

Members of the National Council of the Slovak Republic  
Námestie Alexandra Dubčeka 1  
812 80 Bratislava 1

7 September 2020

Dear Members of the National Council of the Slovak Republic,

We are writing on behalf of 111 organizations to express our deep concern regarding current threats to reproductive rights in Slovakia.

At this time Parliament is debating draft legislation<sup>1</sup> that if adopted would impose new barriers to accessing lawful abortion care, harm women's<sup>2</sup> health and well-being, and undermine their decision-making and privacy. It would also force doctors to act in conflict with their professional obligations to their patients. If enacted, the legislation will create dangerous chilling effects on the provision of lawful abortion care in Slovakia, and increase the harmful stigma surrounding abortion.

The draft legislation seeks to double the mandatory waiting period currently required before accessing abortion on request and extend its application, impose a new layer of medical authorization requirements for abortion on health grounds, and introduce a requirement obliging women to state the reasons for seeking an abortion and to provide other private information when requesting an abortion. Such information would then be transmitted to the National Health Information Center. The draft legislation also seeks to restrict the information that medical professionals can provide publicly about abortion services by prohibiting so-called "advertising" on abortion, and to strengthen the dissuasive nature of the mandatory information doctors are required to provide to women seeking abortion.

Our organizations are deeply concerned by these proposals. If adopted, they will harm women's health and well-being and contravene international public health guidelines, clinical best practices and Slovakia's international human rights obligations.

The World Health Organization (WHO) has outlined that countries should ensure that women's decisions to access lawful abortion care are respected and that abortion care is "delivered in a way that respects a woman's dignity, guarantees her right to privacy and is sensitive to her needs and perspectives."<sup>3</sup> International human rights mechanisms have stressed that states must ensure the availability, accessibility and quality of abortion services in line with the WHO guidelines. They have called on states, including Slovakia, to remove barriers to safe and lawful abortion, including mandatory waiting periods, mandatory counseling and third-party authorization requirements.<sup>4</sup> In addition, the European Court of Human Rights has held that "[o]nce the legislature decides to allow abortion, it must not structure its legal framework in a way which would limit real possibilities to obtain it"<sup>5</sup> and has underscored that European states have "a positive obligation to create a procedural framework enabling a pregnant woman to exercise her right of access to lawful abortion."<sup>6</sup>

**Extending the mandatory waiting period:** The proposed extension of the mandatory waiting period from 48 to 96 hours and its proposed application to abortions on specific grounds would substantially increase delays in women's access to abortion care, thereby placing their health and lives at risk. The WHO has outlined that "[m]andatory waiting periods can have the effect of delaying care, which can jeopardize women's ability to access safe, legal abortion services."<sup>7</sup> As the WHO has underlined, while abortion is a very safe medical procedure, risks of complications, though still small when abortion is performed properly, increase with the duration of pregnancy.<sup>8</sup> The WHO has underlined that "[o]nce the decision [to have an abortion] is made by the woman, abortion should be provided as soon as is possible" and without delay.<sup>9</sup> Besides jeopardizing

women's health and well-being, mandatory waiting periods also often lead to discrimination and social inequities as they increase the financial and personal costs involved in obtaining lawful abortion by requiring at least one extra visit to a doctor prior to abortion.

Mandatory waiting periods also undermine women's agency and decision-making capacity. The WHO has made it clear that mandatory waiting periods "demean[] women as competent decision-makers" and specified that medically unnecessary waiting periods should be eliminated to "ensure that abortion care is delivered in a manner that respects women as decision-makers."<sup>10</sup>

**Imposing onerous authorization requirements:** Introducing a new layer of medical authorization requirements in situations where an abortion is necessary for health reasons will delay women's access to lawful abortion and jeopardize their health in situations where it is already at risk. Requiring two doctor certifications, instead of the single doctor certification now required in such cases, will also increase the costs of accessing abortion care, create burdensome administrative procedures, and generate a chilling effect for the provision of lawful abortion services. The WHO has specified that onerous authorization procedures, including where multiple medical professionals are required to provide certification, should not be required for abortion care.<sup>11</sup>

**Restricting medical providers' provision of information on abortion:** Introducing the proposed prohibition on so-called "advertising" of abortion would restrict doctors' ability to provide evidence-based information on abortion care and where women can access lawful abortion. The legislation would have a chilling effect on the provision of such information by medical providers, which could jeopardize women's health and safety. International human rights mechanisms have underlined that legal restrictions on the availability of evidence-based information on sexual and reproductive health, including safe and legal abortion, contradict states' obligations to respect, protect, and fulfil women's right to the highest attainable standard of health. They have made it clear that "[s]uch restrictions impede access to information and services, and can fuel stigma and discrimination" and have called upon states to "[e]nsure that accurate, evidence-based information concerning abortion and its legal availability is publicly available."<sup>12</sup> Similarly, the WHO has stressed the importance of ensuring access to evidence-based information on abortion and the entitlements to lawful reproductive health care.<sup>13</sup>

**Reasons for abortion:** Requiring women seeking an abortion to state the reasons for their decision, which is often a very personal and private matter, could deter women from seeking care within the formal health system.<sup>14</sup> International human rights mechanisms have already urged Slovakia to "[e]nsure the confidentiality of the personal data of women and girls seeking abortion, including by abolishing the requirement to report the personal details of such women and girls to the National Health Information Centre."<sup>15</sup>

If adopted, this legislation will wholly contradict international public health guidelines and clinical best practice. It will undermine Slovakia's compliance with its obligations under international human rights treaties to guarantee women's rights to health, privacy, information, to be free from inhuman or degrading treatment, and the principles of non-discrimination and equality in the enjoyment of rights. In addition, the adoption of these proposals will be contrary to the fundamental international legal principle of non-retrogression. In its 2019 review of Slovakia, the UN Committee on Economic, Social and Cultural Rights explicitly urged the government to avoid any retrogression in relation to women's sexual and reproductive health rights.<sup>16</sup>

We call on all Members of Parliament to reject this regressive and harmful legislative proposal and to refrain from further attempts to restrict women's reproductive rights in Slovakia.

Yours sincerely,

Abortion Rights Campaign, Ireland  
Abortion Support Network, UK  
Accountability International  
Action for Choice, Ireland  
Aid Access, Austria  
AIDOS - Associazione Italiana Donne per lo Sviluppo, Italy  
Albanian Center for Population and Development (ACPD), Albania  
Alliance for Choice, Northern Ireland  
AMICA (Association of Italian Doctors for Contraception and Abortion), Italy  
Amirat OBK Association, Hungary  
Amnesty International  
Arbeitskreis Frauengesundheit e.V., Germany  
Associação para o Planeamento da Família (APF), Portugal  
Association for Advancement of Gender Equality, Republic of North Macedonia  
Association for Liberty and Gender Equality (A.L.E.G.), Romania  
Association HERA-XXI, Georgia  
ASTRA – Central and Eastern European Network for Sexual and Reproductive Health and Rights  
Aube Nouvelle pour la Femme et le Développement (ANFD), DR Congo  
Austrian Family Planning Association (OGF), Austria  
Catholics for Choice, USA  
Center for Curricular Development and Gender Studies: FILIA, Romania  
Center for Feminist Foreign Policy, Germany/UK  
Center for Reproductive Rights  
CESI - Center for Education, Counselling and Research, Croatia  
CHU Saint-Pierre, Belgium  
Coalition Margins, Republic of North Macedonia  
Coalition of African Lesbians, South Africa  
Coalition to Repeal the Eighth Amendment, Ireland  
Conseil des femmes francophones de Belgique, Belgium  
Consell Nacional De Dones D'Espanya, Spain

Danish Family Planning Association, Denmark  
DAWN (Development Alternatives with Women for a New Era)  
Doctors for Choice Germany e.V  
DSW (Deutsche Stiftung Weltbevölkerung), Germany  
Enclave Feminista, Spain  
Euroregional Center for Public Initiatives, Romania  
European Roma Rights Centre, Belgium  
Family Planning and Sexual Health Association, Lithuania  
Family Planning Association of Moldova  
Federación de Planificación Familiar Estatal, Spain  
Fédération des Centres de Planning et de Consultations, Belgium  
Fédération des Centres de Planning familial des Femmes prévoyantes socialistes, Belgium  
Fédération des Centres Pluralistes de Planning Familial and Gacehpa, Belgium  
Federation for Women and Family Planning, Poland  
Fédération Laïque des Centres de planning familial, Belgium  
FOKUS - Forum for Women and Development, Norway  
Fondazione Pangea, Italy  
French Ligue des droits de l'Homme, France  
FRONT Association, Romania  
Fundacja im. Kazimierza Łyszczyńskiego, Poland  
Furia vzw, Belgium  
Garance, Belgium  
Gender-Centru, Moldova  
HERA - Health Education and Research Association, Republic of North Macedonia  
Human Rights Watch  
ILGA-Europe  
International Campaign for Women's Right to Safe Abortion  
International Commission of Jurists  
International Planned Parenthood Federation European Network  
Ipas

Irish Family Planning Association, Ireland  
Latvia's Association for Family Planning and Sexual Health  
Le Planning Familial, France  
Lobby Europeo de Mujeres en España - LEM, Spain  
Marie Stopes International  
Medical Students for Choice, USA  
Mujeres Supervivientes de Violencias de Género, Spain  
NANE, Hungary  
National Collective of Community Based Women's Networks (NCCWN), Ireland  
National Network to End Violence Against Women and Domestic Violence, Republic of North Macedonia  
National Women's Council of Ireland, Ireland  
OMCT - World Organisation Against Torture  
Organisation Vishakha, India  
Organization of Women of Municipality of Sveti Nikole, Republic of North Macedonia  
PATENT Association, Hungary  
Plataforma catalana de Suport al lobby europeu de dones, Spain  
Plural Association, Romania  
Polish Women's Strike, Poland  
Pro-Choice. Rete italiana contraccezione aborto, Italy  
pro familia Bundesverband, Germany  
RadioAttive, Italy  
Reactor - Research in Action, Republic of North Macedonia  
Reproductive Health Training Center of the Republic of Moldova  
Reproductive Rights Platform, Croatia  
Romanian Women's Lobby Network, Romania  
Rutgers, Netherlands  
Santé Sexuelle Suisse – Sexual Health Switzerland  
Sensoa, Flemish expertise centre for sexual health, Belgium  
Serbian Association for Sexual and Reproductive Health, Serbia  
Sex og Politikk, Norway

SEX vs The STORK Association, Romania  
Society for Education on Contraception and Sexuality, Romania  
Society for Feminist Analyses AnA, Romania  
Society Without Violence, Armenia  
Swedish Association for Sexuality Education (RSFU), Sweden  
UK All Party Parliamentary Group on Population, Development & Reproductive Health, UK  
Union Women Center, Georgia  
Vrouwenraad, Belgium  
VUB Dilemma, Belgium  
Women's Aid, Ireland  
Women for Women's Human Rights (WWHR) – New Ways, Turkey  
Women Global Network for Reproductive Rights  
Women's Link Worldwide  
Women on Waves, Netherlands  
Women on Web, Canada  
Women's Resource Center, Armenia  
Women's Rights Center, Armenia  
Women's Room - Center for Sexual Rights, Croatia  
Women Spaces Africa, Kenya  
YouAct - European Youth Network on Sexual and Reproductive Rights  
Youth Coalition for Sexual and Reproductive Rights

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<sup>1</sup> Draft Law which Amends and Supplements Act No. 576/2004 Coll. of Laws on Healthcare, Healthcare-related Services, and on Amending and Supplementing Certain Acts As Amended, and which Amends and Supplements Certain Acts (Print no. 154, 19.06.2020), proposed by members of OLANO - Ordinary People and Independent Personalities.

<sup>2</sup> Although abortion relates mainly to the experience of cisgender women, we recognize that abortion restrictions can have profoundly devastating impacts also on the lives of transgender men and nonbinary individuals who have the capacity to become pregnant and may also require abortion care.

<sup>3</sup> World Health Organization (WHO), *SAFE ABORTION: TECHNICAL AND POLICY GUIDANCE FOR HEALTH SYSTEMS* (2d ed. 2012), at 64.

<sup>4</sup> See, e.g., Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 22 on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights)*, para. 41, E/C.12/GC/22 (2016); Committee on the Elimination of Discrimination against Women (CEDAW), *Concluding Observations: Hungary*, para. 31(c), CEDAW/C/HUN/CO/7-8 (2013); *Slovakia*, para. 31(c), CEDAW/C/SVK/CO/5-6 (2015); *Russian Federation*, paras. 35(b), 36(a), CEDAW/C/RUS/CO/8 (2015); *Macedonia*, para. 38(d), CEDAW/C/MKD/CO/6 (2018); Committee on the Rights of the Child,

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*Concluding Observations: Slovakia*, para. 41(d), CRC/C/SVK/CO/3-5 (2016); Commissioner for Human Rights of the Council of Europe, *Women's Sexual and Reproductive Health and Rights in Europe* (2017), at 11.

<sup>5</sup> *Tysi c v. Poland*, No. 5410/03 Eur. Ct. H.R., para. 116 (2007).

<sup>6</sup> *R.R. v. Poland*, No. 27617/04 Eur. Ct. H.R., para. 200 (2011).

<sup>7</sup> WHO, *SAFE ABORTION: TECHNICAL AND POLICY GUIDANCE FOR HEALTH SYSTEMS* (2d ed. 2012), at 96.

<sup>8</sup> WHO, *SAFE ABORTION: TECHNICAL AND POLICY GUIDANCE FOR HEALTH SYSTEMS* (2d ed. 2012), at 21, 32.

<sup>9</sup> WHO, *SAFE ABORTION: TECHNICAL AND POLICY GUIDANCE FOR HEALTH SYSTEMS* (2d ed. 2012), at 36, 64.

<sup>10</sup> WHO, *SAFE ABORTION: TECHNICAL AND POLICY GUIDANCE FOR HEALTH SYSTEMS* (2d ed. 2012), at 96-97.

<sup>11</sup> WHO, *SAFE ABORTION: TECHNICAL AND POLICY GUIDANCE FOR HEALTH SYSTEMS* (2d ed. 2012), at 94-95. *See also* CESCR, General Comment No. 22, *supra* note 4, para. 41; CEDAW, *General Recommendation No. 24: Article 12 of the Convention (women and health)*, (20<sup>th</sup> Sess., 1999), para. 14, HRI/GEN/1/Rev.9 (Vol. II) (2008).

<sup>12</sup> CESCR, General Comment No. 22, *supra* note 4, para. 41; Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, Interim Report of the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health, para. 65(1), A/66/254 (Aug. 3, 2011).

<sup>13</sup> WHO, *SAFE ABORTION: TECHNICAL AND POLICY GUIDANCE FOR HEALTH SYSTEMS* (2d ed. 2012), at 95.

<sup>14</sup> While the draft legislation states that this information would be collected for statistical purposes, it would still be a breach of women's privacy to require them to fill in this information and provide reasons for abortion prior to receiving abortion care.

<sup>15</sup> CEDAW, *Concluding Observations: Slovakia*, para. 31(f), CEDAW/C/SVK/CO/5-6 (2015). *See also* CESCR, *Concluding Observations: Slovakia*, para. 42(d), E/C.12/SVK/CO/3 (2019).

<sup>16</sup> CESCR, *Concluding Observations: Slovakia*, para. 42(e), E/C.12/SVK/CO/3 (2019).