home, with slightly crooked wings – containing apartments – extending into the side streets. The original six-storey building is architecturally formulated so that the four upper floors are framed by a ledge, making the entire front look more horizontal. This is compounded by the rhythmically structured oak-framed window bands on all floors. The two-story lightweight plinth is symmetrically interrupt-

ed by the magnanimous glazed entrance detailed in white bronze.

The glazed entrance wall creates a natural transition between the exterior and the interior of the generous entrance hall, lined with marble slabs and accentuated on both sides of the entry steps by monumental lighting fixtures that lend this space the feel of exceptional elegance. Above the staircase buffer stage is the upper part of the lobby, leading across a landing to the main stairway on the entrance axis.

The staircase is illuminated from the courtyard for the entire height of the building. The upper part of the lobby, with the access to the staircase and the lift, forms the centre of layout, and the main corridor crosses the entrance axis here. The main corridor is separated from the lobby on both sides by glass walls. It passes through the entire length of the building and finishes at both ends with side staircases. Such a clear layout facilitated effective and functional organisation on all floors. Orig-



The original lobby of Všeobecný
pensijní ústav, © Brno City Museum



The Supreme Court's lobby today





The Supreme Court

inally, the Offices of the Všeobecný pensijní ústav's were divided into two sections, Czech and German, each with their own management. There was a horizontal 2:1 split. The first four floors were occupied by the Czech offices, with the Presidium and Board Room; the German office was located on the last two upper. The apartments in both side wings were also intended as a spare space in cases the offices needed to be expanded. Indeed, following a subsequent change in the way the building was utilised, this is precisely what happened.

The structure is an excellent example of Professor Emil Králík's architectural art. It is the opposite of Bohuslav Fuchs' radical avant-garde mindset, a calm harmonious architectural concept with generous symmetrical distribution and a clear, flexible layout with graceful details and understated architecture, fitting in well with the city's urban fabric. This extraordinarily cultivated and subtle architectural language is the original layer of Brno's interwar art of building."

Written by: Vladimír Šlapeta

After the Second World War, the building originally designed to house the Brno branch of Všeobecný pensijní ústav accommodated several different institutions over time. In 1958, the building was listed – awarded the status of an immovable cultural monument. From the 1960s, the building was the seat of the Secretariat of the Communist Party's Regional Committee. To meet its needs, in 1986 Milan Steinhauser designed an insensitive vertical extension to the mansard floor, fundamentally altering the appearance of the (until then a six-storey) building. Today, this extension provides accommodation to the judges who come to Brno from all over the country.

Along with the mansards, an inner tract with a tiered hall was built in the courtyard in 1986. The hall was partitioned at the back. The library of the Supreme Court was located behind that wall until October 2019.



The corridors, conference rooms and judges' offices are decorated with dozens of paintings. In the office of the President of the Supreme Court, for instance, are displayed paintings by the famous 19th and 20th century Czech landscapists Josef Procházka and Vladimír Kovář.



At the beginning of the 1990s, Masaryk University's Rectorate and Institute of Computer Science used the building for a short time; part of the building was also used by the Technical University and the Janáček Academy of Performing Arts. On 10 September 1993, the building was officially handed over to the Supreme Court. Initially, the Supreme Court had to share its current building with academics of Masaryk University, whose Faculty of Computer Science used the upper floors of the building until 1996.

To this day, the building has retained typical Functionalist features, with numerous original details standing out. The monument protection of the historic seat of the Supreme Court obliges its management to preserve its original character even during extensive reconstruction and renovation. The Court managed to comply with the requirement recently in 2020–2021, when more than 350 historic windows and other facade elements had to be replaced or renovated. The new windows, which





New wing of the historic building of the Supreme Court from 2019



New wing of the historic building of the Supreme Court



New wing of the historic building of the Supreme Court

significantly contribute to energy savings, are faithful replicas of the original ones; the designers reported that there are a total of 42 original window types on the exterior of the Supreme Court building.

Since approximately 2000, and in connection with the increasing caseload, along with the growing numbers of judges and, especially, other court staff, the Supreme Court has sought to extend the capacity of its premises. Together with the Ministry of Justice, the court purchased a dilapidated tenement in the vicinity and assigned a project to have this building demolished and to have a new administrative building constructed that would notionally extend the right wing of the Court's

existing seat. However, the project, originally prepared for 2005, did not materialise. It was not until 2015, when Pavel Šámal was appointed as the President of the Supreme Court, that the project was modified and the ownership of what was formerly a tenant building was transferred to the Ministry of Justice, which took over the investment in the new construction plans. The ten-storey modern extension to the Supreme Court was opened on 1 October 2019. In addition to technological facilities, the lowest underground floor also houses the Supreme Court's Registry Archives, and there are 20 underground parking spaces on the two floors above. Twenty-six years after its establishment, the Supreme Court finally acquired appropriate premises for its ex-



New wing of the historic building of the Supreme Court

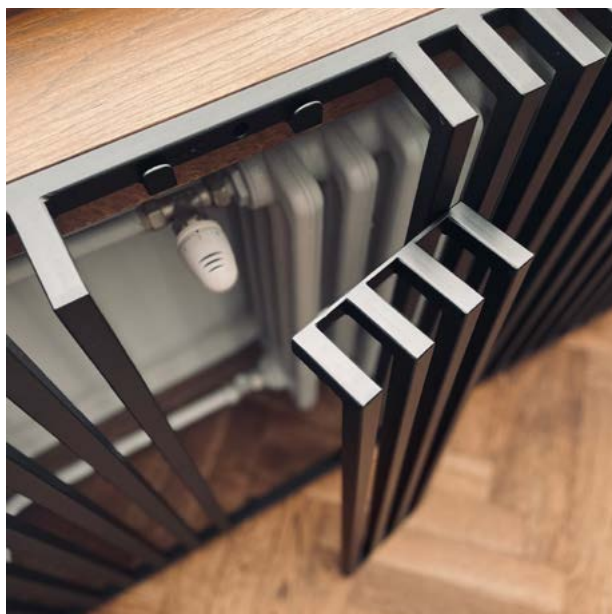
tensive Library on the ground floor of the new wing of the building, and a new meeting room was built on the first floor, which can also serve as a small multifunctional hall. The adjacent terrace was designed as an area for rest and leisure. There are seven new dormitories for judges on the top floor of the new building. This has expanded the existing offer of accommodation for judges in the dormitory on the attic floor of the historic building and also in rented apartments in Brno. More than 120 employees, mostly judicial assistants, found their place in 57 newly built offices. The building won a silver award in the Building of the Year of the South Moravian Region 2019 competition, specifically in the Community Amenity Buildings category.



Interiors of the new wing of the historic building of the Supreme Court



Small meeting room after renovation



The Supreme Court is constantly developing in many aspects. Creating better conditions for the most responsible work of judges, judicial assistants, and other court staff will certainly help the Supreme Court in its daily efforts to issue fair and well-reasoned decisions, to reduce the length of the proceedings and to unify the case law in both domestic and European context. Judges need adequate conditions for their work; the public deserves to be served to the full by highly competent judges who have good conditions for their work and are free from any outside influence.

In December 2024, the renovation of the meeting room on the second floor was completed. Smaller training sessions, meetings and other events organised by the Supreme Court are held here. The reconstruction began in the second half of the year and since the room had never been renovated, it was a complete renovation.



The Supreme Court wanted a meeting room that was not only practical but also aesthetically pleasing. The interior is based on the functionalist style of the building and also newly incorporates the typical blue colour of the Supreme Court. The colour of the room's interior relates to the windows, which are a prominent feature of the listed building.

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The Brno City Archives

pg. 14 – Photographs from T. G. Masaryk's visit to Brno, 1924, fund U5 Collection of photographs, sign. XXV 23, photos No 5 and 8;

pg. 20 – Photographs with a view of the site of the demolished Jesuit college in Brno, photo by Josef Kunzfeld, 1905, fund U5 Collection of photographs, sign. Ie 11, and postcard with the Palace of Justice in Brno, dated around 1920, fund U22 Collection of postcards, sign. XLId-5;

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pg. 28 and 29 – Photographs of the Palác Morava in Brno after the air raids on 20 November 1944, fund. U5 Collection of photographs, sign. XXV 151;

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The Archives of the Prague Capital City, Collection of Photographs

pg. 18 – Overall view of the main facade of the cadet school, No 221 at Mariánská Bašta in Hradčany, sign. XII 1166;

pg. 32 – A view of náměstí Hrdinů (formerly Soudní) in Pankrác. On the right, there is the court building (house No 1300), in the background there is house No 1125 in Nusle. Photo by Jiří Roleček, 1958, Collection of photographs, sign. I 12382;

pg. 34 – A view of náměstí Hrdinů (formerly Soudní) in

Pankrác during the construction of the tram underpass. In the middle, the court building (house No 1300) in Nusle. Photo by Josef Vopravil, 1970, Collection of photographs, sign. I 12385;

pg. 56 – A view of the interior of the cadet school No 221 at Hradčany, Mariánská Bašta - memorial plaque, Collection of photographs, sign. VIII 1378;

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The National Archives of the Czech Republic

pg. 10 – Small national emblem of the Czechoslovak Republic, NA, f. FÚML, First Republic 1918–1938, neg. No 24351, and national and political organization of central Europe after World War I, NA, f. Coll. neg., ukl. No III 16504-C-dia;

pg. 12 – Report of the Czech-Slovak National Committee to the district and municipal authorities on the issue of the first law of the independent state, NA, f. NV 1918, inv. No 4, cart. 1;

pg. 13 – NA, f. PMR, inv. No 2963, cart. 4164. Act No 37/1919 Coll., on the Interim Constitution, of 13 November 1918;

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106 – photo provided by the Union of Czech Lawyers;
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