The Supreme Court Yearbook

2020

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FOREWORD BY THE PRESIDENT OF THE SUPREME COURT

Dear Readers,

2020 has taught us a lot. It taught us how dangerous it is to rely on established stereotypes and it tested our ability to improvise in perhaps all fields of human activity. Yes, even the courts had to improvise on a daily basis due to fears of the spread of coronavirus. It might have been somewhat easier for the Supreme Court when compared to the lower courts, as the Supreme Court basically decides in chambers. On the other hand, judges from all corners of the republic work here, and the fears of coronavirus spreading were perhaps more appropriate here than anywhere else.

Unfortunately, even as we enter 2021, we are far from the end of a pandemic, and the statistics clearly show this. Nevertheless, at this sort of half-time break provided by the turn of the year, I would like to state for the moment that the Supreme Court has so far passed the test caused by the global coronavirus crisis. It was probably because of the adjourned and postponed court proceedings at the lower levels of the judicial system that we have seen a somewhat lower incidence across all agendas. Specifically, the Supreme Court registry in 2020 registered 6,613 new cases (1,620 cases for the Criminal Division, 4,993 for the Civil and Commercial Division), while 71 judges, with the help of trainee judges, settled a total of 7,001 cases (1,667 Criminal Division, 5,334 Civil and Commercial Division). Therefore, our judges have used the lower incidence of new files to speed up court proceedings and to transfer fewer pending cases to 2021 than in the past.

I am pleased that individual decisions of the Supreme Court chambers meet all the strict quality criteria, seeing as many of these are fundamental decisions for case law, and the Yearbook specifically demonstrates this. Judges in both divisions, perhaps due to a temporary reduction in the number of files, have worked even harder on what is expected of them in addition to deciding on extraordinary remedies – they have done a tremendous amount of work in unifying case law through decisions approved for publication in the Green Collection or through their issued opinions. As a judge of criminal matters, I keep at the forefront of my mind the opinion of the Criminal Division of 21 October 2020 on the criminal liability of a motor vehicle driver affected by an addictive substance other than alcohol; in the civil section of the court, I must certainly mention a few important decisions in matters of review of arbitration clauses. Proposals to repeal parts of laws submitted to the Constitutional Court are not entirely common, but they were deemed unavoidable in the given cases by our panels. In this context, I will mention the proposal to repeal part of the Insolvency Act, specifically the proposal to repeal mandatory advances in insolvency proceedings or the proposal to repeal part of Section 16(1) of Act No 229/1991 Sb., concerning ownership of land and other agricultural property, submitted by the “Restitution Panel” of the Supreme Court.

Every cloud has a silver lining. And so the impossibility of meeting in person led us to speed up the processes of digitising the justice system. Debts from the past in the justice sector have suddenly came to light, with nothing to soften the blow. And they have often been the catalyst for the rapid search for so many delayed solutions. More than once we have been able to correct and implement something long impossible in a matter of days.

Although I was appointed the President of the Supreme Court at the most hectic of times, I had the opportunity to recognise what great collaborators I could rely on, not only in the positions of judges, but also in the ranks of employees. Every person in our institution knows their place and what is expected of them. I would like to use this opportunity to thank them for their professional work. I must state that the difficult times have tested us, united us and forced us to think about and reconsider some well-established, perhaps sometimes even archaic, procedures. Nevertheless, I hope it will all be over soon. Now we would all like to return to normal times and work in peace, without improvisations, but keeping in mind everything we learned during the “Covid period”.

Yours truly, Petr Angyalossy

Petr Angyalossy
President of the Supreme Court

1. THE SUPREME COURT AS THE HIGHEST JUDICIAL AUTHORITY IN CIVIL AND CRIMINAL MATTERS

The Supreme Court is the highest judicial authority in matters within the courts' jurisdiction in civil court proceedings and in criminal proceedings. Its panels decide on extraordinary remedies, with the exception of matters that fall within the competence of the Constitutional Court and the Supreme Administrative Court.

Extraordinary remedies are appeals against decisions of courts of second instance and also complaints claiming violations of the law filed at the criminal court by the Ministry of Justice. The Supreme Court decides, in cases prescribed by law, on the determination of the local and substantive jurisdiction of the courts, recognition of foreign decisions, permission to transit persons on the grounds of European arrest warrants, review of wiretapping orders and in the case of doubts about immunity from criminal law enforcement.

The Supreme Court plays a vital role in unifying case law. It achieves this in particular by deciding on appeals and issuing opinions on a uniform interpretation of the law. The most important decisions of the Supreme Court, or lower instance courts, and opinions of the Divisions or Plenary Sessions of the Supreme Court, are published in the Reports of Cases and Opinions.

Since 1 September 2017, under Act No 159/2006 Sb., on Conflicts of Interest, as amended, the Supreme Court has also been entrusted with receiving and recording notifications concerning the activities, assets, income, gifts and obligations of all the more than 3,000 judges in the Czech Republic. These records have not yet been published.

1. 1. Composition of the Supreme Court

The court is headed by the President of the Supreme Court and the Vice-President of the Supreme Court. On 22 January 2015, the President of the Czech Republic, Miloš Zeman, appointed **prof. JUDr. Pavel Šámal, Ph.D.** the President of the Supreme Court for a 10-year term. However, he left the court leadership prematurely after accepting an offer to become a constitutional judge and he became one on 20 February 2020. The Supreme Court was then headed for 3 months by its Vice-President **JUDr. Roman Fiala.** On 20 May 2020, the President of the Czech Republic, Miloš Zeman, appointed a new President of the Supreme Court, **JUDr. Petr Angyalossy, Ph.D.,** once again for a 10-year term. The term of the Vice-President of the Supreme Court, Roman Fiala, who was appointed for ten years by the President of the Czech Republic, Václav Klaus, on 1 January 2011, ended on 31 December 2020. (On 17 February 2021, the President of the Czech Republic, Miloš Zeman, appointed **JUDr. Petr Šuk** the Vice-Presindent of the Supreme Court.)

The Supreme Court President has a managerial and administrative role. In addition, they also participates in decision-making, appoints Heads of Divisions, Presiding Judges and assistants to Justices and also court employees to managerial positions. He issues the Organisational and Office Rules and, following discussions at the Plenary Session, the Rules of Procedure. Upon consultation with the Council of Justices, he issues a work plan for every calendar year. The President of the Supreme Court determines the agenda for the Plenary Session. He proposes opinions on courts' decision-making to the Plenary Session and to the Divisions.

The Vice-President of the Supreme Court acts as a Deputy for the President when the latter is absent; when the latter is present, the Vice-President exercises the powers conferred on him by the President. He oversees the handling of complaints, in particular those concerning proceedings before courts at all levels of the judiciary, collects comments from the Supreme Court Justices on forthcoming Acts of Parliament and, in cooperation with the Justice Academy, sponsors training courses for assistants, advisers and employees of the Supreme Court.

Furthermore, the Supreme Court consists of heads of divisions, heads of panels and other judges.

The Supreme Court has two divisions, namely the Civil and Commercial Division and the Criminal Division. They are headed by the Heads of Divisions, who manage and organise their activities. The Head of the Civil and Commercial Division in 2020 was **JUDr. Jan Eliáš, Ph.D.,** who was appointed on 1 January 2019; the Criminal Division has been headed since 1 January 2016 by **JUDr. František Púry, Ph.D.,** who has been entrusted with the management of this division since 1 September 2015. As of 31 December 2020, František Púry's five-year term ended, but the President of the Supreme Court has renewed his term from 1 January 2021 for another 5 years.

The Divisions adopt opinions on courts' decision-making practice, monitor and evaluate their final decisions and generalise the findings. They initiate proposals for opinions on courts' decision-making, submitting their suggestions to the President of the Supreme Court. Upon proposals by the President of the Supreme Court, Heads of Divisions and Heads of Grand Panels, the Divisions adopt opinions, and select and decide to include seminal decisions in the Reports of Cases of Opinions.

All opinions of the Civil and Commercial Division, selected decisions of the individual Panels and selected decisions of lower courts are published in the Reports of Cases and Opinions.

The Plenary Session, composed of the President of the Supreme Court, the Vice-President of the Supreme Court, Heads of Divisions, Presiding Judges and other Supreme Court Justices, is the most important collective body of the Supreme Court. It discusses the Rules of Procedure of the Supreme Court and adopts opinions on courts' decision-making on issues concerning the Divisions or issues on which the Divisions differ in their views.

Grand Panels are composed of at least nine Justices from the respective Division of the Supreme Court. The Grand Panel of the Division considers a matter when any Panel of the Supreme Court refers the case to it because, during the course of the Panel's decision-making, it has arrived at a legal opinion different from that already expressed in a decision of the Supreme Court.

Three-member Panels decide, in particular, on appeals on points of law and on the recognition and enforceability of decisions of foreign courts in the Czech Republic, and in criminal cases they also decide on complaints claiming violations of the law. Each Panel of the Supreme Court is headed by a Presiding Judge who organises the work for the Panel, including assigning Panel members to cases.

The Council of Justices was established at the Supreme Court as an advisory body for the President of the Supreme Court. Members are elected at the assembly of all Supreme Court Justices for a term of five years. The last elections to the Council of Justices were held on 29 November 2017. The Judicial Council consists of the President and four other members. Since 1 May 2019, the President has been Mr Lubomír Ptáček.

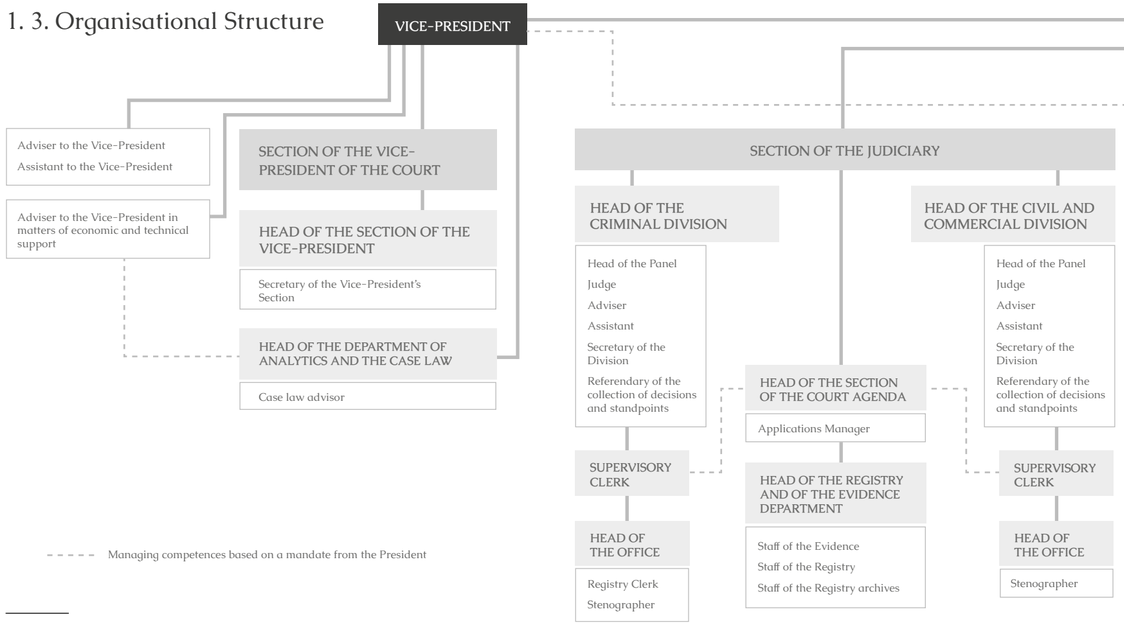
1. 2. Seat of the Supreme Court

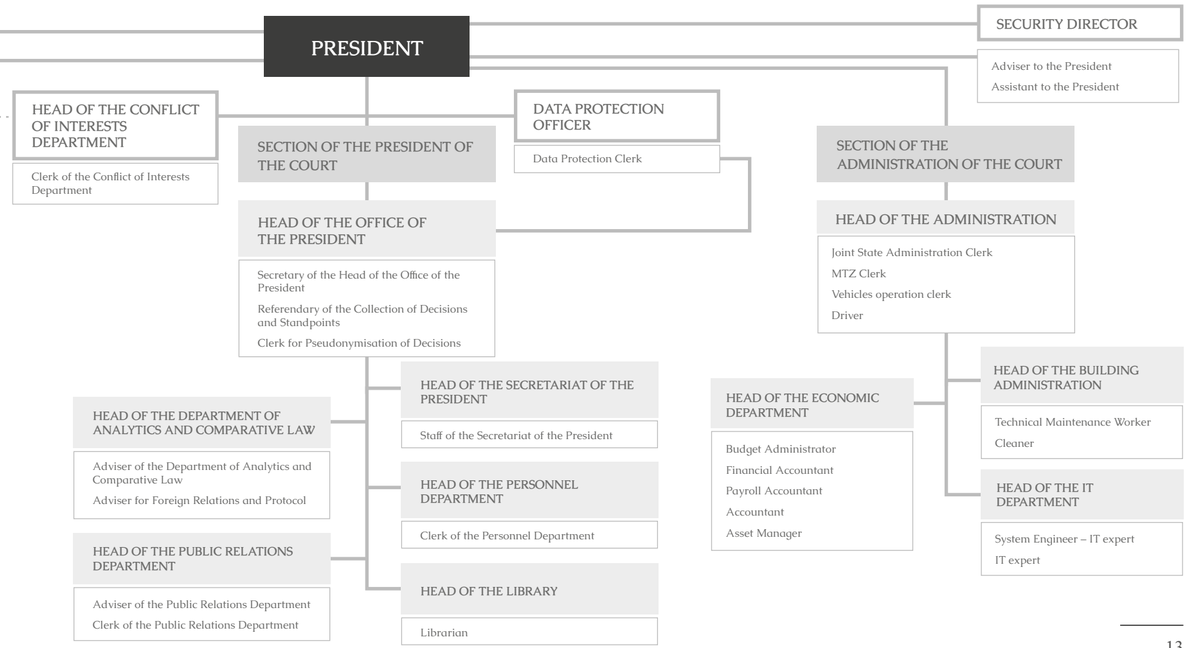
Address of the Supreme Court: Burešova 570/20, 657 37 Brno
Telephone: + 420 541 593 111
email address: podatelna@nsoud.cz
Data mailbox ID: kccaa9t
Website: www.nsoud.cz
Twitter: @Nejvyssisoud
LinkedIn: https://cz.linkedin.com/company/nejvyšší-soud
Instagram: https://instagram.com/nejvyssisoud

Since 1993, the Supreme Court has been located in a listed building of the former General Pension Institute, which was built to a design by Emil Králík, a professor of the Czech Technical University in Brno, between 1931 and 1932. After World War II, several institutions were progressively located in the building. From the 1960s, the Secretariat of the Regional Committee of the Czechoslovak Communist Party had its offices there and for its needs, in 1986 an insensitive extension, a mansard floor, was built to a design by Milan Steinhauser, along with a courtyard wing with a stepped hall, built into the courtyard. For a short period of time at the beginning of the 1990s, the Rector's Office and the Institute of Computer Science of Masaryk University were located there. Part of the building was also used by the Technical University and the Janáček Academy of Music and Performing Arts, up to 1996.

On 1 October 2019, after many years of waiting, the Supreme Court's new wing was opened – adjacent to the original historical building in Bayerova Street.

1. 3. Organisational Structure





1. 4. Supreme Court Justices in 2020

Criminal Division

JUDr. Petr Angyalossy, Ph.D.
JUDr. Jan Bláha
JUDr. Radek Doležel
JUDr. Antonín Draštík
JUDr. Tomáš Durdík
JUDr. Jan Engelmann
JUDr. František Hrabec
JUDr. Aleš Kolář
JUDr. Ivo Kouřil
JUDr. Věra Kůrková
JUDr. Josef Mazák
JUDr. Michal Mikláš
JUDr. Marta Ondrušová
JUDr. Jiří Pácal
JUDr. František Púry, Ph.D.
JUDr. Blanka Roušalová
JUDr. Bc. Jiří Říha, Ph.D.
JUDr. Petr Šabata
prof. JUDr. Pavel Šámal, Ph.D.
JUDr. Milada Šámalová
JUDr. Pavel Šilhavecký
JUDr. Petr Škvain. Ph.D.
JUDr. Vladimír Veselý

Civil and Commercial Division

Mgr. Vít Bičák
JUDr. Pavlína Brzobohatá
JUDr. Filip Cileček
JUDr. Zdeněk Des
JUDr. Marek Doležal
JUDr. Jiří Doležílek
JUDr. Václav Duda
JUDr. Bohumil Dvořák, Ph.D., LL.M.
JUDr. Jitka Dýšková
JUDr. Jan Eliáš, Ph.D.
JUDr. Miroslav Ferák
JUDr. Roman Fiala
JUDr. Hana Gajdzioková
JUDr. Miroslav Gallus
JUDr. Petr Gemmel
Mgr. David Havlík
JUDr. Ing. Pavel Horák, Ph.D.
JUDr. Kateřina Hornochová
JUDr. Pavel Horňák
JUDr. František Ištvánek
JUDr. Miroslava Jirmanová, Ph.D.
Mgr. Michal Králík, Ph.D.
Mgr. Petr Kraus
JUDr. Pavel Krbek
JUDr. Zdeněk Krčmář

JUDr. Pavel Malý
JUDr. Helena Myšková
Mgr. Jiří Němec
JUDr. Michael Pažitný
Mgr. Milan Polášek
JUDr. Zbyněk Poledna
JUDr. Pavel Příhoda
JUDr. Lubomír Ptáček, Ph.D.
JUDr. Olga Puškinová
JUDr. Mojmír Putna
Mgr. Zdeněk Sajdl
JUDr. Pavel Simon
JUDr. Jiří Spáčil, CSc.
JUDr. Karel Svoboda, Ph.D.
JUDr. Petr Šuk
JUDr. Hana Tichá
JUDr. David Vláčil
JUDr. Petr Vojtek
JUDr. Pavel Vrcha
JUDr. Robert Waltr
JUDr. Jiří Zavázal
JUDr. Aleš Zezula
JUDr. Ivana Zlatohlávková
Mgr. Hynek Zoubek

1. 4. 1. Supreme Court Trainee Justices in 2020

Criminal Division

Mgr. Pavel Göth
JUDr. Bohuslav Horký
JUDr. Aleš Kolář
JUDr. Roman Vicherek, Ph.D.

Civil and Commercial Division

JUDr. Mgr. Marek Del Favero, Ph.D.
JUDr. Marek Cigánek
Mgr. Lucie Jackwerthová
Mgr. Rostislav Krhut
Mgr. Michael Nippert
JUDr. Helena Nováková
JUDr. Tomáš Pirk
JUDr. David Raus, Ph.D.
JUDr. Pavel Tůma, Ph.D.
JUDr. Martina Vršanská
JUDr. Ivo Walder

1. 4. 2. Curricula Vitae of Newly Assigned Supreme Court Judges

Aleš Kolář (∗1974)
Judge of the Criminal Division, Judge since 2001, Judge of the Supreme Court since 2020

He graduated from the Faculty of Law of Charles University in Prague in 1997. He worked as a judicial trainee from 1997 to 2000. From 2001 to 2006, he was the head of the panel of the District Court in České Budějovice. He was also a member of the Judicial Council at the District Court in České Budějovice from 2004 to 2006. In 2007, he became a judge of the Regional Court in České Budějovice, where he was the head of the panel from 2011.

JUDr. David Vláčil (∗1974)
Judge of the Civil and Commercial Division, Judge since 2002, Judge of the Supreme Court since 2020

He graduated from the Faculty of Law of Charles University in Prague. He worked as a judicial trainee for the Municipal Court in Prague from 2001 to 2002. In 2002, he became a judge of the District Court for Prague 3. In 2010, he was temporarily assigned to the Ministry of Justice, where he was assigned to the Supervision Department. He also participated in internships abroad in the Federal Republic of Germany and the United Kingdom. He worked as a judge of the Municipal Court in Prague from 2014.

2. DECISION-MAKING

2. 1. Supreme Court Plenary Session

The Plenum of the Supreme Court, composed of the President, the Vice-President, heads of divisions, heads of panels and other judges of the Supreme Court, is the most important collective body of the Supreme Court. In the interests of courts' uniform decision-making, it adopts unifying opinions on the decision-making activity of the courts in matters which concern both divisions or which are disputed between the divisions. It also discusses the court's rules of procedure and decides on merging or splitting the divisions. The hearings are closed to the public and convened and chaired by the President of the court; the President must always convene a hearing if at least one third of all the judges so request. The Plenum has a quorum in the presence of at least two thirds of all judges; a simple majority of those present is required to pass a resolution, but in matters of unifying opinions and merging or splitting the divisions, a majority of all judges is needed (Section 23 of Act No 6/2002 Sb., on Courts and Judges, as amended). In 2020, it was not necessary to convene a hearing of the Plenum of the Supreme Court.

2. 2. Reports of Cases and Opinions

In terms of providing information about the Supreme Court's unifying activity and also of promoting legal awareness of both experts and lay-people, an important act of the Supreme Court is the publication of the Reports of Cases and Opinions (Section 24 (1) of Act No 6/2002 Sb. on Courts and Judges). This is the only official collection of court decisions on cases falling within the scope of the courts' jurisdiction in civil and criminal proceedings. They contain all the opinions of both Divisions of the Supreme Court, as well as selected and approved decisions of various Panels of the Divisions (including the Grand Panel) and also selected and approved decisions of lower courts. The publication Reports of Cases and Opinions of the Supreme Court is divided into a civil and a criminal section.

Once the decisions selected for potential publication in the Reports of Cases and Opinions have been assessed by the Reports Panel of the relevant Supreme Court Division, they are distributed to the relevant persons for comment, i.e. regional and high courts, law schools and university law faculties, the Czech Bar Association, the Ministry of Jus-

tice, for criminal matters to the Supreme Public Prosecutor'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. At the Division meeting the proposed decisions may be adjusted if necessary, and then all Division Justices attending the meeting vote to approve them for publication. A simple majority of votes of all Division Justices is required to approve a decision for publication in the Reports of Cases and Opinions.

The Reports of Cases and Opinions is published in individual issues, which are published ten times each year, in collaboration with the Wolters Kluwer publishing house. At the beginning of 2017, a user-friendly electronic version of the Reports of Cases and Opinions was made available to the public, available on sbirka.nsoud.cz, into which not only all the new decisions are included as they are issued, but the complete set of reports published since the beginning of the 1960s have also been incorporated retrospectively. Similarly, since 2017, a so-called Blue Collection, containing a selection of important rulings by the European Court of Human Rights, has also been available in electronic form on eslp.nsoud.cz. The Supreme Court also issues this collection in cooperation with the Wolters Kluwer publishing house. The exact title of the publication is the Selection of the ECHR Rulings for the Judicial Practice.

Individual judgments from the Reports of Cases and Opinions can obviously also be found, along with legal recitals, on the Supreme Court website www.nsoud.cz, where the content of the next issue of the Reports is also announced in advance on the homepage.

2. 3. The Supreme Court Civil and Commercial Division in 2020

2. 3. 1. Summary of Decisions of the Supreme Courtś Civil and Commercial Division

As follows from Article 92 of the Constitution of the Czech Republic and from Section 14 (1) of Act No 6/2002 Sb., on Courts and Judges, as amended, the Supreme Court is also the highest judicial body in matters that fall within the civil jurisdiction of courts and, through the Civil and Commercial Division, it is called upon to provide for the uniformity and legality of court decisions within civil procedure. It carries out this task mainly by deciding on extraordinary remedies in cases provided for in laws governing court procedure, namely on appeals on points of law against decisions of courts of appeal as well as, under its powers outside its decision-making competences, by adopting opinions serving the purpose of overcoming courts' varied decision-making in specific types of cases, and finally by publishing selected decisions in the Reports of Cases and Opinions.

An amendment to Act No 99/1963 Sb., the Code of Civil Procedure (hereinafter referred to as the "CCP"), implemented by Act No 404/2012 Sb. and effective from 1 January 2013, was intended to assist the Supreme Court in executing these basic tasks; according to the explanatory memorandum, it monitored a conceptual change in the appeal system, whose intention was, on the one hand to reduce the excessive burden on the Supreme Court and, on the other hand, to reinforce the role of the Supreme Court as a unifier of judicial case law; and whereas this second objective (through a significant extension of the limits of appellate review) has been achieved, the first has not. The number of cases has increased in proportion with the extension of the range of decisions that are subject to appeal.

The amendment to the Code of Civil Procedure, which was enacted by Act No 296/2017 Sb., effective from 30 September 2017, responded to this situation, extending the provisions of Article 238 of the CCP, which stipulated those cases for which an appeal was not admissible, to decisions of the appellate courts in sections relating to the statement of costs of the proceedings, decisions ruling on the application for exemption from court fees or on the obligation to pay a court fee, decisions to decide on a party's application for the appointment of a representative, and - albeit conceptually significant - decisions by which an appellate court annulled the decision of the court of first instance and returned the case to the court of first instance for further proceedings.

At the end of 2019, the Civil and Commercial Division was composed of its Head and fifty-seven Justices (ten of whom were temporarily assigned) and arranged in thirteen court departments, on the basis of a work plan set out by the President of the Supreme Court for that year, or changes to it made during the course of the year. In principle, this work plan is based on areas of specialised expertise, reflecting the existence of separable and relatively independent civil or commercial

agendas. In brief, the individual court departments cover the following areas of specialised expertise: appeals on points of law in matters concerning the enforcement of decisions and execution - Department 20, labour law matters and others - Department 21, cases of rights in rem - Department 22, cases involving commercial obligations, industrial property rights and protection against unfair competition - Department 23, cases of succession and family law, as well as disputes over the validity and effectiveness of transfers of title - Department 24, matters of compensation for damage and protection of personality rights - Department 25, matters related to rents and leases - Department 26, matters of legal persons and claims arising from the Copyright Act - Department 27, cases of restitution and unjust enrichment - Department 28, matters concerning insolvency and promissory notes - Department 29, cases of compensation for damage and non-material harm caused by the exercise of public power - Department 30, cases involving commercial obligations and privatisation disputes - Department 32, cases concerned with non-commercial obligations - Department 33. Department 31 is composed of the Grand Panel, which decides pursuant to Section 20 of the Act on Courts and Judges.

Prior to 1 September 2016, when the Rules of Procedure of the Supreme Court were amended, the composition of each of the procedural (three-member) panels called upon to hear and decide a specific case that was assigned to the court department on the basis of the work plan was, in principle, handled by the "managing head" of the competent court department (who was also determined by the work plan); the managing heads appointed the panels that would decide the case primarily on the basis of criteria such as internal specialised expertise, expertise of the Justices and their specific workload. As of 1 September 2016, the deciding panel is formed directly within the court department on the basis of the work plan. The work plan establishes a mechanism based on which an appeal is immediately identified with a specific justice (under a process of regular rotations), and from this - also in advance - the composition of the three-member panel can be deduced. This modification of the case scheduling process was introduced to preclude any objections claiming lack of respect for the rules governing a fair trial and the right to a lawful judge embodied therein under Article 38 (1) of the Charter of Fundamental Rights and Freedoms. The Justice assigned to the case prepares a draft decision, which is then put to vote in the panel configured as above.

2. 3. 1. 1. Decisions on extraordinary remedies

The focal point of the decision-making of the Division's Panels is decisions on appeals on points of law against final decisions of the courts of appeal, this being one means of extraordinary remedy under the valid and effective wording of Act No 99/1963 Sb., Code of Civil Procedure (CCP), which significantly dominates other activities from the point of importance. Since 1 January 2013, these proceedings have been governed by the provisions of Sections 236 to 243g of the CCP, i.e. in Chapter Three of Part Four of the Code of Civil Procedure.

The appeal on a point of law is a remedy against the final decisions of appellate courts, i.e. against decisions of regional and high courts (and

the Municipal Court in the case of Prague), which terminate appeal proceedings as well as against certain specific procedural decisions of appellate courts covered by Section 238a CCP, and can be filed within two months from the service of the challenged decision (Section 240(1) CCP).

If the Petitioner, or the person representing them, has not received education in the field of law, they must be represented by an attorney of law, in accordance with Section 241 (1) CCP when filing a petition with the Supreme Court (in certain cases they may also be represented by a notary).

The appeal on a point of law is not always admissible; it is only admissible when the law so provides (Section 237 CCP, a contrario Section 238 CCP, Section 238a CCP). If the appeal on a point of law is not admissible, it will not become admissible if the appeal court erroneously informs the participant that the appeal on a point of law is admissible.

The amendment to the Code of Civil Procedure implemented by Act No 404/2012 Sb. has also significantly affected the admissibility of appeals on a point of law; henceforth they will be admissible against all decisions of appellate courts where the appeal proceedings terminated, regardless of the wording of the contested decision. It is therefore irrelevant whether or not the appellate court's decision modified or upheld the first instance court's decision, and it is also not necessary for the appeal on a point of law to be directed against a decision on the merits of the case as was the case under the previous regulations (the admissibility of an appeal against annulment decisions of the appellate courts was abolished under the aforementioned Act No 296/2017 Sb.).

An appeal on a point of law is admissible (Section 237 CCP) when the appellate court's challenged decision depends on the resolution of an issue of substantive or procedural law and:

a) when addressing that issue, the court of appeal diverged from the established decision-making practice of the court dealing with appeals on points of law, or

b) that issue has not yet been resolved in the decision-making practice of the court dealing with appeals on points of law, or

c) the court dealing with appeals on points of law delivers different decisions regarding that issue, or

d) this issue should be assessed by the appellate court in a different manner.

Under the provisions of Section 238 CCP, the Act states when an appeal against a decision of an appellate court where the appeal procedure terminates is not admissible (here what is significant is the recording of assets – an appeal is not admissible against decisions and judgments handed down in proceedings where the subject, at the time the decision containing the contested ruling, decided on a monetary performance

not exceeding CZK 50,000, including enforcement and execution proceedings, unless they are relations arising from consumer contracts or labour agreements).

Irrespective of the restrictions set out in Section 238 of the Code of Civil Procedure, under Section 238a CCP an appeal is admissible against the decision of appellate courts, when a decision was made during the appeal proceedings on:

a) who the party's procedural successor was,

b) the admission of a party into the proceedings in lieu of the current party (Section 107a CCP),

c) the accession of another party (Section 92 (1) CCP), or

d) the substitution of a party (Section 92 (2) CCP).

An appeal on a point of law can only be filed on the grounds that the appellate court's decision is based on an erroneous assessment as to the law, whether substantive or procedural law, which was decisive in the challenged decision (Section 241a (1) CCP). Another ground on which an appeal on a point of law cannot be effectively raised, which is worth emphasising, in particular, is in relation to the rather frequent efforts of persons filing appeals on points of law to challenge decisions by claiming that their factual basis is incomplete or erroneous (although in the opinion of the Constitutional Court, this does not apply in situations of "extreme contradiction" between the evidence submitted and what was stated as a factual finding by the court on such a basis).

As of 1 January 2013, the Code of Civil Procedure also places restrictions on the requirements regarding the form and content of appeals on a point of law, meaning that, in addition to the general particulars (Section 42 (4)) and information on which decision is targeted, the extent to which the decision is contested and the remedy sought by the petitioner, it must also include a statement of the ground for the appeal and an explanation of where the petitioner sees conditions for the admissibility of the appeal being satisfied, as enshrined in the above-mentioned provision of Section 237 CCP. When any of these particulars are absent, the appeal on a point of law is deemed defective, which often has critical consequences, as such defects can only be removed within the time limit for filing the appeal on a point of law (while the procedure under Section 43 CCP does not apply in proceedings before the court dealing with appeals on points of law, which means that the petitioner is not invited to remedy, correct or supplement this appeal on a point of law). If the defect in the appeal on a point of law is not removed, the court dealing with appeals on points of law dismisses the appeal on a point of law without being able to consider its merits.

When the petitioner does not sufficiently specify what they regard as satisfaction of the requirements for the admissibility of appeals on points of law, this will now also represent grounds for dismissing the appeal on a point of law, while it is possible that the appellate court can only make this decision through the Presiding Judge or a Justice

authorised by the Presiding Judge (Section 243f (2) CCP). For example, should the petitioner claim that the appellate court diverged from the adjudicating practice of the court dealing with appeals on points of law, they must specify in the appeal on a point of law the decisions from which the court of appeal allegedly diverged, which obviously places considerable requirements on the petitioner.

However, these are not disproportionate with regard to mandatory (professional) representation (primarily by an attorney at law) stipulated by law. The legal regulation of the appeal procedure requires that the appeal on a point of law be also drafted by an attorney at law (or a notary) (Section 241 (4) of the Code of Civil Procedure); or the content of the petition, in which the petitioner states the scope of the challenge to the decision of the court of appeal or in which they set out the grounds of appeal, without meeting the condition of mandatory representation, shall not be taken into account (Section 241a (5) CCP).

As a point of principle, the Supreme Court will review the contested decision only within the limits that it was challenged by the petitioner, and from the point of view of the grounds for an appellate as defined in the appeal on a point of law (exceptions to the binding nature of the content of the application are stipulated by Section 242 (2) of the CCP, the binding nature of the content of the appellate arguments is subject to an exceptional exemption under Section 242 (3), second sentence of the CCP).

In the vast majority of cases, the Supreme Court decides on appeals on points of law without holding a hearing (Section 243a (1) CCP).

The Supreme Court discontinues the proceedings on the appeal on a point of law when the petitioner is not legally represented as required by the law or they withdraw the appeal on a point of law (Section 243c (3) CCP).

When the appeal on a point of law is not admissible or contains defects preventing the proceedings on the appeal on a point of law from continuing, or is obviously frivolous, the Supreme Court will dismiss it (Section 243c (3) CCP). If the appeal is rejected for inadmissibility under Section 237 CCP, all members of the Panel must agree to this (Section 243c (2) CCP).

If the appeal on a point of law is admissible but the Supreme Court concludes that the appellate court's challenged decision is correct, the Supreme Court rejects the appeal on a point of law as unfounded (Section 243d (1)(a) CCP).

However, where the Supreme Court concludes that the appellate court's decision is erroneous, it may (now, under the legislation in force since 1 January 2013) modify that decision if the outcomes of the proceedings indicate that it is possible to decide on the matter (Section 243d (1)(b) CCP).

Otherwise, the Supreme Court quashes the appellate court's decision and refers the case back to the appellate court for further proceedings; if the grounds for which the appellate court's decision is quashed also apply to the first instance court's decision, that decision is also quashed

and the case is referred back to the court of first instance for further proceedings (Section 243e (2) CCP).

The Supreme Court does not only decide in three-member panels but follows a procedure referred to as the Grand Panel to ensure the unity of its decision-making (see the provisions of Sections 19 and 20 of Act No 6/2002 Sb. on Courts and Judges) to which a procedural panel resorts when it arrives at a legal opinion that differs from the legal opinion expressed in an earlier decision of the Supreme Court. It is then obliged to refer the case to the Grand Panel (composed of representatives of the various court departments) and the Grand Panel is called upon to decide the case: in 2010 there were 17 of such cases, in 2011 16 cases, in 2012 18 cases, in 2013 15 cases, in 2014 11 cases, in 2015 8 cases, in 2016 and 2017 8 cases each, in 2018 3 cases, in 2019 6 cases and in 2020 10 cases.

Proceedings on appeals on points of law can be tracked in the InfoSoud application, available on the Supreme Court website or the Ministry of Justice of the Czech Republic website (www.justice.cz); all decisions are then published in anonymised form on the website www.nsoud.cz.

2. 3. 1. 2. Other agendas dealt with by the Justices of the Civil and Commercial Division

Although appeals on points of law are of a crucial nature for the Supreme Court and constitute the core of its operations, it also decides on other matters as the Code of Civil Procedure and other laws require it. It is worth mentioning that the Supreme Court decides disputes over the in rem jurisdiction and local jurisdiction of courts, decides what court has local jurisdiction if the case falls within Czech courts' scope of authority but the circumstances determining territorial jurisdiction are absent or cannot be ascertained (Section 11 (3) CCP), and also decides on motions for removing and assigning a case if the competent court cannot consider the case due to the judges having been recused or if this is appropriate (Section 12 (3) CCP), as well as on partiality pleas against judges of superior courts (first sentence of Section 16 (1) CCP) or on recusing its own Justices (by another panel, under the second sentence of the same Section) and, finally, also acts in proceedings on a motion to determine the time limit for the enforcement of a procedural act pursuant to Section 174a of the Act on Courts and Judges. Under Section 51 (2) and Section 55 of Act No 91/2012 Sb., the Supreme Court is called on to decide on the recognition of final and conclusive foreign judgments concerning cases on the dissolution of marriage, legal separation, the declaration of a marriage as void and the declaration of whether or not a marriage was or was not concluded where at least one of the participants in the proceedings is a citizen of the Czech Republic, as well as on cases concerning the declaration or contesting of paternity where at least one of the participants in the proceedings is a citizen of the Czech Republic.

Under its powers outside its decision-making competences, referred to above, the Division fulfils its unifying role by adopting opinions on the case law of lower courts in specific types of cases, on the basis of an assessment of final rulings where mutually conflicting legal opinions have been expressed. However, in 2020 no such unifying opinion

was issued by either the Civil or the Commercial Division. The same interest - in reinforcing unified decision-making - is also monitored by the Supreme Court through the publication in its Reports of Cases and Opinions of important rulings deemed to serve the above purpose (not only the ones of the Supreme Court), on the basis of a decision by a majority of all the Justices in the Division. In 2020, the Civil and Commercial Division met a total of 7 times, also to select the core case law for publication in the Reports.

2. 3. 1. 3. Agendas of the Civil and Commercial Division of the Supreme Court according to the relevant registers

Cdo
– Appeals on points of law against final decisions of courts of appeal in civil and commercial matters;

Cul
– In civil and commercial matters, motions to set a time limit for making a procedural act under Section 174a of Act No 6/2002 Sb., on Courts and Judges;

ICdo
– Incidental disputes arising from insolvency proceedings;

Ncu
– Proposals for the recognition of foreign judgments in matters of marriage and in the declaration of and contesting of paternity;

Nd
– Disputes concerning courts' jurisdiction;
– Motions to refer a case to another court at the same level of judiciary on the grounds provided for in Section 12 (1) to (3) CCP if one of the courts is within the jurisdiction of the Prague High Court and the other within the jurisdiction of the Olomouc High Court;
– Motions to recuse Supreme Court Justices from hearing and deciding in a case;
– Motions to determine a court that would hear and decide a case if it falls within the jurisdiction of Czech courts but the prerequisites determining local jurisdiction are missing or cannot be ascertained (Section 11 (3) CCP);
– Other matters not falling within the ambit of the above typology, but requiring a procedural decision;

NSČR
– Matters submitted to the court for a decision in insolvency proceedings;

2. 3. 2. Unifying Activity of the Supreme Court's Civil and Commercial Division

Under its powers outside its decision-making competences referred to above, the Division fulfils its unifying role by adopting opinions on the case law of lower courts in specific types of cases (Section 14 (3) of Act No 6/2002 Sb., on Courts and Judges, as amended), on the basis of

an assessment of final rulings where mutually conflicting legal opinions have been expressed. The same interest – in reinforcing unified decision-making – is also monitored by the Supreme Court through the publication in its Reports of Cases and Opinions of important decisions from the point of the above relevance or if they are otherwise significant (not only decisions of the Supreme Court), on the basis of a decision by a majority of the Justices in the relevant Division.

Every approved opinion of the Supreme Court's Civil and Commercial Division is published in the Reports of Cases and Opinions and is also posted in electronic form on the Supreme Court's website www.nsoud.cz.

2. 3. 3. Statistical Data on the Activities of the Supreme Court's Civil and Commercial Division

It is a disappointing fact that the proportion of new cases requiring rulings by the Supreme Court means that appeal decisions are issued with lengthy delays, in some cases up to one or two years (however, in this regard, given the increase in the caseload, the situation is currently seeing some improvements). In principle, individual cases are dealt with on a first come, first served basis based on the date of submission at court, also taking into account the total length of the (prior) court proceedings as well as the specific individual or public importance of the case.

On 31 December 2016 there were 24 cases that had been pending for more than two years, which implies an obvious and significant decrease compared with early 2015 (82 cases), although the Supreme Court had started 2016 with a smaller number of such cases (22), as by 31 December 2017, the number of pending cases older than two years was 26. In 2018, the number of pending cases older than two years was 20. In 2019, the number of pending cases older than two years was 12, while by 31 December 2020 there were 10 cases pending. The reasons for which cases pending for over two years had not been concluded are chiefly objective ones and are primarily the consequence of declarations of receivership, processes for the determination of procedural successors, the submission of cases before the Grand Panel, awaiting the outcome of the proceedings before the Constitutional Court, and requests for preliminary rulings to the CJEU. It is also expected that these cases will be concluded in the very near future.

Judicial assistants have been involved with assisting the Justices for the purposes of reducing the length of proceedings, increasing the quantity of decided cases and bringing focus to the decision-making as such. Each Justice currently has one to three assistants at their disposal and by the end of 2020 the Civil and Commercial Division included a total of 117 judicial assistants.

	Pending from earlier periods	New cases received	Decided	Pending
Cdo	1,970	3,927	4,234	1,663
Cul	1	7	8	0
ICdo (ICm)	181	157	175	163
Ncu	47	151	160	38
Nd	53	621	614	60
NSČR (INS)	109	130	143	96

(Summary of the number of cases assigned to the Civil and Commercial Division in 2020)

It transpired that, due to the otherwise justifiable objective and focus of the amendment to the Code of Civil Procedure implemented by Act No 404/2012 Sb. (in terms of expanding the decision-making powers of the appellate court), leeway was created for submission of appeals on points of law even in matters (in particular procedural ones) which not only lack the potential to offer broader relevance for the case law, but which do not even require an individual review by the supreme tier of the judiciary; this caused a considerable rise in the caseload, which was not balanced out by legitimate benefits and should not even be viewed as temporary.

The tendency described has had to be adequately addressed, especially in view of the Supreme Court's mission described above, highlighted by the gradually emerging need to interpret new private law. This is because the agenda associated with the re-codified civil law – for the anticipated novelty of the legal problems submitted – represents a challenge for the appellate courts not only in terms of quantity, but also, and more importantly, in terms of quality. It is also a question of whether the recently improved efficiency in handling the caseload is sustainable by the current Justices on a long-term basis given that the options for reinforcing the Supreme Court's staffing are apparently limited.

Therefore, as early as in 2016 a debate was initiated – in association with the Ministry of Justice – on how to alleviate the heavy burden resting upon the Supreme Court. The debate continued throughout the entire first half of 2017. The outcomes included a consensus on certain restrictions on access to appeals on points of law through extending the range of exemptions hitherto set out in Section 238 CCP to include, specifically, decisions on the party's motion for exemption from court fees, decisions dismissing the party's motion for the appointment of a counsel in proceedings, and decisions whereby the court of appeal has quashed the decision of the court of first instance and referred the case back to it for further proceedings (since admissible, legally relevant questions are usually not presented in appeals on points of law in any of the above-mentioned cases), and also a consensus on removal of the six-month period allowed for the dismissal of appeals on points of law (Section 243c(1) CCP), in the wording effective up to September 2017), since while the availability of such a period encouraged increased efforts to deal with inadmissible appeals on a point of law, it

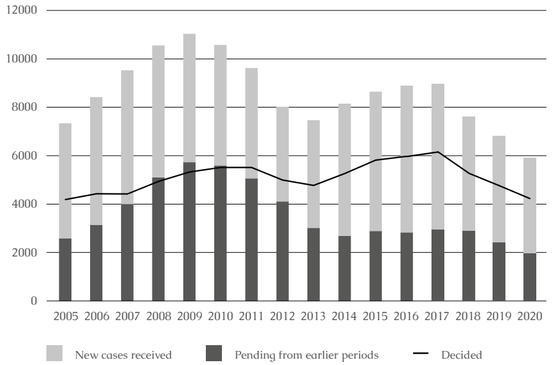
also hindered the resolution of cases in due time which, on the contrary, are then open to substantive assessment. This is due to the fact that exceeding the above-mentioned deadlines might result in the liability regime being activated under the provisions of Section 13(1) of Act No 82/1998 Sb. on the basis of maladministration (also including situations where the decision was not delivered "within the statutory period of time"), which results in decisions in matters that are genuinely important for the point or case being delivered with a delay.

The Bill to amend the Code of Civil Procedure, which includes the above changes, was submitted for parliamentary debate in 2017 and resulted in Act No 296/2017 Sb. being enacted, which came into effect on 30 September 2017 and which provided a legal basis for the intentions outlined above (the abolition of the statutory exemption from court fees for damages or other harm caused by exercise of public authority by an unlawful decision or maladministration was also a move welcomed by the Supreme Court, because the blanket waiver of court fees for these proceedings encouraged participants to file challenges and appeals that were often frivolous, which subsequently resulted in an extreme caseload for the relevant court department). Later, in 2018, the actual application of this amendment to the Code of Civil Procedure and the Act on Court Fees produced an about turn for the Supreme Court from the previous tendency (not always justified) to increase the quantity of decided matters. Subsequently, the reduction in the caseload helped to reduce the appeals procedure and to create space for a greater focus on issues significant for case law.

Statistics from previous years show that while the backlog of pending cases had not been significantly reduced by 2017, despite the efforts-made and undeniable progress achieved, in 2019 and 2019 the situation changed significantly for the better, as shown in the summary below (Cdo and former Odo) for the period 2005 to 2020:

Year	Pending from earlier periods	New cases received	Decided	Pending
2005	2,592	4,747	4,195	3,144
2006	3,144	5,284	4,432	3,966
2007	3,996	5,534	4,427	5,103
2008	5,103	5,453	4,942	5,613
2009	5,731	5,309	5,327	5,595
2010	5,595	4,986	5,515	5,066
2011	5,066	4,559	5,514	4,111
2012	4,111	3,914	5,000	3,025
2013	3,025	4,444	4,777	2,692
2014	2,692	5,462	5,262	2,893
2015	2,893	5,757	5,812	2,838
2016	2,838	6,065	5,971	2,930
2017	2,930	6,105	6,151	2,884
2018	2,884	4,784	5,264	2,404
2019	2,404	4,340	4,774	1,970
2020	1.970	3,927	4,234	1,663

(Cdo and former Odo agenda, 2005 – 2020)



The obvious cause of previously negative developments was that the caseload in the Supreme Court appeals increased significantly: in 2015 there were 5,757 cases, i.e. 47% more than in 2012, and although in 2015 the Justices of the Civil and Commercial Divisions dealt with the highest number of cases to date (5,812), the number of cases pending nevertheless amounted to an impressive 2,838. Similarly, in 2016, when the number of new cases rose to 6,065, and even more cases were settled than in 2015 (5,971), the backlog of outstanding cases still rose by 92

to 2,930. As regards 2017, even though the caseload included 40 more cases than in the previous year, an even higher number of files were dealt with, meaning that the outstanding balance of pending cases fell slightly – to 2,884 cases. It was only in 2018 that, due to the impact of the aforementioned amendment to the Code of Civil Procedure, implemented by Act No 296/2017 Sb., there was a substantially significant reduction in newly submitted filings (4,784), which was positively reflected in the number of pending cases, which on 31 December 2018 totalled 2,404 files. In 2019, the above–mentioned trend of a lightening caseload (4,340 files) and backlog (an 18% reduction compared to 2018) continued at the Civil Division. In 2020, there was once again a decrease in incidence (3,927 files), which affected the number of pending cases, of which there were only 1,663 at the end of the year, i.e. almost 16% less than on the last day of 2019.

2. 3. 4. Selection of the Important Decisions of the Supreme Court's Civil and Commercial Division

2. 3. 4. 1. Decisions of the Grand Panel of the Civil and Commercial Division of the Supreme Court published in the Reports of Cases and Opinions in 2020

Business management of a joint-stock company

The Grand Panel, in its judgment of 11 September 2019, file No: 31 Cdo 1993/2019, published in the civil part of the Reports under No 24/2020, deviated from the conclusions formulated in the decisions of the Supreme Court file No 21 Cdo 496/2014 and file No 21 Cdo 2310/2015, addressing the business management of a joint-stock company, and expressed the conclusion that the business management of a joint-stock company means the organisation and management of its ordinary business activities, especially the decision-making on the company's (plant's) operation and related internal affairs, regardless of whether they are performed by the company's board of directors, a member authorised thereby or a third party.

Unlawful decision within the meaning of Section 8 of Act No 82/1998 Sb.

The disunion in decision-making practice was also addressed by the Grand Panel in the judgment of 11 September 2019, file No: 31 Cdo 1954/2019, published in the civil part of the Reports under No 35/2020, which concluded that the condition for the existence of an unlawful decision within the meaning of Section 8(1) and (2) of Act No 82/1998 Sb. is accomplished if the final or provisionally enforceable decision has been vacated or amended for unlawfulness, regardless of the further course of the proceedings in which the decision was issued. It further concluded that if an appeal was filed against the decision suspending the legal force and enforceability of the decision, the unlawfulness is assessed within the meaning of Section 8(1) of Act No 82/1998 Sb. in relation to the final decision on this appeal.

Invalidity of the arbitration clause

In its judgment of 12 February 2020, file No: 31 Cdo 3534/2019, published in the civil part of the Reports under No 63/2020, the Grand Panel responded to the case-law disunion in the issue of the invalidity of the arbitration clause. In a number of decisions, the Supreme Court ruled that in the case of appointment of only some ad hoc arbitrators, despite the agreement of the parties on one or more arbitrators, namely in the manner provided for in Section 7(1) of the Arbitration Act, the arbitration clause is absolutely invalid throughout its scope. On the contrary, in the resolutions file No 20 Cdo 1330/2016 and file No 20 Cdo 4543/2017, the Supreme Court has acknowledged that if the ground for invalidity relates only to a part of the arbitration clause that can be separated from the rest of the arbitration clause, only a part of the arbitration clause may be invalid. The Grand Panel also referred to the ruling of the Constitutional Court of 8 January 2019, file No: III. ÚS 1336/18, leaning towards the principle of autonomy of the parties' will (reflected in the arbitration clause) as much as possible and concluded that if the reason for invalidity affects only the part of the arbitration clause that can be separated from the rest of the arbitration clause, only a part of the arbitration clause is invalid (affected by the reason for invalidity).

Violation of the basic obligation when operating a vehicle on the road by operating the vehicle

The Grand Panel, by judgment of 10 June 2020, file No: 31 Cdo 475/2020, published in the civil part of the Reports under No 95/2020, suppressed the decision of the Supreme Court file No 23 Cdo 3363/2013, ruling that in order to assess whether the insured breached a basing obligation to operate a vehicle on the road by operating a vehicle which, by its construction or technical condition, did not meet the requirements for the safety of roads, operators, transported persons and goods [Section 10(2)(a) of Act No 168/1999 Sb., on Liability Insurance for Damage Caused by Vehicle Operation and amending], and whether the insurer has the right to recourse against the insured, it is decisive whether the insured knew or while maintaining routine care and caution could have known that the vehicle did not meet these requirements.

Public order

The concept of public order in relation to Section 13 of the Business Corporations Act was addressed by the Grand Panel in the judgment of 10 June 2020, panel No 31 ICdo 36/2020, in which it deviated from the conclusions contained in the resolutions of the Supreme Court of 9 October 2018, file No: 21 Cdo 2980/2018 of 27 November 2018, file No: 21 Cdo 2576/2018, and of 18 December 2018, file No: 21 Cdo 2815/2018, and concluded that the term "manifestly", used in Section 588 of the Civil Code, does not require a certain degree of intensity of the public order under consideration, but merely emphasises that the disturbance of public order must be obvious, unambiguous and unquestionable. It further concluded that if, as a result of non-compliance with the requirement for a written form of legal action and official verification of the signature of the acting partner, stipulated in Section 13 Business Corporations Act, public order is disturbed, this action is invalid; the

court will take into account the invalidity even without a petition (Section 588 of the Business Corporations Act).

2. 3. 4. 2. Selected decisions approved by the Civil and Commercial Division of the Supreme Court in 2020 for publication in the Reports of Cases and Opinions

Necessity of the obligor's signature on an instrument in accordance with Section 43(2) of the Execution Rules

The issue, which has not yet been addressed in decision-making practice, concerning the instrument referred to in Section 43(2) of the Execution Rules, was clarified by the Supreme Court in its resolution of 5 November 2019, file No: **20 Cdo 3028/2019,** published in the civil part of the Reports under No 44/2020, which stated that this instrument does not always have to be signed by the obligor. If the mutual obligation of the obligee is to be fulfilled towards a third party, the fulfilment of the condition specified in the cited provision may also be confirmed by this third party.

Ex officio review of an execution title of a registered creditor

The Supreme Court in its resolution of 3 December 2019, file No: **20 Cdo 3293/2019,** published in the civil part of the Reports under No 64/2020, assessed whether the court of execution (court executor) is entitled and obliged ex officio to examine whether the execution title in the form of an arbitration award submitted by one of the registered creditors in order to satisfy the claim stated therein was issued by a person authorised to issue it and whether this execution title is enforceable. Referring to the argumentum a simili, it concluded that if the court of execution (court executor) is entitled and obliged to do so in cases of an execution title on the basis of which execution proceedings are initiated, it must do the same in the case of an execution title submitted by a registered creditor.

Wrongful threat

The invalidity of legal action to which the actor was forced by the threat of physical or mental violence causing, due to the significance and probability of imminent danger and personal characteristics of the threatened person, their reasonable concern (i.e. a wrongful threat) was the subject of a Supreme Court judgment of 19 December 2019, file No: **21 Cdo 2250/2018,** published in the civil part of the Reports under No 79/2020. Here, the Supreme Court interprets Section 587(1) of the Civil Code and elaborates on which cases precisely constitute a wrongful threat. It further formulates the conditions under which the entitled person may claim the invalidity of the legal action.

Replacement of an employee by a person outside the labour-law relationship

The question under what conditions is the employer entitled to decide that it will continue to provide certain activities performed so far by its employees by means other than through persons employed in a labour-law relationship, therefore cancelling the jobs of the employees concerned and terminating their employment for this reason, is addressed in the Supreme Court judgment of 29 January 2020, file No: **21 Cdo 2128/2019,** published in the civil part of the Reports under No 88/2020. It concluded, inter alia, that employers may ensure the performance of routine tasks arising from the subject of their activity (as well as the performance of other tasks) by means other than through persons employed in a basic labour-law relationship, if it is not the performance of dependent work under contracts (agreements) establishing other than labour-law relationships.

Building a structure near a border of tracts of lands

The building of a structure near a border of tracts of land is addressed in the judgment of the Supreme Court of 21 August 2019, file No: **22 Cdo 4348/2018,** published in the civil part of the Reports under No 45/2020, in which the Supreme Court concluded that the landowner cannot demand that a neighbour refrain from building a structure in close proximity to the common border of the tracts of land (Section 1020 of the Civil Code) if the builder has a valid public legal title (e.g. building permit), and the reasons why a structure should not be built could have been invoked by the landowner in a public (building permit) procedure, but they failed to do so.

Assessing whether a deed of donation containing a contract for reserved rights of enjoyment is a contract for consideration, from the point of view of protection of a good faith grantee

The issue of the institute of reserved rights of enjoyment is addressed by the Supreme Court in its judgment of 28 November 2019, file No: **22 Cdo 2769/2018,** published in the civil part of the Report under No 69/2020, in which it stated that if a contract for reserved rights of enjoyment has been concluded in connection with a deed of donation, it is usually considered a contract for consideration for the purpose envisioned by Section 984(1) of the Civil Code, i.e. the principle material publicity and protection of a good faith grantee.

The relationship between the owner of the land and the owner of a structure on the land

Legal relations between the owner of the land and the owner of a structure built on another's land before 1 January 2014 on the basis of an indefinite right to have a structure on another's land, which later expired (mainly as a result of a change in legislation), are addressed in the judgment of 8 June 2017, file No: **22 Cdo 828/2017,** published in the civil part of the Reports under No 54/2020. Here, the Supreme Court concludes that these relations cannot be assessed by analogy in accordance with Section 135c of the Civil Code nor in accordance with Sections 1084 to 1086 of the Civil Code; this also applies to a structure built at that time on one's own land, if the structure owner's ownership title to the land later expired.

Determining the price of items in the settlement of community property of spouses in relation to the new Civil Code

The judgment of 28 April 2020, file No **22 Cdo 1205/2019,** is considered to be a fundamental decision changing the current practice in relation to Act No 40/1964 Sb., the Civil Code. In this judgment, the Supreme Court stated that if the court settles the defunct (cancelled or narrowed) community property of spouses, it is necessary to use in the circumstances of the new Civil Code (Act No 89/2012 Sb.) the usual price of the item and its condition at the time of the court decision.

Abuse of a dominant market position by the exercise of intellectual property rights

In accordance with Article 102 of the Treaty on the Functioning of the European Union, an abuse of a trade mark by a dominant person may occur by the exercise of a trade mark right if it is accompanied by exceptional circumstances which have led to the suppression of competition in the relevant market. This conclusion was reached by the Supreme Court in its judgment of 29 May 2019, file No: **23 Cdo 5955/2017,** published in the civil part of the Reports under No 26/2020, based on the application of the caselaw of the Court of Justice of the European Union.

Arrangement on a contractual penalty linked to withdrawal from the contract

Judgment of the Supreme Court of 30 October 2019, file No: **23 Cdo 1192/2019,** published in the civil part of the Reports under No 55/2020, addresses the issue of the validity of a contractual penalty arrangement, which links the establishment of the right to a contractual penalty, in addition to the breach of legal obligation, to another legal fact, which in this case is the withdrawal from the contract by the creditor for breach of duty by the debtor. According to the conclusions of the decision, the said arrangement is admissible in the circumstances of the Civil Code. Its purpose may be to penalise a party who, by its action or omission, breaches the contract in such a way as to justify the other party's right to withdraw from the contract, and where withdrawal alone would not constitute a sufficient sanction.

Conclusion of an arbitration agreement via email

The Supreme Court clarified the problematic interpretation of compliance with the written form under the New York Convention in the field of arbitration in a resolution of 16 May 2019, file No: **23 Cdo 3439/2018,** published in the civil part of the Reports under No 59/2020, in which it ruled that a qualified electronic signature is not required for the valid conclusion of an arbitration agreement between persons from different states by email exchange within the meaning of Article II of the New York Convention.

Damage resulting from operating activities

In its judgment of 27 June 2019, file No: **25 Cdo 1127/2018,** published in the civil part of the Reports under No 36/2020, the Supreme Court had the opportunity for the first time to interpret the basic principles of strict liability for damage resulting from operating activities (Section 2924 of the Civil Code). It concluded that it was also established by the leakage of sewage water from the sewer leading to the building and the sewer operator is liable for the damage to the affected real estate, regardless of the fact that there was no binding legal relationship between the operator and the injured party. It also addressed the possibility of the operator to absolve itself of this responsibility.

Avoiding imminent damage by performing construction on foreign land

Judgment of 23 October 2019, file No: **25 Cdo 1412/2019,** published in the civil part of the Reports under No 58/2020, concerns the institute of appropriate and proportionate measures to avert imminent damage, which was also contained in Act No 40/1964 Sb. (in Section 417). It states that there have been no fundamental changes in the new regulation, and therefore it still applies that in case of a serious threat, where the imminent damage cannot be averted other than by appropriate and proportionate building modifications, the court may order the defendant to carry out construction in accordance with 2903(2) of the Civil Code, even on foreign land, if the owner agrees. The decision also emphasises the need for a precise statement of action corresponding to the construction solution, which is proposed by an expert technical report or opinion.

Limitation of the right to insurance indemnity from liability insurance

The new rule of limitation was introduced by Section 635(2) of the Civil Code, according to which the right to indemnity from liability insurance only begins to run one year after the insured event; however, its expiry is linked to the limitation period for the claim to which it relates. For these reasons, the claim against the insurer expires at the latest upon the expiry of the limitation period set for the right to compensation for the injured party against the wrongdoer, both in relation to the objective and subjective limitation period. The judgment of 28 November 2019, file No: **25 Cdo 1976/2019,** published in the civil part of the Reports under No 68/2020, explains and develops this rule.

Distinction of lease and gale

Judgment of the Supreme Court of 29 January 2020, file No: **26 Cdo 3721/2019,** published in the civil part of the Reports under No 81/2020, gives instructions on how to distinguish a lease from gale, describes the characteristics of each of these relationships and addresses the issue of the application of transitional provisions to contracts concluded before 31 December 2013.

Lease of space used for business

The Supreme Court, in its judgment of 15 April 2020, file No: **26 Cdo 2585/2019,** addresses the dispositive regulation of the lease of space used for business, the possibility of the parties to exclude the institute

of review of the validity of the notice and discusses what defence the party that received the notice has in such a case against unjustified or invalid notice. It also addresses the issue of the validity of several leases concluded for one subject-matter of lease and in the context of the new Civil Code concludes that the lease contract is not invalid only because the same property was leased by several contracts to several tenants.

Fulfilment of the reinstatement condition for immovable property encumbered by the right of patronage

In assessing the appellate review in a restitution litigation, the Supreme Court in its judgment of 19 November 2019, file No: **28 Cdo 2854/2019,** published in the civil part of the Reports under No 71/2020, reached the conclusion that the conditions of reinstatement within the meaning of Section 7(1)(b) of Act No 428/2012 Sb. are fulfilled only by immovable property which, in the relevant period, directly served one of the purposes exhaustively listed in this provision. It also concluded that it was not enough if they were burdened with the right of patronage in the relevant period, which corresponded to the obligation of their owner to support the spiritual and pastoral activity of the church (church maintenance) from the profit generated by their use.

VAT in quantifying unjust enrichment arising from the use of another's property

The Supreme Court addressed an issue that has not yet been resolved in decision-making practice in a similar context, concerning the consideration of value added tax in valuing the benefits obtained by using a foreign property without a proper legal reason using the comparative method. By its judgment of 3 September 2019, file No: **28 Cdo 2169/2018,** published in the civil part of the Reports under No 47/2020, the Supreme Court concluded that the rent agreed in the compared contracts is fundamentally relevant, whether or not it includes value added tax. However, it concluded that if the property was used by a value added tax payer in circumstances enabling the application of input tax deduction within the meaning of Section 72 of Act No 235/2004 Sb., on Value Added Tax, it is appropriate to use the rent paid for comparable objects without increasing it by value added tax.

Unjust enrichment by conscious performance on someone else's debt

In its judgment of 3 May 2019, file No: **28 Cdo 208/2019,** published in the civil part of the Reports under No 21/2020, the Supreme Court stated that the right to issue unjust enrichment arising from performance for another (Section 2991 of the Civil Code) is not excluded under Section 2997(1) Sentence 2 of the Civil Code merely by the fact that the impoverished party (the performing party) knowingly provided performance instead of the enriched party (the debtor), although it was not obliged to do so; it is not excluded even by the fact that the impoverished did stipulate from the creditor the assignment of the claim in accordance with Section 1936(2) of the Civil Code.

The decisive moment for the assessment of the content of land-use planning documentation from the point of view of fulfilling the exclusion reason

In accordance with the Judgment of the Supreme Court of 25 March 2020, file No **28 Cdo 164/2020,** published in the civil part of the Reports under No 98/2020, the moment of delivery of the invitation of the entitled person to hand over such property to the obligated person is considered, from the point of view of fulfilling the stated condition of the exclusion reason regulated in Section 8(1)(f) of Act No 428/2012 Sb., the decisive moment for the assessment of the content of land-use planning documentation (whether it defines the land intended for the construction of public benefit transport object or technical infrastructure).

Execution of a finally assigned defendant's right in insolvency proceedings

The judgment of the Supreme Court of 30 December 2019, panel No **29 ICdo 171/2017,** published in the civil part of the Reports under No 86/2020, explains how claims can be asserted in insolvency proceedings against the property of a person against whom a pre-insolvency creditor has a final defendant's right in the form of a determination of the ineffectiveness of the legal action by which the creditor's debtor transferred its property to that person. The Supreme Court concludes that they can only be asserted by application of the claim, which is an unsecured claim that corresponds to monetary compensation for property lost from the property of the (bond) debtor.

Gap in insolvency proceedings coverage

The resolution of the Supreme Court of 27 February 2020, panel No **29 NSČR 13/2019,** published in the civil part of the Reports under No 99/2020, clarifies when a rebuttable presumption of the debtor's solvency based on the notion of a "coverage gap" can be applied in insolvency proceedings and clarifies the relationship between this presumption and the presumptions of the debtor's insolvency.

A person close to a legal person

Changes in the current judicial conclusions of the Supreme Court on the interpretation of the term "person close to a legal person" after the recodification of private law (after the adoption of Act No 89/2012 Sb., the Civil Code) are reflected in the Supreme Court judgment of 30 April 2020, panel No **29 Cdo 43/2018,** published in the civil part of the Reports under No 100/2020.

Mistakes in the procedure for termination of studies and the liability of the higher education institution

The Supreme Court has resolved the so far controversial issue of the state's liability for a higher education institution's misconduct in the proceedings for the termination of the applicant's studies at the university in a judgment of 31 July 2019, file No: **30 Cdo 2301/2017,** published in the civil part of the Reports under No 46/2020. It emphasised that the higher education institution was endowed with self-government,

which was exercised independently of the state, and that it was therefore responsible for the alleged harm under civil law.

Liability of the state for damage caused by a police authority, as a body in charge of criminal proceedings

The first decision of the Supreme Court defining the so far controversial issue of the scope of Act No 82/1998, on Liability for Damage Caused in the Exercise of Public Power by a decision or incorrect official procedure and amending Act of the Czech National Council No 358/1992, on notaries and their activities (the Notarial Code), and a special provision establishing the state's liability for damage under the regime of Act No 273/2008 Sb., on the Police of the Czech Republic, is the resolution of 29 April 2020, file No: **30 Cdo 4066/2018,** published in the civil part of the Reports under No 96/2020. The Supreme Court concluded that the state's liability for damage caused by the activities of a police authority as a body in charge of criminal proceedings is governed by Section 95(1) of Act No 273/2008 Sb., on the Police of the Czech Republic, only if the harm is caused to a person who is not the intended addressee of the exercise of public authority, nor does it otherwise participate in criminal proceedings in the capacity of its subject.

Return of a gift

The Supreme Court, in its judgment of 31 March 2020, file No: **33 Cdo 2339/2019,** published in the civil part of the Reports under No 92/2020, describes the conditions stipulated by law for the return of a gift. It considers these conditions to be part of the circumstances in which the deed of donation is concluded and which cannot therefore be subsequently amended, regardless of the will of the parties, by new legislation which would affect the legal relationship previously established by the deed of donation. Therefore, if the deed of donation contract was concluded before 1 January 2014, it is necessary to always assess the right to a return of the gift by Act No 40/1964 Sb., the Civil Code, as amended before 31 December 2013, even though the "immoral" behaviour of the donee, for which the donor requests the return of the gift, occurred after 1 January 2014.

Particulars of a settlement agreement

The Supreme Court dealt with the expression of dispute or doubt in the settlement agreement in its judgment of 21 November 2019, file No: **33 Cdo 1720/2019,** published in the civil part of the Reports under No 80/2020, and it concluded that this statement is not a necessary part of the settlement agreement and if absent, it does not create uncertainty or invalidity; it further stated that the dispute or doubt are subjective categories and it is not legally relevant whether the agreement appears so to a third party or to a court.

Defects from early performance

The law combines with the situation where the buyer was willing to accept early performance with the possibility of correcting any defects in the object of purchase within the originally agreed time for handing over the item. At the same time, it is left to the will of the seller to eliminate

the deficiencies of performance, as it is not yet a claim for rights arising from defective performance, but the right of the seller to "eliminate defects of early performance", in which case the buyer cannot proceed in accordance with Section 2106 of the Civil Code. The Supreme Court concluded thusly in its judgment of 31 October 2019, file No: **33 Cdo 5857/2017,** published in the civil part of the Reports under No 75/2020.

2. 3. 4. 3. Some other selected decisions made by the Civil and Commercial Division of the Supreme Court in 2020

Violation of a general inhibition by a contract for the assignment of a claim

The issue of the general inhibition is addressed in the resolution of the Supreme Court of 2 June 2020, file No: **20 Cdo 1270/2020.** The Supreme Court has ruled here that if the obligor concluded in the period from 1 November 2009 a contract on the assignment of a claim, even if this was prohibited by a general inhibition in accordance with Section 44a(1) of the Execution Rules, this legal action is deemed valid even if the entitled person in the execution has invoked its invalidity, if this legal action has not damaged the property interests of the entitled person with regard to the result of the execution.

Principle of equal pay

In its judgment of 20 July 2020, file No: **21 Cdo 3955/2018,** the Supreme Court addresses the question of the importance of the fact that the wages of employees who perform the same work or work of the same value within the employer's territorial activities differ in different areas (regions) when assessing whether there is (un)equal treatment in the remuneration of employees for work. In this decision, it explained that from the point of view of the principle of equal pay in accordance with Section 110 of the Labour Code, socio-economic conditions and their corresponding cost of meeting the needs of living in the place where the employee performs work on the basis of an employment contract for the employer are not significant for the assessment of whether work in a particular case is the same work or work of equal value.

Implementation of a proposal for registration on the basis of a settlement agreement

The question of whether the registration of the ownership right in the Cadastre of Real Estate can also be made on the basis of a settlement agreement containing the recognition of the ownership right to the immovable property was addressed by the Supreme Court in its judgment of 3 December 2020, file No: **24 Cdo 1810/2020,** in which it concluded that a settlement agreement in accordance with Section 1903 of the Civil Code can be considered capable of being deposited if it is to serve as a basis for recognising the existence or non-existence of any of the rights in rem, which the Cadastral Act in Section 11(1)(a) to (s) allows as a basis for registration in the Cadastre of Real Estate.

Application of Section 154 of the Act on Special Legal Proceedings in the cases of disagreement of the funeral provider with the takeover of property without value or insignificant value

The law does not explicitly regulate further procedure in inheritance proceedings, if the testator has left only property without value or property of insignificant value and the funeral provider does not agree with its takeover, therefore it is in principle appropriate to continue the proceedings by hearing on the estate. However, the Supreme Court in its decision of 27 August 2020, file No: **24 Cdo 785/2020,** concluded that if the costs of the state and the costs of the participants in the proceedings incurred in identifying the heirs and in the own hearing on the estate are significantly disproportionate to the value and nature of the testator's estate, this situation could lead to the application of Section 154 of the Act on Special Legal Proceeding. The property without value or property of negligible value may be surrendered to the state as well.

Cohabitation in a common household

The concept of cohabitation in a common household was addressed by the Supreme Court in its judgment of 2 April 2020, file No: **24 Cdo 3958/2019,** in which it concluded that a situation is considered the cohabitation of persons not limited to occasional visits or occasional assistance if such a community of persons constituted their only common household connected with paying for common needs. The same was determined for the assessment of the status of a possible other cohabiting person in the common household of the registered partners (e.g. for the purposes of inheritance proceedings).

Protection of a Deputy's personality

In its resolution of 15 April 2020, file No: **25 Cdo 2386/2019,** the Supreme Court addressed the question of whether a Deputy who feels affected by another Deputy's speech on Parliament's premises may submit only a complaint to the Disciplinary Committee of the relevant parliamentary chamber in order to protect their honour or if they may apply to the court for protection of personality. In this decision, the Supreme Court addressed the issue of the jurisdiction of the courts to hear these disputes and concluded that such a statement may have not only disciplinary consequences, but it may also have private law consequences when interfering with personal rights, and therefore it is not appropriate to stop the proceedings and refer the matter to the Mandate and Immunity Committee of the Chamber of Deputies.

Imposition of a fine for non-performed or incorrect billing of services

The judgment of the Supreme Court of 23 June 2020, file No **26 Cdo 4074/2019,** which states that the obligation to pay the fine does not depend on the result of the billing, is a pilot decision dealing with the issue of imposing a fine in accordance with Section 13 of Act No 67/2013 Sb. for non-performed or incorrect billing of services. It further concludes that the provisions on the contractual penalty contained in Sections 2048-2051 of the Civil Code apply to the fine. This judgment is followed

up and further developed by other decisions of the judicial department in question (for example, file Nos 26 Cdo 1105/2020, 26 Cdo 1528/2020 a 26 Cdo 1528/2020).

The nature of the unit owner's debt on contributions related to the management of the house and land

The judgment of the Supreme Court of 27 July 2020, file No: **26 Cdo 557/2019,** offers an interpretation of Section 1186 of the Civil Code, as in effect before 30 June 2020, regulating the legal transfer of debts of the unit owner (housing co-ownership) on contributions related to the management of the house and land during the transfer of the unit, which, although often applied in practice, was not interpreted uniformly. By interpreting this provision, the Supreme Court concluded that it was not another defect related to the case within the meaning of Section 1107 of the Civil Code, but a personal debt of the former owner of the unit. Section 1186(2) of the Civil Code regulates the legal transfer of a debt in the case of a transfer of a unit (change in the person of the debtor), the amount of debts to be transferred to the transferee must be documented by a written confirmation of the person responsible for the management of the house and land. That decision was followed by a judgment of 28 July 2020, file No: 26 Cdo 774/2019.

The right to information of a partner in a limited liability company

Comprehensive interpretation of the institute of the right to information of a partner in a limited liability company on the state and activities of the company and its bodies (in the conditions of legal regulation in effect from 1 January 2014) was offered by the judgment of the Supreme Court of 15 April 2020, file No: **27 Cdo 2708/2018.**

Withdrawal of a branch association from the main association

The issue, which was also deal with in the academic field and which arose after repeated attempts by the branch associations to withdraw from the main association, is addressed by the resolution of the Supreme Court of 16 March 2020, file No: **27 Cdo 1644/2018,** and within its framework it unifies the hitherto inconsistent case law of the lower courts, in the conditions of legal regulation in effect 1 January 2014.

Expulsion of a member of a cooperative

The resolution of the Supreme Court of 26 May 2020, file No: **27 Cdo 2613/2018,** gives a comprehensive interpretation of the institute of expulsion of a member from a cooperative and stipulates that in assessing whether expulsion is an appropriate sanction for breach of duties by a member of the cooperative, all circumstances of the case, as well as the rights and legitimate interests of both the affected member and the cooperative itself and its other members (Section 212(1) of the Civil Code), must be taken into account. The principle of proportionality fully applies here as one of the basic principles of private law. In this decision, the Supreme Court also addresses the issues of judicial review of the validity of expulsions (in the conditions of legal regulation in effect from 1 January 2014).

Consequences of non-compliance with the methods of acting on behalf of a commercial company

In the conditions of legal regulation in effect before 31 December 2013, the Judgment of the Supreme Court of 24 August 2020, file No: **27 Cdo 760/2019,** addresses for the first time the consequences of non-compliance with the methods of acting on behalf of a commercial company and the possibility of ratihabition of such conduct by companies. In this decision, the Supreme Court concluded that if a member of a governing body acted on behalf of the company themselves, although according to the methods of the company registered in the Commercial Register, two or more of its members should have done so, the acting member of the statutory body is obliged by this legal act, unless the company subsequently approves the legal act without undue delay.

The nature of health insurance premiums in insolvency proceedings

The practical question of the nature of the health insurance premium charged by the later insolvency debtor to its employees and paid to their health insurance company is the subject of a judgment of the Supreme Court of 30 June 2020, panel No **29 ICdo 97/2018;** the Supreme Court comes to the opinion that it is not a performance related to property belonging to the debtor.

Incurrence of other than proprietary harm in the event of misconduct by public authorities

Relation of the general other than proprietary harm clause in the Civil Code to the special regulation in Act No 82/1998 Sb., on Liability for Damage Caused in the Exercise of Public Power by a decision or incorrect official procedure and amending Act of the Czech National Council No 358/1992, on notaries and their activities (Notarial Code), is explained by the judgment of the Supreme Court of 24 June 2020, file **No: 30 Cdo 891/2020,** which claims that the harm suffered by the injured party cannot consist purely in that the State erred. In order for harm to occur, the lapse in question must be manifested in the circumstances of the injured party by interfering with their natural rights. Thus, only the unlawful initiation of execution proceedings does not lead to the presumption that the alleged debtor has suffered other than proprietary harm.

Payment of support for electricity generation

In its judgment of 23 June 2020, file No: **32 Cdo 1264/2019,** the Supreme Court addressed issues related to the payment of support to electricity producers in the form of a green bonus and a contribution to electricity from combined heat and power generation. It first concluded that even in the relevant period of 2012, the condition for the establishment of the electricity producer's right to payment of the above-mentioned support was the existence of a valid licence for electricity production relating to a specific generation facility. It subsequently concluded that, given

the nature of the relationship between the electricity producer and the transmission or regional distribution system operator in granting the support, the producer was entitled to default interest in case of late payment and if the transmission or regional distribution system operator refused to pay the support, the obligation to pay it, including late payment interest, passed with effect from 1 January 2013, to the market operator.

Arrangements on the amount of late payment interest contrary to good morals

The Supreme Court, in its judgment of 22 September 2020, file No: **32 Cdo 1490/2019,** dealt with the issue of under what conditions, in the conditions of legal regulation in effect from 1 January 2014, to assess the agreement on the amount of late payment interest in a loan contract concluded between entrepreneurs in the performance of their business activities as contrary to good morals. It came to the conclusion that only such an arrangement on the amount of late payment interest can be considered contrary to good morals, which deviates significantly from the late payment interest rate set by a government regulation in a way that would mean that, given the circumstances existing at the time of concluding the contract, the agreed late payment interest no longer serves only to fulfil its functions (sanction motivational or compensatory), but it has an abusive character.

Withdrawal of the client from a contract for work

The client's possibility to partially withdraw from a contract for work in the event that the work is partially performed defectively and has not yet been handed over and taken over was assessed by the Supreme Court in a judgment of 25 November 2020, file No: **32 Cdo 3345/2018.** It concluded that the client may, in accordance with Section 2593 of the Civil Code, partially withdraw from a contract for work, if the equivalent of the client's consideration can be assigned to the part of the contractor's performance from which the client withdraws. Thus, a partial withdrawal from the contract is not effectively possible unless the individual rights and obligations are defined between the parties in a way that would, according to the mutual will of both parties, separate a certain part and clearly assign it to rights and obligations that expire or persist after the partial withdrawal.

2. 4. The Supreme Court Criminal Division in 2020

2. 4. 1. Summary of Decision-Making Activity of the Supreme Court's Criminal Division

In 2020, the Supreme Court Criminal Division (hereinafter referred to as "the Criminal Division") was composed of a Head of Division and 22 other Justices; in addition, judges were temporarily assigned at different times. The Criminal Division Justices are posted in seven adjudicating Panels that constitute seven court departments. There is also a Criminal Division Grand Panel, a Reports Panel and a separate panel for appeals against decisions of the Supreme Audit Office's disciplinary chamber.

The Head of the Criminal Division assigns each of the criminal cases to the seven adjudicating Panels (hereinafter referred to as the "Panels") under the rules contained in the Supreme Court's case management guideline. The managing Presiding Judge assigns particular Justices within the Panel to cases, also under the case management rules, which combine the principle of the specialised expertise of certain Panels with the principle of regular rotation. Three specialised panels operate within the Criminal Division - one (No 8) considers cases heard under Act No 218/2003 Sb. on Juvenile Justice, as amended, the second (No 5) specialises in economic and property crime and the third (No 11) specialises in drug-related criminal offences and cases concerning international judicial cooperation in criminal matters. The Criminal Division's Panels usually decide in closed hearings, i.e. the accused, the defence counsel and the public prosecutor are not present; they decide in an open court, where the parties are present, only in certain matters. In addition to decisions handed down by Panels of three Justices in criminal cases, the Criminal Division also includes a Grand Panel of nine Justices.

The Supreme Court's key mission is to unify the adjudicating practice of lower courts. In criminal matters, the Supreme Court's Criminal Division is in charge of pursuing this mission. To this end, Act No 6/2002 Sb. on Courts and Judges, as amended, provides the Supreme Court with several tools. They primarily include decision-making on extraordinary remedies in the three-member Panels of the Criminal Division, and also decision-making in the Grand Panel of the Criminal Division, the adoption of opinions by the Criminal Division and, finally, also the publication of the Reports of Cases and Opinions.

2. 4. 1. 1. Decisions on extraordinary remedies

The Supreme Court is the supreme body among the ordinary courts of the Czech Republic (Article 92 of the Constitution of the Czech Republic). It is therefore empowered to decide on the most important extraordinary remedies; in criminal proceedings, these are appeals on points of law and petitions about violations of law.

An appeal on a point of law is an extraordinary remedy that can be used to challenge final decisions on the merits delivered by courts of

second instance (Section 265a CrPR), but solely with reference to one of the grounds for appealing on a point of law; such grounds are exhaustively set out in Section 265b (1) and (2) CrPR. The subject matter of proceedings on appeals on points of law is not to review the facts but solely to examine the questions of law in the challenged decision or in proceedings preceding the decision. An appeal on a point of law may be filed, first, by the Supreme Public Prosecutor - for the inaccuracy of any verdict of a court decision, in favour of and against the accused, and, on the other, by the accused - for the inaccuracy of the verdict of the court directly concerned. Accused persons can only file appeals on points of law through their defence counsels; an accused person's submission filed otherwise than through their defence counsel is not regarded as an appeal on a point of law and is, if applicable, treated in some other manner depending on its content. An appeal on a point of law has to be filed with the court that has decided on the merits of the case at the level of first instance, specifically within two months from the service of the decision against which the appeal on points of law is directed. The presiding judge of the first instance court serves a copy of the accused person's appeal on a point of law to the Supreme Public Prosecutor, and a copy of the Supreme Public Prosecutor's appeal on a point of law to the accused person's defence counsel and to the accused person, advising them that they can submit their written observations on the appeal on a point of law and agree with the in camera hearing of the appeal on a point of law before the appeal court. As soon as the time limit for filing an appeal on points of law expires for all the persons entitled to do so, the first instance court delivers the file to the Supreme Court. The Supreme Court dismisses appeals on points of law on the grounds exhaustively set out in Section 265i (1) CrPR, in particular when some formal conditions have not been met or if in the appeal on a point of law the appellant repeats the arguments with which lower courts have fully and correctly dealt with in terms of substance. In such cases, the Supreme Court in its resolution on dismissal of the matters only briefly lists the grounds for dismissing the appeal on a point of law by way of reference to the circumstances related to the statutory grounds for the dismissal. The Supreme Court rejects appeals on points of law when it finds that they are unfounded (Section 265j CrPR). If the Supreme Court does not dismiss or reject an appeal on a point of law, it reviews the challenged decision and the preceding proceedings, but solely in the scope of and on the grounds specified in the appeal on a point of law. Following this review, the Supreme Court overturns the challenged decision or a part thereof and, if needed, also the defective proceedings preceding the decision, if it finds that the appeal on a point of law is well-founded. If a new decision has to be issued following the reversal of the challenged decision or any of its rulings, the Supreme Court usually orders the body whose decision is in question to hear the case again in the required scope and to decide (Section 265 of the 4 (1) CrPR). The court or another law enforcement or criminal proceedings authority to which the case was remanded for a new hearing and decision are bound by the Supreme Court's legal opinion (Section 265s (1) CrPR). Where the challenged decision was only overturned due to an appeal on a point of law filed in favour of the accused, a decision against the accused must not be issued in the new proceedings (Section 265s (2) CrPR). However, when quashing the challenged decision, the Supreme Court itself can decide on the merits by its own judgment (Section 265m CrPR).

The other extraordinary remedy admissible before the Supreme Court is the petition on a violation of the law ("VOL petition"). Only the Minister of Justice is entitled to file this extraordinary remedy, directed against a court's or a public prosecutor's final decision whereby the law was violated or which was made on the basis of a defective course of action in the proceedings, or if the sentence is manifestly disproportionate to the nature and gravity of the offence or to the perpetrator's personal state of affairs, or if the nature of the imposed sentence is manifestly contrary to the purpose of punishment (Section 266 (1) and (2) CrPR). A petition against a court's final decision concerning a violation of the law to the detriment of the accused person may not be filed solely when the court proceeded in line with Section 259 (4), Section 264 (2), Section 273 or Section 289 (b) CrPR. In the event of a VOL petition being filed to the detriment of the accused and following the finding that the law was violated, but not in disfavour of the accused, only an "academic ruling" can be achieved, but the challenged decision or the preceding proceedings whereby the law was violated cannot be quashed. The Supreme Court rejects VOL petitions if they are inadmissible or unfounded (Section 268 (1) CrPR). If the Supreme Court finds that the law was violated, it holds so in its judgment (Section 268(2) CrPR). If the law was violated in disfavour of the accused the Supreme Court quashes, simultaneously with holding as above under Section 268 (2) CrPR, the challenged decision or a part thereof and potentially also the defective proceedings preceding the decision. If only one of the rulings in the challenged decision is unlawful, and if such ruling can be severed from the other rulings, the Supreme Court quashes only that ruling (Section 269 CrPR). Where a new decision has to be issued following the challenged decision or any of its rulings are overturned, the Supreme Court orders the authority, usually the one whose decision is in question, to hear the case again in the required scope and to decide. The authority to which the case is remanded is bound by the Supreme Court's legal opinion (Section 270 CrPR). When quashing the challenged decision, the Supreme Court itself can decide on the merits if a decision can be issued on the basis of the facts that were correctly established in the challenged decision (Section 271 CrPR). Where the Supreme Court holds that the law was violated in disfavour of the accused, in the new proceedings the decision must not be modified in disfavour of the accused (Section 273 CrPR).

2. 4. 1. 2. Agendas of the Criminal Division of the Supreme Court: Broken down by Register

The justices of the Supreme Court's Criminal Division of the Supreme Court are empowered by the following legislation to take decisions within the scope of the following agendas in chambers mainly composed of the chamber president and two justices:

Tdo
– Decisions on appeals on point of law against final decisions on the merits of courts of second instance (Section 265a *et seq*. CrPR);

Tcu
– decisions on motions to record data on the conviction of a Czech citizen by a foreign court in the Criminal Records (Section 4(2), (3), (4) and Section 4a(3) of Act No 269/1994 Sb., on the Criminal Records, as amended);
– decision on motions in accordance with Act No 104/2013 Sb., on International Judicial Cooperation in Criminal Matters, as amended (e.g. on motions of the Ministry of Justice to review a decision to exclude an extradited person from the jurisdiction of bodies in charge of criminal proceedings in accordance with Section 89(2) of the cited Act; on motions for a decision on whether the extradited person is excluded from the jurisdiction of bodies in charge of criminal proceedings in accordance with Section 92(6) and Section 95(2) of the cited Act; on motions to take the transferred person into transit custody after period of transit through the territory of the Czech Republic in accordance with Section 143(4) of the cited Act);
– decisions on motions for decision whether a person is excluded from the jurisdiction and competence of bodies in charge of criminal proceedings (Section 10(2) of the Code of Criminal Procedure);
– decisions on motions submitted by the Minister of Justice to review a decision on the admissibility of extraditing a person to a foreign prosecution;

Tz
– Decisions on petitioners on violations of law, filed by the Minister of Justice against public prosecutors' and courts' decisions in proceedings held under the Criminal Procedure Rules (Section 266 *et seq*. CrPR);

Td
– resolution of disputes over jurisdiction between lower courts, if the Supreme Court is the nearest jointly superior court in relation thereto (Section 24 of the Code of Criminal Procedure);
– decisions on motions for removal and referral of a case, if the Supreme Court is the nearest jointly superior court (Section 25 of the Code of Criminal Procedure);
– decisions on motions to exclude Supreme Court judges from hearing and deciding on a case (Section 31 of the Code of Criminal Procedure);

Tvo
– decisions on complaints against high court decisions to extend remand pursuant to Section 74 of the Code of Criminal Procedure and against other decisions of high courts handing down rulings in the position of a court of first instance (e.g. on complaints against decisions to exclude high court judges from the execution of acts in criminal proceedings pursuant to Sections 30 and 31 of the Code of Criminal Procedure);

Tul
– decisions on applications for a time limit to be set for the execution of a procedural act (Section 174a of Act No 6/2002 Sb. on Courts and Judges, as amended);

Zp
– decisions on appeals against decisions of the Disciplinary Chamber of the Supreme Audit Office (Section 43(2) of Act No 166/1993 Sb. on the Supreme Audit Office, as amended);

Pzo
– decisions on applications for a review of the legality of an order to intercept and record telecommunications traffic and an order to obtain data on telecommunications traffic (Sections 314l to 314n of the Code of Criminal Procedure).

2. 4. 2. Unifying Activity of the Supreme Court's Criminal Division

The lower courts' adjudicating practice is unified primarily through decisions on the two extraordinary remedies in specific criminal cases, with the Supreme Court setting forth binding legal opinions in its decisions; lower courts and other criminal proceedings authorities are bound by such legal opinions and these authorities follow such opinions, if applicable, in other similar cases. The Supreme Court usually decides on appeals on points of law and complaints about violations of the law in three-member Panels composed of the Presiding Judge and another two professional judges, but for exceptions where the Criminal Division's Grand Panel decides.

A case will be referred to the Grand Panel when, in its decision-making, a three-member Panel has arrived at a legal opinion differing from the opinion already expressed in any of the Supreme Court's earlier decisions, where the Panel has justified such a different decision (Section 20 of Act No 6/2002 Sb. on Courts and Judges, as amended).

The above procedure can be used to refer a case to the Criminal Division's Grand Panel, in particular where the contentious issue concerns substantive law. Where a legal opinion on adjectival law is at issue, the three-member Panel may only refer the case to the Criminal Division's Grand Panel if it has concluded unanimously (by votes of all Panel members) that the procedural question at issue is of fundamental importance to the law. However, a referral to the Criminal Division's Grand Panel is out of the question if the issue at hand has

already been resolved by a Division or Plenary Session of the Supreme Court. The Criminal Division's Grand Panel decides on the merits of the case at all times, i.e. on the extraordinary remedy filed, unless it exceptionally concludes that no reason for referring the case to the Criminal Division's Grand Panel existed; in such cases, it remands the case to the Panel that (groundlessly) referred the case to it, and without deciding on the merits. It is questionable whether this practice should be preserved. An alternative to this practice is the opinion that the Criminal Division's Grand Panel should decide only on the resolution of the submitted question at hand as to the law and that any subsequent decisions on the merits should be made by a competent three-member Panel, which had originally been assigned the case under discussion.

The Grand Panel of the Criminal Division ruled only once in 2020, by a resolution of 18 February 2020, file No: 15 Tdo 1415/2019, by which it ordered Panel No 6 of the Supreme Court to reconsider and decide again on the submitted case, because the conditions for its submission to the Grand Panel of the Criminal Division of the Supreme Court in accordance with Section 20(1), (2) of Act No 6/2002 Sb., on Courts and Judges, as amended, were not met. The issue, which Panel No 6 intended to address and generalise by a decision of the Grand Panel of the Criminal Division, was then resolved by the opinion of the Criminal Division of the Supreme Court of 21 October 2020, file No: Tpjn 300/2020 (see below under point 2.4.4.1.).

All decisions of the Grand Panel of The Supreme Court's Criminal Division, as well as all decisions of the three-member Panels, are also anonymised and posted on the Supreme Court's website www.nsoud.cz, which also contributes to unifying decision-making in criminal matters.

There is also a Reports Panel composed of its Presiding Judge and another eight Justices of the Criminal Division of the Supreme Court. At its meetings, the Reports Panel considers proposals for those decisions of the Panels of The Supreme Court's Criminal Division and decisions of lower courts in criminal matters, which have been recommended for the purposes of generalisation and for approval, at a Criminal Division meeting, of their publication in the Reports of Cases and Opinions. A simple majority of votes of all Criminal Division Justices is required to approve a decision for publication in the Reports of Cases and Opinions. A total of six meetings of the Supreme Court's Criminal Division were held in 2020. The Reports Panel decides on which of the decisions considered by it will qualify for the further approval process, i.e. distributed for comments to the competent bodies and institutions and then laid before a Criminal Division meeting. On a proposal by the Head of the Criminal Decision or the Presiding Judge of the Reports Panel, the Criminal Division's Reports Panel also considers other papers, in particular suggestions to the Criminal Division to adopt an opinion.

Another important tool for unifying the practice of lower courts and other law enforcement and criminal proceedings authorities is the adoption of the Supreme Court Criminal Division's opinions on court decisions on matters of certain nature. Debate on an opinion in the Criminal Division is preceded by drafting the opinion by the mandated member(s) of the Criminal Division; then followed by a commenting procedure to collect comments on the draft opinion from the comment-

ing entities, which include regional and high courts, the Supreme Public Prosecutor's Office, universities, law faculties and law schools, the Czech Bar Association, the Ministry of Justice and potentially, depending on the nature and importance of the questions being addressed, other bodies and institutions. The draft opinion is then considered and approved at a Criminal Division meeting, which is quorate if attended by a two-thirds majority of all members of the Supreme Court's Criminal Division. A simple majority of votes of all Criminal Division members is required to pass an opinion of the Supreme Court's Criminal Division and then publish it in the Reports of Cases and Opinions.

Every approved opinion of the Supreme Court's Criminal Division is published in the Reports of Cases and Opinions and is also posted in electronic form on the Supreme Court's website.

2. 4. 3. Statistical Data on the Activities of the Supreme Court Criminal Division

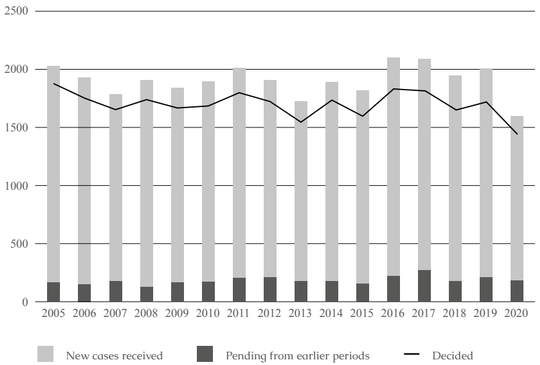
The first table represents an overview of the decision-making activity of the Criminal Division of the Supreme Court in 2020 in its overall agenda. The first column points out the amount of cases in each particular agenda allocated for adjudicating from the previous year (2019).

	Pending from 2019	Newly contested	Decided	Pending
Tdo	183	1,410	1,443	150
Tcu	7	54	59	2
Tz	14	49	55	8
Td	6	66	67	5
Tvo	2	29	30	1
Tul	–	2	2	–
Zp	–	–	–	–
Pzo	4	10	11	3

(Summary of the number of cases assigned to the Criminal Division in 2020)

Year	Pending from earlier periods	New cases received	Decided	Pending
2006	153	1,778	1,750	181
2007	181	1,605	1,653	133
2008	133	1,777	1,738	172
2009	172	1,670	1,667	175
2010	175	1,719	1,684	210
2011	210	1,802	1,797	215
2012	215	1,691	1,722	184
2013	184	1,542	1,546	180
2014	180	1,713	1,734	159
2015	159	1,662	1,597	224
2016	224	1,877	1,829	272
2017	272	1,722	1,815	179
2018	179	1,676	1,651	204
2019	204	1,699	1,706	197
2020	197	1,459	1,498	158

(Sum of the Tdo and Tz agendas 2006 – 2020)



The graph above illustrates the statistical development of cases received in all the Supreme Court's Criminal Division agendas over a relatively long period of time, 2005–2020. It clearly indicates that the total number of cases received has been relatively stable, but at the same time the graph shows that the highest number of submissions to the Supreme Court's Criminal Division over the entire period under review were received in 2016 and 2017.

2. 4. 4. Selection of Important Decisions of the Criminal Division of the Supreme Court in 2020

2. 4. 4. 1. Opinions of the Criminal Division of the Supreme Court published in the Reports of Cases and Opinions

In order to resolve some controversial issues and to unify the decision-making activities of lower courts, the Criminal Division of the Supreme Court issued the following opinions in 2020, published in the Reports of Cases and Opinions.

Regarding the question whether, in cases with compulsory defence, the absence of the accused's lawyer in the main trial adjourned only for the purpose of delivering the judgment is a material procedural defect for which the judgment under appeal in accordance with Section 258(1)(a) of the Code of Criminal Procedure needs to be vacated.

The opinion of the Criminal Division of the Supreme Court of 4 March 2020, file No: **Tpjn 300/2018,** published under No 1/2020 in the criminal part of the Reports of Cases and Opinions, addresses the question whether, in cases with compulsory defence, the absence of the accused's lawyer in the main trial adjourned only for the purpose of delivering the judgment is a material procedural defect for which the judgment under appeal in accordance with Section 258(1)(a) of the Code of Criminal Procedure needs to be vacated. In the first recital of law in the opinion, the Criminal Division came to the conclusion that the absence of the accused's lawyer, even though this was a case of a compulsory defence in accordance with Section 36 of the Code of Criminal Procedure, in the main trial adjourned only for the purpose of delivering the judgment in accordance with Section 128(3) of the Code of Criminal Procedure, is a significant procedural defect resulting from Section 202(4) of the Code of Criminal Procedure. However, even such a defect is not in itself a reason for the vacation of the judgment under appeal in accordance with Section 258(1)(a) of the Code of Criminal Procedure, as it does not affect the correctness and lawfulness of the part of the judgment under review. In connection with the above, the second recital of law in the opinion states that due to the violation of the right of defence and the right to a fair trial under Article 36 et seq. [in particular Articles 37 (2) and 40 (3)] of the Charter of Fundamental Rights and Freedoms resulting in such a substantial procedural defect, the subsequent submission of the accused, by which the accused expressly waives an appeal in accordance with Section 250(1) of the Code of Criminal Procedure without consulting their lawyer or withdraws the previously filed appeal in accordance with Section 250(2) of the Code of Criminal Procedure or expressly consents to the withdrawal of an appeal filed in their favour by another authorised person in accordance with Section 250(3) of the Code of Criminal Procedure, will to be taken into account.

Regarding the criminal liability of a driver of a motor vehicle affected by an addictive substance other than alcohol for the minor offence of menace due to intoxication in accordance with Section 274 of the Penal Code.

The opinion of the Criminal Division of the Supreme Court of 21 October 2020, file No: **Tpjn 300/2020,** published under No 2/2020 in the criminal part of the Reports of Cases and Opinions, addresses the issue of the criminal liability of a driver of a motor vehicle affected by an addictive substance other than alcohol for the minor offence of menace due to intoxication in accordance with Section 274 of the Penal Code. The Criminal Division has dealt with this issue in some detail and has reached a legal conclusion that the driver is in a state excluding capacity within the meaning of Section 274(1) of the Penal Code, if they are driving a motor vehicle after using an addictive substance other than alcohol, the concentration of which in the blood serum reaches at least the following values: 10 ng/ml of Delta-9-tetrahydrocannabinol (9-THC), 150 ng/ml of Methamphetamine, 150 ng/ml of Amphetamine, 150 ng/ml of 3,4-Methylenedioxymethamphetamine (MDMA), 150 ng/ml of 3,4-Methylenedioxyamphetamine (MDA), 75 ng/ml of Cocaine, 200 ng/ml of Morphine. A conclusion about such driver's fault for the minor offence of menace due to intoxication can therefore be made on the basis of a finding on the concentration of the relevant addictive substance contained in an expert opinion or a professional statement in the field of health care – toxicology. In this case, it is not necessary to obtain an expert opinion from the field of health care – psychiatry to determine the degree of influence of the driver under the influence of an addictive substance. However, it will be necessary to acquire an expert opinion from the field of health care – psychiatry for the purposes of criminal proceedings, especially if (a) a different legal qualification of the act depends on the assessment of the issue of sanity (e.g. the criminal offence of drunkenness in accordance with Section 360 of the Penal Code); or (b) the issue of the driver's addiction to addictive substances in connection with the possibility of imposing a protective measure in the form of protective treatment need to be addressed; or (c) the simultaneous use of another addictive substance and alcohol and the conclusion that the driver is in a condition precluding capacity will not be justified by the already detected level of alcohol in their blood or the value of the concentration of another addictive substance in their blood serum; or (d) the need for psychiatric examination of the driver is justified by other facts (e.g. the driver's non-standard behaviour not corresponding to the detected lower concentration of the addictive substance, etc.).

2. 4. 4. 2. Decisions of the Grand Panel of the Supreme Court published in the Reports of Cases and Opinions

The following decision of the Grand Panel of the Criminal Division of the Supreme Court was published in the Reports of Cases and Opinions in 2020:

The classification of the perpetrator's conduct of performing sexual intercourse on a child under the age of 15 while abusing the victim's vulnerability and the issue of prohibition of double consideration of the same circumstance.

The resolution of the Grand Panel of the Criminal Division of the Supreme Court of 12 December 2019, file No: 15 Tdo 1154/2019, pub-

lished under No 17/2020 in the criminal part of the Reports of Cases and Opinions, addresses the serious issue of sexual abuse of a child under fifteen years of age and concludes that if the perpetrator performs sexual intercourse on a child under fifteen years of age, while abusing the such child's vulnerability, their actions fulfil the characteristics of the crime of rape in accordance with Section 185 of the Penal Code, and not only the signs of the crime of sexual abuse in accordance with Section 187 of the Penal Code.

The second part of the recital of law in the resolution emphasises that in the case of rape committed by abusing the vulnerability of a child under the age of fifteen, the use of qualified facts in accordance with Section 185(1)(2)(3)(a) of the Penal Code is not excluded, as this is not a case affected by the prohibition of double consideration of the same circumstance. This prohibition in accordance with Section 39(5) of the Penal Code [until 30 September 2020, it was Section 39(4) of the Penal Code] applies exclusively to the imposition of a sentence.

2. 4. 4. 3. Selected decisions approved by the Criminal Division of the Supreme Court in 2020 for publication in the Reports of Cases and Opinions

Among the significant decisions approved by the Criminal Division of the Supreme Court in 2020 for publication in the criminal part of the Reports of Cases and Opinions, the following can be mentioned.

Regarding the serious violation of the obligation to care for a child as an element of the minor offence of endangering a child's upbringing in accordance with Section 201(1)(d) of the Penal Code

The resolution of the Supreme Court of 30 October 2019, file No: **8 Tdo 1231/2019,** published under No 20/2020 in the criminal part of the Reports of Cases and Opinions concerns the element of the minor offence of endangering a child's upbringing in accordance with Section 201(1)(d) of the Penal Code, which consists in the offender seriously violating their duty to care for a child. According to the conclusion of the decision, the mentioned element is fulfilled if the offender has significantly violated the obligations arising from parental responsibility (Section 858 of the Civil Code). The perpetrator's actions may also be considered such conduct if they caused the child to repeatedly or in the long term experience verbal or physical assaults between their parents or other persons close to the child, or another very serious or gross acts, even in the short term. At the same time, it is necessary that the child's intellectual, emotional or moral development was endangered as a result of such actions.

Regarding the nature and wording of a statement of claim for other than proprietary harm made by the injured party in the criminal proceedings

The resolution of the Supreme Court of 21 May 2019, file No: **6 Tdo 4/2019,** published under No16/2020 in the criminal part of the Reports of Cases and Opinions, stipulates the correct procedure of the court in

deciding on compensation for other than proprietary harm in criminal (adhesion) proceedings. According to the conclusions of this decision, the injured party's entitlement for compensation for other than proprietary harm, which it asserted in accordance with Section 43(3) of the Code of Criminal Procedure, may only be decided upon by a statement in the adhesion proceedings in accordance with Sections 228 and 229 of the Code of Criminal Procedure, and not by a statement in accordance with Section 82(2) of the Penal Code, which is not an execution title, but establishes the obligation of the convicted to compensate for other than proprietary harm "according to their ability". The culpable failure to fulfil this obligation cannot be sanctioned other than by a possible procedure in accordance with Section 83(1) of the Penal Code. The decision also took another partial legal conclusion that the statement imposing an obligation on the accused to compensate for other than proprietary harm in accordance with Section 228(1) of the Code of Criminal Procedure must be unambiguous in terms of the amount of performance. Therefore, the imposition of an obligation using the wording "in the amount of at least ..." does not correspond to the above, as it makes such a statement vague and unenforceable.

Regarding the condition of "especially complicated reformation" when imposing a sentence of imprisonment of 20 to 30 years [Section 54(2) the Penal Code] to an offender close to the age of juveniles

The resolution of the Supreme Court of 14 August 2019, file No: **8 Tdo 818/2019,** published under No 21/2020 in the criminal part of the Reports of Cases and Opinions, deals with the imposition of an exceptional punishment on an offender close to the age of juveniles. The recital of law in this resolution states that the conclusion on the fulfilment of an alternative condition for imposing a sentence of imprisonment of 20 to 30 years (Section 54(2) of the Criminal Code) consisting in "especially complicated reformation" of a an offender close to the age of juveniles must be based on a comprehensive assessment of their personality (i.e. a summary of all knowledge about their behaviour and the state of their personality) while taking into account the unfinished process of the perpetrator's adolescence, which is highly individual and depends on the level of mental and moral maturity and degree of socialisation.

Regarding the relationship between a disciplinary fine in accordance with Section 53(1) of the Code of Civil Procedure imposed in insolvency proceedings and the minor offence of breach of duty in insolvency proceedings in accordance with Section 225 of the Penal Code

The resolution of the Supreme Court of 29 May 2019, file No: **5 Tdo 115/2019,** published under No 24/2020 in the criminal part of the Reports of Cases and Opinions, addresses the nature of the disciplinary fine in accordance with Section 53(1) of the Code of Civil Procedure imposed in insolvency proceedings and the legal effects of its imposition in relation to the criminal prosecution of the same person for the minor offence of breach of duty in insolvency proceedings in accordance with Section 225 of the Penal Code. The decision concludes that the said disciplinary fine is not a criminal sanction and its imposition on the debtor (or the person acting on their behalf) in insolvency proceedings on the grounds that they did not comply with an invitation of the insolvency

administrator or insolvency court and failed to submit the required documents does not constitute an obstacle to a decision with a non bis in idem effect, which would exclude the criminal sanction of the debtor for the minor offence of breach of duty in insolvency proceedings in accordance with Section 225 of the Penal Code consisting in the same refusal to cooperate with the insolvency administrator.

Regarding the performance of an interrogation or other act by means of a videoconferencing device in accordance with Section 52a of the Code of Criminal Procedure

The resolution of the Supreme Court of 12 February 2020, file No: **8 Tdo 38/2020,** published under No 37/2020 in the criminal part of the Reports of Cases and Opinions, addresses the performance of an interrogation or other act by means of a videoconferencing device in accordance with Section 52a of the Code of Criminal Procedure. According to the decision, the competent authority involved in criminal proceedings decides on the performance of an interrogation or other act in the above-mentioned manner; it may also take into account the opinion of persons concerned by such an act, but is not bound by it. The use of videoconferencing equipment is, for reasons of ensuring safety and economy, suitable, for example, when questioning persons in custody or serving a sentence of imprisonment.

Regarding the interpretation of the term "endangering themselves" with regard to the criminal offence of failure to provide assistance by drivers of motor vehicles in accordance with Section 151 of the Penal Code.

The resolution of the Supreme Court of 13 March 2019, file No: **8 Tdo 136/2019,** published under No 33/2020 in the criminal part of the Reports of Cases and Opinions, concerns the circumstance expressed by the wording "endangering themselves" with regard to the criminal offence of failure to provide assistance by drivers of motor vehicles in accordance with Section 151 of the Penal Code. As is apparent from the recital of law in the cited decision, the driver's fear of the possible criminal consequences of their participation in the accident cannot be regarded as such a circumstance. The nemo tenetur se ipsum accusare rule, i.e. the prohibition on coercing an accused person to actively participate in such a way as to personally contribute to their own conviction during criminal proceedings, does not apply in this case. The legal obligation to provide the necessary assistance within the meaning of Section 151 of the Penal Code cannot be understood as an unlawful and unconstitutional coercion of a participant in a traffic accident to provide evidence against themselves.

Fulfilment of the conditions of an extraordinary mitigation of a sentence of imprisonment below the lower limit of the statutory severity of sentence in accordance with Section 58(1) of the Penal Code

The resolution of the Supreme Court of 28 November 2018, file No: **5 Tdo 1356/2018,** and Resolution of the Supreme Court of 30 10 2019, file No: 5 Tdo 1118/2019, published jointly under No 28/2020 in the criminal part of the Reports of Cases and Opinions, address the conditions for the use of the extraordinary mitigation of a sentence of imprisonment in accordance with Section 58(1) of the Penal Code. It follows from the extensive recital of law in the decision that Section 58(1) of the Penal Code is a means of judicial individualisation of punishment and a manifestation of depenalisation in the Criminal Code. Its use must be considered not mechanically, but strictly individually in relation to a specific act and a specific perpetrator. The procedure under the cited provision is appropriate especially if a certain circumstance, which may also be an element of the relevant facts of the crime, deviates so much in comparison with other cases that alone or in connection with other circumstances (e.g. when a considerable amount of time has passed after a crime has been committed) justifies a more lenient approach to punishing the perpetrator, or if only a combination of several circumstances of the case leads to the consideration that the application of the statutory severity of sentence would be disproportionately strict and a milder sanction will suffice. These may be, in particular, those situations where mitigating circumstances (Section 41 of the Penal Code) and the low intensity of accomplishment of the elements in their summary and quality convincingly reduce the seriousness of the crime, or if some of them are unusually intense, so it is appropriate to assess it as a significantly mitigating circumstance (e.g. particularly onerous personal or family circumstances not caused by the perpetrator, in which they committed the offence). This is the case even if one of the elements of the facts of the crime – whether essential or qualified – was accomplished with unusually low intensity and this significantly affected the social harmfulness of the case and reduced it below the usual limit to the extent that a lesser criminal sanction is appropriate than is generally required by law. A longer period of time having passed since the crime has been committed [Section 39(3) of the Penal Code] where its length was not caused by the perpetrator may be of similar significance. In these cases, an extraordinary mitigation of a sentence of imprisonment may also be justified by the fact that another type of sentence was imposed on the offender in addition to the sentence of imprisonment, such as a disqualification sentence or a financial penalty, which appropriately complement the reduced sentence of imprisonment.

Acting on behalf of a legal person when only a specific or special entity may commit a certain crime

The resolution of the Supreme Court of 30 October 2019, file No: **5 Tdo 588/2019,** published under No 36/2020 in the criminal part of the Reports of Cases and Opinions, addresses the issue of a natural person acting on behalf of a legal person within the meaning of Section 114(2) of the Penal Code. It follows from the recital of law in the decision that this provision does not explicitly stipulate the legal title based on which the offender, who is a natural person, acts on behalf of a legal person in the case where only a specific or special entity may commit a certain crime (Section 114(1) of the Penal Code). In accordance with Section 114(2) of the Penal Code, a formally perfect legal title on the basis of which a natural person would be entitled to act on behalf of a legal person is not required and there is no distinction between legal representation (e.g. a governing body) of a legal person and contractual

representation thereof, such as a power of attorney granted by the governing body, a power of procuration, an authorisation of an employee, an agency contract or other type of contract, etc. Therefore, it depends on an assessment of all the circumstances of each case whether and to what extent a certain natural person, who did not have a specific, formally perfect legal title to act on behalf of a legal person, actually acted thusly with all the consequences for the legal person and whether the actions of the natural person bind the legal person.

Regarding the time limit of the order to obtain data on telecommunications traffic

The resolution of the Supreme Court of 7 May 2019, file No: **4 Tdo 1591/2018,** published under No38/2020 in the criminal part of the Reports of Cases and Opinions, addresses the legal procedural issue of the order to ascertain data on telecommunication traffic in accordance with Section 88a(1) of the Penal Code, which can be issued, in justified cases, even for future use. This will be the case, for example, in a situation where the investigated criminal activity is at the stage of preparation and the data being obtained are intended to provide the bodies in charge of criminal proceedings with information important for detecting or convicting offenders, or for preventing the completion of planned criminal activity or to ascertain other facts relevant to criminal proceedings.

Regarding the misrepresentation of data on the state of management and property as an ongoing crime

The resolution of the Supreme Court of 26 September 2019, file No: **5 Tdo 1160/2019,** published under No 48/2020 in the criminal part of the Reports of Cases and Opinions, concluded that the minor offence of misrepresentation of data on the state of management and property in accordance with Section 254(1)(1) of the Penal Code is an ongoing crime, and not a continuing crime, the partial attacks of which would be the individual tax periods. The timely and proper assessment of the tax is, in principle, objectively put in jeopardy by the mere failure to keep accounts within the meaning of Section 254(1)(1) of the Penal Code, even if in part of the decisive period there is no actual performance of the activity which is the subject of the relevant tax, if the tax administrator is then forced to determine the amount of tax liability in tax proceedings using tax aids. It also follows from the decision that the amount of damage in accordance Section 254(3) of the Penal Code cannot be determined using the aids within the meaning of Section 98(1), (3) of Act No 280/2009 Sb., the Tax Code, as amended.

Regarding the obligation to properly distinguish the nature of the injured party's claim asserted in criminal proceedings in accordance with Section 43(3) of the Penal Code; entitlement to pain rectification

The resolution of the Supreme Court of 31 October 2019, file No: **6 Tdo 1309/2019,** published under No 39/2020 in the criminal part of the Reports of Cases and Opinions, addresses issues related to adhesion proceedings. According to the first part of the recital of law in the decision, the statements on compensation for damage or other than proprietary harm and on the issuance of unjust enrichment are separable statements (see the decision under No 14/2014-II. in the criminal part of the Reports of Cases and Opinions), it is therefore necessary that the court, when formulating a statement by which it grants the injured party a claim asserted thereby (Section 228(1) of the Penal Code), or by which it is referred in full (Section 229(1) of the Penal Code) or in part (Section 229(2) of the Penal Code) to proceedings in civil matters or before the competent authority, correctly distinguishes what is the nature of the claim the injured party asserted in criminal proceedings in accordance with Section 43(3) of the Penal Code. At the same time, the statement by which the court grants the injured party a claim for damages for the pain suffered is defective, as the claim for reparation payment is a claim for compensation of other than proprietary harm in accordance with Section 2894(2) of the Civil Code, not a claim for damages. Furthermore, the recital of law states that the right to rectification of pain means rectification of pain in the broader sense, i.e. both physical and mental pain. If the difficulties associated with the psychological experience of the injury suffered have become a permanent consequence, they must be included in the compensation for the loss of amenity; if they were only temporary and gradually disappeared, they can be considered suffering pain.

Regarding the issue of defining the disqualification sentence imposed on a legal person in accordance with Section 20(1) of the Act on Criminal Liability of Legal Persons and the conditions of its imposition

The resolution of the Supreme Court of 4 December 2019, file No: **7 Tdo 1427/2019,** published under No 40/2020 in the criminal part of the Reports of Cases and Opinions, concerns the imposition of a disqualification sentence on a legal person. As follows from the recital of law in this decision, the disqualification sentence in accordance with Section 20(1) of the Act on Criminal Liability of Legal Persons may prohibit a legal person only from performing the activity in connection with which it committed the criminal offence. The imposed sentence cannot be defined as a disqualification from performing any activity of a legal person without further specification of the type of this activity. The general definition of the activity, the performance of which can be prohibited, is contained in Section 73(3) of the Penal Code, of which, however, only the part where the performance of a certain function or such activity requires special permission or the performance of which is regulated by another legal regulation shall apply to legal persons with regard to Section 1(2) of the Act on Criminal Liability of Legal Persons. A criminally liable legal person may be punished by a disqualification sentence, if the conditions of Section 20(1) of the Act on Criminal Liability of Legal Persons are met, for any crime committed by a legal person in accordance with Section 7 of the Act on Criminal Liability of Legal Persons, even as a separate punishment (Section 15(3) of the Act on Criminal Liability of Legal Persons). The restriction in accordance with Section 73(2) of the Penal Code does not apply here.

Regarding the non-accomplishment of the elements of the minor offence of forgery and alteration of a public instrument in accordance with Section 348(1) of the Penal Code

The judgment of the Supreme Court of 30 October 2019, file No: **4 Tz 76/2019,** published under No 45/2020 in the criminal part of the Reports of Cases and Opinions, which concludes that the minor offence of forgery and alteration of a public instrument in accordance with Section 348(1) of the Penal Code is not committed by a person who uses a public instrument issued by an official within their competence, even though they know that its content is the confirmation of false facts.

Aspects that do not justify the non-application of criminal liability with reference to the principle of subsidiarity of criminal repression

The resolution of the Supreme Court of 16 January 2020, file No: **5 Tdo 1018/2019,** published under No 41/2020 in the criminal part of the Reports of Cases and Opinions, addresses the specific aspects that cannot be a reason for non-application of criminal liability with reference to the principle of subsidiarity of criminal repression. As is apparent from the recital of law in this decision, the period which has elapsed since the commission of the crime and the length of the criminal proceedings, if unreasonably long, are aspects that must be taken into account when imposing a sentence within the meaning of Section 39(3) of the Penal Code; however, they cannot justify the non-application of criminal liability with reference to the principle of subsidiarity of criminal repression in accordance with Section 12(2) of the Penal Code.

Regarding the accomplishment (or non-accomplishment) of the elements of the minor offence of failure to provide assistance in accordance with Section 150(1) of the Penal Code

The resolution of the Supreme Court, Juvenile Court, of 24 March 2020, file No: **8 Tdo 144/2020,** published under No 47/2020 in the criminal part of the Reports of Cases and Opinions, addresses the elements of the minor offence of failure to provide assistance in accordance with Section 150(1) of the Penal Code. The first legal conclusion of this decision is that it is not a failure to provide necessary assistance by the offender within the meaning of the said minor offence if the assistance is already in fact being provided by another person present on the spot, unless the offender was able to provide even more effective or faster assistance. According to the second conclusion of the decision, the accomplishment of the negative condition of the criminal offence of failure to provide assistance in accordance with Section 150(1) of the Penal Code, expressed by the words "even though he/she can do so without endangering him-/herself or another person" does not only require the perpetrator to be exposed to the risk of death or serious injury, but a less serious danger may also suffice.

Decisions of courts in adhesion proceedings in relation to compensation for other than proprietary harm to the injured party, regarding the importance of the property situation of the accused and regarding certain conditions for the proper exercise of the injured party's claims

The judgment of the Supreme Court of 12 February 2020, file No: **7 Tdo 1485/2019,** published under No 51/2020 in the criminal part of the Reports of Cases and Opinions, addresses the complex issue of adhesion proceedings, especially in relation to compensation for other than proprietary harm associated with the death of a loved one. The decision concludes in particular that the basic amount of compensation for mental suffering associated with the killing of a close person in accordance with Section 2959 of the Civil Code, modifiable using legal and case law devised aspects, can be considered in the case of closest persons (spouse, parents, children) twenty times the average gross monthly nominal wages for recalculated numbers of employees in the national economy for the year preceding the death of the injured party (see Decision No 85/2019 in the civil part of the Reports of Cases and Opinions); in the case of siblings, it can be assumed that the basic amount will be a quarter lower. Furthermore, that cited judgment addresses the question of the property situation of the accused and states that this situation is not a separate decisive criterion for determining the amount of compensation for other than proprietary harm. However, when deciding on compensation for other than proprietary harm, the courts must address the question of whether its amount would not destroy the accused in terms of their property situation. This also applies in cases of harm caused by the operation of a motor vehicle, which is covered by insurance in accordance with Act No 168/1999 Sb., on Motor Third Party Liability Insurance, as amended. However, in such cases it is always necessary to take into account the specific circumstances, especially the performance already provided by the insurer, its approach to performance under the insurance contract and whether any facts justify the possible application of Section 10 of the cited Act. This decided case further specifies the manner of assertion of the injured party's claim and the court's decision on it in adhesion proceedings and states that a clear description of the facts on which the petition is based (accompanied by other particulars) is sufficient for the injured party. It is not necessary for the injured party to refer to a specific legal provision. However, individual relatively separate entitlements arising from Section 2958 of the Civil Code must be specified in the petition to the extent that it is possible to decide on each of them separately. The injured party's petition must also state at least the minimum amount which the injured party claims for each individual claim. The injured party must be informed thereof (Section 43(3) of the Code of Criminal Procedure). The basis for determining the amount of compensation for both the loss of amenity and pain (Section 2958 of the Civil Code) will usually be the opinion of an expert in the field of health care – determination of harm to health. A professional statement is sufficient only in simple cases.

Regarding the issue of exemption from criminal liability of a legal person in accordance with Section 8(5) of the Act on Criminal Liability of Legal Persons and Proceedings Against Them

The resolution of the Supreme Court of 20 February 2019, file No: **7 Tdo 110/2019,** published under No 50/2020 in the criminal part of the Reports of Cases and Opinions, addresses an interesting issue concerning the exemption from criminal liability of a legal person in accordance with Section 8(5) of Act No 418/2011 Sb., on Criminal Liability of Legal Persons and Proceedings Against Them, as amended, and this is the first decision of the Supreme Court that deals with the cited provision. A legal view was taken in the decision that a legal person may be ex-

empted from criminal liability in accordance with Section 8(5) of the Act on Criminal Liability of Legal Persons if a crime was committed despite the legal person taking all reasonable efforts to prevent such crime. This will be the case in particular if the conduct of one of the persons referred to in Section 8(1) of the Act on Criminal Liability of Legal Persons was a certain excess which the legal person could not have prevented, and therefore it does not seem fair to attribute such conduct to the legal person. The legal person's measures to prevent the commission of an unlawful act shall primarily consist of complying with all the legislation which that legal person is obliged to respect and the internal rules which the legal person has adopted to specify the obligations arising from the legislation and which are binding for persons in managerial, controlling or leading positions and which the employees are obliged to follow when performing work tasks. However, the simple adoption of internal regulations or other measures is not sufficient to conclude that the conditions in accordance with Section 8(5) of the Act on Criminal Liability of Legal Persons were met. It is especially important to ensure compliance with these measures, control their implementation and detect their possible violation and subsequently take an adequate response. In the present case, the lower courts concluded that the accused legal person failed to make all the effort that could reasonably be required of it to prevent the commission of the crime. Evidence has shown that, although it has adopted a code of ethics, it has been a mere formal act, the observance of which has not been enforced by any means. The accused party (a commercial company) violated the rules without any adequate response from the executives or other persons responsible for the proper functioning of the legal person. For these reasons, it was not possible to release the accused legal person from criminal liability for the act of which it has been accused.

Regarding the possible criminal liability of a legal person, where the natural person whose conduct established its attributability to the legal person was not criminally liable due to its insanity

The judgment of the Supreme Court of 28 July 2020, file No: **3 Tz 70/2019,** in the case of a complaint for violation of the law, which was filed by the Minister of Justice against the judgment of the court of first instance in favour of the accused legal person, decided in accordance with Section 268(2) of the Code of Criminal Procedure that the contested judgment in the part in which it was decided in accordance with Section 226(d) of the Code of Criminal Procedure regarding this legal person on its acquittal from the public prosecutor's indictment, violated the law in favour of the accused legal person in Section 2(5) Sentence 6 and Section 226(d) of the Code of Criminal Procedure and in Section 8(1), (2), (4)(d) of the Act on Criminal Liability of Legal Persons. The accused legal person was acquitted with regard to the fact that the natural person, who was also accused in this case and whose unlawful act established its attributability to the legal person, was not criminally liable for their insanity. This natural person was the sole agent of the accused legal person and the court of first instance drew a decision on the criminal irresponsibility of the legal person from the decision on the criminal irresponsibility of the natural person. However, the Supreme Court did not agree with such an interpretation and stated in its decision that criminal liability of a legal person is not precluded if, within

the meaning of Section 8(4)(d) of the Act on Criminal Liability of Legal Persons, the acting natural person is not criminally liable due to insanity for an unlawful act attributable to a legal person in accordance with Section 8(1), (2) of the Act on Criminal Liability of Legal Persons. In the event that the bodies in charge of criminal proceedings find out during the criminal proceedings that a natural person acting on behalf of a legal person within the meaning of Section 8(1) of the Act on Criminal Liability of Legal Persons is not criminally liable due to insanity, they cannot automatically apply a conclusion on the natural person's lack of criminal liability to the natural person, as the sanity of an acting natural person (secondary or tertiary entity) is not generally an obligatory element of the body legal person's crime. The criminal liability of a legal person is not conditioned by the criminal liability of a natural person (Section 9(3) of the Act on Criminal Liability of Legal Persons). Bodies in charge of criminal proceeding must assess the accomplishment of all obligatory elements of the body of the legal person's crime; in the case of a subjective aspect they must determine such a "quasi-fault" of such an insane natural person according to external manifestations, i.e. according to the elements of the objective aspect of the criminal offence. A different assessment of sanity in relation to the various objects of the crime cannot be ruled out, which is an expert question.

Regarding the commission of the minor offence of frustrating the execution of an official decision and banishment in accordance with Section 337(1)(h) of the Penal Code by a person other than a person serving a sentence of imprisonment.

The resolution of the Supreme Court of 30 June 2020, file No: **11 Tdo 1552/2019,** addresses the case of an accused who obtained from an unknown source methamphetamine (pervitin) weighing 0.6421 grams (an amount corresponding to three to six doses) wrapped in cigarette papers, which they then handed over to the mother of the convicted person (another accused person in this case). who put these items into a postal consignment and sent it via Česká pošta, s.p., to the relevant prison. In the opinion of the Supreme Court, the element of "serious conduct" within the meaning of Section 337(1)(q) of the Penal Code, as amended before 31 May 2020 [now Section 337(1)(h) of the Penal Code] was not accomplished, because in principle any act that accomplishes the elements of the body of another criminal offence (in this case the minor offence of illicit manufacture and other handling of narcotic drugs and psychotropic substances and poisons in accordance with Section 283(1) of the Criminal Code) has to considered serious conduct within the given meaning. The perpetrator of the minor offence of frustrating the execution of an official decision and banishment in accordance with Section 337(1)(h) of the Penal Code may also be a person not serving a sentence of imprisonment who sends a narcotic or psychotropic substance to prison to another person serving a sentence of imprisonment, and such conduct may be considered serious even if it does not show signs of repetition or consistency, if its severity is justified by other circumstances, such as the type and amount of the addictive substance.

Regarding possibility of record on surveillance of persons and items in a criminal matter other than that in which the surveillance was permitted, and the issue of choosing the agent to perform acts on behalf of the accused legal person

The resolution of the Supreme Court of 1 September 2020, file No: **7 Tdo 865/2020,** and Resolution of the Supreme Court of 25 August 2020, file No: **8 Tdo 647/2020,** which will be published together in the Reports of Cases and Opinions, addressed the relatively sensitive and closely watched (both by professionals and the media) issue of the possibility of using records on the surveillance of persons and items in criminal matters other than those in which the surveillance was permitted, and they reached the following conclusions. Section 158d(3) of the Penal Code does not regulate a distinct, special institute in the form of surveillance carried out with the prior permission of a judge, but only imposes more demanding conditions on the permitting process of surveillance during which records are to be made within the meaning of Section 158d(2) of the Code of Criminal Procedure in cases where the listed fundamental human rights and freedoms are to be affected by the surveillance (which may include the rights or freedoms of persons other than the persons under surveillance). The purpose of Section 158d(10) of the Code of Criminal Procedure is solely to emphasise with reference to Section 158d(2) of the Code of Criminal Procedure that, under the conditions set herein, the records obtained during the surveillance and the attached report may be used as evidence in another case. Therefore, the records on the surveillance of persons and items referred to in Section 158d(2) of the Code of Criminal Procedure and the attached reports can be used as evidence in a criminal case other than the one in which the surveillance was permitted, if proceedings in this case are also conducted on an intentional criminal offence or if the person whose rights and freedoms were interfered with by the surveillance agrees to the use of the records (Section 158d(10) of the Code of Criminal Procedure). This applies both in cases where surveillance was authorised by the public prosecutor (Section 158d(2) of the Code of Criminal Procedure) and where surveillance was authorised by a judge (Section 158d(3) of the Code of Criminal Procedure). However, in cases of surveillance authorised by a judge which interferes with the inviolability of residence or other rights referred to in Section 158d(3) of the Code of Criminal Procedure, the admissibility of such evidence in another case must be assessed with regards to the principle of proportionality and respect for the right to inviolability of the person and their privacy within the meaning of Article 7(1) and Article 10(2) of the Charter of Fundamental Rights and Freedoms. In doing so, it is necessary to take into account, in particular, the intensity of the interference with the rights referred to in Section 158d(3) of the Code of Criminal Procedure and the seriousness of the crime in question in another criminal case. The second recital of law then addresses the issue of the possibility of choosing an agent to perform acts on behalf of the accused legal person; the Supreme Court concluded that if the only natural person who is otherwise entitled to perform acts on behalf of a legal person in criminal proceedings (Section 34(1) of the Act on Criminal Liability of Legal Persons) is excluded in accordance with Section 34(4) sentence 1 of the Act on Criminal Liability of Legal Persons from performing these acts because they are accused in the same criminal case, this exclusion does not apply to the election of an agent to perform acts on behalf of a legal person in criminal proceedings in accordance with Section 34(2) of the Act on Criminal Liability of Legal Persons, unless there is a specific risk that such a choice would be made in order to harm a legal person or to give a natural person an advantage in criminal proceedings at its expense. The institute of a guardian of a legal person in criminal proceedings in accordance with Section 34(5) of the Act on Criminal Liability of Legal Persons is of a subsidiary nature and should be used only as a last resort measure, as it always constitutes an interference with the legal person's right of defence in criminal proceedings, and such interference must be proportional to its purpose.

2. 4. 4. 4. Other selected decisions of the Criminal Division panels of the Supreme Court issued in 2020

In 2020, the panels of the Criminal Division of the Supreme Court also made some other important decisions, the inclusion of which in the Reports of Cases and Opinions has not yet been decided. Of these, the following can be noted:

Interpretation of the "without an authorisation" element in the crime of poaching in accordance with Section 304 of the Penal Code

The resolution of the Supreme Court of 24 September 2020, file No: **3 Tdo 340/2020,** addresses the issue of unauthorised hunting as an element of the body of the minor offence of poaching in accordance with Section 304(1) of the Penal Code and it concludes that such unauthorised hunting is any conduct that goes beyond the legal conditions of hunting in accordance with Act No 449/2001 Sb., on Hunting, as amended (hereinafter the "Hunting Act"). Therefore, "without an authorisation" must be interpreted in the whole context of the Hunting Act, i.e. not only with regard to Sections 46 and 48a thereof, but also with regard to Section 45(1) thereof and the object of the minor offence of poaching, which is the protection of nature, i.e. wildlife and fish, as well as the protection of hunting rights and the exercise of fishing rights. Therefore, it is true that a person who has complied with the formal requirements of Section 46(1) of the Hunting Act (i.e. has a hunting permit, hunting licence, firearms licence, etc.) and hunts game in violation of other legal prohibitions, especially in violation of the express prohibition in accordance with Section 45 of the Hunting Act, acts beyond the scope of the issued permit, and thus acts "without an authorisation" within the meaning of Section 304(1) of the Penal Code.

Regarding the obligations of a driver of a motor vehicle and a pedestrian crossing the road in relation to the criminal offence of grievous bodily harm due to negligence in accordance with Section 147(1), (2) of the Penal Code

The resolution of the Supreme Court of 14 October 2020, file No: **7 Tdo 1050/2020,** vacated the decisions of the lower courts by which the accused was found guilty of grievous bodily harm due to negligence in accordance with Section 147(1), (2) of the Penal Code. She was to have committed this by driving a passenger motor vehicle and, when turning left, not fully concentrating on driving the vehicle and violating the

provisions of Section 5(2)(g) of Act No 361/2000 Sb., on Road Traffic, as amended (hereinafter the "Road Traffic Act"), and during this driving operation hitting with the right front part of the controlled vehicle a pedestrian – the injured person, who was crossing the street into which the accused turned, on the right from the accused's point of view; the victim suffered moderate injuries during the collision and subsequent fall onto the road. The Court of First Instance was ordered to reconsider the case to the extent necessary and make a decision. In the present case, the lower courts concluded that the accused had breached the obligations laid down in the Road Traffic Act. However, the Supreme Court took into account the objections and arguments of the accused and expressed the legal opinion that the driver's obligation not to endanger (not restrict) a pedestrian crossing the road into which the driver turns, set out in Section 5(2)(g) of the Road Traffic Act, does not give right of way over oncoming vehicles to a pedestrian who intends to cross the road outside a pedestrian crossing near the intersection with another road. This provision in no way precludes the obligations of a pedestrian stipulated in Section 54(2) and Section 54(3) of the Road Traffic Act, in particular their obligation to make sure before crossing the road whether it is safe to cross it without endangering themselves and other road users and not to enter the road immediately in front of an oncoming vehicle.

Regarding the lawfulness of repeated identification

The resolution of the Supreme Court of 29 July 2020, file No: **8 Tdo 450/2020,** in accordance with Section 265i(1)(b) of the Code of Criminal Procedure, rejected the accused's appeal in the closely watched case of the injured, to whom the accused caused serious cut injuries to the fingers of the left hand during the commission of a particularly serious crime of robbery in accordance with Section 173(1), (2)(a) of the Penal Code and the minor offence of breaking and entering in accordance with Section 178(1), (2) of the Penal Code. The accused argued in the application for appellate review, inter alia, the unlawfulness of a total of three identifications, in particular the second and third. The accused did not agree with the identification based on photographs being carried out as an urgent and unrepeatable act even before criminal proceedings were instituted against him. In his opinion, the defence did not have the opportunity to assess the lawfulness of this procedural act, from which no video was taken, and the injured was shown photographs of people who were not similar-looking, the injured was not even informed of the fact that the perpetrator may not be in the photographs at all. In the accused's opinion, this insufficient instruction was repeated even during the identification carried out with persons, the unlawfulness of which he pointed out with reference to the decision under No 50/2013 in the criminal part of the Reports of Cases and Opinions and the judgment of the Constitutional Court of 20 June 2017, file No: I. ÚS 3709/16. The accused emphasised that the interval of only three weeks between individual identifications could not be considered adequate, as this could have adversely affected the victim to his detriment. He also disagreed with the conduct of the police, who first carried out the identification based on photographs and not a direct identification, although at the time of the identification, his person was well-known to the bodies in charge of criminal proceedings. Thus, according

to the accused, the court of first instance should not have taken into account the results of the identification at all. The Supreme Court did not agree with the arguments of the accused and stated, in essence beyond the grounds of appeal invoked, that with regard to identification based on photographs, the second in a row, carried out as an urgent and unrepeatable act within the meaning of Section 158(9) of the Code of Criminal Procedure before the prosecution, both courts (the Court of First Instance and the Court of Appeal) explained that the brief and unsubstantiated information about a possible perpetrator available to the police at the time was certainly not sufficient to prosecute the accused. After all, it was only the result of this recognition which led to the issue of a resolution in accordance with Section 160(1) of the Code of Criminal Procedure. Therefore, even with regard to the longer amount of time passing after the act, the police authority proceeded to conduct an urgent and unrepeatable act at this stage of the proceedings; the courts of both instance reviewed the compliance with all procedural rules in detail, finding no error. They did the same in the case of the subsequent personal identification, in which, with reference to the legal literature and the specifics of this case, they dealt with the objection of the time lag between individual recognitions, as well as with the issue of instructing the injured party, etc. In the reasoning of its decision, the Supreme Court then dealt in some detail with the finding of the Constitutional Court of 20 June 2017, file No: I. ÚS. 3709/16, which the accused also referred in his arguments, stating that it is clear from the comprehensive description of the case that it has very significant parallels with this criminal case, therefore the Supreme Court reproduced it in detail and at the same time demonstrated that even now the case under investigation could not have violated the accused's right to a fair trial. On the contrary, it is in his favour that there were three identifications carried out here, the first two based on photographs and the third in person, of which a video recording was made. In addition, during the first identification, 76 photographs were shown to the accused, of which she did not single out anyone, so she had to reckon not only then, but also later, the variant that the perpetrator does not have to be among the persons under identification. The fact that the second identification took place again based on photographs and in person cannot in any way reverse the high evidentiary value of this act, nor can it render it procedurally inapplicable, as this partial inconsistency with the requirements of Section 104b(4) of the Code of Criminal Procedure is not in a specific case (in the context of the entire evidentiary proceeding) a violation of the principles of a fair trial. Even the three-week delay of the identification in person does not constitute a fundamental problem, especially when any later identification may have been thwarted by the increased media interest in the case. On the other hand, it was necessary to emphasise again that the (overall quite credible) victim always identified the accused with a high degree of certainty, even though she was singling him out from a higher number of extras than required by law (in addition, all extras had the same headdress). Therefore, it can be concluded that the procedural procedure of the bodies in charge of criminal proceedings was completely in order in this respect.

2. 5. Special Panel Established under Act No 131/2002 Sb. on Adjudicating Certain Jurisdiction Disputes

The Special Panel, established under Act No 131/2002 Sb., is composed of three Supreme Court Justices and three Supreme Administrative Court Judges. The Presidents of the Supreme Court and the Supreme Administrative Court appoint six members and six alternates for a three-year term. Presiding Judges rotate mid-term at all times. During the first half of their term of office, the chair is taken by an elected judge from the Supreme Administrative Court and during the other half by a Supreme Court Justice. The first session of the Special Panel shall be convened and chaired by the most senior member of the Special Panel.

The Special Panel acts and decides at the seat of the Supreme Administrative Court.

The Special Panel rules on certain jurisdictional disputes over powers or material jurisdiction to issue judgments between courts and executive bodies, territorial, interest or professional jurisdictions, and on disputes between civil courts and administrative courts. The Special Panel determines which of the parties to the dispute is competent to deliver a decision.

Although the Special Panel is not part of the Supreme Court or the Supreme Administrative Court, if the courts are parties to a jurisdictional dispute, it may annul the decision of both Supreme Courts.

No remedies are admissible against the Special Panel's decisions. Its decisions are final and binding on the parties to a jurisdictional dispute, parties to the proceedings, and all executive bodies, local self-government bodies and courts.

Statistics of the Special Panel's cases from 2017 to 2020:

	Caseload	Decided in that year	Percentage of that year's caseload	Pending as of 31 December
2019	31	35	113 %	20
2020	19	19	100 %	20
2003 to 2020	1,273			

In 2020, the members of the Special Panel established under Act No 131/2002 Sb. were Supreme Court judges Mgr. Vit Bicak, JUDr. Roman Fiala, and JUDr. Pavel Simon., who has chaired the Special Panel since July 2019. The reserves appointed on behalf of the Supreme Court were JUDr. Petr Angyalossy, Ph.D., JUDr. Antonín Draštík and. Mgr. David Havlík.

From the Supreme Administrative Court, the following were appointed: Mgr. Ing. Bc. Radovan Havelec, JUDr. Tomáš Rychlý and JUDr. Michal Mazanec. For the Supreme Administrative Court, the appointed alternate judges were JUDr. Ing. Filip Dienstbier. Ph.D., Mgr. Ondřej Mráko-ta and JUDr. PhDr. Karel Šimka, Ph.D., LL.M.

2. 6. Awards for Supreme Court Judges

Judges of the Supreme Court regularly place very high in prestigious professional competitions and polls, and receive various professional awards.

The 15th year of the recognised Lawyer of the Year 2019 professional competition on Friday 31 January 2020 brought 3 prizes to the judges of the Supreme Court. JUDr. Robert Fremr became Lawyer of the Year in the category of Criminal Law, JUDr. Lubomír Ptáček, Ph.D., won in the Family Law category, and JUDr. František Púry, Ph.D., after receiving the Lawyer of the Year 2018 award in the Criminal Law category, won the Václav Mandák Award at the beginning of 2020 for the best article published in 2019 in the professional magazine "Bulletin advokacie" (Bulletin of Advocacy) – he wrote an article entitled "Prohibition of forced self-blame" together with doc. JUDr. Pavel Mates, CSc.

Anti-coronavirus security measures significantly marked the annual awarding of the Antonin Randa medals, which became a rather intimate and individual event in 2020. The Antonín Randa silver medal, awarded by the Union of Czech Lawyers (Jednota českých právníků), has been awarded to JUDr. Robert Fremr, who was called to The Hague in 2013 as a judge of the Supreme Court, for his exemplary performance of the function of the First Vice-President of the International Criminal Court in The Hague and for his excellent international representation of the Czech Republic in the field of law.

2. 7. Additional Activities of Supreme Court Justices

In addition to the adjudicating and unifying efforts of the Supreme Court Criminal Division, its Justices were also involved in other specialist activities in 2019. These involved, in particular, law-making, training and publishing.

2. 7. 1. Law-Making

In accordance with the legislative rules of the government, the judges of the Supreme Court actively participate in commenting on draft acts. In the long term, they are obliged to receive draft new legal norms within the inter-ministerial comment procedure which regulate the activities of the Supreme Court or which concern matters falling within its scope of competence. More precisely, the Supreme Court is obliged, within the inter-ministerial comment procedure, to receive draft acts for comments if these proposals concern the Supreme Court's scope of competence or the procedural rules by which it is governed. In addition, judges participate in the preparation of certain draft acts or draft amendments directly as the creators or co-creators of the relevant draft.

The position of the Supreme Court in the legislative field should be further strengthened in 2021; the Supreme Court should start receiving the drafts of all legal norms for comments, and if they comment on them, the government and ministries will be obliged to deal with them accordingly.

In 2020, the judges of the Criminal Division were actively involved in particular in the preparation of the new Criminal Procedure Code. Former President of the Supreme Court, currently a constitutional judge, prof. JUDr. Pavel Šámal, Ph.D., is the chairman of the "large committee" for the preparation of the new Criminal Procedure Code; the head of the panel of the Criminal Division, JUDr. Bc. Jiří Říha, Ph.D., is heading the "small committee" for the recodification of the Criminal Procedure Code.

Judges of the Civil Division, who at the turn of 2017/2018 were very critical of the then ministerial proposal of the substantive intent of the Civil Procedure Code, actively participated in several events in 2020, the aim of which was to discuss the preparation of this basic procedural norm of civil law and the reduction of the originally proposed non-systemic solutions contained in this criticised substantive intention.

2. 7. 2. Training of Justices and Participation in Professional Examinations

On the basis of Act No 6/2002 Sb., on Courts and Judges, as amended, Supreme Court Justices contribute to the training and education of judges, prosecutors, judicial trainees and other judiciary staff in the framework of events organised primarily by the Judicial Academy of the Czech Republic, the Ministry of Justice, the Courts and even Prosecutors' Offices. The Supreme Court Justices also take part in the training of solicitors and articling lawyers organised by the Czech Bar Association. Some of the Justices also work as external members of the Faculty of the Judicial Academy of the Slovak Republic.

Some of the Justices also teach students of universities or tertiary education law schools as in-house or external teachers. Some are also members of scientific councils of higher education institutions, or of higher education institutions themselves. Nor do Justices neglect their participation in examinations of jurists, in particular justice and bar examinations.

2. 7. 3. Publications

Justices of the Supreme Court's Criminal Division were also engaged in publishing activities; in particular, they contributed legal papers to journals and proceedings, commentaries and textbooks; some of them are members of the editorial boards of professional or expert journals. For the most part, individual book or periodical publishers reach out to Justices of the Supreme Court to ask for contributions.

2. 8. Administrative Staff in the Judiciary Section

The basis for the internal arrangements in the Judiciary Section are the Judicial Departments (Panels) which are created on the basis of the current work schedule. Administrative and other office work for one or more judicial departments or panels is carried out by the Court Office, which consists of a Head of Office and 3 to 4 stenographers, as well as a registry clerk for the Criminal Division.

The court offices carry out professional, highly qualified, responsible and demanding tasks, which require active knowledge of court records user programmes and other IT systems. Administrative staff in the court offices carry out a range of tasks independently, in accordance with the applicable legal regulations and the office and filing rules of the Supreme Court.

The Registrar organises and supervises the work of the Registry for individual court departments or panels and their Judges. They are fully responsible for the proper management of court records and court files.

The supervisory clerk is responsible for running all the court offices in the Division, managing them in terms of methodology and overseeing them. In addition, the supervisory clerk prepares statistical materials on the activities of the Division, elaborates methodologies for administrative staff, judges and assistants and cooperates with other sections of the court, for example with the Public Relations Department,

for which they process documents for handling applications under Act No 106/1999 Sb. on Free Access to Information, as amended.

Administrative Staff for the Civil and Commercial Division	
Supervisory Clerk	1
Head of Office	4
Stenographer	12
Secretary of the Division	1
Referendary of the collection of decisions and standpoints	1
Total	19

Administrative Staff for the Criminal Division	
Supervisory Clerk	1
Head of Office	3
Registry Clerk	9
Stenographer	0
Secretary of the Division	1
Referendary of the collection of decisions and standpoints	1
Total	15

2. 9. Court Agenda Section

The Court Agenda Section is organisationally integrated into the section of the judiciary.

Among other things, the Head of the Court Agenda Section coordinates, manages and checks the filing service and pre-archival care of documents in all sections of the court.

The Court Agenda Section includes the Registry and Registry Department, which is divided into the Records Department, which ensures the receipt of electronic documents and records of all paper and electronic documents and files delivered to the Supreme Court, and the Registry Department, which ensures the registration of delivered paper shipments and files, the delivery service of all documents and files sent from the Supreme Court and the registration and sale of stamps to parties to proceedings.

In 2020, the Records and Registry Department processed 13,892 data messages, entered 10,439 new submissions in the correct registers, processed 9,069 incoming paper submissions and delivered approximately 7,840 paper consignments and 5,503 parcels weighing over 2 kg.

In addition, for all sections of the Supreme Court, the Court Agenda Section secures the storage of completed files and processed documents in the Court Registry, while at the same time ensuring pre-archival care, decommissioning and shredding and destruction.

The application manager supervises the smooth operation and proper running of information systems and data-processing processes in ISNS, ISIR and IRES applications.

3. NATIONAL AND FOREIGN RELATIONS

3. 1. Activities of the Department of Analytics and Comparative Law

As in previous years, the Department of Analytics and Comparative Law of the Supreme Court focused primarily on analytical and research activities in 2020, as far as European and comparative law is concerned, for practical use not only by the Supreme Court, but also by the lower courts in the Czech Republic and their judges.

The department's activities included, in particular, the creation of analyses in the area of decision-making practice of the Court of Justice of the European Union, European Court of Human Rights and European Union legislation, as well as comparison of legislation and case law in other countries, especially EU Member States.

Last but not least, the department continued to carry out an irreplaceable part of its activities in the past year – it maintained regular contact with foreign courts, but also with other bodies and international organisations, which, despite the current epidemic situation, it not only managed to keep at current levels, but also actively developed, in particular with the help of electronic means of distanced communication. In this respect, the Supreme Court's day-to-day participation in a number of platforms for the cross-border exchange of legal information, which also had the opportunity to be reflected in the decision-making activities of the Supreme Court, was not left out.

However, the cross-border activities of the Supreme Court, which are externally covered and de facto administered by the Department of Analytics and Comparative Law not only in terms of communication, but especially in terms of expertise, were far greater than the above points describe. On the contrary, the Supreme Court, as the supreme judicial institution of a member state of the European Union and the Council of Europe, continued to participate in a number of partial activities to various extents; a selection of the most interesting ones follows.

3. 1. 1. Analytical Activity

As already mentioned, the Department of Analytics and Comparative Law is primarily involved in analytical activities related to the issues that the Supreme Court or lower courts encounter in their decision-making practice.

Among the many interesting topics addressed by the department in 2020 were, for example, the issue of interfering with the rights of persons deprived of their liberty in the context of Article 9 of the European Convention on Human Rights in the case of a vegan person; the issue of limits regarding the possibility of the parties to choose an arbitrator via an appointing authority in relations between entrepreneurs or between entrepreneurs and consumers; aspects of the application of Article 7(1) of the Brussels I bis Regulation to a commercial cooperation agreement or the application of this Regulation in the context of claims related to the "Dieselgate" emissions scandal. Furthermore, the analytical activity focused, for example, on the question of whether a processed author's work consisting of the translation of the original work or part thereof enjoys copyright protection (especially in the context of the uniqueness of the work); the department also focused on foreign legislation in the case of study leave for judges and on the composition and functioning of judicial councils in other European countries.

3. 1. 2. Selection of ECtHR Decisions for Judicial Practice and Bulletin

The preparation of the publication Selection of ECtHR Decisions for Judicial Practice is another activity where the Analytical and Comparative Law Department has long been involved. The collection contains translations of important decisions into the Czech language, which helps make this case law accessible to the general professional public.

The department is also engaged in the preparation of annotations of selected decisions for the Internet database of selected decisions of the European Court of Human Rights, which operates under the auspices of the Office of the Government Plenipotentiary for Representation of the Czech Republic before the European Court of Human Rights. These annotations are published on the website of the Ministry of Justice at eslp.justice.cz. The department continues to make regular annotations that gradually fill the publicly available database, thus helping to popularise and raise awareness of the case-law of the Strasbourg court.

Last but not least, it is necessary to mention the Bulletin of the Department of Analytics and Comparative Law, which, as its name suggests, presents the original output of this department. The bulletin is published four times a year in electronic form – on the Supreme Court's website – and is also accessible, for example, in the ASPI information system. The Bulletin aims in particular to provide information on current decisions of the Supreme Courts of the Member States of the Union,

the European Court of Human Rights and the Court of Justice of the European Union.

3. 1. 3. Comparative Law Liaisons Group

Following the example of previous years, the Supreme Court participated as much as possible in day-to-day cooperation with partner European courts.

As already mentioned, the Supreme Court, through its Department of Analytics and Comparative Law, participates, inter alia, in the Network of the Presidents of the Supreme Judicial Courts of the European Union, which deals mainly with general issues of common interest of presidents; however, more current issues are also addressed, such as those of the Polish judiciary.

However, the European Supreme Courts are also involved on a daily basis in resolving questions that need to be answered for the needs of their decision-making practice. Aware of this fact, the Comparative Law Liaisons Group was established with the Czech Republic participating from the very beginning. The continuing goal of this international group is to facilitate cooperation in the exchange of legal information. This concerns in particular the content of legislation and case law in matters that are the subject of decision-making by one of the highest courts belonging to this group. This group's activities result in analytical material which presents to the judges of the Supreme Court how the legal matters in question are approached before other cooperating supreme courts.

Examples of issues addressed through this network include, in the field of private law, the issue of dependent work in the context of Internet platforms, the above-mentioned appointing authorities for determination of arbitrators or issues related to the application of the Directive on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products. In the field of criminal law, we can mention, for example, the already presented issue of feeding an accused who is a vegan, the judge's possibilities to deal with overcrowding in prison or the state's immunity in confiscating property.

3. 1. 4. The Judicial Network of the European Union

The Department of Analytics and Comparative Law participates, among other things, in the content creation of the Judicial Network of the European Union. This network was created on the initiative of the President of the Court of Justice of the European Union and the Presidents of the Constitutional and Supreme Courts of the Member States. The primary objective of this network is the facilitation of access to information and documents between the courts of the European Union. To this end, an Internet interface has been set up to reflect efforts to strengthen judicial cooperation by supporting the deepening of dialogue in preliminary ruling proceedings, disseminating national decisions of relevance to the Union and strengthening mutual knowledge of Member States' law and legal systems.

In the case of cooperation between the European Court of Human Rights and national supreme courts, the Network of Supreme Courts,

set up for the effective exchange of information, plays an important role, and the Supreme Court also participates in this network through the Analytical and Comparative Law Department.

3. 1. 5. Participation of Representatives of the Analytical and Comparative Law Department in International Events

On 14 January 2020, a meeting of EU Justice Scoreboard contact persons was held in Brussels, where the Supreme Court was represented by Katalin Deák, Head of Department. This meeting focused mainly on evaluating the current state of preparation of a new edition of the publication which evaluates selected indicators of the functioning of the judiciary of the Member States of the European Union on an annual basis and thus provides guidelines for their continuous improvement. The meeting also focused on other issues related to this, such as the machine readability of court decisions and the use of artificial intelligence in the preparation of their concepts, including possible pitfalls related to its use; the issue of the European Network of Judicial Councils' inquiries into the perception of the independence of judges by the professional community was addressed as well.

From 25 to 27 February 2020, the Head of the Office of the President, Mgr. Aleš Pavel, together with the President of the Constitutional Court and his Secretary General, participated in the second meeting of the Global Judicial Integrity Network entitled "Past, Present, Future" in Qatar. Approximately 400 representatives from 120 countries attended the meeting. Topics discussed included, in particular, the use of social media by judges, gender issues related to judicial integrity, and judicial ethics and integrity.

3. 2. Participation of the President and Vice-President of the Supreme Court in Foreign Events

Although 2020 was fundamentally affected in terms of the possibility to strengthen cross-border cooperation through physical participation in international events, the cooperation did not come to a halt. On the contrary, there was a search for new ways, including an increase in the use of distanced communication technology. Even so, the pandemic situation was reflected in the total number of international conferences.

3. 2. 1. President of the Supreme Court

On 30 June 2020, the President of the Supreme Court met in Bratislava with the President of the Supreme Court of Slovakia JUDr. Ján Šikuta, Ph.D. At the meeting, which was also attended by the Head of the Office of the President of the Supreme Court of the Czech Republic, Mgr. Aleš Pavel, and the Head of the Office of the Supreme Court of the Slovak Republic, JUDr. Zuzana Flaková, the Slovak side was interested, among other things, in the process of selecting candidates for judges of the Supreme Court in the Czech Republic.

On 29 July 2020, the President visited the Curia of Hungary (the Supreme Court), where he was welcomed by the then President, Péter Darák. The negotiations addressed, among other things, the activities of the courts during the coronavirus crisis, the organisation of the judiciary and the effort to introduce a larger share of alternative punishments, especially financial penalties. On the Hungarian side, the meeting was also attended by the Vice-President of the Curia, István Kónya, the civil and criminal judges of the Curia, and the Head of the International Relations and European Law Department. The President of the Czech Supreme Court travelled to Budapest accompanied by the Head of the Office of the President and an expert on European law and international relations, Aleš Pavel. They both also met with Hungarian Deputy Attorney General István Lajtár and other high-ranking prosecutors.

On 30 July 2020, the President of the Supreme Court, together with the Head of his Office, visited the Supreme Court of Slovenia. They were welcomed by its President, Damijan Florjančič. One of the main topics of the meeting was the successful IQ justice project, which, under the auspices of the local Supreme Court, focused on strengthening confidence in the judiciary and opening it up to the public.

On 30 November 2020 and 7 December 2020, the President of the Supreme Court, together with the Head of his Office, participated in a remotely held Conference of the Chairs of the Supreme Courts of Central and Eastern Europe. Held under the auspices of the Supreme Court of Azerbaijan and with the support of the CEELI Institute, the online event consisted of a number of topic-oriented sets, including current issues around ensuring the smooth functioning of the judiciary during a pandemic, aspects related to litigation negotiations and communication between judges, participants or the public, and the management of ideas and unfinished business, including the specific context of the growth of a particular agenda in connection with the pandemic.

3. 3. Judges' Missions Abroad

On 31 January 2020, Judge JUDr. Petr Škvain, Ph.D. attended a commemorative session of the European Court of Human Rights and an expert seminar on "The European Convention on Human Rights: a living instrument at 70". The seminar focused on current issues related to the Convention, gender equality, the environment or science and on related issues of science and technology. The mission also included a meeting with JUDr. Aleš Pejchal, a judge of the European Court of Human Rights.

3. 4. Significant Foreign Visitors at the Supreme Court

On 5 February 2020, Maarten Feteris, President of the Supreme Court of the Netherlands, and Kees Streefkerk, Vice-President of the same, visited the Supreme Court. The workshop focused mainly on the governance of the judiciary, cooperation with the European courts, in particular the European Court of Human Rights and the Court of Justice of the EU, and on ways to effectively strengthen public confidence in the judiciary. In addition to the President of the Supreme Court Pavel Šámal, the workshop was also attended by Vice-President Roman Fiala, Head of the Criminal Division František Púry, Head of the Civil and Commercial Division Jan Eliáš and Head of the Office of the President Aleš Pavel, and the Czech and Dutch parties informed each other about judicial systems of both countries. The guests also visited the Constitutional Court and the Supreme Administrative Court.

4. PROFESSIONAL TRAINING OF JUDGES, ASSISTANTS TO THE JUDGES AND STAFF

With regard to the coronavirus pandemic and security measures, which significantly reduced the number of educational events in 2020, the Supreme Court managed to organise only two professional seminars in its building within the framework of long-term cooperation with the Judicial Academy in Kroměříž.

— The *"Compensation for damage and valuation of its amount"* seminar was attended by approximately 100 judges, assistants to the judges and public prosecutors; it was held on 28 January 2020 in the large courtroom of the Supreme Court building. The lecturers of the seminar, focused on the issue of determining the amount of compensation in cooperation with a forensic expert, were Ing. Pavel Tůma, economist, forensic expert and JUDr. Petr Vojtek, Head of the Panel of the Civil and Commercial Division of the Supreme Court.
— On 4 February 2020, several dozen participants from the ranks of judges, assistants to the judges and public prosecutors took part in the seminar entitled *"Methodology of the Supreme Court from A to Z – regarding the interpretation of Section 2958 of the Civil Code"*. Individual talks were delivered by MUDr. Mgr. Jolana Těšinová, Ph.D., Head of the Department of Public Health and Medical Law, 1st Faculty of Medicine, Charles University; JUDr. Petr Vojtek, Head of the Panel of the Civil and Commercial Division of the Supreme Court; and MUDr. František Vorel, CSc., Head of the Forensic and Medical Department of the Hospital of České Budějovice and an expert in the field of healthcare, the field of forensic medicine and the branch of determination of other than proprietary harm to health.

At the beginning of the year and at times when the anti-epidemic measures were eased, judges, assistants to the judges and other employees participated in educational events directly at the seat of the Judicial Academy of the Czech Republic in Kroměříž; otherwise, they attended online courses.

In connection with the elaboration of the Supreme Court's decision-making activities in IBM Notes (formerly Lotus Notes), seminars and training sessions for existing and new judges, assistants to the judges, advisers and administrative staff of the Supreme Court were held in the Supreme Court building during 2020.

5. ECONOMIC MANAGEMENT

Most of the Supreme Court´s budgetary expenditure is taken up by the salaries of judges and court employees. Payroll spending accounts for more than 90% of annual expenditure.

The operational appropriations of the Supreme Court are used mainly for the actual operation of the court and also for the maintenance and repair of the building's facilities; the Supreme Court building is a national heritage building. In the autumn of 2019, a new wing of the Supreme Court building was put into operation, which solved in particular the issue of the lack of quality work space for assistants to the judges. In this context, considerable funds were spent on the relocation and subsequent adaptation of the premises in the existing building, which continued in 2020. Furthermore, in 2020, the Supreme Court also spent funds on restoring the condition and equipment of judges' and employees' offices in the original historic building.

The largest investment in 2020 was the planned replacement (or overhaul) of approximately 400 historic windows, balcony doors and facade panels in the historic court building. The total investment of almost CZK 24 million started in the spring under the careful supervision of conservationists; the action included in the Reconstruction Plan of buildings within the scope of Article 5 of Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency is nearing completion and it will end during the spring of 2021.

At the same time, the Supreme Court is preparing for a long-planned surface installation of air conditioning, which should take place in the historic building during 2021–2022. Project work has already begun and the installation itself could begin in the summer of 2021.

A great deal of money is being channelled into the ongoing upgrade of IT and the procurement of the necessary materials and services for normal operations. In terms of ensuring the professional competence of judges and employees, a major expense item is the cost of purchasing professional publications for the library of the Supreme Court.

The Supreme Court's financial management is governed at all times by the basic principles of efficiency and effectiveness in the spending of central government budges funds. The Supreme Court's financial operations are subject to internal management checks to ensure control and approval from the preparation of operations until they are fully

approved and settled, including an evaluation of the results and the regularity of such financial management.

	Approved budget	Adjusted budget	Actual drawdown
2018	351,328	351,848	359,124
2019	357,782	404,023	403,709
2020	430,871	478,441	443,168

(amount in 1,000s of CZK)

6. PERSONNEL DEPARTMENT

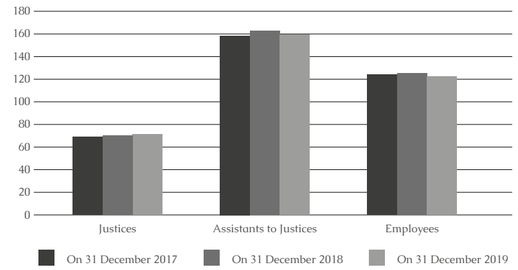
The number of Supreme Court judges increased by one in 2020, while the number of assistants to the judges and court employees decreased slightly compared to the end of the previous year.

	On 31 December 2018	On 31 December 2019	On 31 December 2020
Justices	69	70	71
Assistants to Justices	158	162	159
Employees	124	125	122

On 1 January 2020, Mr David Vláčil joined the Supreme Court as a judge in the Civil and Commercial Division. On 1 April 2020, Mr. Aleš Kolář became a judge in the Criminal Division.

After 31 December 2020, the following judges ceased to hold the position of a judge of the Supreme Court:

Mr Jan Bláhova	Criminal Division
Mrs Hana Gajdzioková	Civil and Commercial Division
Mr Miroslav Gallus	Civil and Commercial Division
Mr Michal Mikláš	Criminal Division
Mr Mojmír Putna	Civil and Commercial Division



7. PUBLIC RELATIONS DEPARTMENT, PROVISION OF INFORMATION

7. 1. Information Office

In 2020, as in the past, the Public Relations Department, which provides basic information on the state of the proceedings to parties thereto, their lawyers, or journalists, fielded between 60 and 80 enquiries over the telephone, in writing or in person every day.

The Information Office, where two desk officers are employed, is competent to communicate information on the state of proceedings (i.e. whether a decision has been reached in particular proceedings). It also provides information on progress in the production of statements of grounds for decisions, whether a decision and its file have already been sent (typically) to the court of first instance, or where the complete file is currently located. The Information Office does not disclose information on the outcome of proceedings. Nor is the Information Office competent to provide legal advice; in these cases, it refers persons making enquiries to lawyers registered with the Czech Bar Association. In the interests of its own impartiality, the Supreme Court cannot provide legal advice.

In 2020, parties and their legal counsel received information on the outcome of proceedings solely via the due service thereof (typically) by the court of first instance. Journalists were provided with information by the spokesperson, but only after decisions had been duly served on all parties to the proceedings. In connection with the amendments to the Code of Criminal Procedure and the Code of Civil Procedure effective from 1 February 2019, the Supreme Court began to publish its judgments and selected resolutions on the electronic official notice board and the physical official notice board in the court building. Consequently, some of the parties, together with the public, were made aware of the outcome of the proceedings via the official notice board.

7. 2. Spokesperson

Spokesperson Petr Tomíček is also the head of the Public Relations Department. The spokesperson's main duties include communicating with the media and responding to requests for information under Act No 106/1999 Sb. on Freedom of Information. They are assisted in the processing of requests by an adviser on issues pertaining to Act No 106/1999 Sb.

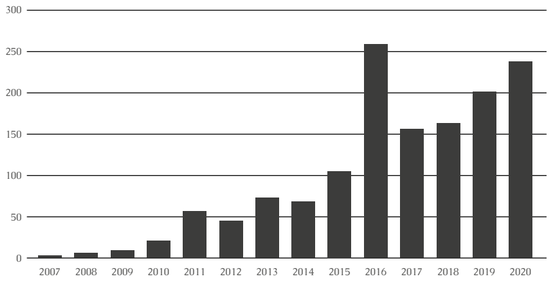
Every year, the Supreme Court's Public Relations Department compiles the Supreme Court Yearbook, published in Czech and English, prepares and publishes the electronic quarterly AEQUITAS, and releases other materials reporting on the Court's activities. Other channels of communication with the public are the Supreme Court's website at www.nsoud.cz and social media, i.e. Twitter, LinkedIn and Instagram.

In 2020, the public relations officer issued a total of 60 press releases. The Public Relations Department of the Supreme Court held only one press conference in the court building in 2020 due to the coronavirus crisis; at this conference, the President of the Supreme Court, JUDr. Petr Angyalossy, Ph.D., introduced himself to the public on 21 May 2020, the day after his appointment.

The spokesperson replied to more than 2,000 different enquiries from journalists and the public on media cases by telephone, in writing, or by giving interviews on camera or into a microphone.

7. 3. Information under Act No 106/1999 Sb., on Free Access to Information

In the period from 1 January to 31 December 2020, the Supreme Court received a total of 237 written requests for information in accordance with the Information Act. Of these, 215 were requests from natural person and 22 from legal persons. Compared to 2019, the agenda in question recorded an increase of 17% (35 requests).



Number of requests to provide information during the period from 1 January – 31 December

In 5 cases, the applicant withdrew the request. In 2 cases, the applicants failed to respond to the obligated entity's invitation to specify the original text of the request; in 4 cases, the applicants failed to respond to an invitation to specify part of the request; therefore, after the statutory deadline, these requests were rejected. In one case, the applicant failed to respond to the obligated entity's invitation to supplement the request with the obligatory applicant's details; therefore, this request was postponed after the expiration of the set deadline.

A total of 232 applicants were sent the requested information, or a decision to reject or partially reject the request, or a notice to postpone (part of) the request. This always happened within the statutory deadlines for processing or postponing the request.

105 requests were fully complied with (including 1 provision within a writ of coram nobis). In another 45 cases, information was provided only partially. In 12 cases, the applicants were fully referred to published information, in another 9 cases they were partially referred to published information.

24 requests were postponed in full (23 requests were postponed due to lack of jurisdiction of the Supreme Court, 1 request was postponed due to the applicant's failure to supplement information about their person); another 21 requests were postponed in part (20 requests were partially postponed due to lack of jurisdiction of the Supreme Court and 1 request was partially postponed due to non-payment of the quantified fee). Thus, the most frequent reason for postponing a request was the fact that the request for the provision of information did not relate to the obligated entity's scope of competence in accordance with to Section 2(1) of the Information Act.

A fee for an extraordinarily extensive search in accordance with Section 17(1) of the Information Act was calculated only for a single submitted request, more precisely for a part thereof. However, this part of the request was partially postponed due to the applicant's failure to pay the fee.

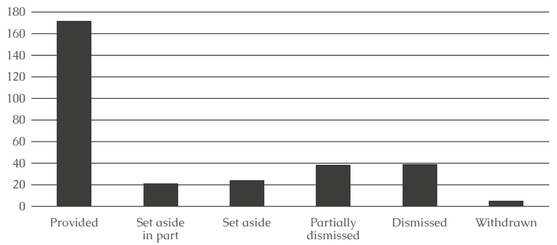
In 2020, no applicants complained about the processing of the request for information, i.e. about the form, content or scope of the information provided.

The obliged entity rejected a total of 39 requests in full (including the 2 above-mentioned requests rejected because the applicant failed to specify them within the deadline) and 38 requests in part (including the 4 above-mentioned requests partially rejected because the applicant failed to specify them within the deadline). The most common reason for rejecting a request in full was that the applicants demanded the provision of new, i.e. non-existent information. Several requests were also rejected because the applicants sought to know the obliged entity's opinion. The most common reason for partial rejection of a request was the fact that the obliged entity protected the personal data of participants in criminal or civil proceedings. In such a case, it partially rejected requests for information precisely to the extent of personal data which it did not provide.

7 appeals were lodged by the applicants against the decision to fully or partially reject a request. In one case, the previous decision on refusal to provide information was revoked and the request was fully complied with within a writ of coram nobis in accordance with Section 87 of the Administrative Procedure Code. The superior authority of the obliged entity, the Office for Personal Data Protection, until the closing date of the yearbook on 22 March 2021, rejected all remaining appeals and upheld the decision of the obliged entity.

In accordance with Section 5(4) of the Information Act, the Supreme Court published all answers to requests for information in due time on its website www.nsoud.cz, i.e. in a way that allows remote access. It published the information mostly in a pseudonymised, but unabridged form. For some more comprehensive answers, it then used the legal possibility to inform about the provided information by publishing accompanying information expressing its content.

In 2020, in addition to the above-mentioned requests for information in accordance with Act No 106/1999 Sb., on Free Access to Information, the Public Relations Department of the Supreme Court processed more than 10,000 written, telephone and also personally submitted requests and enquiries from the public, parties to proceedings or journalists.



Method for processing requests submitted in 2020

8. HANDLING OF COMPLAINTS UNDER ACT NO 6/2002 SB., ON COURTS AND JUSTICES

Pursuant to Act No 6/2002 Sb. on Courts, Judges, Lay Judges and the State Administration of Courts, as amended, natural and legal persons may file complaints with bodies responsible for the State administration of courts about delays in proceedings, the misconduct of court personnel or impairment of the decorum of court proceedings.

In 2020, 8 complaints were filed with the Supreme Court, all relating to alleged delays in proceedings before the Supreme Court. Of these, 3 were classified as justified, one were classified as partially justified and 4 as unjustified.

In 2020, the Supreme Court again made every effort to meet all the conditions of a fair trial, including the duration thereof.

	Justified	Partially justified	Unfounded
Delays in proceedings	3	1	4
Misconduct of court personnel	0	0	0
Impairment of the decorum of proceedings	0	0	0

(Handling of complaints under Act No 6/2002 Sb. in 2020)

9. DEPARTMENT OF ANALYTICS AND CASE LAW

Since its inception on 1 October 2011, the Department of Czech Case-law Documentation and Analytics (the "Case-law Department") has proved a boon to the Supreme Court on account of the expert work it produces. In terms of its activities, the Case-law Department's name is self-explanatory: it specialises in legal expert analysis focusing primarily on case law and records thereof, specifically in cases falling within the jurisdiction of Czech courts in civil and criminal proceedings.

It carries out extensive background research into case law related to a specific legal issue, evaluates its applicability to the case at hand, and formulates partial conclusions that subsequently serve as a basis for the work of the reports panels and meetings of both divisions. Building on the results of the divisions' meetings, it then draws up short annotations on selected decisions, which are used to acquaint the reader briefly with the issue covered by each of those rulings. This makes it easier to navigate the large number of decisions. The annotations are periodically published on the Supreme Court's website.

In 2019, the Case-law Department continued to process individual decisions provided by lower courts concerning adhesion procedure and claims for compensation for non-material damage in criminal proceedings. Its analysis maps the decision-making activities of the Supreme Court and the Constitutional Court formulating fundamental conclusions for adhesion procedure and the assessment of claims for compensation for non-material damage. It encompasses both criminal and civil decisions.

On request, the Case-law Department processes underlying documentation for the Supreme Court's comments on newly emerging legislation, or amendments thereto, provides assistance to individual justices and judicial clerks and supports the work of the Supreme Court's Department of Analytics and Comparative Law.

Further to ongoing recodification work and the publication of Act No 89/2012 Sb., the Civil Code, the need arose to select and summarise civil decisions in connection with individual provisions of the newly created Code. By 2019, the Case-law Department had covered the Civil Code in its entirety with the selected themes of its compilations. The individual volumes contain the text of the legislation, the explanatory memorandum and the aforementioned available court case law, including historical case law (e.g. decisions published in the Vážný Collection). In the production of this work, the wording of the explanatory

memorandum on the Civil Code and amendments thereto, as well as the available expert literature providing a commentary on this legislation, is taken into account. However, as civil law is a very dynamic area of law responding to pitfalls arising in the application of the code, societal developments, changes in European legislation and new judicial conclusions of the European Courts, the Case-law Department has revised and gradually updated the various volumes of its compilations in order to preserve their intended purpose. Compilations of the civil substantive code will continue to be expanded to include volumes dealing with civil procedural law.

In 2018, the Case-law Department entered into cooperation with the Transport Research Centre on the development of the DATANU project, the primary objective of which was to map out the current decision-making practices of lower courts in cases where there are claims for compensation for non-material damage or claims seeking the indemnification of a survivor. The project's secondary objective was to create a software database of court decisions classified by defined criteria, so that specific compensation for non-material damage that has already been granted can be looked up on the basis of input parameters. The department's work has contributed to the development of the database's content by providing the Transport Research Centre with extensive feedback on its functionality and also by professionally processing materials provided by the courts. In 2019, the department continued its work, focusing on the expansion of information contained in the database. DATANU project outputs are publicly available online at www.datanu.cz.

The database now contains 930 court decisions; decisions newly provided to the Supreme Court are being processed on an ongoing basis.

The increase in the Supreme Court's caseload is inextricably linked to a heavier administrative burden. Guided by the idea of a modern and efficient institution, the Case-law Department undertook a complete revision of the Register of Constitutional Complaints (SUS) and, in cooperation with IT experts, devised an automated system that generates relevant data (previously handwritten) on constitutional complaints that have been filed. This allows end users of the Supreme Court's internal systems to automatically access decisions published by the Constitutional Court. This system means that the court's administrative burden in this area of the department's work can be lightened. It minimises the scope for error in the inexhaustible amount of data processed, and makes it easier to navigate those court decisions that are linked to each other.

In January 2020, a request was addressed to the Supreme Court, on the basis of which the Department proceeded to continuously monitor and compile an inventory of newly issued decisions concerning family law regulation by the court of appellate review.

The Department not only provides professional legal support, but it also works hard to develop the technical facilities of the court. In 2020, for example, it ensured through the Ministry of Justice that systems used by the court and often no longer supported by their creators were updated and it carried out ongoing individual user training of court staff,

including in the ASPI and Beck Online legal systems, in order to ensure and maintain the professional level of technical skills of their users.

In September 2020, the Department once again took over the auspices of the ECLI *(European Case Law Identifier)* project and the follow-up BO-ECLI *(Building on ECLI)* project, continuing the work of its predecessor, it ensured the elimination of initial technical difficulties and, in cooperation with the ECLI project IT manager at the European Commission, it ensured the smooth indexing of Supreme Court decisions, including selected decisions of high and regional courts, by a European identifier. The ECLI project (BO-ECLI formally ended in 2017) continues the efforts of all stakeholders to create a common database of uniformly labelled case law at a national and European level, including ensuring the operation of a common case-law search engine. In connection with the adoption of the amended version of the Council Conclusions on the European Case Law Identifier (ECLI) and a minimum set of uniform metadata for case law (2019/C 360/01), the Department intends to extend the ECLI with new elements, i.e. to enrich it with additional metadata (e.g. internal references to decisions included in the Reports of Cases and Opinions) and continue to assist the Supreme Administrative Court in the role of ECLI national coordinator for the Czech Republic in the implementation and realisation of the project. In cooperation with the Ministry of Foreign Affairs (Permanent Representation of the Czech Republic to the European Union) and the Ministry of Justice of the Czech Republic, the Department monitors the activities of the expert working group for ECLI and ELI *(European Legislation Identifier)* operating within e-Law. It can be assumed that the postponed meetings of the expert working group will be held in 2021 due to the global coronavirus pandemic and it will be possible to continue to fulfil the collective vision of the participants in the further development of the implemented project.

As a result of organisational and personnel changes, at the end of the year, the Department also intensively prepared to take over agendas previously managed by other departments so as to ensure their smooth and efficient functioning once under the auspices of the Department's experts.

10. THE SUPREME COURT LIBRARY

The Supreme Court Library exists primarily to serve justices, judicial clerks, advisers and other employees of the Supreme Court. As information and on-site loans are also provided to experts among members of the general public, the Supreme Court Library has been registered at the Ministry of Culture as a specialised public library since 2002. The library catalogue can be accessed on the Supreme Court's website (www.nsoud.cz).

In addition to the library catalogue, specialised legal literature databases, such as ASPI, Beck Online and other legal databases available online, are also used to answer users' enquiries.

The library currently has stocks comprising over 31,000 volumes of books, bound annual volumes of journals, and other printed and electronic documents. Although the library mostly offers legal literature and case law, there are also, to a lesser extent, publications on philosophy, psychology, political science and history.

In 2020, the stock was expanded to include nearly 320 new titles. The library's services are used by approximately 850 people. Library staff answered more than 300 internal and external enquiries.

11. IT DEPARTMENT

One of the main priorities of the Supreme Court's IT Department is to ensure the security of data and sensitive information, which is also the main priority of the Ministry of Justice as a whole. Increasing the level of protection of information technologies and software products consists not only of their modernisation, but also of regular provision of information and education to its users, i.e. all judges and staff. Therefore, all users are still required to undergo cyber security training every 12 months, culminating in a detailed test. This obligation is based on the valid legal regulations of the Ministry of Justice and other regulations that relate to information technologies.

In connection with the current global coronavirus situation, the Supreme Court's IT Department also had to respond to the multiplied demand to ensure the smooth operation of remote forms of working, with all necessary security measures. These requirements of judges and employees were met.

The provision of Regulation (EU) 2016/679 of the European Parliament and of the Council on the Protection of Personal Data (hereinafter the "GDPR") continue to be relevant to the provision of sensitive information and personal data. In particular, in connection with this regulation and the newly effective Act No 110/2019 Sb., on the Processing of Personal Data, the Supreme Court proposed modifications to existing hardware and software so that computer equipment, its software and access thereto were in full compliance with the newly applicable legal standards. In connection with the large amount of necessary changes, these system modifications, which had already begun in previous years, also continued in 2020. The issue of GDPR is also extensively covered in the cyber security training, which is mentioned in the introduction to the chapter.

Today, not only the acceleration of all communication services is required, but also its reliability and security. Their operation at the Supreme Court is ensured in accordance with all applicable legal standards and regulations. Therefore, the Supreme Court also pays the necessary attention not only to the level of IT equipment, information of employees, but also to the quality and credibility of all its suppliers and contractual partners.

12. THE CONFLICTS OF INTEREST DEPARTMENT

12. 1. Departmental Activities

Act No 159/2006 Sb. on Conflicts of Interest, as amended, empowers the Supreme Court to receive and record notifications of the activities, property, income, gifts and liabilities of Czech judges, and to store and supervise the completeness of data in these notifications.

The Supreme Court's Conflict of Interest Department carries out all activities required by law in relation to public officeholders – judges.

All judges registered in the Central Register of Notifications compiled by the Ministry of Justice are obliged to file notifications when commencing and terminating their duties and also periodically at the times prescribed by the Conflict of Interest Act. Notifications are sent to the Supreme Court in writing on a specific form, the structure and format of which are set by the Ministry of Justice in an implementing decree. These notifications are then kept for a period of five years from the date of termination of a judge's duties. The register of judges' notifications is an autonomous and separate register that is not available for perusal. The information contained in it is not even disclosed under Act No 106/1999 Sb. on Freedom of Information, as amended. Only entities directly designated in the law have access to the information contained in individual notifications.

Judges who were in office on 1 January 2020 filed "interim notifications" for the period they were in office in the 2019 calendar year, and were required to do this by 30 June 2020.

The preparatory phase ahead of the actual submission of notifications mainly entailed the creation of an interim notification form for the needs of judges (a classic and interactive form) with detailed comments to guide its completion. Auxiliary materials have also been created to provide judges with comprehensive information on their legal reporting obligation.

During the procedure for the submission of interim notifications for 2019, issues surrounding methodology were handled in cooperation with the Ministry of Justice. Information was sent to the presidents of individual courts on an ongoing basis. The department's staff answered telephone and email enquiries and provided personal consultations. All necessary information was published in a specially created section on the Supreme Court's website.

In 2020, the department also received and recorded entry and exit notifications for justices who were freshly appointed or retiring.

In 2021, the department will supervise the completeness of the data in the notifications received. These checks will include, in particular, a formal check that the notifications contain the mandatory information prescribed by the Conflict of Interest Act and Implementing Decree No 79/2017 laying down the structure and format of notifications pursuant to the Conflict of Interest Act, as amended. The data in the notifications will also be compared with the details provided in other public administration information systems, which the Supreme Court's Conflict of Interest Department is authorised to view, e.g. the property register and the road vehicles register. In the first half of 2021, the department is expected to submit interim notifications for the period justices were in office in the 2020 calendar year. In addition, entry and exit notifications will be received and recorded.

12. 2. Statistical Data

As of 1 January 2020, 2,998 judges in office were registered in the Central Register of Notifications kept by the Ministry of Justice. As of the end of the statutory deadline for filing an interim notification for 2019, i.e. by 30 June 2020, one judge had died. Therefore, the legal obligation to file an interim notification for 2019 applied to 2,997 judges.

As of 31 December 2020, an interim notification for the year 2019 was filed for 2,995 judges (note: update as of 13 January 2021, 2,996 notifications were filed; one judge failed to file the notification for serious health-related reasons).

In accordance with Conflict of Interest Act, 78 judges took office in 2020.

The notification obligation in connection with the termination of office in 2020 arose for 75 judges; 2 judges died.

Judges who had a deadline for submitting entry and exit notifications in 2020 filed their notifications.

CLOSING REMARKS BY THE VICE-PRESIDENT OF THE SUPREME COURT

Due to the coronavirus pandemic, everyone must undoubtedly feel that 2020 was unlike any of the previous years. It was also an extraordinary ordeal for the Supreme Court. I am really glad that I had the opportunity to "be there" as the Vice-President, and for part of the year also as the acting President. It became quite obvious that the Supreme Court is a team that knows how to "pull together". We saw that the President of the court is "the first among equals". And everyone saw that together we managed to organise our work in such a way that the Supreme Court was making its decisions as if the coronavirus did not even exist.

I think that the coronavirus pandemic has become a catalyst for social processes worldwide. Thing that would change and evolve over the years are likely to become a reality "in our day". I am proud to be a judge of the Supreme Court. I believe that this institution is one of the last solid pillars of the healthy and meaningful functioning of our State. I also believe that the Supreme Court is a place of stability in the stormy sea of Czech and European law and politics. And I want to believe that the Supreme Court of the Czech Republic will retain this role and will not succumb to any kinds of pressure and false rumours.

Yours truly, JUDr. Roman Fiala

Roman Fiala
Vice-President of the Supreme Court

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