

# Access to abortion services for women in the EU

## Slovakia





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### **Abstract**

This paper, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the FEMM Committee, provides basic information on access to abortion services in Slovakia.

The legal status of abortions in the country is under permanent pressure despite the legally binding decision by the Constitutional Court back in 2007 which safeguarded women's right to free choice. Eleven proposals to restrict abortion have been presented in the National Parliament, in the last two years. Medical abortion is not available in the country, and together with conscientious objection applied in health services and current COVID-19 pandemics access to abortion services is further limited.

This document was requested by the European Parliament's Committee on Women's rights and Gender Equality.

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© Cover image from the authors database. The poster used in a campaign against an abortion ban in 2002 by the Proc-choice coalition

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## LIST OF ABBREVIATIONS

<b>CEDAW</b>	Committee on the Elimination of Discrimination against Women
<b>CoE</b>	Council of Europe
<b>FIAPAC</b>	International Federation of Professional Abortion and Contraception Associates
<b>FIGO</b>	International Federation for Gynaecology and Obstetrics
<b>MEP</b>	Member of European Parliament
<b>MoH</b>	Ministry of Health
<b>MP</b>	Member of Parliament
<b>MS</b>	Member States
<b>NCZI</b>	National Health Information Centre
<b>OLANO</b>	Obyčajní ľudia a nezávislé osobnosti, Ordinary people and independent personalities (ruling party in Slovakia)
<b>SaS</b>	Sloboda a solidarity, Freedom and Solidarity (political party in Slovakia)
<b>SRHR</b>	Sexual and reproductive health and rights
<b>WHO</b>	World Health Organisation

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## EXECUTIVE SUMMARY

### Background

Access to sexual and reproductive healthcare services is a fundamental component of sexual and reproductive rights. Under international human rights law and standards, European Union Member States should ensure access to safe and quality sexual and reproductive healthcare. According to the World Health Organization (WHO), sexual and reproductive rights is an umbrella term for four separate areas: sexual health, sexual rights, reproductive health, and reproductive rights (SRHR).

The situation regarding SRHR in Slovakia does not only meet required international standards, but it has worsened in the last two decades. The legal status of abortions in the country is being constantly challenged despite the legally binding decision by the Constitutional Court back in 2007 which safeguarded woman's rights to reproductive self-determination. Eleven proposals to restrict abortion have been presented in the National Parliament, in the last two years. As the abortion debate in the country is very emotional, it is often misused by some political parties to conceal more serious political problems.

The general public in Slovakia is rather favourable in supporting the free choice of women when deciding about abortion. According to the latest opinion poll<sup>1</sup>, only 17% of the respondents want to tighten access to abortion for women. Nonetheless, the predominant role of the religious and conservative institutions and actors in the country and its influence on policymakers all-across the political spectrum hampers and obstructs any possible positive development. The best example is the unavailability of medical abortion, even though the pill was registered by the Slovak Drugs Agency back in 2013. Because of the lobbying of the Catholic Church by the Prime Minister, the Ministry of Health did not authorise its use in practice<sup>2</sup>. The relatively high financial cost of abortion (which equals the minimum living costs in the country) and contraception make it inaccessible for groups of women at risk of poverty and social exclusion, students, and women from the Roma community. Furthermore, the conscientious objection applicable in the health services sector and the currently ongoing COVID-19 pandemics limit access to abortion services further, particularly in areas with a strong influence of the religious and conservative institutions and actors.

Consequently, the civil society under the lead of some feminist NGOs can only focus on keeping the status quo instead of lobbying for positive development. On one hand, they are in such a situation loaded with advocacy activities; on the other hand, the government has de facto cancelled the financial support. Thus, the SRHR in the country is at risk as never before.

### Aim

The aim of this paper is to provide comprehensive background information about SRHR, particularly abortion rights and services, in Slovakia.

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<sup>1</sup> <http://www.ivo.sk/8705/sk/aktuality/vo-verejnosti-prevazuje-nazor-ze-sucasny-interrupcny-zakon-netreba-meniť>

<sup>2</sup> <https://spravy.pravda.sk/domace/clanok/323472-potratova-tabletka-na-slovensku-nebude/>



## 1. GENERAL INFORMATION ON SRHR IN SLOVAKIA

Abortion debate started in Slovakia after the adoption and ratification of the Concordat with the Holy See (2000). During the two decades, several legal proposals have been discussed in the National Parliament to restrict access to abortion and family planning methods.

### 1.1. Abortion and SRHR debate in Slovakia

In 2001, a group of conservative MPs filed a **motion to the Constitutional Court** to examine the abortion law. It was a reaction to the failed attempt to ban abortions in an amendment to the Slovak constitution in 2001.

Article 15 of the Slovak constitution says that everyone has a right to live and that human life is worth protecting even before birth. The abortion law, on the other hand, allows for abortions to be carried out up to the 12th week of pregnancy.

The MPs who submitted the motion said that the act on abortions contradicts the sentence in the Constitution that says that human life is worth protection even before birth. They argued that in Slovakia, it is legal to perform abortions within the first three months without giving any reason.

In 2007, the Constitutional Court of the Slovak Republic held **abortion on demand of a pregnant woman in the first 12 weeks of pregnancy conforms with the right to life** (including the clause stating that human life is worthy of protection even before birth) as set out in the Constitution.<sup>3</sup> The court ruled that the procedure protects the foetus, as a woman must go through a tough procedure if she wants an abortion, under the law: filing a request, receiving a medical examination, going through an interview with a doctor, receiving a second approval of the decision, and paying for the surgery. The time limit of 12 weeks is associated with the physiology of the developing foetus.

The court gave woman's right to reproductive self-determination a full and equal standing in the constitutional order, using a balancing framework, according to which multiple constitutional rights and values are vindicated, none completely overruling any other, and favouring compromised rather than absolute regulation.<sup>4</sup>

Several attempts to restrict the access to abortion have been discussed in the National Parliament, since the Constitutional Court ruling. A year after the verdict, a group of conservative MPs amended the Act on Health Care introducing a waiting period and further restrictions (see below).

Initiatives to restrict sexual and reproductive health and rights (SRHR) of women were not limited to abortion purely but included, inter alia, ban to subsidy contraceptives by the public health insurance companies, rejection of the introduction of the medical abortion in Slovakia as well as the **refusal of the adoption of the programme on SRHR**. The adoption of such a comprehensive programme on SRHR has been pending since 2007, even though rates of teenage pregnancy and infant mortality are high and infection of sexually transmitted diseases, including HIV/AIDS, is increasing. The religious and conservative institutions and actors are strongly opposing the adoption of such a programme. None of the Slovak governments was willing yet to risk a conflict with the Church. Consequently, no strategic framework for the protection of the SRHR in the country exists.

In 2015, Slovakia presented its 5. and 6. periodic report to the Committee on the Elimination of Discrimination against Women (CEDAW). During the constructive dialogue, the topic of SRHR has been

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<sup>3</sup> Constitution Court ruling 12/01

<sup>4</sup> Adriana Lamačková: Women's Rights in the Abortion Decision of the Slovak Constitutional Court.

widely discussed. The CEDAW has issued a list of recommendations in this area (see Annex I.). However, none of the proposed interventions has been accepted and implemented by the government yet.

## 1.2. National laws relating to accessing abortion

**Abortion in Slovakia** is regulated by the *Act no. 73/1986 Coll. of the Slovak National Council on artificial termination of pregnancy* (Act) which was adopted in the former Czechoslovak Republic and became part of Slovakia's legal system in 1993. According to the Act, **termination of pregnancy is allowed within 12 weeks** of gestation upon written request of the pregnant woman. She does not need to provide any reason to justify her decision. Second-trimester abortion is allowed only for medical reasons which are:

- If the woman's life or health is endangered.
- If the healthy development of the foetus is threatened.
- If foetal development manifests genetic anomalies.

*The Decree no. 74/1986 Coll. of the Ministry of Health of the Slovak Socialist Republic, which implements the Act of the Slovak National Council No. 73/1986 Coll. on abortion*, regulates the abortion procedure in practice, particularly:

- Medical barriers to abortion at the request of a woman.
- Abortion for health reasons.
- Process preceding the abortion.
- Facility to perform abortion, reporting and duties of health professionals.
- Abortion provision to foreigners.

An amendment to the *Act no. 576/2004 Coll. on Health Care, Services Related to the Provision of Health Care and on Amendments to Certain Acts* (Healthcare Act) in 2009 introduced a mandatory waiting period, compulsory counselling and in case of girls under 18 years old, parental consent prior to abortion and the duty of doctors to report each case where a woman is seeking abortion to the National Health Information Centre with personal details.

Informed consent must include the date of counselling and the signature of the woman requesting abortion or her legal representative. Instructions before informed consent must consist of information on

- the purpose, nature, course, and consequences of abortion,
- physical and psychological risks of abortion,
- the current developmental stage of the embryo or foetus, the development of which is to be terminated, and its authorization to obtain a record of the sonographic examination,
- alternatives to abortion as
  - anonymous delivery,
  - adoption of a child after birth,
  - financial, material, or psychological assistance in pregnancy provided by civic associations, non-profit organizations, foundations, churches and religious societies.

Furthermore, this Act sets an **obligatory waiting period 48 hours** from the sending of the notification on the provision of information when the abortion can be performed.

In the case of a minor under the age of 18, in addition to her consent, the written informed consent of the legal representative is obligatory. *Decree no. 417/2009 Coll. of the Ministry of Health of the Slovak Republic, which sets out the details of the information provided to the woman and the report on the provision of information, the model of written information and determines the organization responsible for receiving and evaluating the report* regulate the procedure of informed consent and counselling.

### 1.3. Abortion incidence and contraceptive use in Slovakia

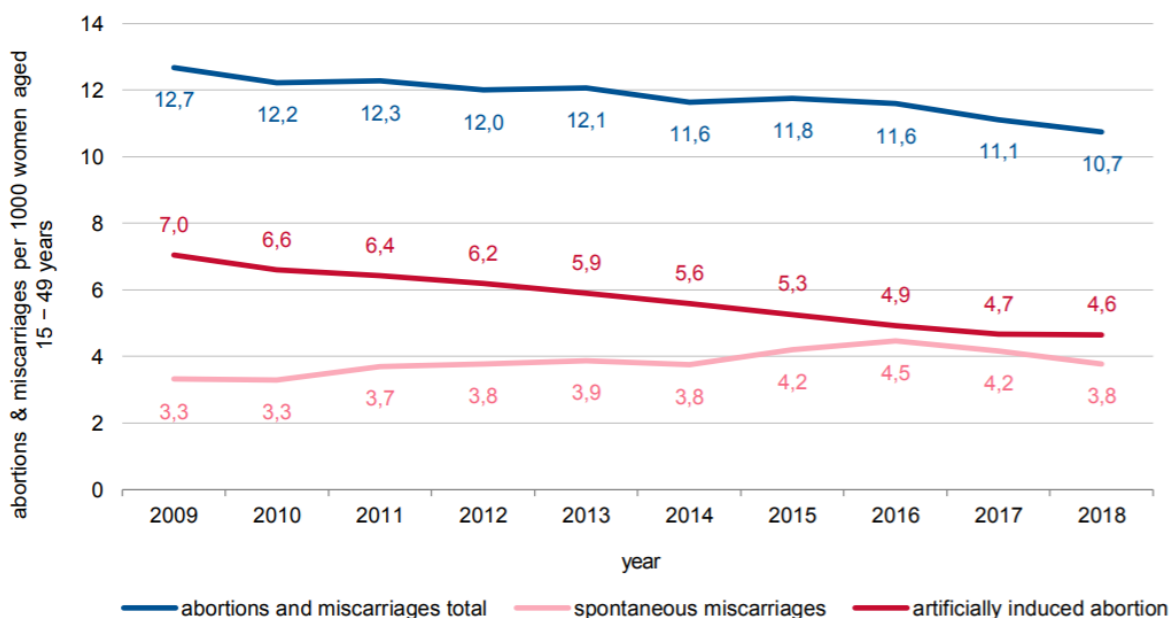
#### Abortion incidence

Abortions in Slovakia are declining continuously since 90' every year. The number of abortions decreased year-on-year by 200, from 6,024 in 2018 to 5,824 in 2019. Compared to 2009, their number decreased 1.7-fold and up to 3.6 times compared to 1997.

In 2019, health establishments of the Slovak Republic recorded a total of 15 106 abortions (spontaneous and induced), of which 13 760 were of women with permanent residence in the Slovak Republic. Of the total number of abortions, 7 078 were spontaneous abortions (miscarriages), 5 824 were induced abortions, 2 571 other abortions, and 444 abortions of ectopic pregnancies.

The general rate of induced abortion in the observed year decreased by 0.1 ‰ compared to 2018 and represented 4.5 ‰. Since 1997 (14.6 ‰) it has decreased by 10 points.

Figure 1 Development of general abortion and miscarriage rate in Slovakia



Source 1 National Health Information Center, HEALTH STATISTICS YEARBOOK OF THE SLOVAK REPUBLIC 2018

The slightly increase of spontaneous miscarriages has not been properly evaluated yet. However, some gynaecologist presented a view that it can be connected to an illegal use of the abortion pill (Mifepriston) obtained online by women since the medical abortion is not legally available in Slovakia<sup>5</sup>.

<sup>5</sup> Denník N: Gynekológ: Interrupcie sa dejú aj nelegálne, pomohla by dostupná antikoncepcia a rozumná sexuálna výchova <https://dennikn.sk/1130817/gynekolog-interrupcie-sa-deju-nelegalne-pomohla-by-dostupna-antikoncepcia-a-rozumna-sexualna-vychova/>

Abortion until the 8th week of pregnancy was performed in 65.5% of cases, from the 13th week of fetal age it was 4.9%. 15.1% of abortions were performed for health reasons.

Most abortions per 1,000 women in a given age fell in 2019 on women aged 20-24 (7.3 ‰), followed by 25-29 (6.6 ‰), 30 - 34 years (6.5 ‰) and 35 - 39 years (5.4 ‰).

For the first time in their lives, 70.7% of women underwent UPT, 20% of women had undergone one procedure in the past and 9.4% had two or more interventions. The proportion of women who have undergone abortion several times in their lifetime is gradually declining from 42.2% in 1997 to 29.3% in 2019.

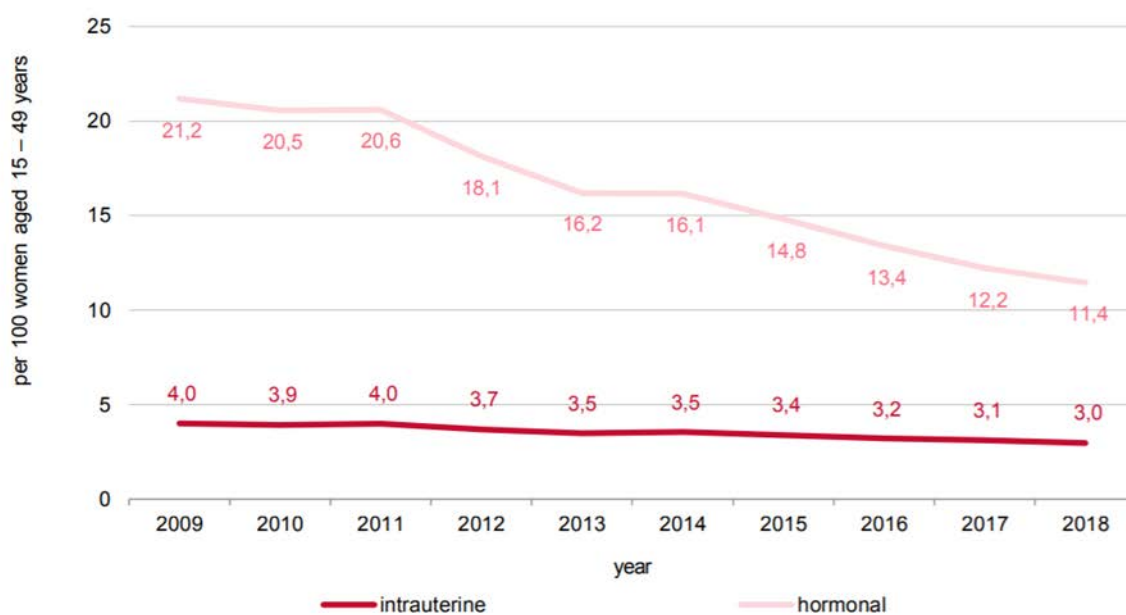
Most abortions were performed to women with two children (29.3%), over the years, however, this proportion has been declining in favour of childless women and women with one child. They are still most common among single women (54.6%) and women with a high school diploma (35.3%).

### Contraceptive use

Use of modern contraceptive methods is in Slovakia exceptionally low and decreases every year which is in a strong contrast with the same time decreasing number of abortions.

Obstetrics and gynaecology outpatient clinics registered 190 735 women (14.8 per 100 women in reproductive age) using contraception in 2018, which is 14 118 less than in the previous year. Hormonal contraceptives were used by 11.4 % and intrauterine contraceptives by 3.1 % of women in reproductive age, with a decrease against 2017 being recorded in both (hormonal by 0.8 percentage points and intrauterine by 0.1 percentage points). In 2018 hormonal contraceptives were introduced to 3.0 % (38 173) women in reproductive age, the highest number being in the Nitra (5.2 %) and Trnava (5.0 %) regions. Intrauterine contraception was introduced to 0.7 % of women in reproductive age.

Figure 2 Development of contraceptive use in Slovakia



Source 2 National Health Information Centre, HEALTH STATISTICS YEARBOOK OF THE SLOVAK REPUBLIC 2018

## 2. ACCESS TO ABORTION SERVICES

### Box 1: Main legal problems and challenges

- Unnecessary waiting period before abortion.
- Informed consent with the personal details of the woman is provided to the National Health Information Centre.
- Parental consent obligatory for all girls under 18.
- Missing legal regulation on abortion in a case of rape.

### Recommendations:

- Removing the obligatory waiting period before abortion.
- Ensuring that the personal data are not further provided to authorities and stay in the personal medical documentation.
- Revising the list of indications for the abortion provided for a medical reasons and include a case of rape or intimate partners violence.

### 2.1. Procedure and methods available

To procure an abortion on demand, the woman must not have exceeded the twelfth week of her pregnancy, and she must make a written request for an abortion to her gynaecologist. According to the law mentioned above, the woman receives information from her gynaecologist about the possible consequences of the procedure and the alternatives to abortion. Counselling and birth control information is given to the woman, and she is referred to a hospital to terminate her pregnancy which can be performed at earliest after 48 hours waiting period from the time of counselling.

If gestation is under 12 weeks, and there are no health contraindications for the procedure, the procedure is to be performed by the hospital. If gestation is over 12 weeks or if other contraindications exist, the request is reviewed by a medical committee. Beyond the first trimester, the pregnancy can be terminated only if the woman's life or health is endangered or in the case of suspected foetal impairment as mentioned above.

**The only legal recognised method of abortion in Slovakia is surgical abortion.** Women in Slovakia do not have access to medical abortion even though the Slovak Drug Agency has legally registered Medabon a Mifegyne (the pill) in 2013<sup>6</sup>. However, because of the pressure of the religious and conservative institutions and actors<sup>7</sup>, the Ministry of Health has not authorised the pill to enter the market in Slovakia<sup>8</sup>. **The abortion pill, deemed the safest method available by experts, is thus not legal in Slovakia.** Since the provision of abortion, which is not compliant with the law, is considered a crime in Slovakia<sup>9</sup>, the pill is not provided by any health facility. Consequently, some women travel to Austria for this procedure or obtain the pill online.

<sup>6</sup> [https://www.sukl.sk/hlavna-stranka/slovenska-verzia/media/tlacove-spravy/aktualne-informacie-tykajuce-sa-liekov-s-obsahom-mifepristonu?page\\_id=3260](https://www.sukl.sk/hlavna-stranka/slovenska-verzia/media/tlacove-spravy/aktualne-informacie-tykajuce-sa-liekov-s-obsahom-mifepristonu?page_id=3260)

<sup>7</sup> <https://www.tkkbs.sk/view.php?cislocikanku=20130111015>

<sup>8</sup> <https://spravy.pravda.sk/domace/clanok/323472-potratova-tabletka-na-slovensku-nebude/>

<sup>9</sup> § 151 of the Penal Code

## 2.2. Public insurance schemes

The public health insurance in Slovakia generally does not cover health care that is not indicated for medical reasons. According to the regulation on the provision of abortion services, an abortion shall be subsidised via the public health insurance scheme if **indicated for a health reason**. Additionally, a request can be issued by the woman concerned or her legal guardian in case of minors.

Nonetheless, the scope of health reasons which can be considered by the gynaecologists is relatively broad; apart from purely medical indications, it also includes indication in cases when a woman is younger than 15, or if the pregnancy is the outcome of intercourse among close relatives or as a result of a faulty intrauterine device used by a woman.

**Hormonal contraceptives** and other methods of contraception (IUD) are widely available and accessible upon a prescription across the country but not covered by any health insurance scheme except the case where medically justified. **Emergency contraception** is available at pharmacies "over the counter" for marker price, no prescription is necessary.

## 2.3. Conscientious objection

A healthcare provider is not obliged to conclude an agreement on the provision of healthcare with a patient should doing so be against his or her personal belief. It applies to cases of induced abortion, sterilisation and assisted reproduction.

The right to exercise the conscientious objection is defined in the *Code of Ethics for healthcare professionals*. The precise wording is: "the health professional cannot be required to perform or participate in such duty which is contrary to his/her conscience, except in cases of an immediate threat to life or health". Should the health care professionals decide to apply the conscientious objection, they are required to inform the employer as well as their patients about this fact. The objection may be applied, among other things, if the provision of health care is in a conflict with personal beliefs of the health professionals which applies only to abortion, sterilisation and assisted reproduction.

### 2.3.1. Conscientious objection by abortion providers

According to an anecdotal evidence, the number of healthcare providers who refuse to provide abortion or sterilisation in Slovakia remains currently on a level where the access of women to abortion is not significantly restricted. However, in some regions where influence of the religious and conservative institutions and actors is incredibly strong, no abortion providers are accessible, and women need to travel to the bigger cities to find a facility willing to perform an abortion. There is no reference system in place which could inform women where they can seek this kind of service.

Health care facilities in those conservative regions apply the conscientious objection, which is a misinterpretation of this rights which belongs to an individual but not to an institution. Institutions have no conscience. Regrettably, there are cases known when the head of the hospital was a firm religious believer and imposed his beliefs on the whole facility by banning the abortion procedures.

The number of gynaecological ambulances in Slovakia reaches 855 and 60 hospitals provide gynaecological department.<sup>10</sup> According to the statistics on abortions by the territory of permanent residence in the Slovak Republic provided in the publication '*Abortions in the Slovak Republic 2018*'<sup>11</sup> by

<sup>10</sup> [http://www.nczisk.sk/Documents/rocniky/2018/Zdravotnicka\\_rocenska\\_Slovenskej\\_republiky\\_2018\\_en.pdf](http://www.nczisk.sk/Documents/rocniky/2018/Zdravotnicka_rocenska_Slovenskej_republiky_2018_en.pdf)

<sup>11</sup> [http://data.nczisk.sk/statisticke\\_vystupy/Potraty/Potraty\\_v\\_SR\\_2019.xlsx](http://data.nczisk.sk/statisticke_vystupy/Potraty/Potraty_v_SR_2019.xlsx)

the *National Health Information Centre*, no city in the Slovak Republic has been identified with zero cases of abortion which illustrates that access to abortions can be considered still on a sufficient level.

According to this evidence, a conclusion can be made that despite some apprehension articulated in previous years, conscientious objection does not constitute a significant barrier in the access to reproductive health services currently. At the same time, it allows to maintain a reasonable level of personal freedom and integrity of medical professionals. However, without a clear regulation, the situation can change easily with the more conservative regional governments as it is already visible in some regions (such as Žilina).

### 2.3.2. Conscientious objection in access to contraception

When it comes to exercising the conscientious objection in pharmacies, from the total of about 2 170 pharmacies in the Slovak Republic, 18 of them have been reported as not providing contraception and three not selling but ordering it for therapeutic purposes.<sup>12</sup> Religious institutions set up most of those pharmacies. These 21 pharmacies represented 0.97% of the total number in Slovakia in the given period and thus does not deem to constitute a significant problem.<sup>13</sup>

## 2.4. Access to abortion during the COVID-19 pandemics

### Box 2: Main problems and challenges in access to abortion

- Unavailability of the medical abortion forces women to more risky procedure.
- The objection of conscience restricts access to abortion in some areas.
- Women in the risk of poverty and social exclusion cannot afford an abortion and contraceptives due to financial limitations.
- COVID-19 pandemics is used to restrict access to abortion services.

### Recommendations:

- Making the medical abortion available particularly during the COVID-19 pandemics.
- Clear regulation of the objection of conscience as an individual not institutional right, including a transparent referral system.
- Introducing subsidies for abortions and contraception at least for women at risk of poverty and social exclusion.

Due to the risk of infections during the coronavirus pandemic, hospitals in Slovakia have stopped performing abortions following a government decision to postpone all planned surgeries except life-saving ones. Consequently, it has resulted in Slovakia effectively limiting access to safe and timely abortions, several feminists and human rights organisations have warned. Since the abortion is limited to 12 gestation weeks, for some women seeking the procedure closed to the time limit, it caused a major problem.

<sup>12</sup> <http://www.forumzivota.sk/2013/11/06/nakupujte-v-pro-life-lekarnach/>

<sup>13</sup> Tünde Ambrus; Jozef Kolář ; Radka Kremaská: Výhrada svědomí při výkonu profese lékárníka ve Slovenské republice <https://www.prolekare.cz/casopisy/ceska-slovenska-farmacie/2016-5-9/vyhrada-svedomi-pri-vykonu-profese-lekarnika-ve-slovenske-republice-60004>

Minister of health Marek Krajčí who is well known for his religious beliefs said he does not recommend having an abortion in the current crisis but acknowledged these could be performed legally provided both the woman and the doctor are willing to take the risk. However, the ministry of health urged women to protect their health and not request any procedures from the doctors that can seriously affect their health, effectively limiting their access to safe pregnancy termination which is timely limited to 12 weeks (see Chapter 2.1). In that time Slovakia was only mildly affected by the COVID-19 pandemics.

Ombudswoman Maria Patakyova commented that “the COVID-19 pandemic should not be used as an excuse to excessively interfere with women’s sexual and reproductive rights”.

Ministry of health responded to the critics by the ombudswoman, that “the decreased immunity during operation could multiply the risks of any surgical procedure. Health and lives of mothers, weakened by the surgery, could be very much at risk. We deem the statements [by the ombudswoman] saying this constitutes unproportionate interference into women’s sexual rights to be a very serious allegation, that is unfounded and without any substance, “ the ministry added.<sup>14</sup>

Furthermore, Ms Patakyova’s annual report on the state of human rights in Slovakia, which included a warning against the growing attempts to restrict abortion laws, was rejected earlier his year by lawmakers including those belonging to the governing coalition.

Currently, the health institutions in Slovakia provides all services in compliance with hygiene rules to protect clients from infection. The situation seems to be stabilised, but with a negative development of “the second wave” of the pandemic in Slovakia further problems in access to abortion might be expected. Particularly in such a situation, the unavailability of medical abortion (the pill) constitutes an unnecessary risk for women seeking an abortion.

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<sup>14</sup> [https://www.euractiv.com/section/all/short\\_news/covid-19-restricts-access-to-abortions-in-slovakia/](https://www.euractiv.com/section/all/short_news/covid-19-restricts-access-to-abortions-in-slovakia/)



### 3. CURRENT TRENDS AND ACTIVITIES

#### 3.1. Civil society stakeholders

##### 3.1.1. Anti-choice

In Slovakia, a significant increase in opposition against gender equality can be noted since 2013. Most publicly active actors are predominantly Christian religion-affiliated NGOs and the Church itself. They organise numerous lectures, protests, marches, write articles, and publish videos and petition against the “gender ideology” in direct conflict with the traditional family values. One of the essential objectives for these actors is to halt the ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). Traditionally, women’s free choice and the right to abortion is the main target of those groups which, according to them, is a “culture of death”. The main actors are:

- **Conference of Bishops**, which is the head of the Slovak Catholic Church. Conference of Bishops and some priests of the Catholic church are regularly active in efforts to limit the reproductive rights of women. They organised, together in cooperation with Christian-based organisation, “The March for Life”<sup>15</sup>, taking place three times so far, with about 50 thousand participants at each of the marches. Although the aim of the march has always been positively presented to the public - as to “support family”, the request to ban abortions in Slovakia was its main objective.
- Christian religion-affiliated NGOs as **Fórum života (Forum for Life)**<sup>16</sup> and **Aliancia za rodinu (Alliance for Family)**<sup>17</sup> which are the most known anti-choice NGOs in Slovakia. They organise several events as the Day of the conceived child on 25<sup>th</sup> March or a Candle for the unborn child (November 1<sup>st</sup>).

##### 3.1.2. Pro-choice

The pro-choice movement in Slovakia is led by a group of feminist NGOs, particularly **Možnosť voľby** (The Freedom of Choice)<sup>18</sup> which was formed back in 2001 as a platform to protect the legal status of abortion. Latest activities as described below are organised by Možnosť voľby in a coalition with a feminist organisation Aspekt and other feminist and human rights NGOs. However, the financial and personal capacity of those NGOs can hardly be compared to the Catholic Church generously funded via state budget. Možnosť voľby provided MPs with a legal analysis of the current proposals on restricting abortions.<sup>19</sup>

Gynaecologist umbrella organisation has lately presented experts opinion backing the current legal status of abortions and a necessity to introduce medical abortion in Slovakia.

The negative attitude of the current government toward gender equality further limits the financial and personal capacity of women NGOs. Particularly the Minister of Labour, Social Affairs and Family responsible for gender equality in the country, rejects the concept of gender in general<sup>20</sup>. Consequently, the funding scheme by its Ministry supposed to support NGOs working in the field of

<sup>15</sup> <http://www.pochodzazivot.sk>

<sup>16</sup> <https://www.forumzivota.sk>

<sup>17</sup> <https://www.alianciazarodinu.sk/>

<sup>18</sup> <https://www.moznostvolby.sk>

<sup>19</sup> [http://moznostvolby.sk/wp-content/uploads/2020/07/analyza\\_-4-zakony\\_interrupcie\\_-1.pdf](http://moznostvolby.sk/wp-content/uploads/2020/07/analyza_-4-zakony_interrupcie_-1.pdf)

<sup>20</sup> <https://spectator.sme.sk/c/22408264/director-of-gender-equality-department-quits.html>

gender equality has been used to support anti-choice groups this year<sup>21</sup>. No feminist NGO has received any support. With the high load of work and limited access to grants, civil society cannot compete with the well organised Church generously funded by the state budget.

### 3.2. Recent legal proposals to restrict abortions

Despite the historically lowest numbers of undergone abortions and a legally binding decision by the Constitutional Court, eleven proposals have been presented in the National Parliament within last two years aiming to restrict access to legal abortion in Slovakia<sup>22</sup>. Proposals during the previous election period were focused on

- Nullification the possibility of the woman's free choice to undergo abortion within the first 12 weeks of the pregnancy proposed by the far-right party.
- Allow undergoing abortion only if there is a threat to health or life, incorrect genetic development of the embryo or the pregnancy as a result of a severe crime.
- Prohibition of undergoing abortion for foreign women without a permanent residence in Slovakia.
- Shortening the legal limit to 8 weeks. A proposal, presented by the current Minister of Labour, Social Affairs and Family, limited the possibility of abortion until the heart rate of the foetus can be identified.
- Forcing women to undergo several procedures like obligatory listening to the heartbeat of the foetus under the ultrasound.
- Obligatory information provided to women which should include very emotional and non-evidence-based info, and exaggerated description about the risks of the procedure.

None of the proposals was adopted. During the election campaign in late 2019, abortion debate was marginalised. However, shortly after the formation of a new Slovak government, and despite the COVID-19 crisis, four further legislative amendments were presented in the Parliament.

**Proposals no. 144 and no. 143** submitted by deputies of the far-right party Kotlebovci - Ľudová strana proposed to ban abortions on request. At the same time, the applicants proposed to allow abortions only in cases, if a woman's life is endangered; if there is a reasonable suspicion that the woman has become pregnant as a result of a criminal offence or if the development of the foetus genetically defective and the pregnancy does not exceed 24 weeks (de facto the Polish way). Alternatively, the submitters proposed to shorten the time limit for performing an abortion upon request from the current 12 weeks to 8 weeks. Both proposals were not approved for further negotiations but still caused a political controversy when some MPs of the governing coalition voted with the far-right party.

**Proposal no. 145** submitted by a group of 3 male deputies of the National Council proposal amended the written information mandatorily provided to women seeking abortion so that doctors would provide medically inaccurate and biased information. For example, the proposal incorrectly combined abortion with severe abortion psychological consequences or an increased risk of breast cancer and infertility. The proposed text of the written information portrayed abortion as harmful and dangerous. Furthermore, it introduced an obligation for doctors to ensure that the woman undergoes an ultrasound examination in which the doctor shows the pregnant woman developing embryo or foetus and explains its vital functions.

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<sup>21</sup> <https://spectator.sme.sk/c/22505497/ngos-close-to-an-author-of-stricter-abortion-law-received-funds-for-gender-equality.html>

<sup>22</sup> <https://spectator.sme.sk/c/22265563/stop-the-attempts-to-restrict-womens-rights-activists-say.html>

This proposal was not approved for further negotiations.

**Proposal no. 154** groups of MEPs OLANO amending and complements the Health Care Act and the Abortion Act. The draft, submitted by a group of OLANO MPs leading with Anna Záborská, proposed initially:

- **to double the obligatory waiting period between requesting and performing an abortion from current 48 to 96 hours.** Such a prolonged waiting period would shorten the time limit for legal abortion and bring unnecessary burden to women. Furthermore, the World Health Organization (WHO) considers mandatory waiting times to be "questioning women as persons able to make informed decisions" and recommends that states wait times removed to "ensure the provision of abortion in a way that respects the decision-making abilities of women".<sup>23</sup>
- **to oblige the woman to provide a reason for abortion, the personal situation in her household, and a family planning method used before the pregnancy.** Such information would then be passed on to the National Health Information Centre (NCZI) which collects statistics about health care in Slovakia. Even though it should be only for statistical purposes, such a comprehensive report about the private sphere could intervene with the right to privacy for a woman.
- **In a case of an abortion for a health reason to require a compulsory second medical opinion paid by health insurance.** In some regions where the access to reproductive health services or geneticist is limited or the waiting time is relatively long could such an obligation leads to late-term abortions. Following the negotiations in the NP, this obligation has been changed. The new proposal ensures the right for a woman to require a second opinion (which is already a standard).
- **To extends the scope of the written information** that a doctor is obliged to provide to a woman as part of the instructions prior to informed consent; the gynaecologists could hand over to the woman the written information prepared civic association, a non-profit organization, foundation, church or religion. Such a statement could be strongly biased with the aim to prevent the woman from undergoing an abortion.
- **To ban any information and advertisement about the provision of abortion.** This proposal conflicts with the right to information, particularly in regions where abortion provides are rather limited. The proposal may, in practice, also lead to the restriction of access to professional and unbiased information on abortion care, the right to freedom of expression, as well as the rights of consumers for information.<sup>24</sup>
- to introduce into the legal order a biased **terminologically of "unborn child" and the resulting phrase "conceived unborn child had been killed"** child.

The proposal further introduced some changes in the provision of social services and financial incentives for pregnant women which allows the authors to argue that the amendments are meant to help and protect women. The MPs failed to vote on the amending proposals after the obstructions by the liberal party SaS and some other MPs that occurred on September 29 repeated a day later. The National Parliament shall decide on the proposal later in October.

<sup>23</sup> In: Možnosť voľby: Analysis of the 4 motions tabled in connection with efforts to limit women's access to abortion to the July 2020 meeting of the National Council of the Slovak Republic (Proposals No. 154, No. 145, No. 143 and No. 144)

<sup>24</sup> *ibid*

When voting on the proposal later in October, the National Council did not approve the bill by one missing vote. However, just after the vote, the leading MP behind the amending proposal, Anna Záborská, said she would re-introduce it as soon as administratively possible.

### 3.2.1. Response by the civil society and experts

Civic organisations and experts opposed the new restrictions which, they argue, would introduce an unnecessary burden to many women and put their health at risk. Equally, they called for a demonstration to oppose the restrictions, with a wide international supporting.

**Council of Europe's Commissioner for Human Rights Dunja Mijatović** has warned against the planned changes, claiming that it will introduce restrictions on accessing safe and legal abortion services. In her opinion, the proposed measures are at odds with the guidelines of the WHO and other international organisations.<sup>25</sup> CoE's initiative was followed by medical expert organisations as FIGO<sup>26</sup> and FIAPAC<sup>27</sup>. Furthermore, several Slovak and international **human rights organisations** have been calling on Slovak MPs to not limit reproductive rights in Slovakia. Altogether 111 international non-governmental organisations addressed an open letter to Slovak MPs in early September<sup>28</sup>, expressing their deep concern regarding current threats to reproductive rights in Slovakia. "Our organisations are deeply concerned by these proposals," the letter reads. "If adopted, they will harm women's health and well-being and contravene international public health guidelines, clinical best practices and Slovakia's international human rights obligations."<sup>29</sup>

Slovak non-governmental organisations promoting human rights under the lead of Možnosť voľby have organised a protest, bringing wooden spoons from various materials and with various mottos<sup>30</sup> to support women since the street demonstration has been limited during the COVID-19 pandemic. Furthermore, they provided MPs with a legal analysis of the presented proposals and asked to reject them and further protect free choice of women in the country.

SaS MP and chair of the parliamentary health committee Jana Bittó Cigániková accompanied by the SaS MEP Lucia Ďuriš Nicholsonová and two leading gynaecologists came up with a proposal to introduce the medical abortion to the draft as an alternative to surgical abortion. They called Ministry of Health to legalise the procedure to allow Slovak women highest medical standards possible.

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<sup>25</sup> <https://spectator.sme.sk/c/22499540/parliament-postpones-vote-on-proposed-abortion-rules.html> The latest opinion polls show that only a majority of the Slovak population supports the current law and are opposing to stricter abortion regulations.

<sup>26</sup> <http://moznostvolby.sk/medzinarodna-federacia-pre-gynekologiu-a-porodnictvo/>

<sup>27</sup> <http://moznostvolby.sk/fiapac/>

<sup>28</sup> <http://moznostvolby.sk/111organizacii/>

<sup>29</sup> <https://spectator.sme.sk/c/22483573/concerns-about-reproductive-rights-go-international-as-mps-prepare-to-vote-on-abortion-laws.html>

<sup>30</sup> <https://spectator.sme.sk/c/22487925/wooden-spoons-return-to-the-streets-to-oppose-stricter-abortion.html>

## 4. CONCLUSIONS AND RECOMMENDATION TO EUROPEAN PARLIAMENT

Because of the fact, that the domain of health is a responsibility of Member States (MS), the mandate of European institution on SRHR is rather limited. However, this problem is much broader than only a question of health. SRHR are covering the fundamental rights of women and men to family planning which is an essential and inherent part of the right to privacy and family life. Furthermore, for women, it is intricately connected with human rights to self-determination, non-discrimination, and equal treatment. Those are all domains where the Lisbon Treaty gives the EU power to interfere with the national policies.

In my opinion, besides the recommendations subsumed in Box 1 and Box 2, the FEMM committee and the European Parliament should:

- Recall non-discrimination and gender equality principles and the respect for rights embedded in the **Charter of Fundamental Rights** as the right to dignity, the integrity of the person, prohibition of torture and inhuman or degrading treatment, right to liberty and security of person, respect for private and family life, freedom of religion and equality between men and women to safeguard the personal integrity and free choice of women across EU.
- Pay attention and monitor how the MS implement the **international human rights treaties** recommendations, in this case, particular those by the CEDAW committee.
- Call for the MS to guarantee consumer rights, the free movement of goods and the right to the high level of human health protection to uphold the equal access of women to **medical abortion across the EU especially during the COVID-19 pandemics** as a more secure way for women seeking an abortion.
- Pay attention to the **situation of civil society**, particularly women's NGOs in their advocacy role and ensure that they can access EU funds including those by the European Social Fund in the new programming period, the Rights, Equality and Citizenship Programme and other funding schemes.

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## ANNEX

### I. Committee on the Elimination of Discrimination against Women

Concluding observations on the combined fifth and sixth periodic reports of Slovakia in the area of health (CEDAW/C/SVK/CO/5-6, 20/11/2015)

30. The Committee is concerned that:

- (a) The adoption of a comprehensive programme on sexual and reproductive health and rights has been long pending, despite the fact that, rates of teenage pregnancy and infant mortality are high and infection of sexually transmitted diseases, including HIV/AIDS, is increasing;
- (b) Cost of modern forms of contraception for the purpose of preventing unintended pregnancies and abortion on request are not covered by the public health insurance;
- (c) An amendment to the Healthcare Act in 2009 introduced a mandatory 48-hour waiting period, compulsory counselling and in case of girls under 18 years old, parental consent prior to abortion and the duty of doctors to report each case where a woman is seeking abortion to the National Health Information Centre with personal details;
- (d) In more than one third of the districts legal abortion is unavailable and in four of these districts it is unavailable due to conscientious objection;
- (e) Oversight procedures and mechanisms for ensuring adequate standards of care and the respect for women's rights, dignity and autonomy during deliveries are lacking, and options for giving birth outside hospitals are limited;
- (f) Roma women are segregated from other patients in maternity hospitals.

31. The Committee recommends that the State party:

- (a) Adopt and implement, without further delay, a comprehensive programme on sexual and reproductive health and rights which is in line with the 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; conduct research to identify the root causes of the high rates of infant mortality and teenage pregnancy as well as of the increase of sexually transmitted diseases; and ensure free, active and meaningful participation of women's organizations, in particular those working on women's sexual and reproductive health and rights, in the development, implementation and monitoring of such programme;
- (b) Revise relevant legislation and ensure universal coverage by the public health insurance of all costs related to legal abortion, including abortion on request, as well as modern contraceptives for the prevention of unwanted pregnancy;
- (c) Revise the Healthcare Law as amended in 2009 to ensure access to safe abortion and remove the requirement for mandatory counselling, medically unnecessary waiting periods, and third-party authorization, in line with the recommendations of the World Health Organization;
- (d) Ensure unimpeded and effective access to legal abortion and post-abortion services to all women in the State party, including by ensuring mandatory referrals in case of conscientious objections by institutions, while respecting individual conscientious objections;

- (e) Ensure 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;
- (f) Ensure 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;
- (g) Put in place adequate safeguards to ensure that women have access to appropriate and safe child birth procedures which are in line with adequate standards of care, respect for women's autonomy and the requirement of free, prior, informed consent;
- (h) Monitor and sanction segregation of Roma women in hospitals and clinics, including maternity hospitals.

32. The Committee welcomes the adoption of binding regulations by Decree of the Ministry of Health No. 56 of 23 October 2013, detailing the procedure to ensure the free, prior and informed consent of the woman concerned before performing a sterilization and requiring the distribution of sample forms of informed consent in the national language as well as in the languages of national minorities. Nevertheless, the Committee remains concerned that:

- (a) There is no systematic monitoring of the implementation of the Decree of the Ministry of Health No. 56 and other relevant legislation on the prohibition of forced sterilization;
- (b) Roma women are not aware of their rights and ways to seek for redress in case of sterilization without informed consent, including those occurred in the past;
- (c) There are some cases of forced sterilization pending at national courts for long periods of time, which indicates inability of the justice system to provide appropriate, effective and gender-sensitive remedies in a timely manner.

33. The Committee recommends that the State party:

- (a) Systematically monitor public and private health centres, including hospitals and clinics, which perform sterilization procedures so as to ensure their full compliance with national legislation and regulations on prohibition of forced sterilization, and impose appropriate sanctions in the event of a breach;
- (b) Provide systematic and regular training to all relevant personnel in public and private health centres, on how to ensure free, prior and informed consent for medical interventions in the field of women's reproductive health, including sterilization, in line with the Convention and the Committee's general recommendations No. 19 on violence against women and No. 24 on women and health;
- (c) Take measures to raise awareness among Roma women on their sexual and reproductive rights as well as on ways to seek redress in cases of violation, including with regard to cases which occurred in the past;
- (d) In line with the Committee's general recommendation No. 33 on women's access to justice, ensure that complaints filed by Roma women against forced sterilization are duly acknowledged and that victims of such practices have access to remedies and redress that are adequate, effective, promptly granted, holistic and proportionate to the gravity of the harm suffered.





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This paper, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the FEMM Committee, provides basic information on access to abortion services in Slovakia.

The legal status of abortions in the country is under permanent pressure despite the legally binding decision by the Constitutional Court back in 2007 which ensuring women's right to free choice. Eleven proposals to restrict abortion have been presented in the National Parliament, in the last two years. Medical abortion is not available in the country, and together with conscientious objection applied in health services and current COVID-19 pandemics access to abortion services is further limited.

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