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Mr Boris KOLLÁR

Speaker of the National Council of the Slovak Republic

Mr Marek KRAJČÍ

Chair of the Healthcare Committee of the National Council

Mr Milan VETRÁK

Chair of the Constitutional Affairs Committee of the National Council

Mr Peter POLLÁK

Vice-Chair of the Committee on Human Rights and National Minorities of the National Council

Strasbourg, 6 June 2023

Dear Speaker, dear members of the National Council,

On several occasions I have written to the National Council of the Slovak Republic, as part of my mandate to engage in dialogue with member states' governments and parliaments, and to assist them in ensuring compliance with human rights in their laws and practices. Today, I write to you specifically about the proposed law to establish a one-time financial compensation mechanism for persons who were unlawfully sterilised (print no. 1593), which will receive its second reading soon.

I welcome the efforts undertaken by the National Council to deliver justice to victims of forced sterilisation, and the widespread support, by members of different parties, for the establishment of a compensation mechanism at first reading.

As I [wrote](#) to the Slovak government in 2021, the establishment of a compensation mechanism would be a very important step to address those past practices that constitute serious human rights violations, as also found by the [European Court of Human Rights](#). The current legislative process offers a historic opportunity to finally address this long-standing injustice. It is crucial to ensure that the future compensation mechanism effectively delivers to victims the reparations to which they are entitled.

The Council of Europe's Committee of Ministers 2011 [Guidelines on eradicating impunity for serious human rights violations](#) reiterate that member states should take all appropriate measures to establish accessible and effective mechanisms which ensure that victims receive prompt and adequate reparation for the harm suffered. With this in mind, I would like to offer some observations that will hopefully help you strengthen the current law proposal. These observations follow from my Office's work on the issue of forced sterilisations in the Slovak Republic over two decades, as well as my work in other member states, including on the implementation of the compensation mechanism in [the Czech Republic](#).

Firstly, while no amount of financial compensation can undo the victims' mental or physical suffering, the amount awarded must adequately reflect and recognise the harm inflicted. In this respect, I note that the proposed compensation sum is significantly below that awarded to victims by the European Court of Human Rights and by domestic courts in the Slovak Republic in relevant cases.

Secondly, the evidence to be presented by applicants must be identified clearly, flexibly, and with a standard that is reasonable in the specific circumstances. Experience shows that an over-reliance on medical records as evidence of unlawful sterilisation must be avoided. All too often, such records have been lost, destroyed or are otherwise inaccessible. I note that the law proposal allows for other documents to be submitted as evidence. This is welcome, but clear guidance for both applicants and decision-makers on what such other evidence might be and how it is assessed is necessary. It is also important that the

burden of providing such evidence does not fall disproportionately on victims. I have found that victims can be at significant risk of re-traumatisation when they have to pursue evidence. I am glad to note that the law proposal allocates a responsibility to the authorities for obtaining further relevant medical records. However, given what is known about the historical occurrence of forced sterilisations, I invite the members to consider introducing into the law a specific legal presumption that an applicant is a victim, especially in those cases where documentary evidence is not or no longer available.

Thirdly, claiming compensation is a difficult process for many victims. It often takes considerable time for victims to put forward their claims, either because of the stigma involved in making a claim, due to practical issues, or because they are not sufficiently aware of the possibility. Therefore, the proposed running period of two years may be too short to allow all victims to make a compensation claim. I note with satisfaction that the law proposal foresees providing legal assistance to victims. To ensure sufficient awareness of the existence of the mechanism and the way to make an application, the establishment of an information campaign, including in relevant minority languages in view of the high number of victims being Roma, would be very helpful.

Fourthly, it is vital that the authorities charged with assessing and deciding on applications for compensation have specific experience and knowledge of dealing with victims and of administering compensation claims. They should also be provided with sufficient human resources to deal with claims in a timely and effective manner. Members may also want to consider setting up arrangements for the monitoring of the implementation of the mechanism by the National Council, so that it can ascertain at regular intervals that the mechanism is operating as intended by those who have legislated for it.

Finally, I note that close engagement during the legislative process with the victims of forced sterilisations, and civil society organisations supporting them, is crucial to ensure that the proposed law meets their needs and is able to deliver justice for them. Similarly, I encourage members to ensure that the views of national institutions, in particular the Public Defender of Rights and the Slovak National Centre for Human Rights, as well as those of international bodies such as the UN [Committee against Torture](#) (CAT) and the UN [Committee on the Elimination of Discrimination against Women](#) (CEDAW), are fully taken into account during the legislative process.

I hope that my observations will help you in your upcoming discussions about possible changes to the proposal, and that these will result in a strong, accessible and effective compensation mechanism, which would provide those affected with a much-needed measure of justice.

I kindly ask you to share a copy of this letter with the members of your respective committees, and those of the National Council as a whole.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dunja Mijatović', with a large, stylized initial 'D'.

Dunja Mijatović