

Ref: CommHR/DM/sf 041-2019

**Mr Andrej DANKO**

Speaker of the National Council of the Slovak Republic

**Mr Róbert MADEJ**

Chairperson of the Constitutional and Legal Affairs Committee

**Mr Štefan ZELNÍK**

Chairperson of the Committee on Health Care

Strasbourg, 22 November 2019

Dear Speaker, dear Chairpersons, dear members of the National Council of the Slovak Republic,

As Council of Europe Commissioner for Human Rights, my mandate is to foster effective observance of human rights in all 47 member states of the Council of Europe. To this end, an important part of my work is to engage in dialogue with the governments and parliaments of member states, to assist them in addressing possible shortcomings in their laws or practices. As part of my mandate, I consider the protection of women's rights, including their sexual and reproductive health and rights, a priority.

In view of this priority, I would like to share with you some concerns regarding the *Draft Law amending and supplementing Act No. 576/2004 Coll. on health care, services related to the provision of health care and amending certain acts as amended, and which amends and supplements certain acts* (Print No. 1729, introduced on 27 September 2019). It is my understanding that this proposal, if passed, would require women seeking an abortion to undergo a mandatory ultrasound and to view and receive images from that ultrasound, and require them, where technically possible, to listen to the 'heartbeat of the embryo or the foetus'. The proposal would also introduce a ban on 'advertising' on abortion, with those ordering or disseminating such advertising liable for a fine of up to € 66,400.

I am concerned that, if adopted, these amendments would not be in line with international human rights law. In particular, they would run counter to the principle of non-retrogression, which prohibits any measures that diminish existing rights in the field of health. This includes measures that restrict, in law or in practice, women's access to safe and legal abortion services.

In relation more specifically to the proposed provisions on mandatory ultrasounds and the requirement for a woman to view images and listen to the 'heartbeat of the embryo or the foetus', I stress that in line with international human rights standards and World Health Organization's guidelines, abortion counselling should never be mandatory, biased or directive. Even if the latter requirement of listening to the 'heartbeat of the embryo or foetus' was removed from the draft law, as discussed in the Constitutional and Legal Affairs Committee, the remaining requirements would, in my view, not be in compliance with those standards. In relation to the prohibition of 'advertising' of abortion, I stress that such a prohibition could prevent health care professionals from providing public information on safe abortion services, and impede women's access to freely available, evidence-based and unbiased information on their sexual and reproductive health and rights.

I note that concerns about mandatory counselling, access to evidence-based information, and autonomous decision-making by women were also put forward by the UN Committee on the Elimination of Discrimination Against Women (CEDAW) in 2015. Just this month, the UN Committee on Economic, Social and Cultural Rights (CESCR) reiterated concerns about the "multiple barriers to sexual and

reproductive health services” in Slovakia, calling for the prohibition of biased or medically unsound information impeding women’s access to such services, and for the avoidance of any retrogression. Rather than addressing these concerns, the current amendments appear likely to exacerbate them.

When considering the current amendments, or any future related legislation, you may find the Issue Paper *Women’s sexual and reproductive health and rights in Europe*, which my Office published in 2017, to be a helpful tool ([www.coe.int/commissioner/women-s-sexual-and-reproductive-rights-in-europe](http://www.coe.int/commissioner/women-s-sexual-and-reproductive-rights-in-europe)). It sets out the principles and standards mentioned above and provides detailed recommendations for their implementation regarding access to safe and legal abortion services. The Issue Paper also contains recommendations on the provision of comprehensive, age-appropriate and scientifically accurate sexuality education, and on ensuring the affordability and accessibility of effective contraceptive methods. Implementing these recommendations would contribute significantly to the prevention of unintended pregnancies in a way that protects women’s sexual and reproductive rights.

Preventing women from accessing safe and legal abortion care jeopardises their human rights. I therefore call on the National Council of the Slovak Republic to reject this legislative proposal and any other legislative proposals that could limit women’s access to their sexual and reproductive rights. I also urge you to ensure that all laws and policies affecting women’s sexual and reproductive health and rights are fully in line with applicable European and international standards to which the Slovak Republic is bound, as set out in the above-mentioned Issue Paper. Any regulation of access to sexual and reproductive health services must respect the human rights of women, including their rights to privacy, autonomy, personal integrity, evidence-based and unbiased information, and should be guided by the principle of informed consent.

I would be grateful if you could ensure that all members of the National Council of the Slovak Republic receive a copy of this letter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Dunja Mijatović', with a stylized flourish at the end.

Dunja Mijatović