January 30, 2015

CEDAW Secretariat
OHCHR - Palais Wilson
52, rue des Pâquis
CH-1201 Geneva 10
Switzerland

Re: <u>Supplemental Information on Slovakia, Adoption of List of Issues by the Committee on the Elimination of Discrimination against Women During its Pre-Sessional Working Group Meeting, March 9-13, 2015</u>

Distinguished Committee Members:

The Center for Reproductive Rights (New York/Geneva), the Citizen, Democracy and Accountability (Bratislava) and Ženské kruhy (Women's Circles, Trnava)[*] respectfully present this submission to the Committee on the Elimination of Discrimination against Women (CEDAW Committee) with regard to the adoption of list of issues on Slovakia. We hope that the CEDAW Committee will consider the human rights concerns addressed in this submission as it formulates the list of issues on Slovakia.

The practices and policies outlined in this submission violate Slovakia's obligations under the Convention on the Elimination of All Forms of Discrimination against Women[1] (the Convention) to ensure that women can enjoy their human rights free from discrimination and on a basis of substantive equality. The submission focuses in particular on specific violations of Articles 1, 2, 3, 5, 10, 11, 12 and 16 of the Convention that occur in Slovakia mainly in the fields of reproductive health care and employment. It addresses the following issues in some detail in sequence in the sections below: (1) deficits in Slovakia's legislative, institutional and procedural protection against discrimination; (2) the failure of state representatives and institutions to adequately respond to increasing attacks on gender equality; and (3) the state's failure to respect, protect and fulfil women's reproductive rights. At the end of each section a number of recommendations are outlined.

[*] The Center for Reproductive Rights (www.reproductiverights.org) is an international non-governmental legal advocacy organization dedicated to the advancement of reproductive freedom as a fundamental human right that all governments are legally obliged to protect, respect, and fulfill.
Citizen, Democracy and Accountability (www.odz.sk) is an independent civic association that promotes the values of open society based on civic responsibility and the accountability of public authorities. One of CDA's primary aims is to assert everyone's rights to human dignity and to protection from discrimination, as well as to assert the human rights of women.
Women's Circles (www.zenskekruhy.sk) is an independent civic association focusing on the field of maternity care and the rights therein. One of its goals is that respect, dignity and the freedom of choice for women in pregnancy and childbirth would become self-evident. In this submission, Women's Circles participated in drafting the section relevant to this field.

1. Articles 2(c) and 11 of the Convention: Deficits in Slovakia's legislative, institutional and procedural protection against discrimination

As the Committee has outlined on many occasions, compliance with the Convention requires state parties to ensure laws are in place that prohibit discrimination and guarantee equality in all fields of women's lives and throughout their lifespan. However, the mere existence of such laws is insufficient for compliance with the Convention and state parties are required to ensure that such laws are 'effective' or 'fit for purpose,' and are properly implemented and enforced in practice. They must also ensure that individuals are empowered to claim and enforce their rights under such laws and obtain remedies and reparation when they are violated.

In Slovakia, although the last few years have seen some improvements in the content of the Anti-discrimination Act,[2] (which regulates the duty to observe the principle of equal treatment on a relatively complex list of grounds including sex and gender[3] in the fields of employment and occupation, social security including social advantages, healthcare, provision of goods and services including housing, and education,[4]) and related substantive and procedural legislation, the level of compliance with the Act in everyday life remains very low, as does the frequency with which alleged violations are dealt with by the courts.[5] Even in the small number of cases where courts decide in favor of plaintiffs and grant them financial compensation for non-pecuniary damage caused by discrimination, the amounts awarded are symbolic and strikingly low (usually not more than a few hundred euro).

There are a number of reasons behind this state of affairs. First, the degree to which persons discriminated against are able and willing to refer their cases to courts remains very low.[6] This unwillingness and inability is rooted in a wide range of systemic problems including: a low level of trust in the judiciary, courts and other state institutions,[7] a lack of affordable and qualified legal aid,[8] a number of procedural barriers including judicial fees (which amount to 3 % of the sum requested in claims of financial compensation for non-pecuniary damage[9]), the ways in which courts decide about (non)reimbursement of judicial costs at the end of the proceedings,[10] and fear of potential stigma and victimization.[11] Second, with regard to the low amounts of financial compensation for non-pecuniary damage granted by courts, the problem derives from corresponding legislative provisions and the manner in which they are applied by the courts. In general, compensation for non-pecuniary damage may only be granted if the violation of the principle of equal treatment has considerably impaired the dignity, social status or social achievement of the person affected and the court must take into account the seriousness of the non-pecuniary damage and all underlying circumstances.[12] Although in principle the relevant legal provision allows courts to interpret it in an manner that would enable them to award adequate financial compensation, in practice persons affected by discrimination frequently have to "prove" how their dignity has been "considerably impaired", instead of the discrimination suffered and the perpetrators' behavior being considered to have inherently humiliated and impaired a person's dignity.[13]

However, the lack of institutional protection against discrimination in Slovakia does not result exclusively from the ineffectiveness of judicial remedies. It is also the result of ineffectiveness in the design and functioning of other state institutions. Generally speaking, the state is not institutionally proactive (in the sense that it does not act on *ex officio* basis and actively seek to identify incidents of discrimination and sanction and remedy them). Instead, it waits for individuals to take the initiative to refer claims of discrimination to courts or other bodies (such as inspectorates in various fields). Moreover, problems with labor inspection, for example, are also due to the fact that legislation on labor inspection does not provide for clear investigating powers or for the possibility to shift the burden of proof in cases of discrimination, which means that in practice labor inspectorates face significant difficulties in identifying cases of discrimination. This is exacerbated by other factors inhibiting their examination of cases of discrimination, including their lack of appropriate training and methodology, and the generally low staff levels at inspectorates.[14]

Also relevant in this context is the Slovak National Center for Human Rights ("the Center"). This is the national human rights institution in Slovakia and also the equality body established pursuant to EU equality directives. It is responsible for various tasks including the provision of legal aid to persons who are discriminated against (including on the ground of sex and gender) and carrying out monitoring activities. The state and the Center have faced constant criticism from a number of stakeholders, including NGOs[15] and international human rights bodies, regarding the Center's failure to fulfil its tasks adequately. Particular criticism has been levied at its lack of independence and at a lack of staff capacity and competence that prevent the Center from discharging its role in accordance with international and national legal obligations. For example, the Committee on Economic, Social and Cultural Rights (ESCR Committee), recommended in 2012 that Slovakia "amend its legislation in order to increase the scope and independence of the Slovak National Centre for Human Rights []."[16] In 2014, during the Universal Periodic Review (UPR) of Slovakia, several states recommended that Slovakia ensure that the Center is independent and in compliance with the Paris principles.[17] Despite these and other initiatives and declarations from state's representatives, thus far there have been no significant positive developments, legislative or otherwise, and the Center remains an ineffective institution which is not fulfilling its responsibilities, including to advance the rights of women and gender equality in Slovakia.

Recommended questions to be addressed by the Slovak government:

1. Please provide information on what measures the state has taken to guarantee the realization in practice of the right to adequate and effective remedies, including remedies provided by courts and by other bodies, such as labor inspectorates, for violations of the principle of equal treatment.
2. Please provide information on what measures the government has taken to ensure that the Slovak National Center for Human Rights fulfills its responsibilities in accordance with international, regional and national law.

2. Articles 1, 2, 3, 5, 10 and 16 of the Convention: The failure of state representatives and institutions to adequately respond to increasing attacks on gender equality

As is the case in several other countries in Europe, over the last few years there has been an increasing backlash against gender equality, sexual minorities and reproductive rights in Slovakia. This is fostered, not only by Catholic Church hierarchies who have traditionally sought to influence social discourse and decision-making on issues considered to be morally controversial, but also by a number of newly-emerging "civic" initiatives that are focused on promoting "traditional family" values. These organizations are very active in contesting the principle of gender equality (and the concept of gender as such, calling it "gender ideology") and in promoting traditional roles for women and men.

In this context, and as a result of a 'citizens' initiative' commenced by one of these organizations, a national referendum will be held on 7 February 2015 which will seek to confirm the currently existing constitutional definition of marriage as a union of one man and one woman, to prevent same-sex couples from obtaining adoption rights, and to contest the rights of children to sexuality education.[18] Due to a lack of clarity concerning whether the proposed referendum questions complied with constitutional requirements for referenda, because under the Slovak Constitution a referendum may not be held on fundamental rights and freedoms, in September 2014 the President asked the Constitutional Court to assess whether the proposed questions were in line with the Constitution.[19] In October, the Court decided that only one of the proposed questions, seeking to prevent rights that Slovak law currently attaches exclusively to marital relationships (such as legal recognition or adoption rights) from being granted to non-marital forms of (same sex or different sex) cohabitation, could not be subject of a referendum.[20] The other three proposed referendum questions concerning the issues mentioned above were declared constitutional, and as a result the President decided to proceed with the referendum.

In order to comply with its obligations under the Convention Slovakia is obliged to respect, protect and fulfil women's rights to equality and non-discrimination and as such must take effective measures to ensure these rights are not undermined or infringed by state or non-state actors, including civil society and religious organizations. However, the Slovak government has not taken action to protect the rights and principles that are being called into question as a result of this backlash. On the contrary, the decision of the Constitutional Court regarding the constitutionality of the referendum questions perpetuates the perception that these initiatives are legitimate. Moreover, the government has failed to take important decisions, such as ratifying the Council of Europe Convention on preventing and combating violence against women and domestic violence, or adopting the already drafted National Strategy for the Protection and Support of Human Rights in the Slovak Republic.

Recommended question to be addressed by the Slovak government:

1. Please explain what steps the government is taking to ensure that the principle of gender equality and the right of all individuals to family life is not undermined by actions of non-state actors advocating against gender equality and for the protection of a "traditional" form of family based on marriage between a man and a woman?

3. Articles 2, 5, 10, 12 and 16 of the Convention: The state's failure to respect, protect and fulfil women's reproductive rights

In this section we outline the ways in which Slovakia's laws and practices continue to undermine women's enjoyment of their reproductive rights. In particular, we address: (a) the lack of a comprehensive state policy on sexual and reproductive health and rights; (b) barriers in access to contraceptive services and information; (c) the lack of access to comprehensive, safe and affordable abortion services; (d) the inadequate regulation of conscience-based refusals of reproductive health care; (e) the absence of mandatory, evidence- and rights-based sexuality education in schools; (f) ill-treatment of women during facility-based childbirth, and (g) the lack of comprehensive data on sexual and reproductive health.

a. Lack of a comprehensive state policy on sexual and reproductive health and rights

Slovakia does not have a comprehensive state policy on sexual and reproductive health and rights. Although there have been repeated attempts to adopt such a policy, the Slovak government has consistently failed to do so, primarily due to pressure from the Catholic Church hierarchy and other organizations opposing reproductive rights.

In 2007, the Ministry of Health introduced a draft program on sexual and reproductive health entitled "National Program on Protection of Sexual and Reproductive Health in the Slovak Republic".[21] The draft program was based, in part, on international human rights and medical standards. Among the program's goals was ensuring a decrease in unintended pregnancies and improving access to high-quality modern contraceptives by making them affordable for everyone.[22] The Catholic Church hierarchy and organizations opposing reproductive rights heavily criticized the program, claiming that it was "strongly liberal,"[23] against national interests,[24] and "anti-family," especially by aiming to improve access to contraception.[25] As a result, the government failed to adopt the program, despite having acknowledged its importance,[26] and instead decided that the Ministry of Health should draft a new policy, which, apparently in order to appease the Catholic Church hierarchy, was renamed the "National Program on Care for Women, Safe Motherhood and Reproductive Health". The Ministry of Health introduced a draft of this new program in 2009. The draft did not contain a set of measures to comprehensively deal with sexual and reproductive health issues; instead it incorporated proposals from conservative Catholic

organizations.[27] However, due to continuing opposition from the Catholic Church hierarchy, which contested the new proposal,[28] the program was not adopted. Since 2009 the Ministry of Health has not introduced any new draft.

In the 2014 outcome report of the UPR of Slovakia, the government stated that "[d]ue to the absence of consensus at an expert level," the adoption of the National Program on Care for Women, Safe Motherhood and Reproductive Health has been postponed until late 2015.[29] However, at this time there are no indications that work on the draft program has recommenced. This situation is indicative of past and current governments' unwillingness to adopt a human rights-based program on sexual and reproductive health as a result of fear of criticism by the Catholic Church hierarchy and other organizations opposing reproductive rights.

Recommended question to be addressed by the Slovak government:

1. In light of the UPR recommendation to Slovakia (2014), please provide details about government plans in 2015 to prepare and adopt a comprehensive program on sexual and reproductive health and rights based on human rights and WHO standards.

b. Barriers in access to contraceptive services and information

Although in principle contraceptives are available to women in Slovakia, they continue to be inaccessible for many women due to their prohibitively high cost.[30] According to the state's statistics, the use of modern contraceptives remains low and has been decreasing since 2007. In 2013, only 16.2% of women in reproductive age used hormonal contraception and 3.5% used IUDs.[31] These figures stand in stark contrast to those of other European Union countries.[32]

The public health insurance scheme in Slovakia does not cover contraceptives when they are used for pregnancy prevention. Therefore, women are left to cover the entire cost of contraception themselves. The high price of contraceptives is prohibitive for some women and keeps others from using the method that would be most suitable based on their health, personal circumstances, or preferences.[33] Additionally, the Slovak government does not regulate the price of contraceptives, which means many of them are relatively expensive.[34]

Instead of taking steps to improve the access to affordable contraceptives for all women, the Slovak Parliament adopted a law in 2011 that explicitly prohibits public health insurance coverage of "drugs intended [] *solely for the regulation of conception* (contraceptives)[,]"[35] and coverage of medical devices that are "intended for the regulation of conception."[36] This means that if contraceptives are used exclusively to protect against unintended pregnancies, they cannot be covered under public health insurance. While the law did not change the *practice* of a lack of funding for contraceptives – since public health insurance coverage for contraceptives had never occurred (although it had been formally required by law until 2011) – it codified a discriminatory practice into law and made ensuring public funding for contraceptives much more difficult to achieve in the future. Moreover, by adopting this law the state re-affirmed its long-term approach to contraceptives as "life-style drugs" which contradicts World Health Organization (WHO) standards that define contraceptives as essential medicines. In 2012, the ESCR Committee expressed concern over the 2011 coverage ban and urged Slovakia to expand public health insurance coverage to include modern contraceptives.[37] Yet the government has not adopted any measures to implement this recommendation.

The lack of comprehensive and evidence-based information on contraceptive methods further inhibits women's and adolescent girls' access to modern contraceptives in Slovakia. In many schools, sexuality education is either absent altogether or is inadequate, focusing primarily on reproductive organs and anatomy.[38] At the same time, the teenage birth rate continues to be high in Slovakia with 18 births per

1000.[39] The Catholic Church hierarchy actively advocates against the use of modern contraceptives and promotes traditional methods of family planning, such as periodic abstinence, which are often ineffective.[40] Many gynecologists do not provide women with adequate information to make informed choices, expect that women seeking contraceptive methods should already have adequate information, and frequently do not take the initiative to inform women of their contraceptive options.[41] Moreover, due to poor communication by physicians and inadequate sexuality education in schools, women are often misinformed about the impact and side effects of hormonal contraceptives on their health.[42] This misinformation should be countered through the establishment of mechanisms which would guarantee that medical practitioners provide their clients with comprehensive and accurate information in an understandable manner as well as through comprehensive sexuality education.

Recommended questions to be addressed by the Slovak government:

1. In light of the CEDAW and ESCR Committees recommendations (2008, 2012), and UPR recommendations (2014) please explain what measures the government is taking to increase access to affordable modern contraceptives for all women. Please, include information on whether and when the government is planning to abolish the legislative ban on public health insurance coverage for contraceptives, when used to prevent unintended pregnancies, and to include contraceptives for pregnancy prevention under public health insurance.
2. What is the government doing to improve access to accurate, evidence-based information on contraceptives and to ensure that health care providers provide this information to their clients?
3. Please provide data on the use of all modern contraceptive methods used in Slovakia and please disaggregate this data to indicate the type of contraceptive method used and the unmet need for contraceptives.

c. Lack of access to comprehensive, safe and affordable abortion services

Slovak abortion law permits abortion on request without restriction as to reason up to 12 weeks of pregnancy, and thereafter, if the woman's life is in danger or in cases of fetal impairment.[43] However, various procedural and practical barriers undermine women's access to legal abortion, as outlined below.

i. 2009 procedural barriers

In 2009, the Slovak Parliament adopted an amendment to the Act on Healthcare[44] that introduced several procedural barriers to the access to abortion. They include a 48-hour mandatory waiting period, a duty on health professionals to provide information that may be biased and non-medical and to report to the authorities in each case that such information was provided, and extension of the parental consent requirement to include all minors.

The 48-hour mandatory waiting period, which does not have a clear starting point, applies to abortions on requests that are permitted during the first 12 weeks of pregnancy.[45] The WHO has stressed that medically unnecessary waiting periods constitute an administrative and regulatory barrier to access to legal abortion,[46] and "demean[] women as competent decision-makers."[47] It urges states to "ensure that abortion care is delivered in a manner that respects women as decision-makers" including by eliminating waiting periods.[48] In light of this recommendation, the CEDAW Committee has called on a state party to "[e]nsure access to safe abortion without subjecting women to … a medically unnecessary waiting period…."[49] Submitting women to medically unnecessary waiting periods prior to abortion exacerbates false stereotypes that women make fickle, changeable and impulsive decisions about the termination of their pregnancies.[50]

The 2009 amendment also requires doctors to provide information that may be biased and that may impede women's decision-making regarding their pregnancies. For instance, a doctor must inform a

woman on the "physical and mental risks associated with the induced abortion" and on the possibility for women to receive "financial, material or psychological assistance in pregnancy provided by civic associations, non-profit organizations, foundations, churches and religious communities."[51] The WHO has stressed that women making decisions about pregnancy need to be treated with respect and understanding and be provided with information in an understandable manner, so that they can make such decisions without inducement, coercion or discrimination.[52] As such, the WHO has noted that counseling about abortion should be non-directive,[53] and "healthcare providers should be trained to support women's informed and voluntary decision-making."[54] It has made clear that "censoring, withholding or intentionally misrepresenting information about abortion services can result in a lack of access to services or delays, which increase health risks for women"[55] and "States should refrain from… intentionally misrepresenting health-related information."[56] Further, "information must be complete, accurate and easy to understand, and be given in a way that facilitates a woman being able to freely give her fully informed consent [and] respects her dignity."[57] In light of this recommendation, the CEDAW Committee has previously called on a state party to "[e]nsure access to safe abortion without subjecting women to mandatory counselling…."[58]

The 2009 amendment also requires health professionals to send a report confirming that a woman received mandated information about pregnancy termination to the National Health Information Center.[59] These reports must contain personal data of a woman who filed a request for an abortion.[60] This report must be filed before an abortion is performed, which creates the possibility that this data will be used for illegitimate purposes such as intimidating women seeking abortion services. Moreover, the most sensitive personal identifiers are collected, which may in fact deter women from seeking abortion services.[61] Such requirements violate the right to privacy guaranteed to all women under international human rights law[62] and the Slovak Constitution.[63] In 2012, the ESCR Committee urged Slovakia to "ensure that the personal data of patients undergoing abortion remain confidential."[64] However, the requirement on doctors to report personal data of women seeking abortions continues to be valid.

In addition, the 2009 amendment raised the age limit before which an adolescent girl seeking abortion needs a parental consent from 16 to 18 years of age.[65] The parental consent and notification requirements create barriers to access to health care for minors, and raise questions of compatibility with the Convention and other international human rights treaties. Rather than require parental consent, the Slovak government should take steps to ensure physicians are appropriately trained to work with adolescents[66] and respect their right to informed decision making[67] and confidentiality.[68]

ii. Lack of affordable abortion services

In addition to above-mentioned barriers, abortion on request is financially inaccessible for many women. Abortion on request is not covered by public health insurance in Slovakia.[69] This means that women must pay for it in full, which results in many women not being able to afford it. In a public hospital abortion on request costs usually about €250, and in private clinics it costs approximately €370, which represents about 38% to 56% of the median monthly income for women in Slovakia earned in 2013.[70] In 2012, the ESCR Committee expressed concern over the increasing cost of abortion services in Slovakia and called upon the government to take steps to improve affordability.[71]

iii. Unavailability of medical abortion

Slovakia curbs the availability of medical abortions. The WHO has established that "[m]edical methods of abortion have been proved to be safe and effective,"[72] and highlights that "[r]egistration and distribution of adequate supplies of drugs for medical abortion […] are essential for improving the quality of abortion services, for any legal indication"[73] – evidence based reasoning that is also reflective of women's right to enjoy the benefits of scientific progress.[74] Medical abortion has proven acceptable in

low-resource settings[75] since it is relatively inexpensive; in comparison to surgical abortions, it is often safer for the woman; and it can reduce costs for the health care system overall.[76] Indeed in Slovakia, making medical abortion available would help to lower the currently high cost of abortion.

Currently only surgical abortion is available in Slovakia. In 2012, Slovakia registered drugs for medical abortions,[77] in order to comply with its obligations under EU law related to the decentralized procedure of drug administration.[78] Distribution of the drugs cannot start, however, before permission for their distribution is given at the national level. Such permission has not been issued primarily as a result of criticism from anti-abortion politicians and the Catholic Church hierarchy, who have called upon the Minister of Health and the Prime Minister to ensure that medical abortion does not become available in the country.[79]

Recommended questions to be addressed by the Slovak government:

1. In light of concerns that procedural requirements such as a 48-hours mandatory waiting period, mandatory counseling prior to abortion, and the duty of health professionals to report women requesting abortions to a state institution, contravene the state's obligations under CEDAW, including to eliminate wrongful gender stereotypes, please provide information on what measures the state is taking to address them and in what timeframe.
2. Please explain what measures the state has taken to ensure that the personal data of women undergoing abortion remains confidential, as recommended by the ESCR Committee in 2012.
3. Please explain what measures the state is taking to improve access to affordable abortion services, as recommended by the ESCR Committee in 2012.

d. Inadequate regulation of conscience-based refusals of reproductive health care

Despite the CEDAW Committee's recommendation to Slovakia to "adequately regulate the invocation of conscientious objection by health professionals so as to ensure that women's access to health and reproductive health is not limited,"[80] the government has not adopted measures to implement this recommendation properly.

Under the Slovak Code of Ethics of a Health Practitioner, health professionals are permitted to refuse to provide any medical service if performing the service "contradicts [their] conscience," except in situations posing an immediate threat to the life or health of a person.[81] The existing regulation of conscientious objection is inadequate, as it does not properly ensure that practitioners' refusals of certain medical services do not hinder women's access to lawful reproductive health care. For example, while practitioners are required to inform their employer as well as their patients that they are refusing to provide particular medical care, the state has failed to enact regulations setting forth other essential duties such as (a) referral of a patient to a health care provider willing and able to provide the service[82] and (b) a guarantee that the woman concerned will be provided with the care requested in a timely manner. Effective mechanisms to control, oversee and monitor the practice are also lacking, making the precise numbers of objectors and the effect of their refusals to provide care unknown. The lack of oversight mechanisms also prevents the state from adopting efficient policies to ensure that there are sufficient numbers of practically accessible practitioners committed to providing medical care.

Conscience-based refusals of care have primarily occurred in Slovakia with regard to the provision of abortion and contraception.[83] In addition to refusals by individual practitioners some hospitals use conscience-based refusals as an excuse for not providing abortions on request or any legal abortions.[84] Yet the number of hospitals and medical practitioners refusing to provide abortions is unknown since the state does not collect those data. Moreover, hostile and judgmental treatment from some health personnel towards women undergoing abortion on request has been reported.[85] Medical practitioners who provide

abortion services also face stigma, which often manifests in contemptuous and judgmental behavior from colleagues and peers who opt for not performing abortions.[86]

Recommended question to be addressed by the Slovak government:

1. Please provide information on the regulation of conscience-based refusals of care, including the remedies that can be claimed in cases of an abuse of this practice and their effectiveness. What measures has the government taken to ensure that health care providers' refusals of care do not jeopardize women's access to lawful reproductive health services, with special regard to women living in rural areas, adolescent girls and other marginalized groups? Please provide information on the number and type of hospitals and practitioners that do not provide abortions at all or refuse to provide some types of abortions or other reproductive health services and please provide an explanation of the reasons why.

e. Absence of mandatory, evidence- and rights-based sexuality education in schools

As recognized in the state's periodic report, sexuality education in Slovakia lags behind international human rights standards.[87] It is not provided in schools on a systematic basis and is not a mandatory subject. Instead, it is taught during various subjects such as biology, ethics, or religious classes, and not all teachers providing it are adequately trained. Thus, the quality and comprehensiveness of sexuality education depends to a high degree on the capacity of individual teachers and the course subject.[88] Moreover, discussions on sexual and reproductive health and rights and on contraception are rare.[89] Despite recommendations from the CEDAW and ESCR Committees to ensure that students receive sexual and reproductive health education at school,[90] the government has not adopted measures to implement these recommendations. The government does not monitor the actual extent, content and quality of sexuality education provided by schools.

In addition, organizations opposing reproductive rights and gender equality in Slovakia are currently trying to limit access to sexuality education through the above-mentioned national referendum that will take place on 7 February 2015 (see Section 2). One of the goals of the referendum is to allow parents to exempt their children from classes related to sexuality and euthanasia.[91]

Recommended question to be addressed by the Slovak government:

1. What measures is the state taking to ensure that comprehensive, rights- and evidence-based and age-appropriate sexuality education is included as a mandatory subject in the national school curricula? How is the state monitoring the provision of sexuality education?

f. Ill-treatment of women during facility-based childbirth

The majority of childbirth in Slovakia takes place in hospitals and is conducted by doctors, with the assistance of midwives. This is because of various factors including the fact that giving or assisting childbirth outside of hospital (e.g. in birth houses or women's homes) is not regulated by Slovak legislation.

Since 2013, Citizen, Democracy and Accountability and Women's Circles have been conducting monitoring and research activities of the treatment of women in maternity hospitals, with primary focus on vaginal childbirth. These activities include in-depth interviews with women who have recently given birth, and in-depth interviews with obstetricians and midwives.[92] The information collected has confirmed serious concerns regarding the treatment of women during childbirth in hospitals and revealed that instances of disrespectful, abusive and even violent treatment are very frequent.[93] In a recent statement, the WHO emphasized that "[w]omen are particularly vulnerable during childbirth" and that "[e]very woman has the right to the highest attainable standard of health, which includes the right to

dignified, respectful health care [], as well as the right to be free from violence and discrimination. Abuse, neglect or disrespect during childbirth can amount to violation of a woman's fundamental human rights, as described in internationally adopted human rights standards and principles."[94] In this statement, the WHO listed some particular forms of disrespectful and abusive treatment during childbirth. These include "outright physical abuse, profound humiliation and verbal abuse, coercive or unconsented medical procedures [], lack of confidentiality, failure to get fully informed consent, refusal to give pain medication, gross violations of privacy, [] and detention of women and their newborns in facilities after childbirth []."[95]

The practices identified by the monitoring and research include: spatial arrangements and behavior of hospital staff that heavily impede women's privacy and intimacy; regular verbal humiliation, ridiculing and harassment;[96] significant failures by medical staff to provide women with adequate information before, during and after childbirth; preventing women from moving freely and choosing the birthing position;[97] practices that prevent women from eating and drinking during the time of delivery;[98] the routine performance of medically unnecessary interventions against women's wishes (such as the application of oxytocin, episiotomy);[99] the exertion of extreme physical pressure by healthcare personnel on women's abdomens during the pushing stage;[100] suturing birth injuries without anesthesia or with insufficient anesthesia; separating new born babies from women against their wishes and without medical reasons, especially during the very first hours following birth.[101] These practices point to serious violations of women's human rights during childbirth in Slovakia including the right to freedom from cruel, inhuman or degrading treatment and the rights to privacy, highest attainable standard of health and personal integrity. Not only may women suffer physical and mental trauma and harm as a result of such practices but their autonomy and decision-making capacity is heavily undermined.

The information gathered has also revealed that medical professionals often disrespect the concept of informed decision-making as it applies to women in childbirth situations. Often women are asked to sign informed consent forms upon arriving in maternity hospitals without being provided with information necessary to enable them to understand what they are signing and consenting to. The provision of information necessary for free decision-making by the women concerned, and the possibility for women to express their own wishes, are often lacking, including during the process of the childbirth itself. As a result, in practice often medical interventions are carried out without women's voluntary and informed consent or at times contrary to their wishes.

In addition, some women may feel compelled, against their wishes, to remain in hospital following childbirth for a number of days (usually 3 to 5). Although there is no legal obligation for a woman to stay in a hospital for a certain amount of time following childbirth, Slovak legislation contains certain provisions that in fact often compel women to remain in hospital until they are allowed to leave.[102]

In addition, it is important to observe that although maternal mortality in Slovakia decreased significantly at the end of the 20th century, it has tripled during the last 10 years, as reported by leading Slovak experts in obstetrics and gynecology.[103]

<u>Recommended questions to be addressed by the Slovak government:</u>

1. What measures is the state taking to guarantee the human rights of women in facility-based childbirth and how is the state monitoring health professionals' and facilities' compliance with these measures?
2. What are the causes of increased maternal mortality rates reported in the last 10 years and what measures is the state taking to reduce it?

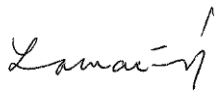
g. Lack of comprehensive data on sexual and reproductive health

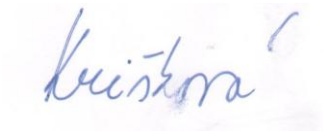
The Slovak government does not collect comprehensive data on sexual and reproductive health indicators, such as the number of unintended pregnancies, the unmet need for contraception, the prevalence of conscience-based refusals of reproductive health care, or data related to childbirth. In addition, it does not monitor compliance with rights protection in these fields. For example, the limited data that the state gathers on the prevalence of a few contraceptive methods—namely, hormonal contraception and intrauterine devices—is insufficient and inadequate to identify and explain the reasons behind the low use of contraception in Slovakia.[104] As a result of the deficits in adequate data collection, it is difficult to effectively identify measures that should be taken to meet the needs of women and adolescent girls in the area of sexual and reproductive health. In addition, it enables the state to avoid accountability for failures to adequately address the health needs of women in Slovakia.

Recommended question to be addressed by the Slovak government:

1. Is the government planning to conduct a comprehensive survey on sexual and reproductive health issues in Slovakia? Please provide details on the particular issues on which the government intends to collect data, and on the timeframe for this survey?

Sincerely,





Adriana Lamačková
Senior Legal Adviser for Europe
Center for Reproductive Rights
alamackova@reprorights.org

Šarlota Pufflerová
Executive Directress
Citizen, Democracy
and Accountability
pufflerova@odz.sk

Zuzana Krišková
Vice Chairwoman
Women's Circles
zenskekruhy.oz@gmail.com

[1] Convention on the Elimination of All Forms of Discrimination against Women, *adopted* Dec. 18, 1979, G.A. Res. 34/189, U.N. GAOR, 34th Sess., Supp. No. 46, at 193, U.N. Doc. A/34/46, U.N.T.S. 13 (*entered into force* Sept. 3, 1981) (succeeded to by Slovakia May 28, 1993).
[2] Zákon č. 365/2004 Z. z. o rovnakom zaobchádzaní v niektorých oblastiach a o ochrane pred diskrimináciou a o zmene a doplnení niektorých zákonov (Antidiskriminačný zákon) [Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and Protection against Discrimination, amending and supplementing certain laws (Anti-discrimination Act)], *as amended* (Slovk.) [hereinafter Anti-discrimination Act].
[3] *Id*., sec. 2(1).
[4] *Id*., sec. 3(1), 5 & 6.
[5] Poradňa pre občianske a ľudské práva, a Slovak NGO, found that between 1 July 2004 and 31 January 2012, there had been about 120 proceedings related to discrimination which had been concluded (although the number may not be very accurate, as not all the courts approached with a request for information on the proceedings provided this information, and the Ministry of Justice does not collect the corresponding statistics properly). *See* DURBÁKOVÁ, V., HOLUBOVÁ, B., IVANCO, Š., LIPTÁKOVÁ, S., HĽADANIE BARIÉR V PRÍSTUPE K ÚČINNEJ PRÁVNEJ OCHRANE PRED DISKRIMINÁCIOU [SEEKING BARRIERS TO ACCESS TO EFFECTIVE LEGAL PROTECTION AGAINST DISCRIMINATION] 131-333 (Košice: Poradňa pre občianske a ľudské práva (2012), *available at* http://poradna-prava.sk/wp-content/uploads/2012/11/Publikáciu-si-môžete-stiahnuť-tu-105-MB.pdf [hereinafter DURBÁKOVÁ, HOLUBOVÁ, IVANCO & LIPTÁKOVÁ].
[6] A survey published by Poradňa pre občianske a ľudské práva in 2012 showed that just a tiny percent (4.7%) of respondents, who subjectively feel they have been discriminated against [on any ground], have sought legal assistance or sought to lodge a claim against discrimination by legal means. Over 92% have not taken any steps to defend themselves. See *id*. at 36 & 129.
[7] *See* DURBÁKOVÁ, HOLUBOVÁ, IVANCO & LIPTÁKOVÁ, *supra* note 5 at 37 & 129.
[8] *See id*. at 37 and 130, dealing with a lack of financial means to secure legal aid.
[9] Zákon č. 71/1992 Zb. o súdnych poplatkoch a poplatku za výpis z registra trestov v znení neskorších predpisov, Sadzobník súdnych poplatkov (príloha k zákonu), položka 7d písm. b) [Act No. 71/1992 Coll. on judicial fees and on the fee for excerpts from the Registry of penalties, as amended], Scale of Judicial Charges (supplement to the act), item 7d(b)] (Slovk.).
[10] *See e.g.*, DURBÁKOVÁ, HOLUBOVÁ, IVANCO & LIPTÁKOVÁ, *supra* note 5 at 117.
[11] *See also id.* at 38.
[12] *See* Anti-discrimination Act, *supra* note 2, sec. 9(3).
[13] *See e.g.* JANKA DEBRECÉNIOVÁ, JARMILA LAJČÁKOVÁ & ZUZANA MAGUROVÁ, IMPLEMENTÁCIA ZÁSADY ROVNAKÉHO ZAOBCHÁDZANIA PROSTREDNÍCTVOM ANTIDISKRIMINAČNÉHO ZÁKONA: PROBLÉMY, BARIÉRY A VÝZVY [IMPLEMENTATION OF THE PRINCIPLE OF EQUAL TREATMENT THROUGH THE ANTI-DISCRIMINATION ACT: PROBLEMS, BARRIERS AND CHALLENGES]. Bratislava: Občan, demokracia a zodpovednosť (2013), *available at* http://odz.sk/wp-content/uploads/Implem_ZRZ_ADZ_analyza.pdf, at 28-42.
There has been an exception where a district court (i.e. lowest in the Slovak courts' hierarchy) has seen (ethnic) discrimination as objectively impairing the dignity of a person (but still has not reflected this in the amount of financial compensation granted for the non-pecuniary damage). *See* Poradňa pre občianske a ľudské práva, *Súd odškodnil Rómov za diskrimináciu [A Court Has Compensated the Roma for Discrimination]* (2014), *available at* http://poradna-prava.sk/wp-content/uploads/2014/06/PDF-321-KB.pdf.
[14] *Generally see* Janka Debrecéniová, Šarlota Pufflerová, "*Inšpektoráty práce a ich pôsobenie pri plnení záväzkov SR týkajúcich sa presadzovania dodržiavania zásady rovnakého zaobchádzania v pracovnoprávnych a štátnozamestnaneckých vzťahoch: Výstupný materiál z projektu „Zlepšenie situácie v oblasti antidiskriminácie so zameraním na vybrané aspekty dodržiavania zásady rovného zaobchádzania na trhu práce"[Labor Inspectorates and their Acting in Fulfilling the Obligations of the Slovak Republic Concerning Promoting the Observance of the Principle of Equal Treatment in Private and Public Employment Relationships: An Outcome of the Project "Improving the Situation in the Field of Anti-discrimination with the Focus on Selected Aspects of the Observance of the Principle of Equal Treatment on the Labor Market]*, Bratislava: Občan, demokracia a zodpovednosť (2011), *available at* http://diskriminacia.sk/inspektoraty-prace-a-dodrziavanie-zasady-rovnakeho-zaobchadzania/#more-1388. *See also* LUCIA BERDISOVÁ, JANKA DEBRECÉNIOVÁ, BARBORA HOLUBOVÁ, DANIELA LAMAČKOVÁ, ZUZANA MAGUROVÁ, ĽUBICA TRGIŇOVÁ, MARGARÉTA VOZÁRIKOVÁ, INŠPEKCIA PRÁCE A ZÁSADA ROVNAKÉHO ZAOBCHÁDZANIA S DÔRAZOM NA POHLAVIE A ROD: PRÁVNE RÁMCE, BARIÉRY, PRÍKLADY DOBREJ PRAXE A ODPORÚČANIA PRE LEGISLATÍVU, POLITIKY A PRAX V SR, [LABOR INSPECTION AND THE PRINCIPLE OF EQUAL

TREATMENT WITH THE EMPHASIS ON SEX AND GENDER: LEGAL FRAMEWORK, BARRIERS, GOOD PRACTICE EXAMPLES AND RECOMMENDATIONS FOR THE LEGISLATION, POLICIES AND PRACTICE IN THE SLOVAK REPUBLIC], chapter 3, Bratislava: Centrum vzdelávania MPSVR (2014).

[15] *See e.g.* DURBÁKOVÁ, HOLUBOVÁ, IVANCO & LIPTÁKOVÁ, *supra* note 5 at 110-112.

[16] Committee on Economic, Social and Cultural Rights (ESCR Committee), *Concluding Observations*: *Slovakia*, para. 7, U.N. Doc. E/C.12/SVK/CO/2 (2012).

[17] Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Slovakia*, paras. 110.14-110.19, U.N. Doc. A/HRC/26/12 (2014).

[18] *See e.g. One of four questions in referendum on family unconstitutional*, THE SLOVAK SPECTATOR, Oct. 29, 2014, http://spectator.sme.sk/articles/view/55723/10/one_of_four_questions_in_referendum_on_family_unconstitutional.html (last visited Jan. 29, 2015). The precise wording of the referendum questions that were declared admissible by the Constitutional Court of the Slovak Republic can be found in its finding: PL. ÚS 24/2014-90 of 28 Oct 2014, point 1, *available at* http://portal.concourt.sk/pages/viewpage.action?pageId=1277961.

[19] The Motion of the President of the Slovak Republic of 3 September 2014 initiating proceedings pursuant to Article 95(2) and Article 125b(1) of the Constitution of the Slovak Republic on the compliance of the subject-matter of a referendum (PL. ÚS 24/2014-22). CONST., Oct. 1, 1992, 460/1992 Coll, art. 1(2), *as amended*, Art. 93(3).

[20] Constitutional Court of the Slovak Republic, PL. ÚS 24/2014-90 of 28 Oct 2014, point 1, *available at* http://portal.concourt.sk/pages/viewpage.action?pageId=1277961.

[21] Ministry of Health, Návrh Národného programu ochrany sexuálneho a reprodukčného zdravia v SR [Draft National Program on Protection of Sexual and Reproductive Health in the Slovak Republic], point 8.1, Doc. No. UV-5302/2008 (*submitted* Mar. 26, 2008) (Slovk.) [hereinafter Draft Nat'l Program on Protection of Sexual & Repro. Hlth. in the SR (2008)]. *See also* Ministry of Health, Draft National Program on Protection of Sexual and Reproductive Health in the Slovak Republic, Doc. No. 22346-1/2007-OZSO (*submitted* Nov. 29, 2007) (Slovk.). The importance of adopting a National Program on the Protection of Reproductive Health was recognized by the Slovak Government as early as 2003. *See also* Resolution No. 278/2003 (Apr. 23, 2003) (Slovk.) [hereinafter Resolution No. 278/2003].

[22] Draft Nat'l Program on Protection of Sexual & Repro. Hlth. in the SR (2008), *supra* note 21.

[23] Civic Association, Fórum života: *Zásadné pripomienky k Národnému programu sexuálneho a reprodukčného zdravia v SR* [Forum of Life: *Substantial comments on the National Program of Sexual and Reproductive Health in the SR*] (2007), *available at* http://www.forumzivota.sk/index.php?page=32&type=news&id=34&method=main&art=124 (last visited Jan. 29, 2015) [hereinafter Civic Assoc., Forum of Life (2007)].

[24] *Konferencia vyšších rehoľných predstavených na Slovensku nesúhlasí s programom ochrany sexuálneho a reprodukčného zdravia [Conference of senior religious order superiors in Slovakia does not agree with the program on protection of sexual and reproductive health]* (Dec. 2007), *available at* http://www.tkkbs.sk/view.php?cisloclanku=20071213029.

[25] *Mobily vyzváňali na protest proti programu sexuálneho a reprodukčného zdravia* [*Mobiles rang on the protest against the program on sexual and reproductive health*], PRAVDA, Apr. 2, 2008, http://spravy.pravda.sk/mobily-vyzvanali-na-protest-proti-programu-sexualneho-a-reprodukcneho-zdravia-gdz-/sk_domace.asp?c=A080402_105743_sk_domace_p29 (last visited Jan. 29, 2015); *MZ SR trvá na Národnom programe ochrany sexuálneho zdravia* [*Ministry of Health of the SR continues the National program on the protection of sexual health*], 24HOD, Mar. 31, 2008, http://www.24hod.sk/mz-sr-trva-na-narodnom-programe-ochrany-sexualneho-zdravia-cl50675.html (last visited Jan. 29, 2015). *See also* Civic Assoc., Forum of Life (2007), *supra* note 23; Ladislav Bariak, ml., *Program sexuálneho zdravia mobilizuje aktivistov* [*Program on sexual health mobilizes the activists*], AKTUÁLNE, Apr. 2, 2008, http://aktualne.centrum.sk/domov/zdravie-skolstvo-spolocnost/clanek.phtml?id=1155478 (last visited Jan. 29, 2015).

[26] Resolution No. 278/2003, *supra* note 21, task C.22. In this resolution, the government mandated the Ministry of Health to create and submit a National Program on the Protection of Reproductive Health for governmental discussion. The resolution was adopted by the Slovak Government (2002–2006), but it failed to adopt the program. The following government (2006–2010) continued in the preparation of the program until it eventually cancelled the task in January 2009.

[27] Ministry of Health, Návrh Národného programu starostlivosti o ženy, bezpečné materstvo a reprodukčné zdravie [National Program on Care for Women, Safe Motherhood and Reproductive Health], Doc. No. 12568/2009 - OZS (May 14, 2009) (Slovk.); Resolution No. 56/2009 (Jan. 21, 2009) (Slovk.). For comments to the draft program by a

group of human rights and feminist NGOs, *see* Center for Civil and Human Rights et al., *Hromadná pripomienka skupiny mimovládnych organizácií k návrhu Národného programu starostlivosti o ženy, bezpečné materstvo a reprodukčné zdravie, predloženého Ministerstvom zdravotníctva Slovenskej republiky (číslo materiálu 12568/2009 - OZS) [Collective comment of the group of non-governmental organizations on the draft of the National Program on Care for Women, Safe Motherhood and Reproductive Health submitted by the Ministry of Health of the Slovak Republic* (doc. no. 12568/2009 – OZS)] (2009), *available at* http://www.poradna-prava.sk/dok/HP%20MVO%20Nar%20program%20reprozdravie_MV_OaD_Poradna_QLF_270509.pdf.

[28] *Biskupi sa s Ficom nezhodli na programe starostlivosti o ženy* [*Bishops disagreed with Fico on the program on care for women*], Jul. 23, 2009, http://www.obroda.sk/clanok/63407/Biskupi-sa-s-Ficom-nezhodli-na-programe-starostlivosti-o-zeny/ (last visited Jan. 29, 2015). *See also,* Civic Assoc., Forum of Life (2007), *supra* note 23.

[29] Human Rights Council: *Report of the Working Group on the Universal Periodic Review: Slovakia,* para. 21, U.N. Doc. A/HRC/26/12/Add.1 (2014).

[30] *See* CENTER FOR REPRODUCTIVE RIGHTS ET AL., CALCULATED INJUSTICE, THE SLOVAK REPUBLIC'S FAILURE TO ENSURE ACCESS TO CONTRACEPTIVES 21 (2011) [hereinafter CALCULATED INJUSTICE].

[31] NATIONAL HEALTH INFORMATION CENTER, ČINNOSŤ GYNEKOLOGICKÝCH AMBULANCIÍ V SR 2013 4 (2014) *available at* http://www.nczisk.sk/Documents/publikacie/2013/sp1410.pdf.

[32] *See* CALCULATED INJUSTICE, *supra* note 30 at 8.

[33] *See id.* at 27.

[34] Zákon č. 363/2011 Z. z. o rozsahu a podmienkach úhrady liekov, zdravotníckych pomôcok a dietetických potravín na základe verejného zdravotného poistenia a o zmene a doplnení niektorých zákonov [Act No. 363/2011 Coll. of Laws on the Scope and Conditions of Drugs, Medical Devices and Dietetic Foods Coverage by Public Health Insurance and on Amending and Supplementing Certain Acts], sec. 22(3)(b) (Slovk.).

[35] *Id.*, art. I, sec. 16(4)(e)(1) [emphasis added].

[36] *Id.*, art. I, sec. 37(5)(c)(6).

[37] ESCR Committee, *Concluding Observations*: *Slovakia*, para. 24, U.N. Doc. E/C.12/SVK/CO/2 (2012).

[38] *See* CALCULATED INJUSTICE, *supra* note 30 at 36.

[39] UNITED NATIONS CHILDREN'S FUND (UNICEF) OFFICE OF RESEARCH, CHILD WELL-BEING IN RICH COUNTRIES: A COMPARATIVE OVERVIEW 25 (UNICEF, *Innocenti Report Card 11*, 2013), *available at* http://www.unicef-irc.org/publications/pdf/rc11_eng.pdf.

[40] CALCULATED INJUSTICE, *supra* note 30 at 8.

[41] *Id*. at 38.

[42] *Id*.

[43] Zákon č. 73/1986 Zb. o umelom prerušení tehotenstva v znení zákona č. 419/1991 Zb. [Act No. 73/1986 Coll. on Artificial Termination of Pregnancy as amended by the Act No. 419/1991 Coll.] (1986) [hereinafter Abortion Act], secs. 4–5. Vyhláška Ministerstva zdravotníctva SSR č. 74/1986 Zb., ktorou sa vykonáva zákon Slovenskej národnej rady č. 73/1986 Zb. o umelom prerušení tehotenstva, v znení neskorších zmien [Ordinance of the Ministry of Health of the SSR No. 74/1986 Coll., which exercises Act No. 73/1986 Coll. on Artificial Termination of Pregnancy, as amended], sec. 2 (Slovk.).

[44] Zákon č. 576/2004 Z. z. o zdravotnej starostlivosti, službách súvisiacich s poskytovaním zdravotnej starostlivosti a o zmene a doplnení niektorých zákonov [Act No. 576/2004 Coll. of Laws on Healthcare, Healthcare-related Services, and Amending and Supplementing Certain Acts *as amended*] *by the* Act No. 345/2009 Coll. of Laws (Slovk.) [hereinafter Healthcare Act, No. 576/2004].

[45] Abortion Act, *supra* note 43, sec. 4.

[46] *See* WHO, SAFE ABORTION: TECHNICAL AND POLICY GUIDANCE FOR HEALTH SYSTEMS 91(2003) [hereinafter WHO, SAFE ABORTION (2003)].

[47] WORLD HEALTH ORGANIZATION (WHO), SAFE ABORTION: TECHNICAL AND POLICY GUIDANCE FOR HEALTH SYSTEMS 96 (2nd ed., 2012), *available at* http://apps.who.int/iris/bitstream/10665/70914/1/9789241548434_eng.pdf [hereinafter WHO, SAFE ABORTION (2012)].

[48] *Id.* at 96-97.

[49] Committee on the Elimination of Discrimination against Women (CEDAW Committee), *Concluding Observations: Hungary*, para. 31(c), U.N. Doc. CEDAW/C/HUN/CO/7-8 (2013).

[50] FIGO, ETHICAL ISSUES IN OBSTETRICS AND GYNECOLOGY, HARMFUL STEREOTYPING OF WOMEN IN HEALTH CARE, page 30, para. 8 (2012), *available at* http://www.figo.org/sites/default/files/uploads/wg-publications/ethics/English%20Ethical%20Issues%20in%20Obstetrics%20and%20Gynecology.pdf.

[51] Healthcare Act, No. 576/2004, *supra* note 44, sec. 6b(2).
[52] WHO, SAFE ABORTION (2012), *supra* note 47 at 68.
[53] *Id*. at 36.
[54] *Id*. at 68.
[55] *Id*. at 97.
[56] *Id*.
[57] *Id*.
[58] CEDAW Committee, *Concluding Observations: Hungary*, para. 31(c), U.N. Doc. CEDAW/C/HUN/CO/7-8 (2013).
[59] Healthcare Act, No. 576/2004, *supra* note 43, sec. 6b(3); Vyhláška MZ SR č. 417/2009 Z. z., ktorou sa ustanovujú podrobnosti o informáciách poskytovaných žene a hlásenia o poskytnutí informácií, vzor písomných informácií a určuje sa organizácia zodpovedná za prijímanie a vyhodnocovanie hlásenia [Regulation of the Ministry of Health of the Slovak Republic No. 417/2009 Coll. of Laws on establishing details about information provided to a woman and details about a report on the provision of the information, a sample of written information, and on determining an organization responsible for receiving and evaluating the report] (Slovk.) [hereinafter Regulation No. 417/2009 Coll. of Laws].
[60] Regulation No. 417/2009 Coll. of Laws, *supra* note 59; National Health Information Center, *Hlásenie o poskytnutí informácii o umelom prerušení tehotenstva*, http://data.nczisk.sk/zdravotny_stav/Z9-99.pdf (last visited Jan. 29, 2015).
[61] *See* WHO, SAFE ABORTION (2003), *supra* note 46 at 94.
[62] *See* International Covenant on Civil and Political Rights, adopted Dec. 16, 1966, art. 26, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 (entered into force Mar. 23, 1976) (succeeded to by Slovakia May 28, 1993) art 17.
[63] CONSTITUTION, 460/1992 Coll. *as amended*, arts. 16(1), 19(2), (Slovk.).
[64] ESCR Committee, *Concluding Observations*: *Slovakia*, para. 24, U.N. Doc. E/C.12/SVK/CO/2 (2012).
[65] Healthcare Act, No. 576/2004, *supra* note 44, sec. 6b(4).
[66] *See* CENTER FOR REPRODUCTIVE RIGHTS, ADOLESCENTS NEED SAFE AND LEGAL ABORTION 4 (2005), *available at* http://reproductiverights.org/en/document/adolescents-need-safe-and-legal-abortion-0.
[67] *See* Committee on the Rights of the Child (CRC Committee), *General Comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child*, (33rd Sess., 2003), *in* Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies, at 410, para. 32, U.N. Doc. HIR/GEN/1/Rev.9 (Vol. 2) (2008).
[68] *Id.*, para. 33.
[69] Nariadenie vlády SR č. 777/2004 Z.z., ktorým sa vydáva Zoznam chorôb, pri ktorých sa zdravotné výkony čiastočne uhrádzajú alebo sa neuhrádzajú na základe verejného zdravotného poistenia [Decree No. 777/2004 Coll. of Laws issuing the List of Diseases at which Medical Procedures Are Partially Covered or Not Covered Based on Public Health Insurance], Annex No. 2, point III (2004) (Slovk.).
[70] *Interrupcie nerobíme. Z technických príčin... [We do not perform abortions...For technical reasons]*, PRAVDA, Jan. 22, 2011, http://spravy.pravda.sk/interrupcie-nerobime-z-technickych-pricin-fju-/sk_domace.asp?c=A110122_173602_sk_domace_p29 (last visited Jan. 29, 2015). *See also* MOŽNOSŤ VOĽBY, MONITOROVACIA SPRÁVA O PLNENÍ ZÁVEREČNÝCH ZISTENÍ VÝBORU PRE ODSTRÁNENIE DISKRIMINÁCIE ŽIEN V SR [MONITORING REPORT ON THE IMPLEMENTATION OF THE CEDAW COMMITTEE CONCLUDING OBSERVATIONS TO SLOVAKIA] 61 (2011); ŠTATISTICKÝ ÚRAD SR [STATISTICAL OFFICE OF THE SLOVAK REPUBLIC], ŠTRUKTÚRA MIEZD V SR 2013, 5 [STRUCTURE OF EARNINGS IN THE SR 2013] (2014).
[71] ESCR Committee, *Concluding Observations*: *Slovakia*, para. 24, U.N. Doc. E/C.12/SVK/CO/2 (2012).
[72] WHO, SAFE ABORTION (2012), *supra* note 47 at 42.
[73] *Id.* at 96.
[74] International Covenant on Economic, Social and Cultural Rights, *adopted* Dec. 16, 1966, G.A. Res. 2200A (XXI), U.N. GAOR, Supp. No. 16, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 3 (*entered into force* Jan. 3, 1976) (succeeded to by Slovakia May 28, 1993) art. 15.1(b).
[75] WHO, SAFE ABORTION (2012), *supra* note 47 at 44.
[76] *Id*. at 79.
[77] The names of the drugs at the time of registration were Mifegyne and Medabone. Mifegyne's active ingredient is mifepristone. NetDoctor, Mifegyne (mifepristone), http://www.netdoctor.co.uk/pregnancy/medicines/mifegyne.html

(last visited Jan. 29, 2015). Medabon (later renamed to Mifepristón SUN) contains a combination of mifepristone and misoprostol as active ingredients. *See* Medabon for Medical Abortion, http://medabon.info/ (last visited Jan. 29, 2015). This combination is included in the WHO's Model List of Essential Medicines as the drug approved to induce medical abortions. *See* WORLD HEALTH ORGANIZATION, MODEL LIST OF ESSENTIAL MEDICINES 27 (17th ed.) (March 2011), *available at* http://www.who.int/selection_medicines/committees/expert/17/sixteenth_adult_list_en.pdf.

[78] Mutual Recognition and Decentralised Procedures as defined in Directive 2004/27/EC amending Directive 2001/83/EC. Council Directive 2004/27/EC, ch. 4, 2004 O.J. (L 136/34).

[79] *See, e.g., Kuffa: Potratové tabletky sa podieľajú na genocíde obyvateľstva*, SME, Jan. 22, 2013, http://www.sme.sk/c/6676102/kuffa-potratove-tabletky-sa-podielaju-na-genocide-obyvatelstva.html (last visited Jan. 29, 2015); *Potratové tabletky nateraz Zvolenská a Lajčák stopli*, SME, Apr. 15, 2013, http://www.sme.sk/c/6768907/potratove-tabletky-nateraz-zvolenska-a-lajcak-stopli.html (last visited Jan. 29, 2015).

[80] CEDAW Committee, *Concluding Observations: Slovakia*, paras. 42, 43, U.N. Doc. CEDAW/C/SVK/CO/4 (2008).

[81] Zákon č. 578/2004 Z.z. o poskytovateľoch zdravotnej starostlivosti, zdravotníckych pracovníkoch, stavovských organizáciách v zdravotníctve a o zmene a doplnení niektorých zákonov [Act No. 578/2004 Coll. of Laws on Healthcare Providers, Health Workers and Professional Medical Associations, and Amending and Supplementing Certain Acts, *as amended*], Annex No. 4. (Deontology or medical ethics codes, while not legally binding, are highly persuasive authorities since the development of deontology codes are mandated by public health laws.) (Slovk.).

[82] International Federation of Gynecology and Obstetrics (FIGO), *Resolution on "Conscientious Objection", adopted by* FIGO Gen. Assemb. (Nov. 7, 2006), *available at* http://www.figo.org/projects/conscientious.

[83] *See* CALCULATED INJUSTICE, *supra note* 30 at 39.

[84] *Štátne kliniky majú výhradu svedomia. Uhliarik mlčí, [State clinics apply conscientious objection.Uhliarik is silent.]*, PRAVDA, Jan. 22, 201, *avaliable at* http://spravy.pravda.sk/statne-kliniky-maju-vyhradu-svedomia-uhliarik-mlci-fx7-/sk_domace.asp?c=A110121_194642_sk_domace_p29 (last visited Jan. 29, 2015); Iris Kopcsayová, *Mnoho štátnych nemocníc interrupcie nerobí, univerzitná v Bratislave bude [Many state hospitals do not perfom abortions, the University hospital in Bratislava will do it]*, PRAVDA, Jan. 27, 2011, http://spravy.pravda.sk/mnoho-statnych-nemocnic-interrupcie-nerobi-univerzitna-v-bratislave-bude-1tn-/sk_domace.asp?c=A110126_193530_sk_domace_p12 (last visited Jan. 29, 2015); Iris Kopcsayová, *Interrupcie nerobíme. Z technických príčin.... [We do not perform abortions...For technical reasons]*, PRAVDA, Jan. 22, 2011, http://spravy.pravda.sk/interrupcie-nerobime-z-technickych-pricin-fju-sk_domace.asp?c=A110122_173602_sk_domace_p29 (Jan. 29, 2015).

[85] *Potrat? Nerobíme! Choďte inam, hovoria lekári Slovenkám [Abortion? We do not perform! Go somewhere else, the doctors say to Slovak women]* TVNOVINY, 2010.

[86] *See, e.g., id.*

[87] CEDAW Committee: *Fifth and sixth periodic reports of States parties due in 2014: Slovakia*, para. 174, U.N. Doc. CEDAW/C/SVK/5-6 (2014).

[88] INTERNATIONAL PLANNED PARENTHOOD FOUNDATION EUROPEAN NETWORK, A REFERENCE GUIDE TO POLICIES AND PRACTICES: SEXUALITY EDUCATION IN EUROPE 74 (2006), *available at* http://www.ippfen.org/en/Resources/Publications/Sexuality+Education+in+Europe.htm.

[89] Slovak Family Planning Association, *Vedomostná úroveň v oblasti sexuálneho a reprodukčného zdravia na základných školách na Slovensku. Kvalitatívna a kvantitatívna analýza* [*Level of Knowledge on Sexual and Reproductive Health at Primary Schools in Slovakia. Qualitative and Quantitative Analysis*] (2005).

[90] ESCR Committee, *Concluding Observations*: *Slovakia*, para. 25, U.N. Doc. E/C.12/SVK/CO/2 (2012); CEDAW Committee, *Concluding Observations: Slovakia*, para. 19, U.N. Doc. CEDAW/C/SVK/CO/4 (2008).

[91] *See e.g. One of four questions in referendum on family unconstitutional*, THE SLOVAK SPECTATOR, Oct. 29, 2014, http://spectator.sme.sk/articles/view/55723/10/one_of_four_questions_in_referendum_on_family_unconstitutional.html (last visited Jan. 29, 2015). The precise wording of the referendum questions that were declared admissible by the Constitutional Court of the Slovak Republic can be found in its finding PL. ÚS 24/2014-90 of 28 Oct 2014, point 1, *available at* http://portal.concourt.sk/pages/viewpage.action?pageId=1277961.

[92] Other activities carried out as a part of the monitoring and research included: drafting letters and official requests for information to the hospitals and the Ministry of Health, monitoring the hospitals' and other websites, carrying out an internet survey on suturing of birth injuries, and analysing legislation and other available documentation.

[93] The findings of the monitoring and research are currently being processed. Some partial information on these findings, as well as on a conference where these findings were presented and discussed with stakeholders, is *available at* http://odz.sk/stat-sa-nesmie-zbavovat-zodpovednosti-na-ukor-rodiacich-zien/.
[94] *See* WHO, THE PREVENTION AND ELIMINATION OF DISRESPECT AND ABUSE DURING FACILITY-BASED CHILDBIRTH (2014), *available at* http://apps.who.int/iris/bitstream/10665/134588/1/WHO_RHR_14.23_eng.pdf?ua=1&ua=1.
[95] *Id.*
[96] There are many forms of humiliation, ridicule and harassment which take place. For example, women are often objectified by not being treated as equals in communication with doctors but by being objects of interventions (for example, the hospital staff are often talking about them in their presence as if they were not present). Labouring women are often belittled and their perceptions, feelings and impressions are often questioned. Women are often ridiculed if they formulate their own wishes connected to their childbirth, and are made subject of derision. Women often experience persuasion, manipulation and coercion ("your child will die, if you...; your child will have an egg-shaped head if you..."), or the fulfillment of their preferences and wishes is conditioned upon their "obedience". The medical staff are often forcing their will upon the labouring women at their expense, with the intention to make the work during the birth easier for the staff instead of taking the labouring women's wishes into account. Women are even being forced to undertake certain interventions with authoritarian commands. Women also reported a lack of encouragement from the hospital staff and feelings of failure and guilt. A few women, especially those participating in the survey on suturing birth injuries, reported sexism – performed as "jokes" of (male) doctors, formulated, for example, as questions to husbands present at suturing about the preferred width of the stitch. Women are also discouraged from making sounds and noises. Women may be shamed for natural body exposures related to birth – for example urine or faeces during pushing stage. On the contrary, enemas are highly encouraged.
[97] Continual electronic fetal monitoring in the first stage of labor was a very frequent practice and was performed while women were laid on their back. Interviewed women often used words like, "I was stripped down for more than an hour. I could not move, which was extremely painful." The freedom of movement in the first stage was also often made impossible due to extremely limiting spatial arrangements available to women going through this stage. In the second (pushing) stage, women were, in grave majority of the cases, laying (or semi-laying) on their back, with legs in stirrups (often tied). The WHO classifies freedom in position and movement throughout labour and encouragement of non-supine position in labour as practices which are demonstrably useful and should be encouraged. At the same time, it classifies the routine use of the supine position during labour as practice which is clearly harmful or ineffective and should be eliminated. *See* WHO, CARE IN NORMAL BIRTH: A PRATICAL GUIDE 21, 27 & 35 (1996) [hereinafter CARE IN NORMAL BIRTH: A PRATICAL GUIDE (1996)], *available at* http://whqlibdoc.who.int/hq/1996/WHO_FRH_MSM_96.24.pdf.
[98] In some instances, women are not allowed to eat or drink anything upon arrival in the hospital (this practice differs across hospitals). This may last until a baby is delivered and often even longer, especially in regards to eating, since hospitals often do not order a meal for a woman who is already in labour but not hospitalized yet in the postnatal unit. The WHO classifies restriction on food and fluids during labour as practices which are frequently used inappropriately. At the same time, it classifies offering oral fluids during labour and delivery as a practice which is demonstrably useful and should be encouraged. See *id.* at 9-10 & 34-35.
[99] The WHO classifies "liberal or routine use of episiotomy" as a practice which is frequently used inappropriately. It argues that "there is no reliable evidence that liberal or routine use of episiotomy has a beneficial effect, but there is clear evidence that it may cause harm." See *id.* at 37 & 29.
[100] In course of the research undertaken by Citizen, Democracy and Accountability and Women's Circles, this practice was often mentioned by women interviewed but its occurence was denied by hospitals when asked about the use of this practice. The WHO notes that "the practice of fundal pressure [is common] during the second stage of labour []" and that "[a]part from the issue of increased maternal discomfort, there is suspicion that the practice may be harmful for the uterus, the perineum and the fetus, but no research data is available. The impression is that the method is at least used too often, with no evidence of its usefulness." See *id.* at 25-26. Several anecdotal reports also suggest that fundal pressure is associated with maternal and neonatal complications, for example: uterine rupture, neonatal fractures and brain damage. *See* Evelyn C. Verheijen, Joanna H. Raven, G. Justus Hofmeyr, *Fundal pressure during the second stage of labour. Cochrane Database of Systematic Reviews*, 4 COCHRANE DATABASE OF SYSTEMATIC REVIEWS (2009), Issue 4. Art. No.: CD006067. DOI: 10.1002/14651858.CD006067.pub2. *available at* http://onlinelibrary.wiley.com/doi/10.1002/14651858.CD006067.pub2/abstract.
[101] The WHO classifies early skin-to-skin contact between mother and child and support for the initiation of breast-feeding within 1 hour postpartum (in accordance with the WHO guidelines on breastfeeding) as practice which is

demonstrably useful and should be encouraged. *See* CARE IN NORMAL BIRTH: A PRATICAL GUIDE (1996), *supra* note 97 at 33 & 35. Also regulations of the Ministry of Health of the Slovak Republic stipulate that "[i]mmediate contact between a woman after chilldbiirth and her infant shall be guaranteed in all rooms where delivery has taken place and is a condition for Mother- and Baby-Friendly Hospitals under the Mother and Baby Friendly Hospital Initiative (´MBFHI´)." *See* Odborné usmernenie Ministerstva zdravotníctva Slovenskej republiky č. 14422/2009 – OZS o podpore výživy dojčiat a batoliat dojčením, vydané dňa 15. 10. 2009.Vestník MZ SR 2009, čiastka 54-55, s. 402, čl. 7 (1) [Expert Guideline of the Ministry of Health of the Slovak Republic on the support of nourishment of sucklings and toddlers by breastfeeding of 15 October 2009. Bulletin of the Ministry of Health of the Slovak Republic 2009, Unit 54-55, p 402, Art. 7 (1)] (Slovak.).

[102] These include a statutory provision that conditions the payment of a state childbirth benefit on not leaving maternity hospital in a manner which conflicts with legal regulations concerning the release of patients from facility-based care. Under the law, healthcare providers are obliged to release a patient from health care facility when the patient requests. However, the wording of the relevant provisions and the lack of mechanisms guaranteeing that requests for release are handled by the hospital staff, create the impression that women must follow special procedures when they wish to leave a maternity hospital, or that they must fulfil special duties before leaving hospital. Such legal regulations give rise to situations of uncertainty and power imbalances that prevent women from deciding freely and voluntarily about the length of their stay in a maternity hospital after childbirth. Zákon č. 383/2013 Z. z o príspevku pri narodení dieťaťa [Act No. 383/2013 Coll. on Childbirth Allowance and on Allowance on More Concurrently Born Children], sec. 3 (4) (b), referring to zákon č. 576/2004 Z. z. o zdravotnej starostlivosti, službách súvisiacich s poskytovaním zdravotnej staroslivosti a o zmene a doplnení niektorých zákonov v znení neskorších predpisov [Act No. 576/2004 Coll. on Healthcare, Services Related to the Provision of Healthcare and on amending and supplementing certain acts, as amended], sec. 9(6)(c). Sec. 9(6)(c) of the Act No. 576/2004 Coll. on Healthcare, Services Related to the Provision of Healthcare and on amending and supplementing certain acts, as amended, reads as follows: "[A healthcare provider shall release a person from a facility-based care] upon her own request, or upon the request of her legal representative if she, despite an adequate amount of information received, refuses the facility-based care, unless the facility-based care is ordered by a court or unless a facility-based care the legality of which is decided upon by a court is at stake."

[103] "The maternal mortality ratio in the Slovak Republic in 2007-2009 was 15,4 and pregnancy-related death ratio was 13,6 per 100 000 live births. The maternal mortality ratio increased from 7,7 in 2007 up to 24,7 per 100 000 in 2009." MUDr. Korbeľ M., CSc., prof. MUDr. Borovský M., CSc., prof. MUDr. Danko J., CSc., MUDr. Nižňanská Z., PhD., *Materská úmrtnosť v Slovenskej republike v rokoch 2007-2009*, Gynekológia, príloha časopisu Bedeker zdravia (2011) RE-PUBLIC, s.r.o.

[104] The last comprehensive research on contraceptive use among women in Slovakia is from January 1997, conducted privately by FOCUS Agency for Slovak Family Planning Association. *See* SLOVAK FAMILY PLANNING ASSOCIATION & FOCUS–SOCIAL AND MARKETING ANALYSIS CENTRE, REPRODUCTIVE PRACTICES OF SLOVAK WOMEN (1997), *available at* http://www.rodicovstvo.sk/reproductive_practices.htm.