

The Slovak Republic

1. Discrimination in the family

a) Overarching legal framework for marriage

Law on family and marriage is overseen by the Ministry of Interior (CEDAW, 2014: 69). According to the Slovak Family Act No. 36/2005, marriage is defined as a union explicitly between a woman and a man (art. 1). Women and men enjoy the same rights to freely enter marriage without any coercion (arts. 14 and 17). Forced marriage is treated as a form of trafficking in human beings and is criminalised (art. 179, par. 1 and 2 of the Criminal Code). Informal unions are not recognized by law, and few provisions (arts. 1, 2, and 4) govern future spouses' pre-marriage obligations (Dobrovodsky, 2015: 2). All marriage applications must be filed with the national civil registry office. Authentication of matrimony must be stated before a church or civil authorities, in the presence of two witnesses. The religious body or state authorities are equally valid.

Both parents share joint parental rights and obligations, regardless of whether the child is born to parents who are married, separated or divorced. Only under serious circumstances will a parent be deprived (or restricted) of this right (art. 38, par. 4 of the Family Act). Additionally, marriage, parenthood and the family are under the protection of the law. Special protection of children and minors is guaranteed (art. 41, par. 1).

The Constitution of the Slovak Republic No. 460/1992, stipulates basic rights and liberties to everyone regardless of sex (art. 12), and guarantees everyone the right to protection against unauthorized interference in private and family life (art. 19, par. 2). Under the Civil Code No. 13/2009, spouses have equal ownership rights of marital property, except the property acquired before marriage, inherited property and gifts (CEDAW, 2014). Women and men must regulate their property (individually or jointly) before entering a marriage (arts. 6 or 9 of the Family Act). To legally administer property during marriage, both spouses must agree.

b) Child marriage

According to the Convention on the Rights of the Child (2006) (CRC), which Slovakia has ratified but not signed (UNTC, 2017), the legal minimum age of marriage is 18 for both sexes. In exceptional cases, persons not younger than 16 may enter marriage with the permission of the court and consent of both parents (art. 194 of the Civil Code and art. 13 of the Family Act). The Slovak Republic has cosponsored the 2017 Human Rights Council resolution to end child marriage (Girls Not Brides, 2017).

In the 2011-2015 period, victims of forced marriage were women. Early births and pregnancies remain the most prevalent amongst the Roma inhabitants, particularly in the east Slovakian self-governed regions and central-south Slovakia (European Commission, 2016: 2).

c) Household responsibilities

The rights and duties of spouses appear to be de jure equal. Ownership rights, mutual duty of maintenance, and joint property relationships of spouses are regulated by both the Slovak Family Act 2005 and the Slovak Civil Code 2009 (Dobrovodsky, 2015: 1).

Article 115 of the Slovak Civil Code 2009 and the Supreme Court decision of Czechoslovakia No. 34/196 both define the household as a common society. If both spouses live in a matrimonial household, the possibility of establishing that household with another person is de facto excluded. In general, marriage and family have had a high status in the State, but women still bear most of the burden for the upbringing and care of children and housework compared to men (CEDAW, 2014: 76).

Everyone has the right to freedom of movement and domicile (art. 23, par. 1 and 2 of the Constitution).

d) Divorce

Women and men have equal rights to initiate divorce. Upon divorce, the parents may arrange for contact with minor child/children, which must be approved by the court (art. 25 of the Family Act). If an agreement is not reached, the court determines how the rights and obligations will be exercised (art. 36, par. 1 of the Family Act), including custody of minor children (arts. 24, 25, and 26 of the Family Act). Mediation (Ac No. 420/2004) is allowed as an out-of-court resolution for disputes pertaining to divorce and child custody.

Termination of a marriage leads to the division of the community of property regime (art. 148 of the Civil Code). Matters are settled in accordance with the principles set out in the Community of property of spouses of the Civil Code 2009 (arts. 143-150), particularly article 150. Settlements include: (a) agreement; (b) judicial decision; (c) the lapse of a period (European Justice, 2016). Assets, deposits and claims are considered co-ownership and the shares are equal (art. 149 of the Civil Code).

Division between property, land or assets may be settled by the courts if an agreement cannot be reached between the partners. The judge may rule upon any matter except for awarding sole custody. A single parent may only have sole custody if the other parent is dead, does not have legal capacity or has been deprived of their parental rights and obligations (Dobrovodsky, 2015).

Divorce rates have increased and the structure and size of families have shifted. Most families now make up a single woman with child/children and single mothers are most vulnerable to face the risk of losing their home (CEDAW, 2014: 74-76).

e) Inheritance

Surviving spouses and children enjoy equal rights to inheritance, irrespective of their sex (art. 473, par. 1 and 2 of the Civil Code). The right of a surviving spouse is mandated in the provisions of the Slovak Civil Code 2009 regulating the statutory devolution of successions (art. 473 et seq), based on four groups divided into heir classes. Succession may be based on a will (art. 461 of the Civil Code). If the will is contrary to statutory requirements, it is voidable (art. 479 Slovak Civil Code). There does not appear to be de facto discrimination.

2. Restricted Physical integrity

a) Violence against women

The Slovak Republic has signed but not yet ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (“Istanbul Convention”) (Council of Europe, 2017; European Commission, 2016: 3).

The Slovak Republic has no violence against women law but does criminalise numerous forms of violence. According to the Criminal Code Act No. 300/2005, physical, emotional, economic and psychological abuse of victims is covered (art. 208).

In 2013, the State developed the National Strategy, the National Action Plan (NAP) for the Prevention and Elimination of Violence Against Women (2014-2019) to improve the country’s response to violence against women. Despite the NAP’s (2014-2019) numerous benchmarks and initiatives to develop a more comprehensive domestic violence legislation and programs, Slovakia does not yet meet international standards for a collective and productive national response to violence against women (The Advocates for Human Rights, 2014). The NAP is supposed to allocate at least EUR 12 million toward a coordinated national response to eliminating violence against women through 2019 (NAP for the Prevention and Elimination of Violence Against Women, 2014-2019).

According to UN Women’s global database on violence against women (2016), from 2001 to 2009 there were voluntary trainings for judges on violence against women. The trainings have been organized by the Ministry of Justice, in collaboration with non-governmental organizations (NGOs). No data is available regarding the number of judges trained. Additionally, between 2005 and 2008, the Police Force Academy published several educational texts which focus on the methodology of investigating domestic violence, to raise public awareness and educate students of the Police Force Academy.

The Act on social services No. 448/2008 includes gender based violence as a situation of social crisis. The Ministry of Labour, Social Affairs and Family established a 24/7 free helpline to provide support to women experiencing violence and seeking assistance. The Coordination- methodical centre for gender-based violence and domestic violence, co-financed by grants from the Norway Grants and Slovak Government, was established to assist victims.

b) Domestic violence

Domestic violence is a criminal offense. Criminal penalties for domestic violence range between 3 to 8 years’ imprisonment (art. 208 of the Criminal Code). Sexual violence could apply to cases of sexual domestic violence as well (arts. 200-202 of the Criminal Code).

In 2008, the Slovak Law on the Amendment of the Police Force entered effect and it introduced into the Slovak legal system the authority of police officers to make use of a restraining order and to expel a violent person from the common household (Dobrovodsky, 2015: 1).

Domestic violence is widespread continues to be a problem for women, particularly because of the social stigma attached to being a victim (U.S. State Department, 2016).

c) Rape

Rape is prohibited under art. 199 of the Criminal Code. Rape includes ex-spouses and cohabitants (art. 127). The State prohibits rape or sexual violence through force, the threat of force, or taking advantage of 'a woman's helplessness.' Punishment for perpetrators range from seven and 25 years' imprisonment (art. 199).

Punishment includes aggravating factors and carry longer prison sentences (art. 127, par. 5 and art. 199, par. 2 of the Criminal Code). Victims of violent crime (rape, sexual assault, and sexual abuse) are entitled to compensation for non-material harm (Act No. 262/2011 Amending Act. No. 301/2005 of the Criminal Code) (CEDAW, 2014: 29).

According to NGO's and academics, rape is underreported and police officers sometimes failed to enforce the law effectively (U.S. State department, 2016).

d) Sexual harassment

Sexual harassment is defined as unlawful discrimination (U.S. State Government, 2016). The definition on sexual harassment does not specifically cover the workplace, educational establishments, sporting establishments or public places; "Sexual harassment shall mean verbal, non-verbal or physical conduct of a sexual nature whose intention or consequence is or may be a violation of person's dignity and which creates an intimidating, degrading, disrespectful, hostile or offensive environment" (art. 2a of the Anti-discrimination Act).

The Act on Equal Treatment in Certain Areas and Protection against Discrimination No. 365/2004 (Anti-discrimination Act), prohibits direct or indirect discrimination based on sex, harassment, sexual harassment, or victimization of a person based on sex (arts. 2, 5, and 6). Victims may seek civil remedies, including monetary redress (art. 9).

Article 360a of the Criminal Code penalizes stalking, or long-term harassment that puts a woman in fear for her life or health, or that of her children, or that "significantly impairs" her quality of life (The Advocates for Human Rights, 2014).

e) Female genital mutilation

There is no specific legislation on female genital mutilation (FGM). According to the European Institute for Gender Equality (EIGE) (2016), this is likely due to the low number of women coming from countries where FGM is practiced. However, FGM could be treated as a crime according to the general provisions of the Criminal Code, such as acts of bodily injury can be used (arts. 123, 155 and 156). FGM may also be applicable if abuse is caused to a close person, causing physical or mental suffering (art. 208). The principle of extraterritoriality is applicable, making FGM punishable even if it is committed outside the country.

The topic of FGM is supposed to be covered in the Annual Report on Violence Against Women in Slovakia. In conjunction with The Office of the United Nations High Commissioner for Refugees (UNHCR) and the African Cultural Centre in Slovakia, inquiries will be taken to estimate how many women are at risk of FGM (EIGE, 2016).

f) Abortion

In accordance with the Act on Artificial Interruption of Pregnancy No.73/1986 (Abortion Act), women may seek abortion through a written request, before the twelfth week of pregnancy (art. 4). Exceptions are made for gestation over 12 weeks, including: to preserve the health of the woman, due to foetal inviability, to save a woman's life, eugenic reasons and in cases of rape (art. 5). Gestation over 12 weeks must be reviewed by a medical committee. Women under 16 must receive permission from a parent/guardian and women between 16 and 18 years old must notify their guardian/parent of the procedure (art. 6).

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The Roma women are extremely vulnerable to violence, especially due to the poverty in their communities. This in turn makes them heavily dependent on male partners. Forced marriage is common, and takes on several forms of discrimination, including: beating, abuse, prostitution, and trafficking in women (CEDAW, 2014: 39).

Trafficking in human beings and trafficking for prostitution or another form of sexual exploitation, including pornography, is prohibited (art. 179).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

Women and men enjoy equal ownership rights (art. 20, par. 1 of the Constitution) (art. 123 of the Civil Code). All owners have the same rights and duties and are granted the same legal protections (art. 124 of the Civil Code). Assets may be co-owned by more than one owner and the property may also be jointly owned by partners. Co-ownership may be divided or undivided (e.g. disposal, mortgaging, subletting). Undivided co-ownership may only be conducted between spouses (art. 136, par. 2 of the Civil Code). In cases where co-ownership is divided, there are certain shares in the common asset (art. 137, par. 2 of the Civil Code), which specify the rights and duties of sharing the common asset. Shares of all co-owners are equal (art. 137, par. 2) unless stated otherwise by law.

b) Secure access to formal financial resources

The Antidiscrimination Act 2004 guarantees equal treatment in social security, healthcare, provision of goods and services, and in education (art. 5). Additionally, under the Consumer Protection Act, when providing goods and services to consumers, the seller has the obligation to comply with the principle of equal treatment stipulated in the Antidiscrimination Act (art. 4).

c) Workplace rights

The Labour Code 2001-2011 stipulates workplace rights for women and men. Maternity and parental leave are covered. A woman is entitled to maternity leave for the duration of 34 weeks, 37 weeks for single mothers or 43 weeks in case of multiple births (Labour Code, Article 166-167). Women are paid 75% of wages during maternity leave, fully funded by the government (Act on Social Insurance, Sections 53, 55). Employers are obliged to provide women with breaks for breast-feeding (Labour

Code, Article 170). Laws penalize the dismissal of employees during their maternity/parental leaves (Labour Code, Articles 64, 68). Parental leave can be taken until the child reach the age of 3 year (Labour Code, Article 166, 169).

According to The European Committee of Social Rights (2015), maternity benefits are not adequate, and the illegal dismissal of pregnant women and women on maternity leave “can be justified by the relocation of activities of the undertaking where they are employed” (5).

The Slovak labour market is among the most vertically segregated labour markets in Europe, meaning that women, despite their increasing participation in leadership and management, remain working in lower positions as opposed to men. Although the level of education in case of women is similarly high, it does not seem to reflect in earning promotions, unlike in the case of men. Poor utilisation of women’s intellectual and political potential is not only a loss for the women themselves but for the entire society (European Commission, 2016: 2).

Due to the large pay gap, the State government has strived for equal remuneration for women and men for work of equal value through the horizontal priority equal opportunities (hereinafter “HP EO”). The objectives of the HP EO include gender equality and equal opportunities for women and men in employment (CEDAW, 2014: 14). The Slovakian National Centre for Human Rights has the responsibility to monitoring compliance, collect discrimination data, provide legal aid to victims, and develop educational programs (art. 2 of the Anti-discrimination Act).

The Slovakian government has pursued gender-based affirmative actions (The Advocates for Human Rights, 2014). The Ministry of Labour, Social Affairs, and Family created the Department of Gender Equality and Equal Opportunities in 2007. The department is responsible for promoting equality and helping the government comply with international conventions (The Advocates for Human Rights, 2014). Since 2011, the Government Council for Human Rights, National Minorities and Gender Equality was responsible for advising and collaborating human rights efforts through various committees. The Committee on Gender Equality works to promote equal opportunities for women in the economy, labour market, education and healthcare (The Advocates for Human Rights, 2014).

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Under the Ministry of Agriculture and Rural Development, gender equality and the elimination of discrimination against women are implemented as a horizontal priority in all operational programmes for the programming period 2007-2013 and in the Rural Development Programme of the Slovak Republic 2007-2013 and the Operational Programme Fisheries of the Slovak Republic 2007-2013 (Co-financed from EU funds) (CEDAW, 2014: 67).

According to CEDAW (2014), the retirement age is 62 for both women and men.

4. Restricted Civil liberties

a) Citizenship rights

Citizenship is granted by the Ministry of Interior of the Slovak Republic. Everyone has the right to acquire nationality (art. 5, par. 1 of the Constitution) change their nationality (art. 12 of the Constitution), and retain their nationality (art. 5, par. 2 of the Constitution). All persons may freely travel in and outside of the country (art. 22 of the Constitution).

According to the Nationality Act No. 418/2000, women and men may equally apply for passports or national identity cards (arts. 8 and 9). Parents have the right to confer nationality to their children (art. 4, par 1) (art. 8 of the Civil Code). Neither the dissolution of a marriage between a national of a State Party and an alien, nor the change of nationality by one of the spouses during marriage, shall automatically affect the nationality of the other spouse (CEDAW, 2014: 43). There are no national ID cards.

Children acquire citizenship by birth to at least one citizen parent, regardless of where the child is born. Children born in and out of wedlock enjoy equal rights (art. 43, par. 3 of the Constitution). Domestic births are recorded at the local vital statistics office (U.S. State Government, 2016).

b) Voting

According to the Inter-Parliamentary Union, the legal age to vote is 18 years of age (Youth Policy, 2014). All citizens have the right to vote and participate in political life (art. 30 of the Constitution).

c) Political voice

Women have the same political rights as men. No legal quotas exist for women on corporate boards, in parliament or in local government. Despite the formal equality (*de jure*) and adoption of important strategic and conceptual documents, it must be noted that inequalities between women and men persist in almost all areas of public and private life in Slovakia (European Commission, 2016: 1).

d) Access to justice

In addition to the Criminal Code 2005, the criminal procedure is governed via Act. No. 301/2005.

The Public Defender of Rights is an independent body which in the scope and in manner laid down by a law shall participate in the protection of the fundamental rights and freedoms of natural persons and legal persons in the proceedings, decision making or inactivity of public administration bodies, if their proceedings, decision making or inactivity is inconsistent with legal order or with principles of a democratic state and rule of law (art. 151a, par. 1 of the Constitution).

The Legal Aid Centre provides the legal aid and security system for natural persons who are unable to make use of legal services to exercise and protect their rights owing to their economic circumstances. The extent of legal aid provided is governed by Act No. 327/2005 on the provision of legal aid to persons in adverse economic circumstances (European Justice, 2016).

Sources

Act on nationality of the Slovak Republic [Slovakia], 40/1993 Coll., 4 December 2012, <http://www.refworld.org/docid/50bddd02.html>.

Act on Social Insurance No. 571/2009 of the Slovak Republic, <http://www.zakonypreludi.sk/zz/2009-571>.

Anti-discrimination Act No. 365/2004 Coll Equal Treatment in Certain Areas and Protection against Discrimination, and on amending and supplementing certain other laws as amended (Antidiscrimination Act). www.snslp.sk/CCMS/files/AntidiskriminacnyZakon_ENG-1.1.2015.pdf.

CEDAW. "The fifth and sixth combined periodic report of Slovakia (CEDAW/C/SVK/5-6)." OHCHR | Committee on the Elimination of Discrimination against Women considers the report of Slovakia, July 2014, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16748&LangID=E>.

Constitution of the Slovak Republic. www.prezident.sk/upload-files/46422.pdf.

Criminal codes - Legislationline, <http://www.legislationline.org/documents/section/criminal-codes>.

European Commission. The EU Mutual Learning Programme in Gender Equality Combating female genital mutilation and other harmful practices United Kingdom, 28-29 April 2016. European Union Rights, Equality and Citizenship Programme (2014-2020)., 2016, http://ec.europa.eu/justice/gender-equality/files/exchange_of_good_practice_uk/sk_final_comments_paper_uk_2016_en.pdf.

European Institute for Gender Equality. "Combating violence against women: Slovakia." EIGE, 27 June 2017, <http://eige.europa.eu/rdc/eige-publications/combating-violence-against-women-slovakia>.

European Justice. "Divorce - Slovakia." European e-Justice Portal - Family matters, European Judicial Network in civil and commercial matter, Apr. 2016, <https://e-justice.europa.eu/home.do>.

European Justice. "Parental responsibility - Slovakia." European e-Justice Portal - Family matters, European Justice Network in civil and commercial matters, Oct. 2016, <https://e-justice.europa.eu/home.do>.

Excerpt from the Civil Code of the Slovak Republic. <http://ceflonline.net>.

Girls Not Brides. States adopt first-Ever resolution on child, early and forced marriage at Human Rights Council - September 2013. Girls Not Brides and the Office of the High Commissioner for Human Rights of the United Nations, 7 July 2017, <https://www.girlsnotbrides.org/states-adopt-first-ever-resolution-on-child-marriage-at-human-rights-council/>.

Labour Code Slovak Republic. <http://www.ilo.org/dyn/eplex/docs/50/labour-code-full-wording-january-2012.pdf>.

National Action Plan for the Prevention and Elimination of Violence against Women 2014 – 2019. government of the Slovak Republic, 2012,

http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SVK/INT_CEDAW_ADR_SVK_17645_E.pdf.

National law and policies on minimum ages – Slovakia. Right to Education Project promoting mobilisation and legal accountability, <http://r2e.gn.apc.org/country-node/518/country-minimum>.

The Advocates for Human Rights. “Stop Violence Against Women.” Violence Against Women in Slovakia, 2014, http://www.stopvaw.org/slovakia#_edn52.

The European Social Charter. The Slovak Republic and the European Social Charter. Department of the European Social Charter Factsheet – SLOVAK REPUBLIC Directorate General of Human Rights and Rule of Law, Nov. 2015, <https://rm.coe.int/16804928a1>. Accessed 9 Sept. 2017.

U.S. State Government. Slovakia. U.S. Department of State, 3 Mar. 2017, <https://www.state.gov/j/drl/rls/hrrpt/2016/eur/265472.htm>.

UNTC. "Convention on the Rights of the Child." United Nations Treaty Collection, 2017, https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en#EndDec.

Further Reading

European Commission. European network of legal experts in gender equality and non-discrimination Intersectional discrimination in EU gender equality and non-discrimination law. European Union, 2016 <http://ec.europa.eu/justice/gender-equality/document/files/intersectionality.pdf>.

Slovakia Initial Report on the Implementation of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. Submission from TRIAL (Swiss Association against Impunity) to the Committee on the Rights of the Child, 2012. http://tbinternet.ohchr.org/Treaties/CRC-OP-AC/Shared%20Documents/SVK/INT_CRC-OP-AC_NGO_SVK_13940_E.pdf.