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

7 September 2020

Dear Members of the National Council of the Slovak Republic,

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

At this time Parliament is debating draft legislation¹ that if adopted would impose new barriers to accessing lawful abortion care, harm women's² health and well-being, and undermine their decision-making and privacy. It would also force doctors to act in conflict with their professional obligations to their patients. If enacted, the legislation will create dangerous chilling effects on the provision of lawful abortion care in Slovakia, and increase the harmful stigma surrounding abortion.

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

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

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

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

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

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

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

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

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

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

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

Yours sincerely,

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

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

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

Sex og Politikk, Norway

SEX vs The STORK Association, Romania

Society for Education on Contraception and Sexuality, Romania

Society for Feminist Analyses AnA, Romania

Society Without Violence, Armenia

Swedish Association for Sexuality Education (RSFU), Sweden

UK All Party Parliamentary Group on Population, Development & Reproductive Health, UK

Union Women Center, Georgia

Vrouwenraad, Belgium

VUB Dilemma, Belgium

Women's Aid, Ireland

Women for Women's Human Rights (WWHR) - New Ways, Turkey

Women Global Network for Reproductive Rights

Women's Link Worldwide

Women on Waves, Netherlands

Women on Web, Canada

Women's Resource Center, Armenia

Women's Rights Center, Armenia

Women's Room - Center for Sexual Rights, Croatia

Women Spaces Africa, Kenya

YouAct - European Youth Network on Sexual and Reproductive Rights

Youth Coalition for Sexual and Reproductive Rights

³ World Health Organization (WHO), SAFE ABORTION: TECHNICAL AND POLICY GUIDANCE FOR HEALTH SYSTEMS (2d ed. 2012), at 64. ⁴ See, e.g., Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 22 on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights), para. 41, E/C.12/GC/22

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

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

^{(2016);} Committee on the Elimination of Discrimination against Women (CEDAW), *Concluding Observations: Hungary*, para. 31(c), CEDAW/C/HUN/CO/7-8 (2013); *Slovakia*, para. 31(c), CEDAW/C/SVK/CO/5-6 (2015); *Russian Federation*, paras. 35(b), 36(a), CEDAW/C/RUS/CO/8 (2015); *Macedonia*, para. 38(d), CEDAW/C/MKD/CO/6 (2018); Committee on the Rights of the Child,

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

- ⁵ Tysiąc v. Poland, No. 5410/03 Eur. Ct. H.R., para. 116 (2007).
- ⁶ R.R. v. Poland, No. 27617/04 Eur. Ct. H.R., para. 200 (2011).
- ⁷ WHO, SAFE ABORTION: TECHNICAL AND POLICY GUIDANCE FOR HEALTH SYSTEMS (2d ed. 2012), at 96.
- ⁸ WHO, SAFE ABORTION: TECHNICAL AND POLICY GUIDANCE FOR HEALTH SYSTEMS (2d ed. 2012), at 21, 32.
- ⁹ WHO, SAFE ABORTION: TECHNICAL AND POLICY GUIDANCE FOR HEALTH SYSTEMS (2d ed. 2012), at 36, 64.
- ¹⁰ WHO, SAFE ABORTION: TECHNICAL AND POLICY GUIDANCE FOR HEALTH SYSTEMS (2d ed. 2012), at 96-97.

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

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

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

¹⁴ While the draft legislation states that this information would be collected for statistical purposes, it would still be a breach of women's privacy to require them to fill in this information and provide reasons for abortion prior to receiving abortion care. ¹⁵ CEDAW, *Concluding Observations: Slovakia*, para. 31(f), CEDAW/C/SVK/CO/5-6 (2015). *See also* CESCR, *Concluding Observations: Slovakia*, para. 42(d), E/C.12/SVK/CO/3 (2019).

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