



## Regulation of National Emblems in the Slovak Republic<sup>1</sup>

(Excerpts)

National emblems are an integral part of the formal signs of nationhood. They are an external manifestation of the State, expression of its sovereignty, independence and integrity. This institute represents the State outward, describing its history, traditions and values that are accepted by the most of its inhabitants or nations and nationalities (although it is not always the case). The national emblems are an official, non-interchangeable and unique designation of the State, by which the State differs from other States and that is recognised by other States in mutual relations. They represent a means by which most of the inhabitants identify themselves with their State. The basic national emblems of a State (particularly flag, anthem and coat of arms) are an integral part of important political events (such as national holidays, meetings of important officials) and a natural part of important institutions.<sup>2</sup>

It is evident that the issue of national emblems and its regulation by the law have a substantially interdisciplinary character. Its legal representation should take into account a large number of various and often contradictory variables, such as political, legal, social, socio-psychological, international law, historical, heraldic, aesthetic and economic variables (e.g. in the constitution or at the change of national emblems).

The national emblems of the Slovak Republic have origins in the nation's emblems. But the system of the nation's emblems is much more extensive than as pertracted in this article (coat of arms, flag, seal, anthem etc.). Different personalities, events, phenomena and objects may be subsumed under the nation's emblems in accordance with the socio-cultural and historical context. The nation's emblems underlined the membership of the nation, created a positive image of the nation, embodied its specific, exceptional features, attractive values and characteristics, recalled glorious pages of the nation's history and outlined the project of its "glorious future". They also showed actual and fabricated dark moments of the nation, its wrongs, oppression and suffering in the past and in the present. Consequently they brought in themselves a political message, offering arguments to the emerging national policies for the purpose of their legitimization.<sup>3</sup>

On the basis of aforesaid we may adhere to the rarely pertracted opinion that national emblems express to a

certain degree the idea of the State as one of the state-forming elements.<sup>4</sup>

1.1. In older legal literature from the view of the issue under review it is stated that "state badges" are in the international relations a visit card of the State and a visible expression of its sovereignty. Moreover they often represent the historical development or at least outline the memories of certain events, sometimes joined to political requirements. In this way "state badges" affect the population's emotions and usually "radiate" certain emotional values that are the bigger, the better "state badges" – by their external form - are able to serve as the binder between different layers of the population to "bind to the State also emotionally remote elements". The term "integrating effect of national emblems" has been created for this function of national emblems. In this context it has been among others stated that "irrespective of the purely practical importance of national emblems their symbolic value that ..., had been very significant in the past, is now obviously on the retreat ...".<sup>5</sup> With lapse of time distinction started to be drawn between the emblems (emblems of state sovereignty and others) and badges that ceased to be regarded as emblems, but instead "showed the relation of an individual to a community of ideas".<sup>6</sup>

1.2. From the point of view of the theory of constitutional law there are different approaches to the definition of the term "national emblems". This term is often wider defined and beside of the national emblem, national flag, national seal and national anthem it includes, although indirectly, the position of the capital of the republic, the flag of the president of the republic, national holidays and memorial days, national language and state decorations.<sup>7</sup> In this context national emblems and other forms symbolising the State are sometimes distinguished (e.g. days and dates symbolising the State, state decorations, graphic form of official currency, the capital of the State, some of national cultural

<sup>1</sup> Originally published in *International Journal of Public Administration in Central and Easter Europe*. No. 2010/1. p. 85-92.

<sup>2</sup> Also in SVÁK, J. – CIBULKA, L. – KLÍMA, K.: *Ústavné právo Slovenskej republiky*. Všeobecná časť. Žilina, Eurokódex 2009, p. 275.

<sup>3</sup> ŠKVARNA, D.: *Začiatky moderných slovenských symbolov. K vytváraniu národnej identity od konca 18. storočia do polovice 19. storočia*. Banská Bystrica 2004, p. 7.

<sup>4</sup> Also e.g. in PAVLÍČEK, V. a kol.: *Ústavní právo a státověda*. II. díl. *Ústavní právo České republiky. Část 1*. Praha, Linde Praha, a. s. 2001, p. 169. In this context it is stated that "the state idea ideologically, value and emotionally reinforces the State and the national symbols significantly contributes to it" (therein). The state idea is the integrating factor constituting a state nation. For details see PAVLÍČEK, V. a kol.: *Ústavní právo a státověda*. I. díl. *Obecná státověda*. Praha, Linde Praha, a. s. 1998, pp. 52 – 58.

<sup>5</sup> *Slovník veřejného práva československého*. Svazek II. Brno, Polygrafia 1932, p. 1103 (reprint of the original edition, Eurolex Bohemia, s. r. o. 2000).

<sup>6</sup> Tamže, Svazek V. Brno, Polygrafia 1948, p. 182; see also WEYR, F.: *Československé právo ústavní*. Praha, Melantrich 1937, pp. 113 - 114 and literature quoted therein.

<sup>7</sup> Also in SVÁK, J. – CIBULKA, L. – KLÍMA, K., footnote 1, pp. 293 - 310; POSLUCH, M. – CIBULKA, L.: *Štátne právo Slovenskej republiky*. Bratislava, Heuréka 2006, p. 192 - 196; also in SVOBODA, J. a kol.: *Slovník slovenského práva (first modern edition)* Žilina, Poradca podnikateľa, spol. s r. o. 2000, p. 641.

monuments, crown jewels, name of the State, Head of the State, established religion).<sup>8</sup>

2. From the aforesaid it follows that the level of the legislative regulation of national emblems corresponds to the value level of national emblems. It is evidently subject of the legislative regulation at the highest, i.e. constitutional level. From the legal point of view the stipulation of national emblems means the order given to state authorities (components of the state mechanism) to identify themselves through them inside the State as well as outwardly. On the other hand this fact means the prohibition of the use of national emblems for any other purposes.<sup>9</sup>

2.1 The Constitution of the Slovak Republic in Art. 8 provides that national emblems of the Slovak Republic are national emblem, national flag, national seal and national anthem. In Article 9 it regulates that:

- The National emblem of the Slovak Republic is a red, early Gothic shield with a silver double cross mounted on the central peak of the blue three hill group (paragraph 1);

- The National flag of the Slovak Republic is composed of three equal horizontal stripes – white, blue and red. In the first half of the national flag of the Slovak Republic there is the national emblem of the Slovak Republic (paragraph 2);

- The National seal of the Slovak Republic consists of the national emblem encircled by the inscription "Slovenská republika" (paragraph 3)

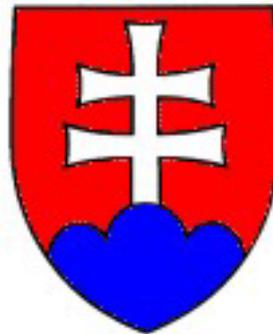
- The National anthem of the Slovak Republic is composed of the first two stanzas of the hymn "Nad Tatrou sa blýska" ("Lightning over the Tatras", paragraph 4)

- The details on the national emblems of the Slovak Republic and their use shall be arranged by the law (paragraph 5).

For comparison, the Constitution of the Czech Republic stipulates as national emblems of the Czech Republic the large and small national emblem, national colours, national flag, flag of the president of the republic, national seal and national anthem (Art. 14).<sup>10</sup> The Constitution of the Republic of Hungary stipulates as national emblems the anthem of the Republic of Hungary (specified in Art. 75), the flag of the Republic of Hungary (specified in Art. 76 par. 1) and the emblem of the Republic of Hungary (specified in Art. 76 par. 2); the Constitution of the Republic of Poland stipulates the national emblem, the colours and the national anthem of the Republic of Poland (specified in Art. 28 par. 1 to 5).

2.2 The legal regulation stipulating the details on national emblems of the Slovak Republic and their use (Art. 9 par. 5 of the Constitution of the Slovak Republic) is the Act No. 63/1993 Coll. on national emblems of the Slovak Republic and their use, as amended ("Act on National Emblems"). The Act on National Emblems in Art. 1 provides that national emblems of the Slovak Republic

may be graphically represented and used only in the way prescribed by this Act. The preamble (within the meaning report to the law) to the government bill of national emblems of the Slovak Republic and their use (parliamentary press 140, January 1993) in this context underlines that as Art. 8 of the Constitution of the Slovak Republic already lays down the national emblems of the Slovak Republic, the submitted bill does not repeat this provision, but instead contains the basic rule for their use, which applies to all four emblems. The national emblems are only the emblems specified in this provision. The other emblems referred to in the bill, i.e. national flag and national seals containing the national emblem, are not national emblems - they are only derived from national emblems. It is however necessary to regulate their use which is in the practice more often than the use of the national flag and the national seal (pp. 13 and 14).



2.2.1. The National emblem of the Slovak Republic is a red, early Gothic shield with a silver double cross mounted on the central peak of the blue three hill group. The body and the arms of the cross are extended and sunk in the ends, the tops are round (Art. 2 par. 1 of the Act on National Emblems). The representation of the national emblem forms Annex No. 1 to the Act. In this context the Act on National Emblems allows a different representation of the national emblem (specified in Art. 2 par. 2 to 4). This Act in its following provisions (Art. 3 to 6) regulates the use of the national emblem, including its use in buildings, official documents and official seals.

In this context the preamble to the government bill of national emblems (within meaning of the report to the law) states that main symbol of the national emblem of the Slovak republic is a double cross.<sup>11</sup> Its origin is related to Byzantia, where it had been enjoying special respect as one of national emblems since the 9th century. It goes without doubt that the mission of Constantine and Methodius to Great Moravia in that period had extraordinary importance for its propagation in our territory. The symbol of double cross historically appears in the heraldic shield in the end of the 12th century, which is proved by the denier of Bela III from the year 1190 (p. 14).<sup>12</sup>

The tradition of the double cross symbol in our territory was very strong already in the middle ages. It is proved by numerous city blazons from the territory of medieval Slovakia, in which the double cross symbol is represented, unlike the cities in the region of Zadunajsko, where the motif of other royal symbol – red-and-silver

<sup>8</sup> Also in FILIP, J.: Ústavní právo České republiky. I. díl. Základní pojmy a instituty. Ústavní základy ČR. Brno, Doplněk 1999, pp. 151 – 160; also in GERLOCH, A. – HREJBEK, J. – ZOUBEK, V.: Ústavní systém České republiky. Základy českého ústavního práva. Praha, Prospektrum 1996, pp. 102 – 107; PAVLÍČEK, V. a kol., footnote 5, p. 172.

<sup>9</sup> FILIP, J., footnote 7, p. 152.

<sup>10</sup> For details see SLÁDEČEK, V. – MIKULE, V. – SYLLOVÁ, J.: Ústava České republiky. Komentář. Praha, C. H. Beck 2007, pp. 126 – 129; KLÍMA, K. a kol.: Komentář K Ústavě a Listině. Plzeň, Vyd. a nakl. Aleš Čeněk 2005, pp. 129 – 131.

<sup>11</sup> For cross symbols see e.g. VRTEL, L.: Na troch vrškoch biely kríž. Bratislava, Archa 1990, pp. 5-6; VRTEL, L.: Dvojité znam v tisícročí. Vlastivedný časopis, 1990, No 3; VRTEL, L.: Osem storočí slovenskej heraldiky. Martin, Matica slovenská 2003.

<sup>12</sup> Also e.g. in ČIČ, M. a kol.: Komentár k Ústave Of the Slovak Republic. Martin, Matica Slovenská 1997, p. 65 et seq.

stripes – appears more frequently. It has significantly contributed to the fact that the double cross, originally a purely royal blazon, started to be perceived as a symbol of the territory of Upper Hungary - Slovakia. An important development also occurred thanks to the completion of the three hill group beneath the double cross in the first years of the 14th century. From the 15th century the three hill group started to be interpreted as mountains of Upper Hungary – Slovakia: Tatra – Matra – Fatra, and the stripes from the second royal blazon as rivers: Danube - Tisza – Drava - Sava.<sup>13</sup> The strong tradition of the double cross symbol on the three hill group in the territory of Slovakia had "caused" that, in 1848, the supporters of Ľ. Štúr declared this royal as well as territorial symbol to be the symbol of the Slovaks and Slovakia.

As mentioned above, the national emblem by its representation respects the early Gothic shape of a shield that is typical for the period from this the historical pattern comes. It also respects the moderately extended and sunk ends of the body and arms of the cross as well as the round silhouette of the three hill group, which fully corresponds to the heraldic and stragistic patterns of that period. The only heraldic alteration consists in the slightly elevated three hill group. Since the time when the blazon with double cross and a three hill group became Slovak national symbol (1848), the three hill group in the Slovak emblem has been always regarded as an important and meaningful symbol and represented so as to be visible enough.<sup>14</sup>



2.2.2. The National flag of the Slovak Republic is composed of three superimposed longitudinal stripes – white, blue and red, with equal width. In the first half of the national flag's leaf the national emblem is centred. The national emblem on the national flag is at equal distance from the upper, front and lower edge of the national flag and its height equals to a half-height of the national flag. On the contact of the shield with a colour other than white there is a white border, the width of which corresponds to one hundredth of the national flag's length. No contour line is used in the national emblem on the national flag. The ratio of the national flag sides is 2 to 3 (Art. 7). The graphic representation of the national flag forms Annex No. 2 to this Act. The Act also provides that the national flag may be also used in the form of a national standard (for details see Art. 10). The Act, like for other national emblems, prescribes the way of use of the national flag (Art. 8 and 9)

In this context, on page 19 of the preamble (within meaning of the report to the law) it is stated that traditional Slovak tricolour – white, blue and red – has its origins in the revolutionary movement of the year 1848. It

<sup>13</sup> Preamble to a bill on national emblems of the Slovak Republic and their use (Parliamentary Press 140, January 1993), p. 15; for details see SVÁK, J. – CIBULKA, L. – KLÍMA, K., footnote 1, p. 295 et seq.

<sup>14</sup> Preamble, footnote 12, p. 16 (authors of the design of the national emblem of the Slovak Republic are the heraldist Ladislav Vrteľ and the designer Ladislav Čisárik, ml.).

was constituted under the influence of the Russian colours that had been also perceived as Panslav colours in the 19th century. The sequence of the Slovak colours as well as the width of the individual stripes on the flag became established gradually, the preserved exemplars of national flags from the year 1848 differ from each other in the details.

The white-blue-red flag was first anchored in the law (interestingly not in bohemia, but in Slovakia) by a decree of the minister vested with full powers for administration of Slovakia from 28 February 1919 (Decree No. 1007/1919 on flags, emblems and badges). The traditional Russian white-blue-red flag (used in Russia from the year 1693) was then abandoned and thus became free from the vexillological view. However in 1991 the Parliament of the Russian Federation decided on the return to the historical white-blue-red national flag of Russia. As, from the historical and heraldic (vexillologic) view, Russia has undoubtedly the priority right for the use of such flag, in connection with the implementation of the Resolution of the Government of the Slovak Republic, an eight-option study on potential forms of the national flag of the Slovak Republic has been drawn up. The commission designated as the most acceptable the option which enriches the tricolour with the national emblem situated in the front half of the flag leaf (for details see pp. 19 - 20).<sup>15</sup>



2.2.3. The National seal of the Slovak Republic is round. In its centre there is the national emblem of Slovakia and the colours of the emblem are marked by heraldic hatching. The national emblem is surrounded by the inscription SLOVENSKÁ REPUBLIKA (The SLOVAK REPUBLIC). In the lower part of the inscription circle is a linden leaf.

The diameter of the national seal is 45 mm. The national seal is applied to the originals of the deed of constitution and constitutional acts of the Slovak Republic, international treaties, credential letters of diplomatic agents and in other cases where its application is usual. The tyarium of the national seal is in the custody of the President of the Slovak Republic. The graphic representation of the national seal forms Annex No. 4 to the Act on national emblems (Art. 12 (1) to (4)).

The form of the national seal of the Slovak Republic corresponds to the European usage established since the middle ages. It is so-called heraldic seal, where the centre of the seal field is filled with the heraldic shield with a

<sup>15</sup> An inorganic part of the legislation on the use of national flag is to a certain extent the partial regulation of the institute of national mourning (Art. 9a) in effect from 1 July 2006. The question is whether this issue should not be a part of e.g. the Act No 241/1993 Coll. on national holidays, bank holidays and memorial days, on the condition of the extension of the subject of this regulation (including the name of the Act).

sign. The national seal means the relief impression of the seal (typarium), most frequently in the wax; other sealing materials, such as metal or the sealed document itself (in the form of so-called dry seal) are also acceptable. The national seal is not identical with the round stamp bearing the national emblem. The seal is always embossed and the stamp represents a colour print on the paper. The relation between the national seal and a stamp bearing the national emblem is comparable with the relation between the national flag and the national standard. The national seal of the Slovak Republic is not identical with the national seal - typarium, i.e. tool for production of the national seal; this may have the character of state insignia or other form.<sup>16</sup>

#### Nad Tatrou sa blýska



2.2.4. The provision of Art. 13 (1) of the National Emblem Act lays down that the National anthem of the Slovak Republic are the first two stanzas of the hymn "Nad Tatrou sa blýska". The national anthem is played or sung on the occasion of national holidays, memorial days, anniversaries and on other important occasions of national or local character; the national anthem of other State is played if the official delegation of such other State is present. The text of the national anthem and its score form Annex No. 5 to the National Emblem Act (Art. 13 (2) and (3)).

The hymn "Nad Tatrou sa blýska" (original name "Ponad Tatrou blýska") is based on a folk song "Pri studienke stála" ("By a Well She Stood") and its score was first written by August Horislav Krčméry, composer and master of the Bratislava Lyceum's Choir on 16 March 1843. In March 1845, on the basis of the Krčméry's score in a two-four time, the poet Janko Matuška composed the hymn "Ponad Tatrou blýska". This hymn was sung by the students of L. Štúr during their demonstrative departure from the Evangelical Lyceum in Bratislava to Levoča, in protest against persecution of Ľudovít Štúr and the prohibition of his lectures on the lyceum. The hymn in this form became a folk song.<sup>17</sup>

The first stanza of this hymn has become a part of the national anthem of the Czecho-Slovak Republic, whereby its second stanza has departed from the original; the initial text "let's stop them, brothers" was altered to "let's stop, brothers" due to which the hymn lost its original revolutionary charge. The Constitutional Act of the Slovak National Council No. 50/1990 Coll. on name, national emblem, national flag, national seal and national anthem of the Slovak Republic has eliminated this deficiency and returned to the words of the anthem their original meaning.<sup>18 17</sup>

3. The standard of the President of the Slovak Republic (Act No. 51/1993 Coll.), unlike e.g. the Czech Republic (2.1.), cannot be regarded as a national emblem. This fact is stressed *expressis verbis* by the preamble to the government bill on national emblems (within meaning of the report to the law) (p. 14). The President of the Slovak Republic uses the standard of the President of the Slovak Republic as symbol of its office (Art. 1 of the quoted Act).

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<sup>16</sup> Preamble to the bill, footnote 12, pp. 22 - 23; also in SVÁK, J. - CIBULKA, L. - KLÍMA, K., footnote 1, pp. 300 - 301.

<sup>17</sup> Preamble to the bill, footnote 12, p. 24; compare also with ČIČ, M. a kol., footnote 11, pp. 66 - 67; SVÁK, J. - CIBULKA, L. - KLÍMA, K., footnote 1, pp. 301 - 302; KOVÁČ, D. a kol.: Kronika Slovenska. Bratislava, Fortuna Print 1998, p. 434.

<sup>18</sup> The composer and music theorist Ladislav Burlas altered the Slovak national anthem following the extinguishment of the Czecho-Slovak Federation (he used other harmony and a slower place); e.g. on the website of the President of the Slovak Republic [www.prezident.sk](http://www.prezident.sk) four versions of the national anthem's sound record are available.