Citizen, Democracy and Accountability

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Submission by Občan, demokracia a zodpovednosť' (Citizen, Democracy and Accountability)

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Občan, demokracia a zodpovednosť (Citizen, Democracy and Accountability) presents this submission to the Committee on the Rights of the Child (CRC Committee) for its consideration in the context of its examination of Slovakia's combined third, fourth, and fifth periodic reports regarding compliance with the Convention on the Rights of the Child (the Convention).

Citizen, Democracy and Accountability (CDA) is an independent non-governmental human rights organization based in Slovakia. One of CDA's primary aims is to assert every person's right to human dignity and protection from discrimination, as well as to assert the human rights of women. In its activities, CDA strives to make positive changes in society with the aim to contribute to the fulfillment of the principles of the rule of law at all levels and with respect to all relevant stakeholders.

This submission highlights a range of concerns regarding Slovakia's compliance with the Convention in the area of sexual and reproductive health and rights, with a primary focus on the sexual and reproductive health and rights of adolescent girls.

Articles 2, 3, 4, 12, 13, 14, 16, 19, 24, 28 and 34 of the Convention: Sexual and reproductive rights of children, in particular adolescent girls

The sub-sections below outline some of the ways in which the laws and practices of Slovakia undermine the sexual and reproductive rights of children, most particularly that of adolescent girls. The concerns highlighted include: (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) barriers in access to abortion services; (d) the inadequate regulation of conscience-based refusals of reproductive health care, and (e) the lack of comprehensive data on sexual and reproductive health. A number of recommendations are outlined at the end of each sub-section.

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

So far, Slovakia has not adopted any state policy that would comprehensively deal with the sexual and reproductive health and rights of women and adolescents. Although there have been repeated attempts to adopt a general reproductive health and rights 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 proposed a draft program on sexual and reproductive health entitled "National Program on Protection of Sexual and Reproductive Health in the Slovak Republic".[1] The draft program was based, in part, on international human rights and medical standards. Among the program's goals was a decrease in unintended pregnancies and improving access to high-quality modern contraceptives by making them affordable for everyone.[2] The Catholic Church hierarchy and other organizations opposing reproductive rights heavily criticized the program, claiming that it was "strongly liberal,"[3] against national interests,[4] and "anti-family," especially because it sought to improve access to contraception.[5] As a result, the government did not adopt the program, despite having acknowledged its importance,[6] and instead decided that the Ministry of Health should draft a new policy, which was renamed the "National Program on Care for Women, Safe Motherhood and Reproductive Health". The Ministry prepared 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.[7] However, due to continuing opposition from the Catholic Church hierarchy, which contested the new proposal,[8] the program was not adopted. Since 2009 the Ministry has not proposed a new draft.

The matter has thus been pending for over a decade.[9] Notably, the Ministry of Health has recently specified that the adoption of a reproductive health program has had to be postponed due to a lack of financial resources.[10] In 2015, the Committee on the Elimination of Discrimination against Women (CEDAW Committee) called on Slovakia to "[a]dopt and implement, without further delay, a comprehensive programme on sexual and reproductive health and rights which is in line with the [CEDAW] Convention and its general recommendation No. 24 on women and health, as well as international human rights and World Health Organization standards; allocate sufficient human, technical and financial resources for the implementation of such programme ...."[11] However, the Statement of Policy of the new government that came into power on 23 March 2016 does not list the adoption of a sexual and reproductive health and rights program, or sexual and reproductive health and rights in general, as its priority.[12]

Recommendations

- Adopt, without further delay, a comprehensive human rights compliant and evidence-based program on sexual and reproductive health and allocate adequate financial and human resources for its effective implementation. Ensure the active participation of women's rights, and reproductive rights organizations in the drafting and implementation processes.

b. Barriers in access to contraceptive services and information

Although in principle contraceptives are available in Slovakia, they continue to be inaccessible in practice for many women and adolescent girls.[13] According to state statistics, the use of modern contraceptives remains low and has been decreasing since 2007. In 2014, only 16.1% of women of reproductive age used hormonal contraception, and 3.5% used IUDs.[14]

The barriers faced by women and adolescent girls regarding access to contraceptive services and information include: (i) a widespread lack of knowledge and misperceptions about modern contraceptive methods, (ii) the relatively high cost of contraceptives and general lack of subsidization, and (iii) a statutory requirement for parental consent in case of all adolescent girls under 18 wishing to use contraceptives by prescription.

i. <u>Information</u>

The lack of comprehensive and evidence-based information inhibits access to modern contraceptives by women and adolescent girls in Slovakia. In many schools, sexuality education is inadequate, focusing

primarily on reproductive organs and anatomy.[15] At the same time, the teenage birth rate continues to be high in Slovakia, with 18 births per 1000,[16] which is also accompanied by high school dropouts, as well as by high infant mortality rates among the newborns of young mothers coming from socially disadvantaged backgrounds (mainly Roma communities).[17] The Catholic Church hierarchy actively advocates against the use of modern contraceptives and promotes traditional methods of family planning.[18] Many gynecologists do not provide women and adolescent girls with adequate information to make informed choices, expect that women and girls seeking contraceptive methods should already have such information and frequently do not take the initiative to inform them of their contraceptive options.[19] Moreover, due to poor communication by physicians and inadequate sexuality education in schools, women and adolescent girls are often misinformed about the impact and side effects of hormonal contraceptives on their health.[20]

ii. Cost

Public health insurance in Slovakia does not cover the use of contraceptives when they are used solely to prevent unintended pregnancies. Therefore, women and adolescent girls are left to cover the entire cost of contraception themselves. The relatively high price of contraceptives is prohibitive for some women and girls and prevents others from choosing a preferred method.[21]

Indeed, in 2011 the Slovak Parliament adopted a law that explicitly prohibits public health insurance coverage of "drugs intended [] *solely for the regulation of conception* (contraceptives),"[22] and coverage of medical devices that are "intended for the regulation of conception."[23] This means that where contraceptives are used exclusively to protect against unintended pregnancies, they cannot be covered under public health insurance. Although the 2011 law did not alter the *status quo* in practice – as 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," and not essential medicines. Such an approach contradicts World Health Organization (WHO) standards that define contraceptives as essential medicines. In 2012, the Committeee on Economic, Social and Cultural Rights (ESCR Committee) expressed concern over the 2011 coverage ban and urged Slovakia to expand public health insurance coverage to include modern contraceptives.[24] In 2015, the CEDAW Committee recommended that Slovakia "[r]evise relevant legislation and ensure universal coverage by the public health insurance of … modern contraceptives for the prevention of unwanted pregnancy".[25] However, the government has not adopted any measures to implement these recommendations thus far.

On the contrary, the government continues to refuse to provide contraceptive coverage to the majority of women and adolescent girls who are using contraceptives *solely* to prevent unintended pregnancies. Meanwhile, even where contraception use is indicated for other 'medical' reasons, the discretion to grant individual coverage in such cases is left to the individual health insurance company. A woman's or a girl's health insurance company will decide whether or not she qualifies for coverage following a written request for subsidization from an individual woman's health care provider.[26] As a result, in practice, it is very difficult for women and adolescent girls to secure subsidization for contraceptives, even if they are being used primarily for purposes other than pregnancy prevention.

The non-existence of the subsidization of contraceptives by public health insurance has particularly severe impacts on adolescent girls. Not only does it make contraceptives inaccessible for girls from socially disadvantaged backgrounds, but it also impedes their usage by girls who do not have open and trust-based relationships with their parents. In addition, available data shows that parents rarely have open

discussions about contraception with their children.[27] For adolescent girls in institutional care, the situation may be even worse.

iii) Statutory requirement for parental consent

According to the Healthcare Act, no medical intervention regarding minors under 18 can take place without an informed consent of their legal guardian. Although the Healthcare Act also stipulates that persons 'unable to provide informed consent' (i. e. children under 18, *inter alia*) shall be provided with information that necessitates obtaining informed consent for interventions that concern them, and that these persons shall participate in the decision-making that concerns them 'to the highest extent made possible by their capacities', the right to provide actual informed consent is always vested in their legal guardians (most frequently parents).[28] With regard to access to modern contraceptives (most of which are by prescription),[29] this does not only imply disrespect for the right of adolescent girls' views to be given due weight in accordance with their age or maturity, but also disrespect for their right to privacy and confidentiality. In the case of the absence of open and trust-based relationships with parents, the requirement for parental consent may also impede access to contraceptives as such.

Recommendations

- Take effective measures to expand adolescent girls' access in practice to affordable contraception, including through training and information programmes designed to improve public and health-care providers' levels of knowledge and evidence-based information on contraception.
- Repeal the 2011 prohibition on the public health insurance coverage of contraception and ensure the universal coverage of modern contraception under public health insurance.
- Amend statutory provisions on the informed consent of adolescents to encompass a full observance of their right to their views being given due weight in accordance with their age or maturity, and of their right to privacy and confidetiality so that the right of adolescent girls to access contraceptives is not impeded in practice by excessive parental consent requirements.

c. Barriers in access to abortion services

Slovak abortion law permits abortion on request without restriction as to reason up to 12 weeks of pregnancy, and thereafter, if a woman's life is in danger or in cases of fetal impairment.[30] However, a range of barriers continue to undermine women's and adolescent girls' access to safe and legal abortion in practice.

Cost: Abortion on request is not covered by public health insurance.[31] It costs between 240-370 EUR, which represented approximately 35% to 54% of the median monthly income for women in Slovakia in 2014.[32] As a result, financial barriers often impede women's timely access to abortion services, not to mention adolescent girls without an independent source of income. Recognising the discriminatory financial burdens that the lack of insurance coverage can impose on women and girls seeking abortion services and contraceptives, the CEDAW Committee called on Slovakia in 2015 to "ensure universal coverage by the public health insurance of all costs related to legal abortion, including abortion on request ….[33]

Mandatory waiting periods: In 2009 a legislative amendment to the Healthcare Act[34] was adopted by Parliament which introduced into Slovak law for the first time a mandatory waiting period prior to abortion. The new 48-hour mandatory waiting period applies to abortions on request.[35] Previously, women and girls seeking abortion on request did not have to observe a mandatory waiting period and as such, by imposing new preconditions and restrictions on women's and girls' access to reproductive health services, the new law represents a retrogressive measure which contravenes the principle of non-

retrogression. Mandatory waiting periods regularly delay women's and girls' access to legal abortion services, contribute to women and girls having abortions later in pregnancy[36], and often increase the financial burden on women and girls accessing abortion services.[37] Meanwhile, as the WHO and the International Federation of Gynecology and Obstetrics have specified, mandatory waiting periods, "demean[] women as competent decision-makers"[38] and reflect a range of discriminatory assumptions and harmful gender stereotypes, including that women make fickle, changeable, and impulsive decisions that they later regret.[39] As a result, this Committee as well as the Human Rights Committee have requested states to ensure women's access to safe abortion without subjecting them to mandatory waiting periods.[40] In 2015, the CEDAW Committee called on Slovakia to "[r]evise the Healthcare Law as amended in 2009 to ensure access to safe abortion and remove the requirement for mandatory counseling, medically unnecessary waiting periods, and third party authorization, in line with the recommendations of the World Health Organization."[41]

Biased information requirements: The 2009 amendment also requires that women and girls receive information outlining: the "physical and psychological risks" associated with abortion;[42] "the current stage of development of the embryo or fetus," "alternatives to abortion" such as adoption, and support in pregnancy from civic and religious organizations.[43] This information must be provided to all women and girls (and to girls' legal guardians) during the informed consent process prior to abortion and they are not able to refuse this information.[44] These new requirements were introduced with the biased and directive goal of dissuading women from obtaining abortion services, "in favor of the life of an unborn child."[45]

The principle of full and informed consent is an integral component of a range of human rights including the right to health.[46] Informed consent requires that a patient's medical decision-making be free of threat or inducement, and that a patient's consent to a medical procedure, including abortion, be given freely and voluntarily after receipt of understandable, adequate, accurate, and evidence-based information on the procedure.[47] It is implicit in the principle of informed consent that patients must also be entitled to refuse such information yet still undergo the requested procedure.[48] For example, the Special Rapporteur on the Right to Health has specified that "[j]ust as a patient has the right to receive information in giving consent, a patient has the right to refuse such information in giving consent, providing disclosure of such information has been appropriately offered."[49]

Biased information requirements contradict the principle of informed consent. First, by imposing certain information on women and adolescent girls as a precondition to abortion, they implicitly contradict the necessity that individuals be entitled to refuse information related to their health and proceed to treatment without it. Second, when information and counselling requirements are biased, and require health professionals to seek to persuade women not to undergo abortion, including through the provision of medically inaccurate, misleading, or stigmatizing information, they contravene obligations to ensure that health-related information and counseling be relevant, accurate, evidence-based, and non-directive and that medical decision-making be free from inducement, coercion, or discrimination.[50] In the case of adolescents, biased and imposed information requirements also impede their right to their views being given due weight in accordance with their age or maturity.

Provision of biased information on abortion also promotes a series of harmful and discriminatory gender stereotypes about women. By seeking to persuade women to continue their pregnancies, biased information requirements reflect the view that the primary role of women in society is as mothers, and the related assumption that women are by their nature maternal. As a result, a woman's decision to have an abortion is assumed to be "counter" to her nature, and therefore irrational and harmful.[51] Biased counselling and information requirements often seek to pressure women into deciding against abortion by generating a sense of disapproval and shame and promoting a belief that women who terminate their pregnancies are doing something wrong. By generating and exacerbating stigma concerning abortion, biased and directive counselling and information can cause women trauma and suffering.[52]

As mentioned above, in 2015 the CEDAW Committee called on Slovakia to remove the mandatory counseling requirement.[53] It also urged the state to "[e]nsure that information provided by health care professionals to women seeking abortion is science- and evidence-based and covers the risks of having or not having an abortion to ensure women´s full information and autonomous decision-making."[54]

Confidentiality concerns: The 2009 amendment also requires doctors to send a report to the National Health Information Centre confirming that each woman or girl seeking abortion has received this information.[55] The Centre is responsible for receiving and evaluating these reports, as well as for overseeing compliance with the mandatory waiting period.[56] The required reports must contain a woman's personal details and must be submitted before an abortion is performed.[57] This gives rise to a range of confidentiality concerns. In 2012, the ESCR Committee urged Slovakia to "ensure that the personal data of patients undergoing abortion remain confidential."[58] In 2015, the CEDAW Committee called on Slovakia to "[e]nsure confidentiality of personal data of women and girls seeking abortion, including by abolishing the reporting to the National Health Information Centre of cases of women and girls seeking abortion with their personal details."[59] However, the requirement for doctors to provide the personal details of women seeking abortions remains in effect.

Parental consent: In addition, the 2009 amendment of the Healthcare Act extended parental consent requirements to include all adolescent girls under 18**.**[60] Prior to this amendment, the Abortion Act required that girls between 16 and 18 be subject only to the requirements that their parents be notified after they have undergone an abortion (i.e. parental consent for girls aged between 16 and 18 was not required).[61] Although the Abortion Act provision requiring a notification of parents but not parental consent for girls between 16 and 18 was not formally appealed, it became ineffective due to the Health Care Act amendment of 2009 (following the principle *lex posteriori derogate legi priori*). In any case, aside from the parental consent requirement being disrespectful of the right of adolescents to their views being given due weight in accordance with their age or maturity, both the parental consent and the parental notification requirements disrespect adolescent girls' right to privacy and confidentiality and impede their right to access abortion in practice. In 2015, the CEDAW Committee called on Slovakia to revise the Healthcare Act as amended in 2009 "to ensure access to safe abortion and remove the requirement for ... third party authorization, in line with the recommendations of the World Health Organization."[62] The Slovak government has yet to begin the revision process.

Recommendations

- Take effective measures to ensure women's and adolescent girls' access to safe and legal abortion services, including by repealing legislative provisions which subject them to a mandatory waiting period and biased information requirements, and that breach women's and adolescent girls' entitlements to confidentiality and privacy when accessing services. Ensure that health care providers provide women and girls with medically accurate and non-stigmatizing information on abortion and guarantee women's and adolescent girls' confidentiality.
- Remove the parental consent requirement for abortions requested by girls under 18.
- Ensure universal coverage of abortion services within public health insurance.

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

Despite the CEDAW Committee's recommendation that Slovakia adequately regulate the extent to which health care providers can refuse to provide reproductive health care on grounds of personal conscience and ensure that such refusals do not undermine or jeopardize women's timely access to reproductive health care,[63] the government has not adopted measures to implement this recommendation.

Conscience-based refusals of care have primarily occurred with regard to the provision of abortion and contraceptive services.[64] In addition to refusals by individual practitioners, a number of hospitals have sought to justify not providing abortions on request or other legal abortions by specifying that all relevant individual doctors working within their premises have objected to providing abortion services on grounds of conscience.[65] There are also reports of hostile and judgmental treatment on the part of some health care personnel towards women undergoing abortion on request.[66] Healthcare practitioners who do provide abortion services also face stigma, which often manifests in contemptuous and judgmental behavior from colleagues and peers who opt not to perform abortions.[67]

Conscience-based refusals of health care are regulated in the Act on Healthcare and the Code of Ethics of a Health Practitioner. Under the Act, health care providers can refuse to provide certain health services, namely abortion, sterilization, and assisted reproduction, if the provision of those services "is impeded by a personal belief on the part of a health practitioner who is supposed to provide the service."[68] Since under Slovak law the term "health care provider" includes health facilities,[69] institutions and not only individuals, are allowed to refuse to provide reproductive health care on grounds of conscience. If a health care provider refuses to provide health care, the Act entitles the patient to file a complaint to a regional self-governing body which is responsible for reviewing the complaint and identifying a provider who will provide the service, and who is not located too far away from the person's residence or work.[70]

Additionally, the Code of Ethics of a Health Practitioner allows individual health professionals 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. In such instances health professionals are required to inform their employer as well as their patients that they are refusing to provide particular medical care.[71] However, neither the Act nor the Code of Ethics impose an obligation on them to refer the patient to another practitioner who will provide care. As a result, the current legal framework places the burden on women and adolescent girls who are refused abortion care, sterilization, and assisted reproduction to file a complaint with the regional self-governing body described above in order to obtain legal reproductive health services. No responsibility is placed on health care providers and state authorities to take effective and proactive measures to ensure women's and girls' prompt and easy access to those services.

As a result, the existing regulation of conscience-based refusals is flawed and inadequate and contradicts international human rights requirements. For example:

- It allows for institutional refusals to provide certain reproductive health services;
- It does not require health care providers to refer patients to alternative and easily accessible health care providers;
- It does not require health care institutions to ensure that a sufficient number of employees are in place who are willing to provide relevant services;
- Effective mechanisms to oversee and monitor the practice are lacking. This means that the number of conscience-based refusals and their effect is unknown. It undermines the ability of the state to design effective measures to ensure that refusals of care do not jeopardize women's and girls' access to services in practice.

Recommendations

- Take effective measures to ensure that conscience-based refusals of care do not impede women's and girls' access to reproductive health care services, including by amending legislation and introducing legal provisions that would: i) explicitly prohibit institutions from adopting institutional refusal policies or practices; ii) guarantee that women and girls are promptly referred to alternative and easily accessible health care providers; iii) establish a registry of health

professionals who refuse to perform reproductive health care services for reasons of personal conscience; iv) ensure effective oversight and implementation.

- Establish effective monitoring systems and mechanisms to enable the collection of comprehensive data on the extent of conscience-based refusals of care and the impact of the practice on women's and girls' access to legal reproductive health services.

e. Lack of comprehensive data on sexual and reproductive health

The state does not collect adequate or comprehensive data on sexual and reproductive health indicators, such as the number of unintended pregnancies, the unmet need for contraception, or the prevalence of conscience-based refusals of reproductive health care. 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.[72] 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 in adequately addressing the health needs of women and girls in Slovakia.

Recommendations

- Collect, on a systematic basis, comprehensive data related to sexual and reproductive health and rights, including data on the unmet need for contraceptives and on the number of unintended pregnancies. Ensure that all data is disaggregated by relevant classifiers including sex, age, social status, and other characteristics as necessary.

Sincerely,

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[1] 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].

[2] Draft Nat'l Program on Protection of Sexual & Repro. Hlth. in the SR (2008), *supra* note 1.

[3] 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 April 13, 2016) [hereinafter Civic Assoc., Forum of Life (2007)].

[4] *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 (last visited April 13, 2016).

[5] *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 April 13, 2016); *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 April 13, 2016). *See also* Civic Assoc., Forum of Life (2007), *supra* note 3; 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 April 13, 2016).

[6] Resolution No. 278/2003, *supra* note 1, 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.

[7] 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 (last visited April 13, 2016).

[8] *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 April 13, 2016). *See also* Civic Assoc., Forum of Life (2007), *supra* note 4.

[9] The importance of adopting a National Program on the Protection of Reproductive Health was recognized by the Slovak Government as early as 2003. Resolution No. 278/2003, *supra* note 1, 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. *See also supra* note 6.

[10] Letter from the Ministry of Health of the Slovak Republic, Sept. 8, 2015, on the file with Citizen, Democracy and Accountability.

[11] CEDAW Committee, *Concluding Observations: Slovakia*, para. 31(a), U.N. Doc. CEDAW/C/SVK/CO/5-6 (2015).

[12] *See* Programové vyhlásenie vlády Slovenskej republiky [The Statement of Policy of the Government of the Slovak Republic], *available at* https://dennikn.sk/433483/nastupuje-vlada-statotvornej-dohody-kontinuity-pokroku-programove-vyhlasenie-vlady/?ref=top (last visited April 12, 2016).

[13] *See* CENTER FOR REPRODUCTIVE RIGHTS ET AL., CALCULATED INJUSTICE, THE SLOVAK REPUBLIC'S FAILURE TO ENSURE ACCESS TO CONTRACEPTIVES 21 (2011), [hereinafter CALCULATED INJUSTICE] *available at* http://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/calculated_injustice.pdf (last visited April 13, 2016) .

[14] NATIONAL HEALTH INFORMATION CENTER, ČINNOSŤ GYNEKOLOGICKÝCH AMBULANCIÍ V SR 2014 (2015), *available at* http://www.nczisk.sk/Documents/publikacie/2014/sp1502.pdf (last visited April 13, 2016).

[15] *See* CALCULATED INJUSTICE, *supra* note 13, at 36.

[16] 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 (last visited April 13, 2016).
[17] *See* Národný program starostlivosti o deti a dorast v Slovenskej republike na roky 2008-2015 [National Programme of Care for Children and Adolescents in the Slovak Republic 2008-2015], at 2 and 20, *available at* http://www.uvzsr.sk/docs/info/podpora/03_vlastnymat.pdf (last visited April 13, 2015). *See also* CALCULATED INJUSTICE, *supra* note 13, at 29.
[18] CALCULATED INJUSTICE, *supra* note 13, at 8.
[19] *Id*. at 38.
[20] *Id*.
[21] *See* CALCULATED INJUSTICE, *supra* note 13, at 29-31, 34-35. Additionally, the Slovak government does not regulate the price of contraceptives, which means many of them are relatively expensive. *See* 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.) [hereinafter Act No. 363/2011].
[22] Act No. 363/2011, *supra* note 21, art. I, sec. 16(4)(e)(1) [emphasis added].
[23] Act No. 363/2011, *supra* note 21, art. I, sec. 37(5)(c)(6).
[24] Committee on Economic, Social and Cultural Rights (ESCR Committee), *Concluding Observations*: *Slovakia*, para. 24, U.N. Doc. E/C.12/SVK/CO/2 (2012).
[25] CEDAW Committee, *Concluding Observations: Slovakia*, para. 31(b), U.N. Doc. CEDAW/C/SVK/CO/5-6 (2015).
[26] *See* Act No. 363/2011, *supra* note 21, sec. 88(8). Under sec. 88(8), an insurance company may decide to cover a drug that is not included in the list of categorized drugs "in justified cases, in particular when the provision of the drug ... is the only appropriate option, taking into consideration the health condition of the insurer ..." *Id.*
[27] CALCULATED INJUSTICE, *supra* note 13, at 34-35.
[28] Zákon č. 576/2004 Z. z. o zdravotnej starostlivosti, službách súvisiacich s poskytovaním zdravotnej starostlivosti a o zmene a doplnení niektorých zákonov v znení neskorších predpisov [Act No. 576/2004 Coll. of Laws on Healthcare, Healthcare-related Services, and Amending and Supplementing Certain Acts *as amended*] (Slovk.) [hereinafter Healthcare Act, No. 576/2004], sec. 6(6), in conjunction with sec. 6(1)(b).
[29] Aside from emergency contraception, all hormonal contraceptives are available only by prescription from a gynecologist. See CALCULATED INJUSTICE, *supra* note 13, at 19 for further detail.
[30] 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), secs. 4–5 [hereinafter Act No. 73/1986 Coll.]; 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 [Decree 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.).
[31] 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 [Order 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.).
[32] *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 April 13, 2016); ŠTATISTICKÝ ÚRAD SR [STATISTICAL OFFICE OF THE SLOVAK REPUBLIC], ŠTRUKTÚRA MIEZD V SR 2014, 4 [STRUCTURE OF EARNINGS IN THE SR 2014] (2015).
[33] CEDAW Committee, *Concluding Observations: Slovakia*, para. 31(b), U.N. Doc. CEDAW/C/SVK/CO/5-6 (2015).
[34] Healthcare Act, No. 576/2004, *supra* note 28, *as amended by* the Act No. 345/2009.
[35] Healthcare Act, No. 576/2004 *as amended*, *supra* note 28, sec. 6(b)(3).
[36] *See* WORLD HEALTH ORGANIZATION (WHO), SAFE ABORTION: TECHNICAL AND POLICY GUIDANCE FOR HEALTH SYSTEMS 96-97 (2nd ed. 2012) [hereinafter WHO, SAFE ABORTION GUIDANCE (2012)]; *see also* Theodore J. Joyce et al., *The Impact of State Mandatory Counseling and Waiting Period Laws on Abortion: A Literature Review*, GUTTMACHER INST. 15 (2009), *available at* http://www.guttmacher.org/pubs/MandatoryCounseling.pdf (last visited April 13, 2016).
[37] CENTER FOR REPRODUCTIVE RIGHTS, MANDATORY WAITING PERIODS AND BIASED COUNSELING REQUIREMENTS IN CENTRAL AND EASTERN EUROPE: RESTRICTING ACCESS TO ABORTION, UNDERMINING HUMAN RIGHTS, AND REINFORCING HARMFUL GENDER STEREOTYPES (Sept. 2015) [hereinafter MANDATORY WAITING PERIODS AND BIASED COUNSELING REQUIREMENTS IN CENTRAL AND EASTERN EUROPE].
[38] WHO, SAFE ABORTION (2012), *supra* note 35, at 96.
[39] 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 (last visited April 13, 2016).

[40] CEDAW Committee, *Concluding Observations: Hungary*, para. 31(c), U.N. Doc. CEDAW/C/HUN/CO/7-8 (2013); Human Rights Committee, *Concluding Observations: The Former Yugoslav Republic of Macedonia*, para. 11, U.N. Doc. CCPR/C/MKD/CO/3 (2015) (advance unedited version).
[41] CEDAW Committee, *Concluding Observations: Slovakia*, para. 31(c), U.N. Doc. CEDAW/C/SVK/CO/5-6 (2015).
[42] *See* Healthcare Act, No. 576/2004 *as amended by* the Act No. 345/2009, *supra* note 28, sec. 6b; *see also* 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 [Decree of the Ministry of Health of the Slovak Republic No. 417/2009 Coll. of Laws on Laying Down Details for Information Provided to a Woman, for Notification of the Provision of Information and the Model of Written Information, and Designating an Entity Responsible for the Receipt and Evaluation of Notifications] (Slovk.) [hereinafter Decree No. 417/2009]. Women seeking abortion on request must also be provided with the required information in writing. A model for this written information is provided by the Ministry of Health in a decree implementing the Healthcare Act, No. 576/2004 *as amended by* the Act No. 345/2009. It suggests that written information on the risks of induced abortion should outline that "[t]he subsequent impaired ability or inability to become pregnant cannot be ruled out," and that "[f]ollowing the induced termination of pregnancy, a woman may experience feelings of anxiety, guilt, sadness and depression." This information provided should also include written information on the stage of fetal development, which the Ministry of Health specifies as information on "the result of the ultrasound examination, the length of pregnancy, and the development stage of the embryo or fetus." Decree No. 417/2009, *supra* note 42, Annex. Contrary to this decree, the Royal College of Obstetricians and Gynaecologists (United Kingdom) has recommended that "[w]omen should be informed that there are no proven associations between induced abortion and subsequent . . . infertility." ROYAL COLLEGE OF OBSTETRICIANS AND GYNEACOLOGISTS, THE CARE OF WOMEN REQUESTING INDUCED ABORTION: EVIDENCE-BASED CLINICAL GUIDELINE NUMBER 7 43-46 (2011), *available at* https://www.rcog.org.uk/globalassets/documents/guidelines/abortion-guideline_web_1.pdf (last visited April 13, 2016). It has noted that "[p]ublished studies strongly suggest that infertility is not a consequence of uncomplicated induced abortion" performed in legal settings. *Id.* at 44 (citations omitted). With regard to psychological sequelae, the Royal College has recommended that "[w]omen with an unintended pregnancy should be informed that the evidence suggests that they are no more or less likely to suffer adverse psychological sequelae whether they have an abortion or continue with the pregnancy and have the baby" and that "[w]omen with an unintended pregnancy and a past history of mental health problems should be advised that they may experience further problems whether they choose to have an abortion or to continue with the pregnancy." *Id.* at 45.
[43] *See* Healthcare Act, No. 576/2004 *as amended by* the Act No. 345/2009, *supra* note 33, sec. 6(b).
[44] Healthcare Act, No. 576/2004 *as amended by* the Act No. 345/2009, *supra* note 28, secs. 6(4), 6b; Decree No. 417/2009, *supra* note 42.
[45] *See* Dôvodová správa, tlač 1030 (2009) [Explanatory Report to the Act No. 345/2009] (Slovk.). "The purpose of the proposed amendment is to inform a woman requesting abortion on the alternatives in favor of the life of an unborn child." *Id.* part A. During a parliamentary debate about the bill, a member of the Slovak Parliament, one of the key supporters of the bill, explained that "[t]he aim of this amendment is to provide a woman who could be in a difficult life situation with the qualified information. This information is directed for her to decide in favor of life […]. The state has no obligation to be neutral on this matter. The state has a right to say that it prefers life, prefers life before termination of life and offers a helping hand." (Daniel Lipšic, MP, Transcript from the debate on the Act No. 345/2009, print 1030, by the National Council of the Slovak Republic, 35th sess.) (Apr. 21, 2009), *transcript available at* http://www.psp.cz/eknih/2006nr/stenprot/035schuz/s035024.htm (last visited April 13, 2016).
[46] Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, *Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, Anand Grover*, paras. 18-19, U.N. Doc. A/64/272 (Aug. 10, 2009) [hereinafter *2009 Special Rapporteur on Health Report*]; Committee on the Elimination of Discrimination against Women, *General Recommendation No. 24: Article 12 of the Convention (Women and Health)*, (20th Sess., 1999), paras. 31(b), (e), U.N. Doc. A/54/38/Rev.1 (1999).
[47] *See* MANDATORY WAITING PERIODS AND BIASED COUNSELING REQUIREMENTS IN CENTRAL AND EASTERN EUROPE, *supra* note 37.
[48] *See, e.g.*, Convention for the Protection of Human Rights and Dignity of the Human Being with Regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine, *adopted* Apr. 4, 1997, art. 10(2), C.E.T.S. No. 164 (*entered into force* Dec. 1, 1999); A Declaration on the Promotion of Patients' Rights in Europe: World Health Organization European Consultation on the Rights of Patients, para. 2.5, ICP/HLE 121 (June 28, 1994); *2009 Special Rapporteur on Health Report*, *supra* note 46, para. 15.
[49] *2009 Special Rapporteur on Health Report*, *supra* note 46, para. 15.
[50] MANDATORY WAITING PERIODS AND BIASED COUNSELING REQUIREMENTS IN CENTRAL AND EASTERN EUROPE, *supra* note 37.
[51] MANDATORY WAITING PERIODS AND BIASED COUNSELING REQUIREMENTS IN CENTRAL AND EASTERN EUROPE, *supra* note 37; *see also* Reva B. Siegel, Reva B. Siegel, *The Right's Reasons: Constitutional Conflict and the Spread of Woman-Protective Antiabortion Argument*, 57 DUKE L.J. 1641, 1687 (2008).
[52] MANDATORY WAITING PERIODS AND BIASED COUNSELING REQUIREMENTS IN CENTRAL AND EASTERN EUROPE, *supra* note 37; *see also* 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 Enjoyment of the Highest Attainable Standard of Physical and Mental Health, Anand Grover*, para. 24, U.N. Doc. A/66/254 (Aug. 3, 2011); Anuradha Kumar et al.,

Conceptualizing Abortion Stigma, 11(6) CULTURE, HEALTH & SEXUALITY 625 (2009); Alison Norris et al., *Abortion Stigma: A Reconceptualization of Constituents, Causes, and Consequences*, WOMEN'S HEALTH ISSUES 7 (2011) (authors ed.), *available at* http://www.guttmacher.org/pubs/journals/Abortion-Stigma.pdf (last visited April 13, 2016); Rebecca J. Cook, *Stigmatized Meanings of Abortion Law, in* ABORTION LAW IN TRANSNATIONAL PERSPECTIVE: CASES AND CONTROVERSIES 347, 347 (Rebecca J. Cook, Joanna N. Erdman & Bernard M. Dickens eds., 2014); Bruce G. Link & Jo C. Phelan, *Stigma and its Public Health Implications*, 367 THE LANCET 528, 528-29 (2006); Bruce G. Link & Jo C. Phelan, *Conceptualizing Stigma*, 27 ANN. REV. OF SOC. 363, 367-76 (2001).

[53] CEDAW Committee, *Concluding Observations: Slovakia*, para. 31(c), U.N. Doc. CEDAW/C/SVK/CO/5-6 (2015).

[54] CEDAW Committee, *Concluding Observations: Slovakia*, para. 31(e), U.N. Doc. CEDAW/C/SVK/CO/5-6 (2015).

[55] Healthcare Act, No. 576/2004 *as amended by* the Act No. 345/2009, *supra* note 28, sec. 6b(3); Decree No. 417/2009, *supra* note 42.

[56] Healthcare Act, No. 576/2004 *as amended by* the Act No. 345/2009, *supra* note 28, sec. 6c(1); Decree No. 417/2009, *supra* note 42.

[57] Decree No. 417/2009, *supra* note 42; National Health Information Center, *Hlásenie o poskytnutí informácii o umelom prerušení tehotenstva,* http://data.nczisk.sk/zdravotny_stav/Z9-99.pdf (last visited April 13, 2016); Healthcare Act, No. 576/2004 *as amended by* the Act No. 345/2009, *supra* note 28, sec. 6b(3).

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

[59] CEDAW Committee, *Concluding Observations: Slovakia*, para. 31(f), U.N. Doc. CEDAW/C/SVK/CO/5-6 (2015).

[60] Healthcare Act, No. 576/2004 *as amended by* the Act No. 345/2009, *supra* note 28, sec. 6b(4).

[61] Act No. 73/1986 Coll., *supra* note 30, sec. 6. Section 6 states: "(1) In the case of a woman who has not yet reached the age of 16, artificial interruption of pregnancy in accordance with Section 4 may be performed with the consent of her legal representative or of the person who has been assigned responsibility for bringing her up. (2) If artificial interruption of pregnancy in accordance with Section 4 has been performed on a woman between 16 and 18 years of age, the health facility shall notify her legal representative." *Id.*

[62] CEDAW Committee, *Concluding Observations: Slovakia*, para. 31(c), U.N. Doc. CEDAW/C/SVK/CO/5-6 (2015).

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

[64] *See* CALCULATED INJUSTICE, *supra note* 13, at 39.

[65] *Štátne kliniky majú výhradu svedomia. Uhliarik mlčí, [State clinics apply conscientious objection.Uhliarik is silent.],* PRAVDA, Jan. 22, 2011, *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 April 13, 2016); 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 April 13, 2016); 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 (last visited April 13, 2016).

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

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

[68] Healthcare Act, No. 576/2004, *supra* note 28, *as amended*, secs. 12(2)(c), 12(3).

[69] 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*], secs. 4, 11 [hereinafter Act 578/2004].

[70] Healthcare Act, No. 576/2004, *supra* note 28, *as amended*, sec. 12(5).

[71] Act 578/2004, *supra* note 69, 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.).

[72] 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 (last visited April 13, 2016).