Let's talk about childbirth: a human rights-based approach in the context of childbirth

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The research was conducted, and the report was prepared by a working group of the Office of the Public Defender of Rights composed of:

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NOTE: This is shortened version of the original report. It is an unofficial English translation. The translated text did not undergo editorial review. The whole original report in the Slovak language can be found here.

CONTENT

00 FOREWORD

Obstetrics must not be taboo. It concerns all of us, and therefore it is important to speak openly on the topics associated with it and strive for change. In recent years, mistreatment, and violations of women's rights during facility-based childbirth have gained global attention.

Research conducted by non-governmental organisations and the increasing societal debate and women's voices indicated a systematic violation of women's rights during facility-based childbirth in Slovakia. For this reason, I have decided to examine the situation on my own initiative.

The right to health is a fundamental right guaranteed by Article 40 of the Constitution of the Slovak Republic. The right to health is also closely linked to the enjoyment of other human rights, which are enshrined in the national legislation of the Slovak Republic (especially in the Constitution and in-laws) and international conventions; the Slovak Republic is bound.

I, therefore, focus on analysing the provision of healthcare during childbirth in terms of the protection of women's rights. Chapter 1 outlines the human rights-based approach in the context of facility-based childbirth and initiatives of national institutions for the protection of human rights and non-governmental organisations active in this field in selected EU member states.

Given that data collection constitutes an integral part of effective monitoring of human rights, I have decided to carry out an online survey to define, quantify, and better understand the causes of violations of women's rights in healthcare provision during childbirth.

This online survey takes the form of a mapping study to obtain a basic overview of the occurrence of a given phenomenon. The anonymous online questionnaire collected 3 164 statements from women about their experience of childbirth.

Therefore, the second part of the report analyses the results of the mapping study in the context of women's rights. The analysis focuses on the right to informed consent, human dignity, respect for physical and psychological integrity, the right to enjoy the benefits of scientific progress, and the right to privacy. An essential part of obstetrical care also represents the right to be treated in human, ethical and dignity manner by the health care professionals and the right to respect for private and family life.

Each chapter also includes a set of recommendations of the Public Defender of Rights.

Mária Patakyová
Public Defender of Rights

ACRONYMS

EU	-	European Union
WHO	-	World Health Organization
NHIC	-	National Health Information Centre
ECtHR	-	European Court of Human Rights
FRA	-	European Union Agency for Fundamental Rights
HCSA	-	Health Care Surveillance Authority

01 HUMAN RIGHTS-BASED APPROACH IN THE CONTEXT OF CHILDBIRTH

In recent years, a complex of problems related to the violation of women's rights in the provision of health care during childbirth has gained the attention of international and national human rights organizations.

The World Health Organization (WHO) reacted to the growing concerns by issuing a statement in 2015 condemning "outright physical abuse, profound humiliation and verbal abuse, coercive or unconsented medical procedures (including sterilization), lack of confidentiality, failure to get fully informed consent, refusal to give pain medication, gross violations of privacy, refusal of admission to health facilities, neglecting women during childbirth to suffer life-threatening, avoidable complications, and detention of women and their newborns in facilities after childbirth due to an inability to pay".[1]

According to WHO, abuse, neglect or disrespect during childbirth can amount to a violation of a woman's fundamental human rights, in particular, to violation of the right to be equal in dignity, to be free to seek, receive and impart information, to be free from discrimination, and to enjoy the highest attainable standard of physical and mental health, including sexual and reproductive rights. Therefore, health systems must be organized in a manner that ensures respect for women's sexual and reproductive health and human rights.[2]

The Council of Europe Commissioner for Human Rights stated that despite Europe's lowest maternal mortality and morbidity rates globally, many European countries fail to ensure adequate standards of care and respect for women's rights, dignity, and autonomy in childbirth.

In a number or member states, reports have emerged of "physical and verbal abuse by health care staff, suturing of birth injuries without adequate pain relief, failures to safeguard women's privacy during labour, and deprivation of food and water during childbirth. In addition, allegations of disregard for women's decisions during labour are also commonplace, as are failures to ensure women's full and informed consent and ability to make informed decisions prior to medical interventions and procedures during childbirth".[3]

The Special Rapporteur on violence against women stated that "women's human rights include their right to receive dignified and respectful reproductive health-care services and obstetric care, free from discrimination and any violence, including sexism and psychological violence, torture, inhuman and degrading treatment and coercion". [4]

[1] WHO, The prevention and elimination of disrespect and abuse during facility-based childbirth, 2015.
[2] Ibid.
[3] Council of Europe Commissioner for Human Rights, Women's sexual and reproductive health and rights in Europe, p. 39-40, 2017.
[4] Special Rapporteur on violence against women, its causes and consequences, A human rights-based approach to mistreatment and violence against women in reproductive health services with a focus on childbirth and obstetric violence, para. 76, 2019.

According to the UN Special Rapporteur, violations of women's rights in the provision of obstetric care is a global problem and concerns both developed and developing countries.

At the same time, the Special Rapporteur called on states to respect, protect, and fulfil women's human rights, including the right to the highest attainable level of physical and mental health during the provision of obstetric care without ill-treatment and gender-based violence. States should adopt laws and policies aimed at combating and preventing such violence. According to the UN Special Rapporteur, States should establish human-rights based mechanisms to ensure redress for victims of ill-treatment and violence, including financial compensation, acknowledgement of wrongdoing, formal apology, and guarantees of non-repetition.

In 2019, the Parliamentary Assembly of the Council of Europe adopted **Resolution 2306 (2019) on Obstetrical and gynaecological violence.** According to the resolution, in the privacy of medical consultation or childbirth: "**women are victims of practices that are violent** or that can be perceived as such. **These include inappropriate or non-consensual acts, such as episiotomies and vaginal palpation without consent, fundal pressure, or painful interventions without anaesthetic".**[5]

The Parliamentary Assembly called on Council of Europe member States to ensure that care is provided in a manner that respects human rights and human dignity, during childbirth. The Assembly also called on national parliaments to discuss the protection of patients' rights in the context of care and gynaecological and obstetrical violence to contribute to public debate and the lifting of taboos.[6]

Finally, the available data from research of NGOs point out violations of women's rights in the provision of obstetric care in health care facilities in Slovakia.[7]

01.1 VIOLATION OF WOMEN'S RIGHTS IN THE PROVISION OF HEALTH CARE IN CHILDBIRTH IS A GLOBAL PROBLEM

Mistreatment against women during reproductive health care occurs across all geographical and income-level settings.[8] Concerns over violation of women's rights and undignified practices concerning childbirth and postpartum care were raised in many EU countries. In this part of the report, I, therefore, address initiatives of national human rights institutions and the initiatives of NGOs in this area in selected EU Member States.

[5] Parliamentary Assembly of the Council of Europe, Resolution 2306 (2019) on Obstetrical and gynaecological violence, http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=28236&lang=en.
[6] Ibid.
[7] See for example; Janka Debrecéniová, ed., Women – Mothers – Bodies: Women's Human Rights in Obstetric Care in Healthcare Facilities in Slovakia, Citizen, Democracy and Accountability (2015); and Center for Reproductive Rights, Vakeras Zorales – Speaking Out: Roma Women's Experiences in Reproductive Health Care in Slovakia (2017).
[8] OHCHR | Report on a human-rights based approach to mistreatment and obstetric violence during childbirth

Several undignified practices concerning childbirth and postpartum care in the Czech health care facilities have been repeatedly brought to the attention of **the former Czech Public Defender of Rights, Mrs Anna Šabatová.** In particular, the Ombudswomen referred to: "lack of privacy caused by presence of too many persons in the room where the labour and delivery took place, the (hospital) rooms being overcrowded by other women in labour, failure to respect the birth plan (medical treatment and intervention - especially episiotomy - being administered without prior notification or even in spite the express refusal) or other wishes related to the process of childbirth (opportunity to eat and drink, to move around, to opt for a specific maternal birthing positions either on or off bed), continuous monitoring of the unborn child and separation of the child immediately after the birth or in the 48 hours following the birth and so on".[9] In 2015, the Ombudswomen also submitted opinion of the Public Defender of Rights regarding the Matter of Dubská and Krejzová against the Czech Republic addressed to the European Court of Human Rights .

In February 2016, the Ministry of Health of the Czech Republic launched an online poll called "Experiences in maternity hospitals".[10] The analysis of 689 replies has been the focus of a research report of the Working Group on Obstetrics and Midwifery which is established under the Government Council for Equality of Women and Men. The poll revealed some persisting issues, respectively negative experiences of women. The negative experiences were predominantly related to a high occurrence of intervention during the labour, insufficient support of bonding between the mother and her child, and a disrespecting approach to the woman in labour.

The Working Group drafted the Recommendation of the Government Council for Equality of Women and Men on Independent Midwifery Units and the Recommendation of the Government Council for Equality of Women and Men on the Publication of Statistical Data from the Obstetrics Field. In reaction to the recommendation, the government initiated several steps to establish so-called centres of midwifery. The pilot project, the Centre for Midwifery established within the Bulovka Hospital.

The Recommendation of the Government Council for Equality of Women and Men is based not only on survey data, but also on the recommendations of the UN Committee on the Elimination of Discrimination against Women, which called upon the Czech Republic to „undertake measures, including legislation, to make midwife-assisted childbirth outside hospitals a safe and affordable option for women. " It also reflects the recommendation of the European Court of Human Rights in the Dubská and Krejzová against the Czech Republic. The Court (despite the conclusion on the non-infringement of the rights of the complainants) invited "the Czech authorities to make further

[9] Opinion of the Public Defender of Rights regarding the Matter of Dubská and Krejzová against the Czech Republic (Applications no. 28859/11 and 28473/12) addressed to the European Court of Human Rights (https://www.ochrance.cz/fileadmin/user_upload/ESO/37-2015-IS-vyjadreni_pro_ESLP__AJ_.pdf)

[10] https://www.facebook.com/mzcr.cz/photos/a.490623087708684.1073741828.489450987825894/786754881428835/?type=3&theater.

progress by keeping the relevant legal provisions under constant review, so as to ensure that they reflect medical and scientific developments whilst fully respecting women's rights in the field of reproductive health, notably by ensuring adequate conditions for both patients and medical staff in maternity hospitals across the country".[11]

The Ombudsperson for Gender Equality of the Republic of Croatia, Mrs Višnja Ljubičić, has long drawn attention to human rights violations in the field of women's reproductive health. The Ombudswoman acts on complaints and monitors the progress of court proceedings relating to the mistreatment of mothers in healthcare facilities. The Ombudswoman regularly draws attention to these shortcomings in her annual reports and makes recommendations to improve the situation.

The Ombudswoman drawn attention to the lack of medical staff, which has a significant impact on the quality of healthcare provided in childbirth and the poor availability of anaesthetic services in maternity wards. The Ombudswoman also drawn attention to the inappropriate treatment of mothers by medical staff and the need to improve the communication of healthcare professionals towards patients through education. She addressed the Ministry of Health with concerns and recommendations which included the need to improve the communication of healthcare workers to patients, provision of the appropriate anesthetic or analgesic procedure on the basis of their informed consent.

The Commissioner for Fundamental Rights in Hungary, Mr Ákos Kozma,[12] also exanimated complains related to the issue of mistreatment and violence against women during reproductive health care and childbirth.

The Commissioner conducted an inquiry in the field of childbirth outside institutions. The petitioner complained that home births were not supported by the Hungarian social security system, due to which only affluent families could opt for this possibility provided by law. He concluded that childbirth outside institution was a crucial matter affecting fundamental rights. The Commissioner pointed out that situation in which facility-based childbirth is entirely state-funded whereas home birth is not funded at all does not meet the constitutional requirement based on the institutional protection of self-determination, and it may lead to improprieties in connection with pregnant women's freedom of self-determination. The Commissioner requested the relevant authorities to remedy the improprieties uncovered and review the regulations. He also suggested that the relevant authority consider making home birth a real alternative by assuring its inclusion in social security. The relevant ministry concerned did not accept the Commissioner's initiative.

[11] CASE OF DUBSKÁ AND KREJZOVÁ v. THE CZECH REPUBLIC (Applications nos. 28859/11 and 28473/12), para 189.

[12] Contribution of the Office of the Commissioner for Fundamental Rights (Hungarian NHRI) in response to the call for submissions by the Special Rapporteur on violence against women on cases examined by the Commissioner for Fundamental Rights related to the issue of mistreatment and violence against women during reproductive health care and childbirth in Hungary.

The Commissioner also examined alleged practise of separation of a mother and new-born child in different rooms of the hospital during the period of stay in the hospital after giving birth. The Commissioner concluded that "the hospitals' practice allowing for the separation of the mother and the child, against an explicit request for the contrary, without any reason related to healthcare, is a violation of the principle of the rule of law, it is incompatible with the principle of the procedure in the best interest of the child, and it raises concerns regarding the right to respect for family life".[13]

The Childbirth with Dignity Foundation (Fundacja Rodzić po Ludzku) is an non-governmental organisation that monitors the respect of human rights in perinatal care in Poland. It shares the experiences and voices of women and informs the relevant actors about violations of these rights. According to the research of the foundation, the Perinatal and Postnatal Care Standards that were adopted in 2012, are not fully implemented in the practise. According to the foundation, women are still restricted from moving during childbirth - they have to lie on their backs and cannot choose the position most suitable for childbirth. Women are also tied to the birthing bed, painful vaginal examinations or Kristeller's maneuver are performed without the women's consent.[14]

02 VIOLATION WOMEN´S RIGHTS IN PROVISION OF HEALTH CARE DURING CHILDBIRTH IN SLOVAKIA - ONLINE SURVEY

Data collection is an integral part of effective human rights monitoring. To define, quantify, and better understand the causes of women's human rights violations in the provision of health care during childbirth, I decided to include data collection in the form of an anonymous online questionnaire in the research.

The survey takes the form of a mapping study, which is descriptive, as it aims to obtain a basic overview of the occurrence of the phenomenon – whether and to what extent there is a violation of women's human rights during facility-based childbirth in Slovakia. The aim was also to collect the exceptional experiences of women encountered during childbirth and analyse the causes of various phenomena.

The online questionnaire was placed in an online environment. The request to disseminate the information on the questionnaire and its completion was communicated to the respondents through a wide range of information channels (media, social networks of the Public Defender of Rights and websites of women's human rights organizations).

Research findings are the result of quantitative research. However, the questionnaire, which is the source of data for this study, also contained questions that could be answered with open-ended answers.

While analysing the research findings, I focused on forms of human rights violations during childbirth and the attitudes and practices of

[13] Ibid.

[14] Fundacja Rodzić po Ludzku, Submission to the United Nations Special Rapporteur on Violence against Women on mistreatment and violence against women during reproductive healthcare in Poland. Mistreatment and violence against women during reproductive health care with a focus on childbirth.

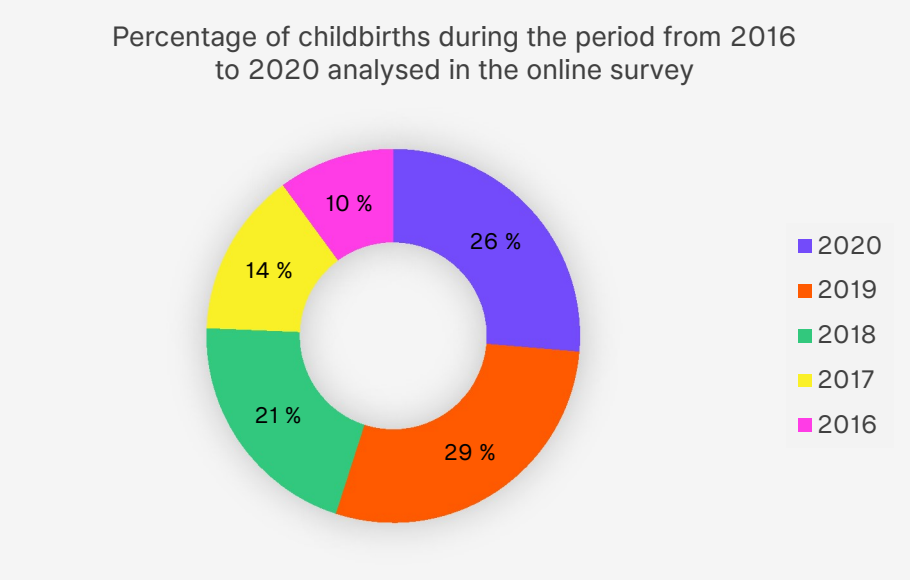
health care professionals towards women during childbirth and hospitalization.

ONLINE SURVEY - RESULTS

As part of the survey, the anonymous questionnaire collected 3,164 statements from women about their childbirth experiences. The online questionnaire could be completed from 6 September 2020 to 21 September 2020. During this period, more than 2,700 completed questionnaires were collected. However, I made the online questionnaire available again from 6 October 2020 to 12 October 2020 due to several requests from citizens concerning their interest in participating in the survey.[15]

In the analysis of the research results, the primary focus is on childbirths that took place from 2016 to 2020, representing 73.14% of all completed questionnaires. Slovak women who gave birth before 2016 and those who gave birth at home or in a health care facility abroad also had the opportunity to participate in the questionnaire. The information obtained from these questionnaires is used to compare the development and causes of different phenomena in obstetrics.

GRAPH - PERCENTAGE OF CHILDBIRTHS DURING THE PERIOD 2016 - 2020



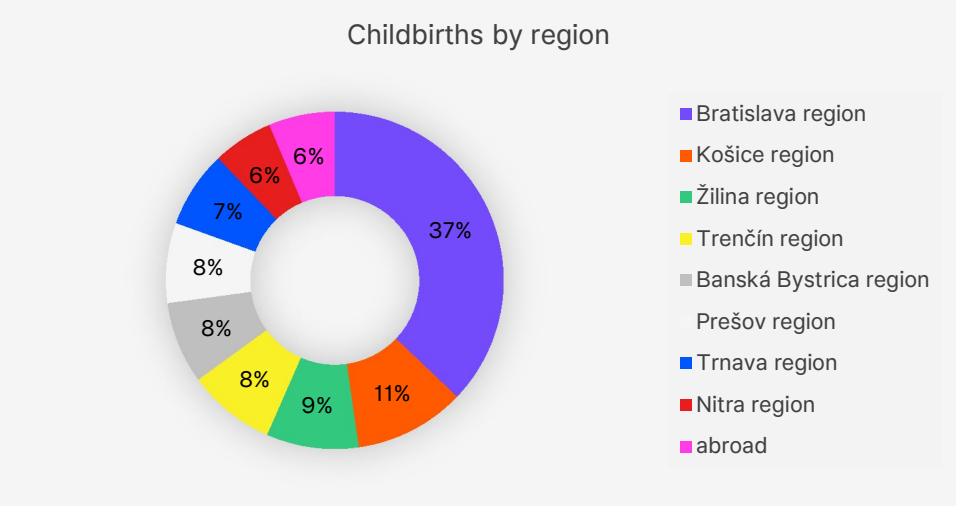
[15] In 2020, the issue of violation of women's rights during childbirth resonated statistically the most on the profiles of the Public Defender of Rights' social networks. A post with information about the survey launch reached almost 100,000 people.

In Slovakia, the National Health Information Centre (NHIC) is a state-funded organization founded by the Ministry of Health of the Slovak Republic. It is responsible for the official data collection in the area of obstetrics. These data are annually presented in a document: *Care for mothers and newborns in the Slovak Republic*. The NHIC collects data on the age, marital status, education, region of permanent residence of women. It also collects information regarding birth method, C-section (Sectio caesarea), complications during pregnancy, analgesia, newborn vitality, birth weight, gestation age, diseases and complications, and newborn nourishment. The latest available data are from 2018. These statistics are additionally used to compare with the results of the online survey.[16]

Most women participating in the survey gave birth in the Bratislava region - 37%. 11% of respondents gave birth in the Košice region, followed by the Žilina region - 9%, the Trenčín region - 8%, the Banská Bystrica region - 8%, the Prešov region - 8% and the Trnava region - 7%. The smallest group represents women who gave birth in the Nitra region - 6%.[17]

6% of women participating in the online survey gave girth in a health facility abroad.[18]

GRAPH - CHILDBIRTHS BY REGION



[16] http://data.nczisk.sk/statisticke_vystupy/gynekologia_porodnictvo/Starostlivost_o_rodicku_a_novorodenca_v_SR_2018_Sprava_k_publikovanym_vystupom.pdf.

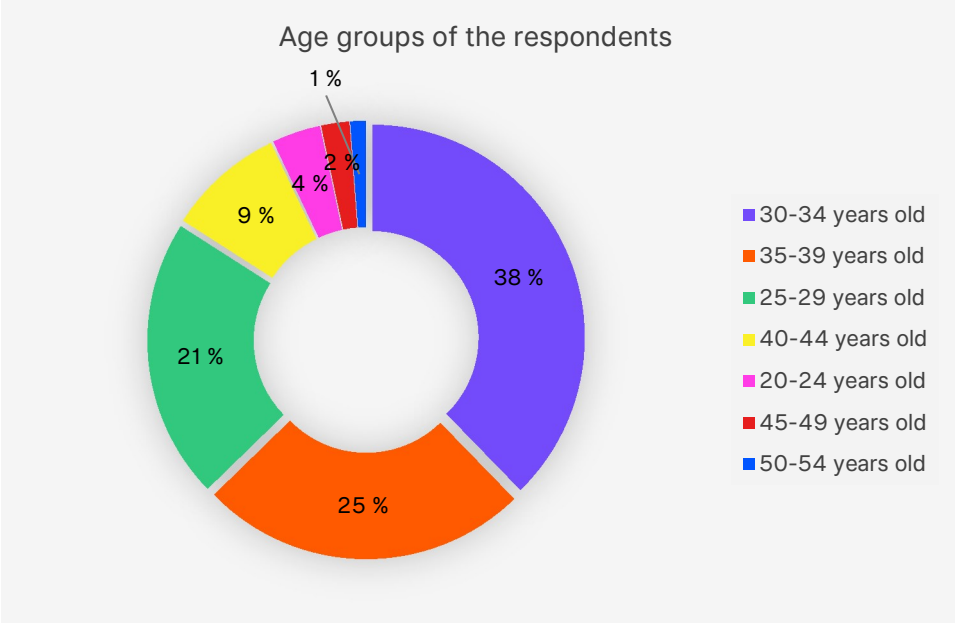
[17] Respondents who gave birth at home also took part in the questionnaire survey.

[18] Slovak women who gave birth in the health care facility outside of Slovakia, in particular, in the Czech Republic, in Austria, the United Kingdom, Germany, Switzerland, Hungary, the Netherlands, Scotland, Spain, Ireland, Colombia, France, Israel and Latvia took part in the online questionnaire. Eight respondents did not specify a place of birth.

According to data collected by the NHIC, in 2018, the share of births by individual regions was as follows: in the Bratislava region 17%, in the Trnava region 9%, in the Trenčín region 9%, in the Nitra region 9%, in the Žilina region 13%, in the Banská Bystrica region 10%, in the Prešov region 16% and in the Košice region 17%. According to NHIC statistics, the total number of births in the Slovak healthcare facilities in 2018 was 57,059.

The age range of the respondents was 18- 65 years of age. The majority of the respondents were between 30 and 34 years old (37.7%). The second largest group was the age category 35 - 39 years (25%). It was followed by the age category 25-29 years old (21.3%), then 40-44 (8.9%), 18-24 (3.7%), 45-49 (2.1%) and finally a category 50 - 65 years (1.2%).

GRAPH - AGE GROUPS OF THE RESPONDENTS

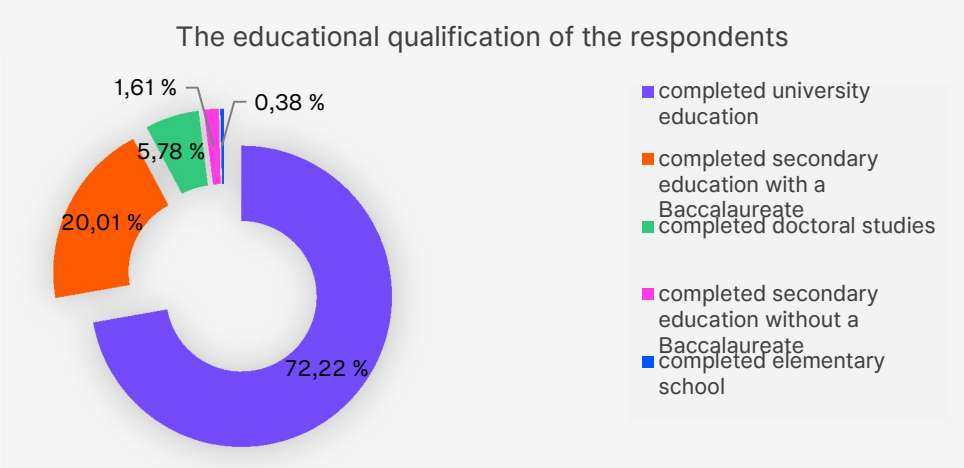


According to data collected by the NHIC, in 2018, the majority of the women giving birth were between 30 and 34 years old (31.3%). The second largest group represents 25-29 years old women (29.5%), followed by the age group 20-24 years old (15.1%) and 35-39 years old (15.0%).

According to the educational qualification of the respondents: the majority of respondents completed university education - 72.22%, the second-largest group of respondents completed full secondary

education - 20.01%, followed by respondents with completed postgraduate studies - 5.78%. Respondents with completed secondary education without a Baccalaureate represents 1.61%, and the smallest group of respondents had completed primary education - 0.38%.

GRAPH – THE EDUCATIONAL QUALIFICATION OF THE



RESPONDENTS

According to data collected by the NHIC, in 2018, the majority of the mothers completed university education - 30.0%. Mothers with completed secondary education represented almost the same share of 29.9%. A relatively high proportion of 10.4% represented mothers with primary education. Mothers with secondary education without a Baccalaureate amounted to 6.6%. Mothers with unfinished primary education represented 2.6%. In 15.8% of births, the mother's education was not known.

From the total number of questionnaire responses, vaginal births without assistance accounted for 74%, and although several respondents added pushing on the abdomen, artificial rupture of membranes to purposefully break the water (amniotic sac), episiotomy: *"Vaginally, but the assistant helped by pressing on my abdomen", "if jumping on my stomach counts as help..., vaginally but after purposefully break the water without any prior discussion... without any discussion or my consent."* These responses were included in this category.

In other cases, respondents stated that the birth had to be terminated using vacuum technics - at 5 %. Caesarean sections accounted for 21% of births. While 7% of caesarean sections were planned during pregnancy, 14% of such procedures were caused by acute threats during childbirth. Some women reported they had not received sufficient information as to why a caesarean section was needed or felt "pushed" into a caesarean section: "*to this day, I feel like I was pushed to caesarean section even though I was told there was no reason for it, even by the head gynaecologist."*
"From one day to the other, the doctor ordered an acute caesarean; no one tried to explain it to me; it is not clear even to my gynaecologist from the hospital discharge report."

According to data collected by the NHIC, spontaneous births accounted for 67.8% of the total number of births in 2018 and the remaining 32.2%

were surgical births. Surgical births include: sectio caesarea (cesarean section) 29.6%, forceps (obstetric ticks) 0.5%, vacuum-extractor 2.0%, extraction 0.1%.

03 HOME BIRTH

"After the first hospital birth, I was disgusted by the approach and functioning there during and after the childbirth, a disrespectful approach. I was afraid of childbirth [in the maternity ward] so I was "forced" to choose a home environment, although the Slovak care after giving birth at home is inadequate. I was assisted by a person who had a medical education and by a doula." A respondent who gave birth in a home environment in the Nitra region in 2017.

According to the online survey, 85.21% of respondents were thinking about choosing a particular maternity ward before the childbirth. In Slovakia, however, some women also choose to give birth in home environment.

According to data collected by the NHIC, in 2018, 291[19] newborns were born outside of a medical facility. The NHIC defines childbirth outside of a medical facility as "birth of a newborn [...] regardless of whether the placenta birth took place in or outside of an institutional health facility".[20] The NHIC does not collect specific information on the reasons for the childbirth outside of the facility or on planned home birth. Therefore, it is not possible to determine the exact number of planned home childbirths as this figure also includes women who planned to give birth in a facility but did not manage to arrive on time.

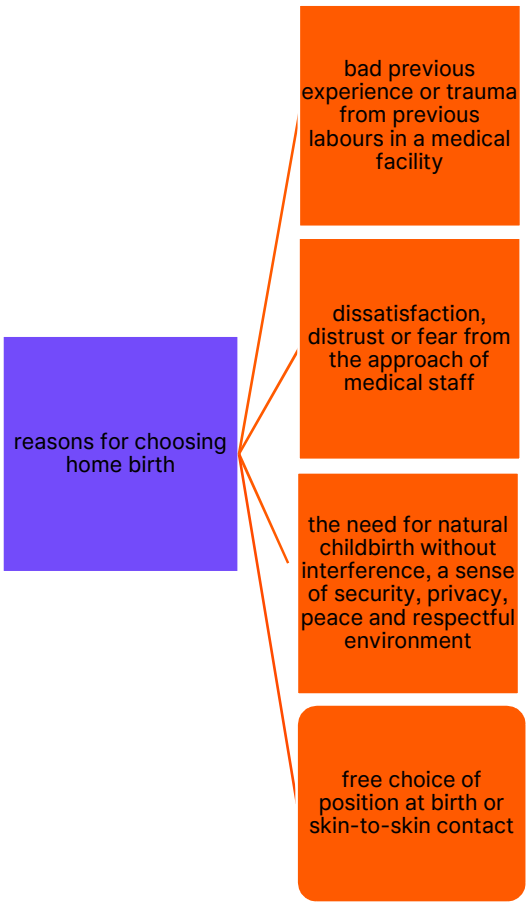
Despite the lack of official statistics on planned home childbirths, their existence was confirmed in the online survey. 39 respondents noted to give birth at home, some of them repeatedly.[21]

Even though in the social debate about home births, the prevailing opinion is that their primary reason is mothers' desire for natural childbirth, the survey results showed a different cause - a bad experience or trauma from previous births in healthcare facilities.

Charles University in Prague, in its recent research on the reasons for planned home births in the Czech Republic, revealed results similar to the results of the survey. The main reason for planned home birth was the state of maternity care, the disparagement of the abilities and competences of the mothers and the interventions performed even without their consent. According to the co-author of the research, the mothers who are planning to give birth at home are predominantly women with higher education "who are used to working with information and which are overwhelmingly aware of the risk posed by home births".[22]

[19] http://data.nczisk.sk/statisticke_vystupy/gynekologia_porodnictvo/Starostlivost_o_rodicku_a_novorodenca_v_SR_2018_Sprava_k_publikovanym_vystupom.pdf.
[20] Office of the Public Defender of Rights, delivered record 18679/2020.
[21] 47 respondents (51 home births) who gave birth at home also participated in the online survey. Of this number, 39 were respondents (43 births) who gave birth at home in Slovakia.
[22] https://ct24.ceskatelevize.cz/domaci/3272582-domaci-porod-zeny-voli-hlavne-kvuli-stavu-pece-v-nemocnicich-ukazal-vyzkum-univerzity.

GRAPH - REASONS FOR CHOOSING HOME BIRTHS - ACCORDING TO SURVEY RESULTS



NATIONAL LEGISLATION

"I had a home birth abroad because I didn't want to give birth anymore in the hospital and it is not legal for midwives in Slovakia." A respondent from the Bratislava region who gave birth at home abroad in 2018.

Planned home births are provided for in domestic law and regulated in 20 Member States of the Council of Europe. In these countries, the right to a home birth is never absolute and is always dependent on certain medical conditions being satisfied. Moreover, national health insurance covers home birth in only fifteen of these countries.

Home births are unregulated or under regulated in twenty-three Member State. In some of these countries, private home births do take place but in a legal vacuum and without national health cover.[23] The Slovak Republic belongs to this category of countries.

There is no explicit statement about home births in the national legislation. However, some legislation foresees the possibility of home birth. For example, the Act on Registers assumes that the child

[23] Dubská and Krejzová v. the Czech Republic, Application no. 28859/11 and 28473/12, European Court of Human Rights, 2016.

did not have to be born in a medical institution: "the birth is obliged to be notified to the registry office by the doctor who worked at the birth or who provided a medical act after childbirth; In other cases, one of the parents is obliged to do so".[24]

According to Act No 576/2004 Coll. of 21 October 2004 on healthcare and healthcare-related services and amending and supplementing certain acts, health care provided during childbirth is also perceived as urgent care.

Act No. 578/2004 Coll. on healthcare providers, medical workers, and professional organisations in the healthcare sector and on amendments to certain acts refers
to a generally binding legal regulation of the Ministry of Health of the Slovak Republic, which regulates the scope of the practice of midwifery provided by the midwife separately. [25]

Until 2018, Decree No. 364/2005 Coll. was in force, determining the scope of nursing practice provided by the nurse separately and in cooperation with the doctor and the scope of midwifery practise provided by the midwife separately and in cooperation with the doctor. According to Section 4(3)(f) of this Decree, a midwife could independently perform a physiological birth, including childbirth that requires an episiotomy only in a medical facility. Therefore, a planned home birth involving a midwife in the Slovak Republic was not allowed under this decree.

In 2018, it was replaced by a decree of the Ministry of Health of the Slovak Republic No. 95/2018 Coll. that no longer includes the restriction on midwives assisting in childbirth only to the environment of a medical facility. It follows from that Decree that a midwife may perform childbirth in any setting, including home, hospital, or clinics.

Thus, national legislation does not explicitly prohibit a woman from giving birth at home and, at the same time, does not require a woman to give birth in a medical facility but does not create the conditions for a safe home birth.

Therefore, it is essential to note that no legislation directly deals with the issue of planned home births and does not specify the conditions under which it might take place, e.g. the number of midwives, their qualifications, experience, instrumentation or procedures for moving to hospital during childbirth.

CASE LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS ON HOME BIRTH

According to the European Court of Human Rights (ECtHR), the circumstances of giving birth incontestably form part of one's private life for the purposes of Article 8 of the European Convention on the protection of human rights and fundamental freedoms. In the case Ternovszky v. Hungary, applicant filed a complaint before the European

[24] § 13 Act No. 154/1994 Coll. Act on Registers.
[25] § 28 Act No. 578/2004 Coll. on healthcare providers, medical workers, and professional organisations in the healthcare sector and on amendments to certain acts.

Court of Human Rights alleging that as a result of Hungarian legislation, she was effectively prevented from obtaining adequate professional assistance for a home birth. At the time of introduction of the application the applicant was pregnant and intended to give birth at her home, rather than in a hospital or a birth home. However, in view of Government Decree no. 218/1999, any health professional assisting a home birth was at risk of conviction for a regulatory offence. In the applicant's view, while there is no comprehensive legislation on home birth in force in Hungary, this provision effectively dissuades health professionals from assisting those wishing home birth.

The Court found that the applicant was in effect not free to choose to give birth at home because of the permanent threat of prosecution faced by health professionals and the absence of specific and comprehensive legislation on the subject. The Court noted that the "lack of legal certainty and the threat to health professionals has limited the choices of the applicant considering home delivery. For the Court, this situation is incompatible with the notion of “foreseeability” and hence with that of “lawfulness”". Court found that there has been a violation of Article 8 of the Convention.[26]

In the case of Dubská and Krejzová v. the Czech Republic[27], the main argument of the complainants was the fact that Czech legislation does not prohibit domestic births, but does not, in principle, allow assistance of healthcare professionals at home, since the legislation is neither clear nor specific as to the possibility for midwives to provide services at home. The applicants, two women who wished to avoid unnecessary medical intervention in delivering their babies, complained that because of this situation they had no choice but to give birth in a hospital if they wished to be assisted by a midwife.

In this case, however, the European Court of Human Rights stated that national authorities have considerable room for manoeuvre in cases that involve complex matters of healthcare policy and allocation of resources. Given that there is currently no consensus among the Member States of the Council of Europe in favour of allowing home births, a state’s policy to make it impossible in practice for mothers to be assisted by a midwife during their home births did not lead to a violation of Article 8.

However, the European Court of Human Rights invited "the Czech authorities to make further progress by keeping the relevant legal provisions under constant review, so as to ensure that they reflect medical and scientific developments whilst fully respecting women’s rights in the field of reproductive health, notably by ensuring adequate conditions for both patients and medical staff in maternity hospitals across the country“.[28]

Similarly, in the case of Pojatina v. Croatia[29] that concerned Croatian legislation on home births, the ECtHR found that legislation that does not allow assisted home births did not lead to a breach of Article 8 of the

[26] Ternovszky v. Hungary, Application no. 67545/09, European Court of Human Rights, 2011.
[27] Dubská and Krejzová v. the Czech Republic, Application no. 28859/11 and 28473/12, European Court of Human Rights, 2016.
[28] Dubská and Krejzová v. the Czech Republic, Application no. 28859/11 and 28473/12, European Court of Human Rights, 2016, para. 189.
[29] Pojatina v. Croatia, Application no. 18558/12, European Court of Human Rights, 2016.

Convention. The Court responded to the fact that the law has evolved gradually in this area and there are still major differences between the legal systems of the Member States.

However, it accepted that at first there might have been some doubt as to whether a system for assisted home births had been set up in Croatia. It therefore called on the authorities to consolidate the relevant legislation so that the matter is expressly and clearly regulated.

LAW AND PRACTICE IN EUROPEAN UNION MEMBER STATES

The national legislation on home childbirths in EU Member States is not uniform. The rate of home childbirths in the Netherlands, at around 20%, is still the highest in Europe. At the same time, the Member States that allow home childbirth also regulate the conditions and criteria. For example, they regulate that the place of home childbirth must be no more than 30 minutes from the nearest maternity hospital, it must be a risk-free pregnancy, the baby should be in a "head down" position. They also regulate the number of midwives present during home childbirth, their qualifications and the necessary equipment.

In Belgium, for example, such requirements are in place, and home births account for around 1%. The same applies in Germany, where 98.72% of babies were born in hospital facilities, and only 1.28% were born at home or in maternity centres in 2017.

Centre for Midwifery, whose existence is authorised and supported in some EU Member States, may also provide an alternative to home births. It is usually an outpatient medical facility where midwives provide care to low-risk mothers during childbirth. Centres for Midwifery exist as separate facilities or facilities associated with the maternity ward.

CONCLUSION

Despite the absence of legislation and official data on planned home births, the online survey confirmed that some women choose to give birth at home every year. The survey also highlighted essential findings regarding the reasons why mothers choose to give birth at home. In contrast to the prevailing views in society, which attribute home births to women who desire natural births, respondents cited as the most common reasons the bad experience or trauma from previous labours in health care facilities, or dissatisfaction, distrust or fear from the approach of medical staff in health care facilities.

The WHO also points out that more and more research on women's experiences during pregnancy and childbirth reveals the disrespectful treatment of mothers in healthcare facilities. According to the WHO, this approach represents a breach of trust between a woman and a health care provider and can be an obstacle for a woman seeking health care services in the future.[30]

"I gave birth at home, but I needed medical treatment after; on the fourth day after giving birth, I went to the hospital, where the staff at the

[30] WHO, The prevention and elimination of disrespect and abuse during facility -based childbirth, 2015.

gynaecology was very uncomfortable when they learnt that I gave birth at home. It was a very humiliating experience for me." A respondent who gave birth at home in the Žilina region in 2016.

Vaguely defined legislation on home births often discourages medical staff, such as midwives, from assisting during home births. Subsequently, there are situations when mothers ask non-medical staff to assist them during childbirth.

The survey shows that only in 15% of home deliveries, a midwife or other health care professional was present during childbirth.

The legal vacuum on home births poses not only a potential risk to the mother in relation to the home birth itself, but also in relation to additional necessary health care.

Some women also reported in the survey that they felt humiliated by medical staff after seeking treatment at a health care facility after giving birth at home. This approach and legal uncertainty can potentially cause women to fear visiting health facilities in case of need for any medical treatment in the future.

"After the first birth, I had my birth injuries sutured in the hospital, where I was humiliated by two doctors. They rebuked me for the home birth. When I was sutured and given local anaesthesia, I felt the suturing, but I did not care. I felt humiliated and very stressed [...]." A respondent who gave birth in home environment in the Žilina region in 2016 and 2020.

The circumstances of giving birth incontestably form part of one's private life for the purposes of Article 8 of the European Convention on the protection of human rights and fundamental freedoms. Although the Member States of the Council of Europe have considerable room for manoeuvre in relation to national legislation on domestic births, the ECtHR stated to consolidate the relevant legislation so that the matter is expressly and clearly regulated. The ECtHR also noted that woman is entitled to a legal and institutional environment that enables her choice.

States where planned home births are provided for in domestic law and regulated provide mothers with greater legal certainty and safer home births. The UN Special Rapporteur on violence against women recommended States to consider the possibility of allowing home birth and avoiding the criminalization of home birth.

It is the role of the legislator to consolidate the relevant legislation on home births. However, the review of the legislation must include an expert debate that considers scientific and medical developments while fully respecting women's rights.

03.1 BIRTH TOURISM OR BIRTH ESCAPE

"I chose to give birth abroad because there is no need to come in "combat deployment", they ask everything, no step is taken without the

mother's consent, the woman is a partner, not a (non-lawful) patient. Natural childbirth is the norm, free movement throughout labour and relief techniques are automatic, woman's companion of choice is present during the whole time. The behaviour of all staff is respectful of the woman, the baby and the entire birth process. Outpatient birth is a common practice." A respondent who gave birth in a health care facility in Austria in 2015.

Slovak women who gave birth in a health care facility abroad also participated in the online survey. Overall, they represent 6% of all births examined in the survey. This category includes both respondents who have decided to give birth in a health facility abroad because they do not live in the territory of the Slovak Republic and women who have decided to travel abroad only for childbirth.[31] In this section of the report, the focus is only paid to the survey analysis concerning the responses of women who have decided to travel abroad only for childbirth.

Voluntary travel for childbirth is often referred to as "birth tourism". However, a Slovak NGO Women's circles (Ženské kruhy) warns that an adequate term for this phenomenon is "birth escape", given that "these women sacrifice their time, considerable money, lengthy handling in the authorities, often travel only during childbirth, in contractions, for respectful care provided according to the latest scientific knowledge"[32]. As part of planned births in healthcare facilities abroad, women most often opt for maternity wards near the Slovak national borders in Austria and the Czech Republic.

"The stories I have heard and read about the [...] maternity wards were enough to look for other alternatives that would not at the same time ruin the budget ... it is a shame that a pregnant woman has to travel abroad to be respected (which should be a matter of course). I had a super gynaecologist at the time. That part was ok. Nevertheless, during the last few medical checks at the hospital, I felt like a piece of meat. Absolute indent, we slowly annoyed those doctors with our presence there." A respondent who gave birth at a health facility in the Czech Republic in 2015.

The existence of the phenomenon of "birth tourism"", or "birth escape", was confirmed by the online survey results.

As the most common reason for choosing to give birth in a healthcare facility abroad, respondents reported a better level of healthcare provision, a higher standard of scientifically based health care and patient information, also respectful approach of medical staff and privacy.

The second most common reason for respondents to choose to give birth in a healthcare facility abroad was negative references or negative

[31] A total of 120 respondents opted for childbirth in a health care facility abroad. The number represents the number of births in a medical institution abroad (private or state) or in a birth home abroad.

[32] Gabriela Janovičová, Slovak women on the run, 2016, https://zenskekruhy.sk/slovenske-zeny-uteku.

personal experiences/trauma from previous births in health care facilities in Slovakia.

As a frequent reason for choosing to give birth abroad, respondents also cited mistrust and outdated procedures used in healthcare facilities in Slovakia, as well as a disrespectful approach of medical staff.

As another reason for giving birth in a medical institution abroad, respondents cited the desire for natural childbirth without unnecessary intervention.

Good references and good availability of health facility abroad were also cited by respondents as a reason for choosing to give birth abroad. These reasons were stated in relation to maternity wards in the Czech Republic and Austria.

04 INFORMED CONSENT

"When I wanted to ask more questions, and I did not agree to sign things which I did not know would happen with a request to explain them to me when these procedures will happen, they were almost laughing at me, that it is not their fabrication and the choice not to sign was not there."
A respondent who gave birth in the Žilina region in 2020.

Informed consent forms an integral part of respecting, protecting and fulfilling the right to the enjoyment of the highest attainable standard of physical and mental health.[33] Even though an intervention in the health field may only be carried out after the person concerned has given free and informed consent to it[34], **the survey results show that many healthcare professionals identify informed consent "with the automatic signature of the mother".**

55.10% of respondents[35] who stated in the survey that they signed informed consent on admission to the maternity hospital had received informed consent only in writing and had not been informed about its content, or the content of the informed consent had not been explained to them. 44.90% of respondents said they had been instructed about its content.

In comparison, of the respondents who gave birth in a healthcare facility abroad, 67% stated that the content of the informed consent had been explained to them. 33% of respondents said they only received it in writing and were asked to sign after the hospital admission.

Informed consent is a process of communication and interaction between a patient and a healthcare professional. Only the patient's

[33] Article 12, International Covenant on Economic, Social and Cultural Rights, and Anand Grover, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Right of everyone to the enjoyment of the highest attainable standard of physical and mental health, para. 18, 2009.
[34] Article 5, Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine.
[35] Respondents who gave birth in 2016-2020 in a healthcare facility in Slovakia.

signature without proper instruction cannot be considered informed consent.[36] Guaranteeing informed consent is a fundamental feature of respecting an individual's autonomy, self-determination and human dignity [37] and the person concerned may freely withdraw consent at any time.

Healthcare professionals must be proactive in providing information. It must be voluntary for consent to be valid, and patients must be informed. Healthcare professionals should provide information in a manner and language that is understandable, accessible, and proportionate to the needs of the individual.

Even though healthcare professionals are required to provide information in a clear, and pressure-free manner, women often reported in the survey that they faced threats from healthcare professionals when signing informed consent. Most often, women reported that the threats were related to the death of newborns.

"They told me I had to sign it; they scared me that if I did not agree with what the doctor would tell me, I would be to blame for killing my child," A respondent who gave birth in the Trnava region in 2018.

The legal requirement regarding the need for sufficient time to freely decide on informed consent is particularly important in the context of childbirth, given that most women only receive informed consent after being admitted to a health care facility when childbirth could already be in progress.

Respondents often reported that it was challenging for them to become sufficiently familiar with the content of the informed consent due to the ongoing contractions. A small proportion of respondents said they only signed the informed consent after giving birth, given that the birth progressed very quickly.

"[Did you have the opportunity to read the informed consent undisturbed?] Yes, but it was quite difficult considering I had labour pains when reading it." A respondent who gave birth in the Žilina region in 2020.

The survey results show that 72.07% of respondents signed informed consent when admitted to the maternity ward. 24.94% of respondents said they did not remember whether they had signed informed consent. Respondents who stated they signed some papers but did not know what they were signing are included in this category. 2.15% of respondents said they did not sign informed consent.

0.5% of respondents stated they had received informed consent before hospital admission, e.g. during counselling, and they brought it signed to the hospital. 0.34% of women said they only signed informed consent after giving birth, given that the birth progressed very quickly.

[36] Committee on the Elimination of Discrimination against Women, Views on Communication No. 4/2004, Ms. A.S. v. Hungary (CEDAW/C/HUN/CO/6).
[37] Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Right of everyone to the enjoyment of the highest attainable standard of physical and mental health, para. 18, 2009.

50% of respondents were unable to answer a question of whether they had signed one or more informed consents. 40% of respondents said they signed only one informed consent during childbirth, and 10% said they signed more than one informed consent during childbirth. Respondents identified the most common procedures before which they signed separate informed consent: epidural analgesia, C-section and blood transfusion.

The UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health stressed that "informed consent is not mere acceptance of a medical intervention, but a voluntary and sufficiently informed decision, protecting the right of the patient to be involved in medical decision-making, and assigning associated duties and obligations to health-care providers".[38]

Informed consent also forms an essential communication channel between a woman and health care professional during childbirth. Even though informed consent is regulated in the legal framework, it continues to be compromised in the healthcare setting due to the power imbalance created by reposing trust and unequal levels of knowledge and experience inherent in doctor-patient and researcher-subject relationships.[39]

NATIONAL LEGISLATION

The concept of informed consent has been introduced, as defined in §6 of Act No. 576/2004 Coll. of 21 October 2004 on healthcare and healthcare-related services and amending and supplementing certain acts.

The act universally states that a treating health professional is obliged to provide information about the purpose, nature, consequences and risks of any medical intervention. Moreover, the health professional is obliged to provide advice in a comprehensible and considerate manner, without pressure, and with the possibility and sufficient time to make a free decision on informed consent, and in a manner adequate to the intellectual and volitional capacities and health conditions of the person whom he/she should advise.

According to the legislation, all medical interventions must be recorded in the patient's medical records. The informed consent to the provision of health care must be an inseparable part of such records.

CONCLUSION

The survey results point to gross violations of the right to informed consent and the right to information. The survey shows that many healthcare professionals identify informed consent with a signature alone. 55.10% of respondents who said they signed informed consent when admitted to the maternity care ward received informed consent only in writing and were not further informed about its content.

[38] Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, para. 9, 2019.
[39] Ibid. para 92.

Respondents in the survey also pointed out a problematic situation regarding the possibility of familiarizing themselves with the content of informed consent, given the ongoing childbirth and contractions. Some of the respondents faced pressure or threats from health workers for not signing the informed consent.

In view of the survey results, I recommend ensuring the effective implementation and monitoring of legal and administrative procedures and practices related to informed consent in obstetrics, in line with the recommendations of the UN Special Rapporteur[40]. Systematic data collection on medical procedures during childbirth should also form an integral part of these control procedures.

Moreover, I recommend developing and providing **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**, in accordance with the recommendations of the UN Committee on the Elimination of Discrimination against Women[41]. Such training should be carried out in cooperation with national human rights institutions, non-governmental organisations, and international human rights institutions.

I also recommend sharing good practices for obtaining informed consent **for medical interventions in the field of women's reproductive health** among healthcare providers. The possibility for women to become fully informed about the informed consent before admission to maternity care wards can be done during a consultation with a gynaecologist prior to childbirth or during a free antenatal course organised by a particular health institution.

05 ROUTINE USE OF EPISIOTOMY

"I have warned the doctor several times that I do not want an episiotomy. However, she made it ruthlessly; she cut me several times, the pain was huge, but she told me that it could not hurt me; she cut me when the baby's head was not pushing yet, she cut me between contractions, she mutilated me against my expressed disapproval." A respondent who gave birth in the Banská Bystrica region in 2019.

An ***episiotomy*** is a surgical procedure that aims to expand the birth canals to facilitate vaginal birth. **According to the WHO**, episiotomy should only be used, when necessary, for example, if the child's life is at risk. The WHO states that there is currently no evidence to support the need to perform an episiotomy in routine care and emphasizes **that routine/liberal use of episiotomy is "not recommended".** According to WHO, it is difficult to determine an acceptable performance rate of this procedure. If an episiotomy is performed, effective local anaesthesia and the woman's informed consent is essential.[42]

[40] Ibid. para 93.
[41] Committee on the Elimination of Discrimination against Women, Concluding observations on the combined fifth and sixth periodic reports of Slovakia, CEDAW/C/SVK/CO/5-6, para 33, 2015.
[42] WHO, WHO recommendations Intrapartum care for a positive childbirth experience, p.150, 2018.

Many international human rights institutions and national NGOs highlight the routine practice of this surgery procedure during childbirth. The routine use of episiotomy in Slovakia has also been brought to the attention of some organizations in Slovakia.[43]

In connection with episiotomy, more and more discussions are carried out about the long-term complications this surgery procedure causes to women.[44] Respondents often reported long-term complications associated with episiotomy in the online survey:

"Two years after the childbirth, I still suffer from the consequences of episiotomy. The gynaecologist told me that I should get used to it because this is just how a woman's body after childbirth is. The physiotherapist also linked my severe migraines and back pain to episiotomy." A respondent who gave birth in the Bratislava region in 2018.

EPISIOTOMY AND LACK OF OFFICIAL STATISTICS

The NHIC collected official statistics on the use of episiotomy during childbirth for the first time in 2018. So far, these figures are the only official data on the use of this surgical procedure during childbirth in Slovakia. According to the NHIC, 7,313 episiotomies were carried out in 2018. Of these, 685 were in the Bratislava region, 814 in the Trnava region, 833 in the Trenčín region, 717 in the Nitra region, 1,065 in the Žilina region, 746 in the Banská Bystrica region, 1,107 in the Prešov region and 1,346 in the Košice region.

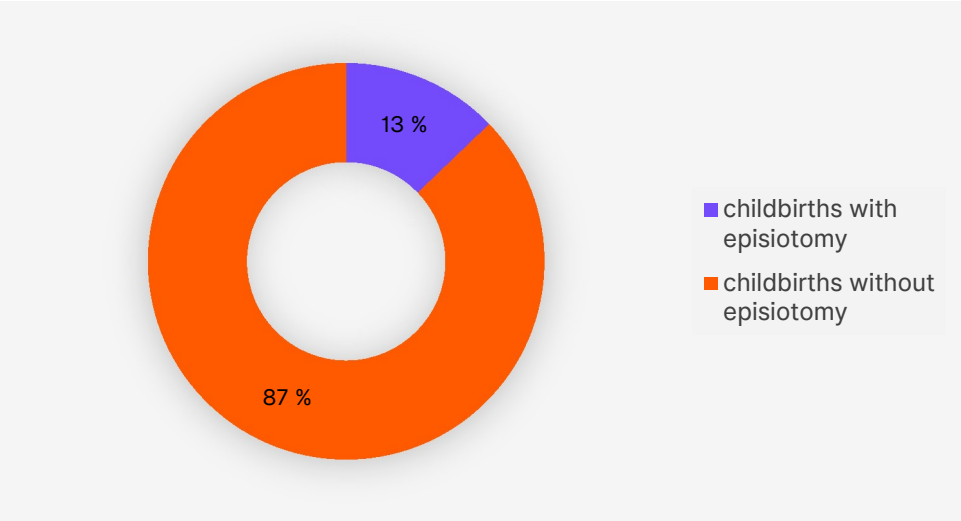
According to official statistics, of the total number of births **in 2018, episiotomy was carried out in 12.82% of childbirths.**

GRAPH - PERCENTAGE OF WOMEN WHO HAD AN EPISIOTOMY DURING CHILDBIRTH IN 2018 - NHIC STATISTICS

https://apps.who.int/iris/bitstream/handle/10665/260178/9789241550215-eng.pdf?sequence=1&isAllowed=y.

[43] Kristína Babiaková, Janka Debrecéniová, Miroslava Hlinčíková, Zuzana Krišková, Martina Sekulová a Sylvia Šumšalová, Ženy – Matky – Telá II: Systémové aspekty porušovania ľudských práv žien pri pôrodnej starostlivosti v zdravotníckych zariadeniach na Slovensku. Bratislava: Občan, demokracia a zodpovednosť, Ženské kruhy, 2016.

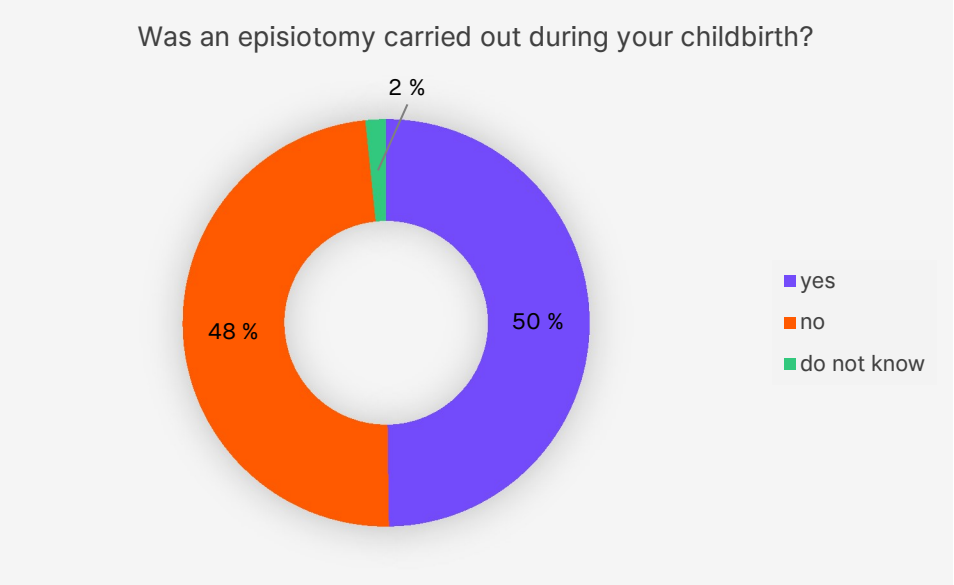
[44] See:. Women in the postpartum period, MUDr. Jozef Záhumenský, PhD., ProLitera, Bratislava 2010; Radio Slovakia, Episiotomy, 2014.rhttps://slovensko.rtvs.sk/rubriky/21455/epiziotomia.



However, the on

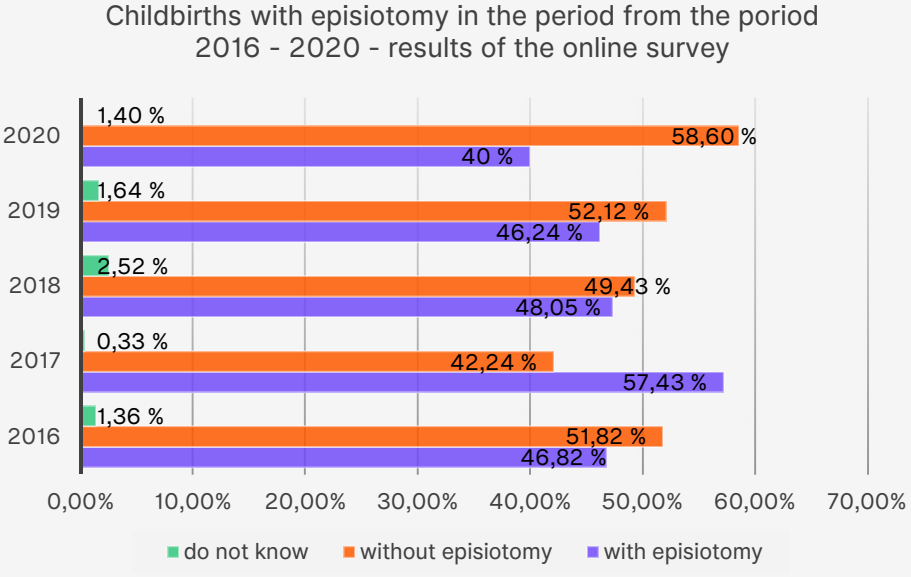
The online survey shows very different data. 50% of the respondents[45] in the questionnaire reported that they did not have an episiotomy during childbirth. 48% of the respondents reported that an episiotomy was used during childbirth. 2% of respondents were unable to answer this question.

GRAPH – PERCENTAGE OF WOMEN WITH EPISIOTOMY DURING CHILDBIRTH IN THE HEALTH CARE FACILITIES IN SLOVAKIA - THE RESULTS OF THE ONLINE SURVEY



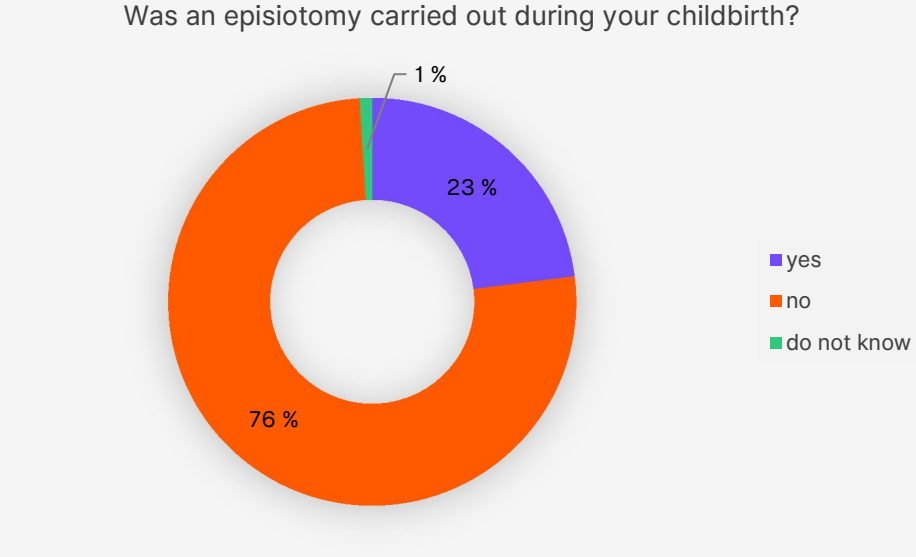
For more accurate data on the trend of the use of episiotomy, the following graph shows the survey results over the last five years concerning the use of episiotomy. Despite the high number of episiotomies performed, the survey results show a slight decrease in the use of this surgical procedure.

[45] This category does not include women who gave birth abroad or at home.



Even though it is difficult to determine an acceptable rate of episiotomy according to the WHO and its rate varies from country to country, according to data from the online survey, 48% of respondents who gave birth in a healthcare facility in Slovakia stated that an episiotomy was used, in the case of mothers who gave birth in a healthcare facility abroad, it was only 23 %.

GRAPH – PERCENTAGE OF WOMEN WITH EPISIOTOMY DURING CHILDBIRTH IN THE HEALTH CARE FACILITIES ABROAD - THE RESULTS OF THE ONLINE SURVEY[46]



The unsystematic and inaccurate official data collection on the number of episiotomies used during childbirth is also highlighted by data from an analysis published in the journal Gynecology for Practice, published

[46] Women who gave birth in health care facilities abroad also participated in the survey. Overall, they represent 6% of all respondents.

annually by Slovak experts in the field of gynaecology and obstetrics. **According to this analysis, obstetricians performed an episiotomy in up to 50.1% of childbirths in 2017**.[47]

Based on these data and the online survey results, **it can be concluded that in practice, episiotomy is carried out during almost every second childbirth in Slovakia. Thus, such a high rate of episiotomy may, in some cases, constitute a routine use of this surgical procedure.** Respondents often reported suspected routine use of episiotomy in the survey:

"[...] I refused an episiotomy, which my doctor respected (she was very young), the elderly doctor, without seeing what the situation was like, asked her to perform it. I would like to stress that he was standing next to my head." A respondent who gave birth in the Bratislava region in 2020.

05.1 EPISIOTOMY AND INFORMED CONSENT

During the provision of health care, **everyone has the right to dignity and respect for physical integrity and psychological integrity.**[48] Every surgery procedure interferes with the physical integrity autonomy of the individual. A health intervention can only be carried out if the person concerned has been informed and has given consent to the intervention. **When because of an emergency situation the appropriate consent cannot be obtained, any medically necessary intervention may be carried out immediately for the benefit of the health of the individual concerned**.[49]

The WHO and the Council of Europe Commissioner for Human Rights emphasised that medical interventions or procedures, such as episiotomies should not be performed without women's full and informed consent.[50]

The UN Special Rapporteur on violence against women stated that if this procedure is done without informed consent or medically unnecessary, it may amount to gender-based violence and torture and inhuman and degrading treatment.[51] According to the Resolution[52] of the Parliamentary Assembly of the Council of Europe, in childbirth **"women are victims of practices that are violent or that can be perceived as such"**, these include non-consensual acts, such as episiotomies and carried out without consent.

[47] Gynekológia pre prax, Materská morbidita v Slovenskej republike v roku 2017, 2017. Dostupné na: Gynekológia pre prax - amedi.sk.
[48] § 11 Act No. 578/2004 Coll. on healthcare providers, medical workers, and professional organisations in the healthcare sector and on amendments to certain acts.
[49] Article 8, Convention on Human Rights and Biomedicine.
[50] Council of Europe Commissioner for Human Rights, Women's sexual and reproductive health and rights in Europe, p. 61, 2017.
[51] UN Special Rapporteur on violence against women, A human rights-based approach to mistreatment and violence against women in reproductive health services with a focus on childbirth and obstetric violence, p. 10.,2019.
[52] The Parliamentary Assembly of the Council of Europe, Resolution 2306 (2019) - Obstetrical and gynaecological violence. http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=28236&lang=en.

According to the Constitutional Court of the Czech Republic, the rights of mothers can be restricted when the health of a woman or child is at risk. In a recent judgment, the Constitutional Court of the Czech Republic found that the right of a mother to the inviolability of her person can be restricted constitutionally, but only if (or with a high probability) the life and health of the fetus is in imminent danger and the procedures performed are proportionate to the purpose pursued to save the life and health of the child.[53]

Despite the obligation for informed consent to perform an episiotomy, **55% of respondents in the questionnaire stated they were not informed that this procedure will be performed:**

"[..] I didn't want it and still... without notice, it happened." A respondent who gave birth in the Bratislava region in 2020.

"The doctors told each other, so I knew they would do it. But they did not tell me directly." A respondent who gave birth in a private health facility in the Bratislava region in 2020.

37% of respondents were informed before the procedure was carried out:

"She informed me, but she didn't say anything about it, only that I should breathe out and she would perform the cut." A respondent who gave birth in the Trnava region in 2018.

Respondents who agreed with the doctor prior to the childbirth on this medical intervention are included in this category: *"[...] I gave my consent in advance."* A respondent who gave birth in the Prešov region in 2020.

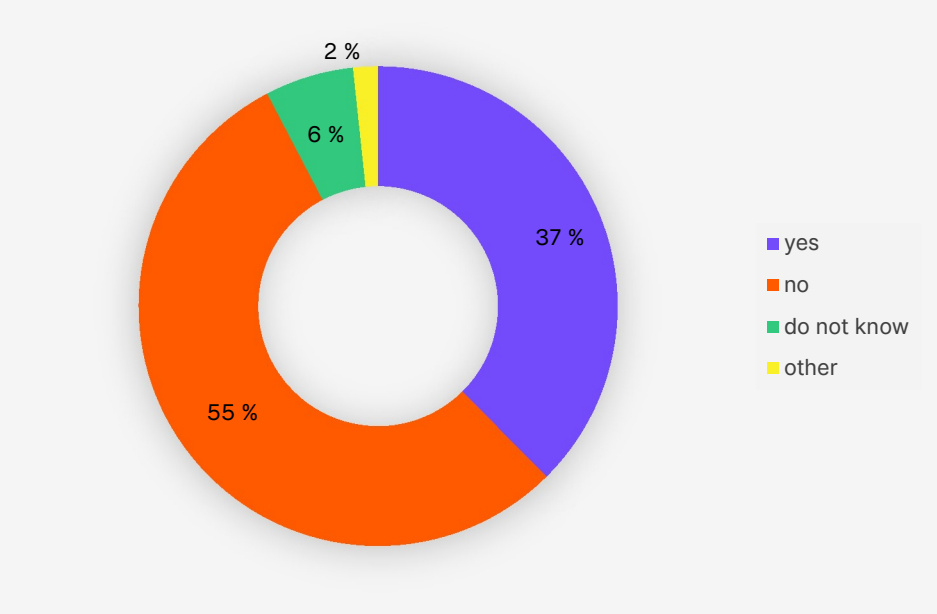
6% of respondents were unable to answer whether they had been informed of the procedure, largely because they did not remember it. Some respondents also reported not knowing if an episiotomy had been performed on them.

2% of respondents stated there was no time for informed consent, as it was an acute threat to the child's life: *"No, as it was dramatic. There was no other way as the baby's life was in danger. I did not want it before, but it had to be done. Even if the doctor informed me, I would tell him to do everything he could to save the baby. I am not angry that he did not inform me."* A respondent who gave birth in the Prešov region in 2020.

Two respondents in the online survey stated that they had asked for an episiotomy themselves.

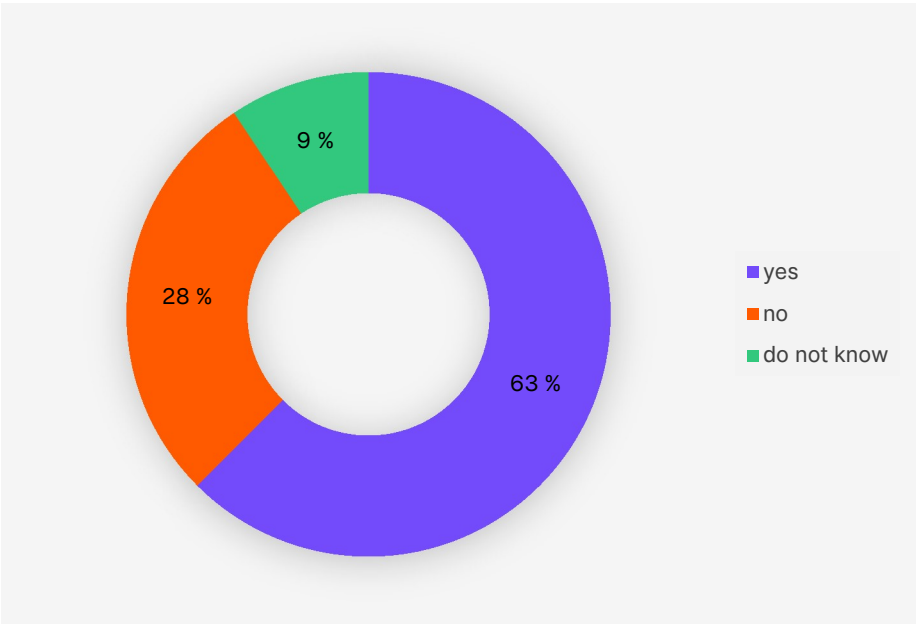
[53] III. ÚS 2480/20, Česká republika, NÁLEZ Ústavného súdu, 16. 3. 2021.

GRAPH – PERCENTAGE OF WOMEN INFORMED BY A DOCTOR THAT EPISIOTOMY WILL BE PERFORMED



In comparison, 63% of respondents who gave birth in healthcare facilities abroad were informed that episiotomy would be carried out. 28% of respondents said their doctor did not inform them before the procedure. 9% of respondents were unable to answer this question.

GRAPH – PERCENTAGE OF WOMEN INFORMED BY A DOCTOR THAT EPISIOTOMY WILL BE PERFORMED – WOMEN WHO GAVE BIRTH

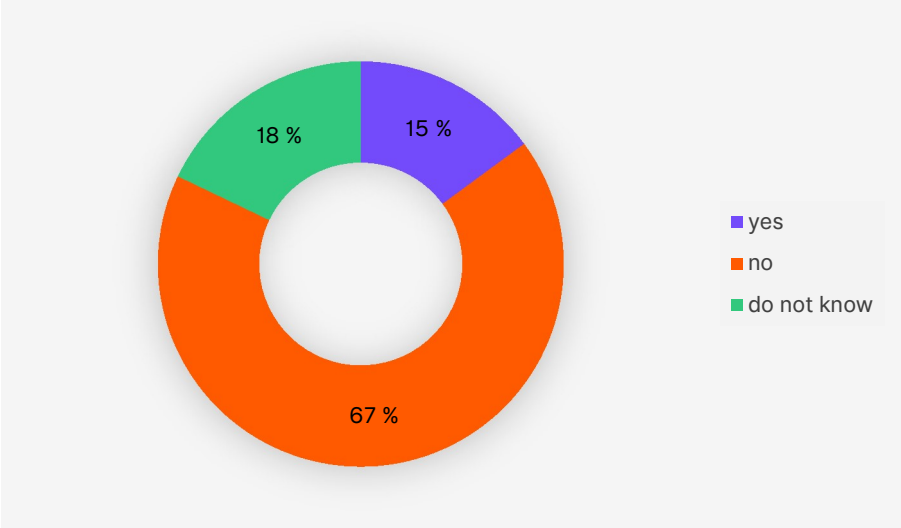


ABROAD

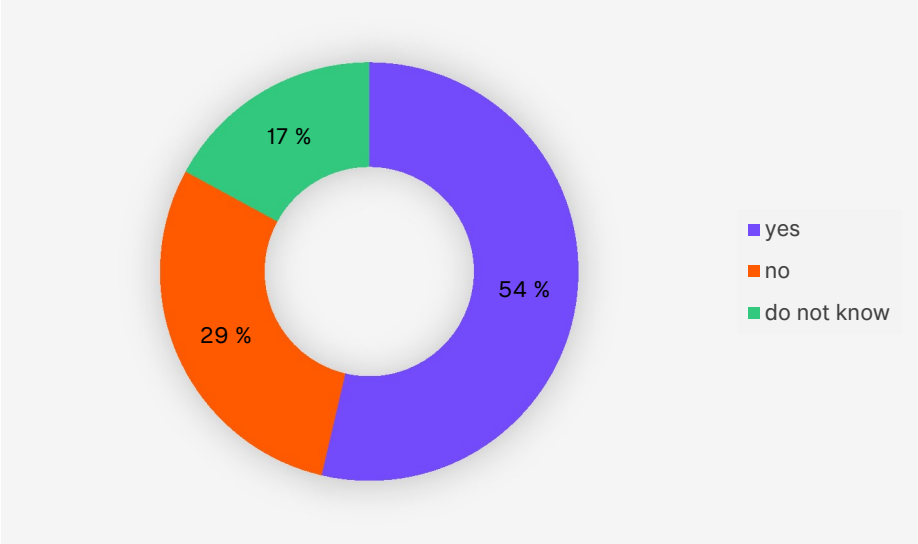
In the questionnaire, **67% of women who gave birth in healthcare facilities in Slovakia reported that a doctor did not seek consent before performing an episiotomy.** 15% said a healthcare professional requested their consent. 18% could not answer the question. While

54% of respondents who gave birth abroad said in the questionnaire that a doctor requested their consent before the procedure, 29% of respondents said a doctor did not seek consent before performing the procedure, and 17% could not answer the question.

GRAPH - PERCENTAGE OF WOMEN FROM WHOM THE DOCTOR REQUESTED CONSENT BEFORE PERFORMING EPISIOTOMY



GRAPH - PERCENTAGE OF WOMEN GIVING BIRTH IN HEALTHCARE FACILITIES ABROAD FROM WHOM DOCTOR REQUESTED CONSENT BEFORE PERFORMING EPISIOTOMY



05.2 SUTURING OF BIRTH INJURIES AND AFTER EPISIOTOMY WITHOUT ADEQUATE PAIN RELIEF

"It was extremely painful, and they shouted at me with a question why I was screaming that it could not be painful. It took about an hour, and it felt like they were pulling a barbed wire through me." A respondent who gave birth the Žilina region in 2015.

Suturing of birth injuries and after episiotomy without sufficient anaesthesia or other means of pain relief causes great suffering to women. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment stressed that "medical care that causes severe suffering for no justifiable reason can be considered cruel, inhuman or degrading treatment or punishment".[54]

The Special Rapporteur also noted that women worldwide seeking maternal health care face a high risk of ill-treatment that range from extended delays in the provision of medical care, such as stitching after delivery to the absence of anaesthesia. According to the Rapporteur "such mistreatment is often motivated by stereotypes regarding women's childbearing roles and inflicts physical and psychological suffering that can amount to ill-treatment".[55] Instead of a procedure that causes severe suffering to women, methods should be fully used to allow childbirth or postpartum pains to be relieved.

23.92% of respondents in the online survey stated that suturing birth injuries or suturing after episiotomy was a very painful procedure. 14.53% of respondents stated that the reason was a failure to administer adequate anaesthesia.

"It was a very painful procedure, it needed a lot of stitching from the inside, and the doctor did not give me any anaesthesia, it was an incredible pain." A respondent who gave birth in the Trenčín Region in 2017.

"I was in such shock, I was screaming. The doctor said it could not be painful because she gave me mesokain." A respondent who gave birth in the Košice region in 2019.

Concerning cesarean births, one respondent stated that she had not been given sufficient narcosis:

"It was a very painful procedure. My narcosis was weak, I could feel all the layers of my abdomen stitching up. All the time, I could feel tears running down my cheeks, but I couldn't scream that anaesthesia wasn't working. It was a trauma, and I do not want anyone to experience it." A respondent who gave birth by caesarean section in Prešov region in 2017.

Some respondents also reported that, in addition to ignoring the feelings of pain on the part of health professionals, the process of suturing injuries was associated with inappropriate remarks:

"The suturing was performed without anaesthesia with the words [from the health professionals] why am I whining, and that I should not be moving as it is not easy for them to perform stitching." A respondent who gave birth in the Nitra region in 2015.

[54] Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/22/53, para 39., (2013).
[55] Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A /HRC/31/57, para 47., (2016).

"It was a very painful procedure. Practically they performed suturing for about an hour with inappropriate comments." A respondent who gave birth in the Bratislava region in 2020.

"It was a very painful procedure. Students were present during the suturing, of course without my consent. Them together with the doctor were having inappropriate and offensive remarks about the appearance of my vagina, I had to beg for the anaesthesia. I was warned that it could not be painful, and that I should stop shaking, as I was terribly cold, and the pain was unbearable. They were suturing the injuries for 45 minutes." A respondent who gave birth in the Banská Bystrica region in 2019.

"It was a very painful procedure. I had minor tearing that needed to be stitched up. The midwife performed the suturing. When I told her that it hurts a lot, she responded that I should have had my epidural, then it would not be painful." A respondent who gave birth in Trnava region in 2016.

Respondents often expressed that they experienced this pain much more intensely than the pain during childbirth itself.

*"After giving birth, I had a small injury that was stitched up without mortification. It was worse pain than the whole childbirth." A r*espondent who gave birth in the Žilina region in 2016.

05.3 ABSENCE OF CLINICAL STANDARDS IN OBSTETRICS

Everyone has to right to enjoy the benefits of scientific progress and its applications.[56] The mission of a health professional is to practice medical profession conscientiously, dutifully, with a deep human understanding, in compliance with the rights, regulations, available medical and biomedical evidence.[57] The healthcare professional may not, alone or in agreement with others, perform non-effective diagnostic, therapeutic or other procedures. Facilities, goods, information and services related to sexual and reproductive health must be of good quality, meaning that they are evidence-based and scientifically and medically appropriate and up to date.[58]

The Ministry of Health of the Slovak Republic carries out a national project, "Creation of new and innovative standards and clinical procedures and their introduction into medical practice", aiming to improve the health care system. The project notes that the causes of the

[56] Article 15, International Covenant on Economic, Social and Cultural Rights.
[57] the Code of Ethics for Health Professionals which constitutes an annex to Act No. 578/2004 Coll. on healthcare providers, medical workers, and professional organisations in the healthcare sector and on amendments to certain acts.
[58] ESCR Committee, 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. 21, U.N. Doc. E/C.12/GC/22 (2016).

low efficiency of the Slovak health care system include the lack or insufficient uniform standards for diagnosis and treatment, which aim, among other things, to ensure accessibility to equally high-quality health care throughout Slovakia.

In 2015, the UN Committee on the Elimination of Discrimination against Women recommended that Slovakia "put in place adequate safeguards to ensure that women have access to appropriate and safe childbirth procedures that are in line with adequate standards of care, respect for women's autonomy and the requirement of free, prior and informed consent".[59]

In 2019, I informed the Minister of Health, Andrea Kalavská, by letter[60] about the absence of clinical standards in obstetrics. I therefore recommended the Ministry of Health of the Slovak Republic to adopt standards in line with medical and scientific developments whilst fully respecting women's rights in the field of reproductive health.

In connection with this research, I also addressed a question on the absence of standards in obstetrics to Mr Miroslav Borovský, chief expert of the Ministry of Health of the Slovak Republic in the field of gynaecology and obstetrics. In October 2020, the chief expert informed me in writing that "the Ministry of Health, in cooperation with the Slovak Gynaecological and Obstetrics Society, is currently working on such standards and expects them to be completed in 2021. They should regulate all aspects of obstetrics".[61]

The adoption of uniform standards in the field of obstetrics is essential for improving the health care system. However, effective central-level instruments to ensure their uniform implementation should also form an integral part of health standards to ensure equal access for all patients to quality healthcare throughout Slovakia. Compliance with these standards should therefore be regularly monitored and evaluated.

CONCLUSION

Suppose an episiotomy is performed without a medically indicated reason. In that case, it may amount to gender-based violence and torture and inhuman and degrading treatment. A high rate of episiotomy may, in some cases, constitute a routine use of this surgical procedure.

Even though it is difficult to determine an acceptable rate of episiotomy according to the WHO and its rate varies from country to country, according to data from the online survey, 48% of respondents who gave birth in a healthcare facility in Slovakia stated that an episiotomy was used, in the case of mothers who gave birth in a healthcare facility abroad, it was only 23 %.

In connection with the performance of the episiotomy, it is also necessary to talk about long-term complications associated with it. Adequate local anaesthesia, as well as informed consent, should

[59] Committee on the Elimination of Discrimination against Women, Concluding Observations: Slovakia, para. 31(g), U.N. Doc. CEDAW/C/SVK/CO/5-6 (2015).
[60] Office of the Public Defender of Rights, 2991/2019/VOP.
[61] Office of the Public Defender of Rights, 18666/2020.

constitute an essential part of this procedure.[62] However, the high level of non-acceptance and refusal of informed consent indicates that the right to informed consent is violated in many cases when performing this surgery procedure.

Failure to provide sufficient anaesthesia to women during childbirth without a justifiable reason causing severe suffering to women can be considered as cruel, inhuman, or degrading treatment or punishment. Therefore, healthcare facilities must make full use of methods to allow childbirth or postpartum pains to be relieved.

In the absence of Clinical Standards in Obstetrics and the absence of the collection of official data on the use of episiotomy, I recommend measures, including the adoption of standards in the field of obstetrics, to ensure that women have access to appropriate and safe obstetric care while fully respecting women's autonomy and rights, as well as the requirement of free, prior and informed consent. The measures should also include a systematic collection of data on the use of episiotomy. This surgical procedure should be compulsorily recorded in the mother's medical documentation.

In order to ensure all mothers, have access to equally high-quality health care throughout Slovakia, I also recommend the adoption of effective tools at the central level that will ensure uniform implementation of standards in the field of obstetrics and their regular monitoring and evaluation.

06 MANUAL FUNDAL PRESSURE - KRISTELLER MANOEUVRE

"[Was the manual fundal pressure performed during your childbirth?] Yes, without being alerted by the head nurse, she started jumping on my stomach, I was scared and strongly said that I did not want it. I was told that I would kill my child in this way." A respondent who gave birth in the Trnava region in 2018.

Kristeller manoeuvre represents a procedure during the second stage of labour when one of the medical staff members helps the mother push the fetus out of the birth canal by pressing on the abdominal bottom. According to the WHO, **application of manual fundal pressure to facilitate childbirth during the second stage of labour is not recommended due to serious concerns about the potential for harm to mother and baby with this procedure.**[63] Despite this recommendation, it is still widely practised, sometimes with the elbow, forearm or whole body, to provoke expulsion of the baby. Its application varies from country to country, reaching the highest application rates in Honduras, where it is used in between 50 per cent and 70 per cent of vaginal births.[64]

[62] Pre viac informácií a odporúčaní o informovanom súhlase pozri kapitolu 04.
[63] WHO, Recommendations Intrapartum care for a positive childbirth experience, p. 155-156, 2018.
[64] Special Rapporteur on violence against women, its causes and consequences, A human rights-based approach to mistreatment and violence against women in reproductive health services with a focus on childbirth and obstetric violence, p.23. 2019.

The NHIC collected data on the use of the Kristeller manoeuvre until 2017. Subsequently, the chief expert in gynaecology and obstetrics of the Ministry of Health removed this procedure from the statistics.

In connection with this research, I addressed the chief expert in gynaecology and obstetrics of the Ministry of Health with a question about data collection on the Kristeller manoeuvre. The chief expert informed me that this procedure was remove from the data collection it is a "non lege artis procedure".[65]

The non lege artis procedure means "non-law-compliant procedure" in literal translation, and its essential feature is, therefore, non-compliance with the knowledge of medicine and biomedical sciences. The health care provider is obliged to provide health care properly – lege artis.

Health care is provided properly if all medical procedures are performed to determine the diagnosis properly, with the provision of timely and effective treatment, to heal the person or improve the condition of the person, considering the latest knowledge of medical science and following standard prevention procedures, standard diagnostic procedures and standard therapeutic procedures taking into account the individual condition of the patient.[66]

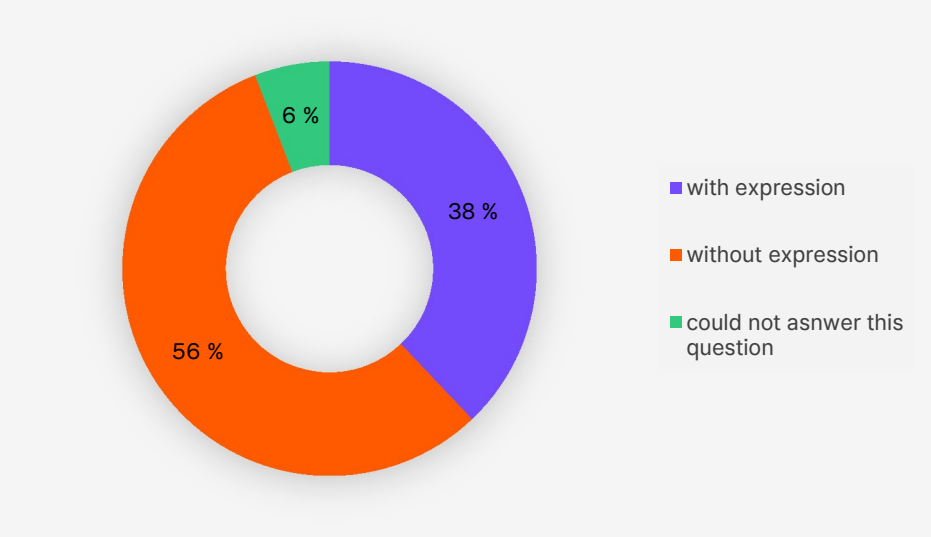
According to official data collected by the NHIC, the Kristeller manoeuvre was performed during 247 childbirths in 2017, representing 0.43% of childbirths. According to the NHIC data, from 2006 to 2017, this procedure was part of between 0.08% and 0.43% of childbirths.

According to the online survey results, Kristeller's expression was performed in 38% of childbirths in health care facilities in Slovakia. Respondents who gave birth in healthcare facilities abroad reported that expression was part of 14% of childbirths.

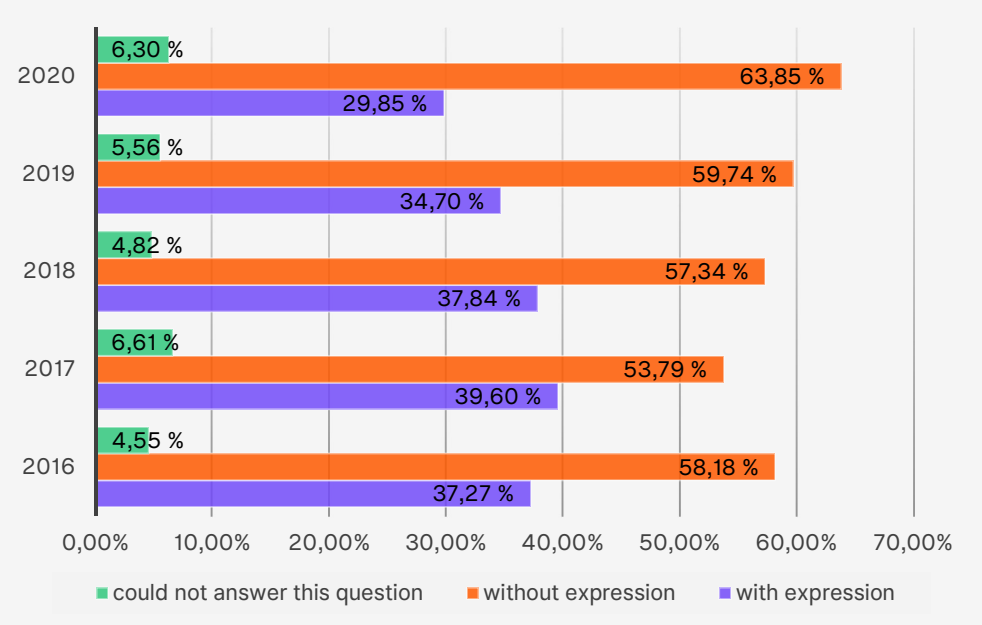
GRAPH – PERCENTAGE OF CHILDBIRTHS IN HEALTHCARE FACILITIES IN SLOVAKIA DURING WHICH KRISTELLER'S EXPRESSION

[65] Office of the Public Defender of Rights, 18666/2020.
[66] § 4, Act No 576/2004 Coll. of 21 October 2004 on healthcare and healthcare-related services and amending and supplementing certain acts, health care provided during childbirth is also perceived as urgent care.

WAS PERFORMED, ACCORDING TO DATA FROM AN ONLINE SURVEY[67]



GRAPH – PERCENTAGE OF CHILDBIRTHS IN HEALTHCARE FACILITIES IN SLOVAKIA DURING WHICH KRISTELLER´S EXPRESSION WAS PERFORMED FOR THE PERIOD 2016 TO 2020 - ACCORDING TO DATA FROM THE ONLINE SURVEY



56% of respondents said that Kristeller's expression was not performed during the childbirth. However, some respondents reported that medical staff planned to use manual pressure on the abdominal bottom.

[67] This category does not include women who have given birth abroad or at home.

"3x I had to push away a nurse who wanted to [...] do it." A respondent who gave birth in the Košice region in 2019.

38% of women in the survey said manual pressure was applied during childbirth. Some respondents stated that it was a gentle and sensitive procedure. Other respondents also reported pressure applied by hand and by a sheet.

"Yes, hand pressure, and they dragged sheet over me across my belly." A respondent who gave birth in the Trenčín region in 2017.

Intense pressure with an elbow or whole body of medical staff on the abdomen was also frequently reported. 6% of respondents said they did not know if Kristeller's expression had been performed on them.

If the medical staff performed the expression, 77.35% did not seek the consent of the mother in the performance of this act. In some cases, this procedure was carried out contrary to the consent of the mother:

"They didn't ask for my consent, and it was done by a nurse right from the first second when they gave the order to push. They didn't even give me a chance to push the baby out myself. The nurse stopped pushing when she saw that I could handle it myself." A respondent who gave birth in the Trnava region in 2020.

"She did it despite my strong disapproval." A respondent who gave birth in the Banská Bystrica region in 2019.

Medical staff requested consent in 11.82% of cases. 0.86% of respondents said there had not been time to give consent, given that the child's life had been in danger. 9.97% of respondents could not answer the question whether medical staff had requested consent to perform Kristeller's expression.

CONCLUSION

Kristeller manoeuvre represents a procedure that is **not recommended by WHO due to serious concerns about the potential for harm to mother and baby with this procedure.** Despite this recommendation, it is still widely practised, and its application varies from country to country.

There is no consensus among experts in gynaecology and obstetrics in Slovakia on what form of manual pressure/expression is permissible in terms of safe childbirth procedures. The Kristeller's expression was removed from the official collection in 2017 as a non-lege artis procedure.

However, the online survey results show that even after 2017, the procedure continues to be used during childbirth in health care facilities in Slovakia. Its form varies. In some cases, it is a gentle and sensitive procedure; in others, intense pressure is used, which causes pain and injuries to the mothers. Moreover, this procedure is very often practiced despite the mother's disapproval.

Therefore, these cases may amount to cruel, inhuman or degrading treatment and may also constitute a violation of **the right to dignity and respect for physical integrity and psychological integrity** and violation of the right to informed consent.

In the absence of Clinical Standards in Obstetrics, I, therefore, recommend taking measures, including the adoption of standards in the field of obstetrics, to ensure that women have access to appropriate and safe obstetric care while fully respecting women's autonomy and rights, as well as the requirement of free, prior and informed consent.

To ensure all mothers, have access to equally high-quality health care throughout Slovakia, I also recommend the adoption of effective tools at the central level that will ensure uniform implementation of standards in the field of obstetrics and their regular monitoring and evaluation. Regular training of medical staff on appropriate and safe obstetric procedures should also be part of the tools to ensure uniform implementation of these standards.

07 RIGHT TO PRIVACY, TO MAINTAIN AND PROTECT HIS OR HER DIGNITY, AND THE RIGHT TO RESPECT FOR PHYSICAL AND MENTAL INTEGRITY

"In terms of privacy, it was a disaster. In the room where they were doing the monitor, the bed was positioned to the door. The room was transient for everyone, so the mother lays there half-naked for a few minutes while everyone walks around. There were two toilets; one door could not be closed at all. The enema was served in the second room without a toilet door... The shower was in the admission room. [...] Walls separated the birth boxes, but you could walk, and people walked there at the boxes' front. I was lucky to give birth on a Sunday morning, and there were no students, so I was the only woman at the time. Then in the hospital after the labour, I was bothered by the examinations in front of the roommate." A respondent who gave birth in the Košice region in 2018.

Concerning childbirths, the **WHO recommends a provision of respectful care provided to all women. It is a care that maintains their dignity, privacy and confidentiality, ensures freedom from harm and mistreatment**, and enables informed choice and continuous support during labour and childbirth.[68]

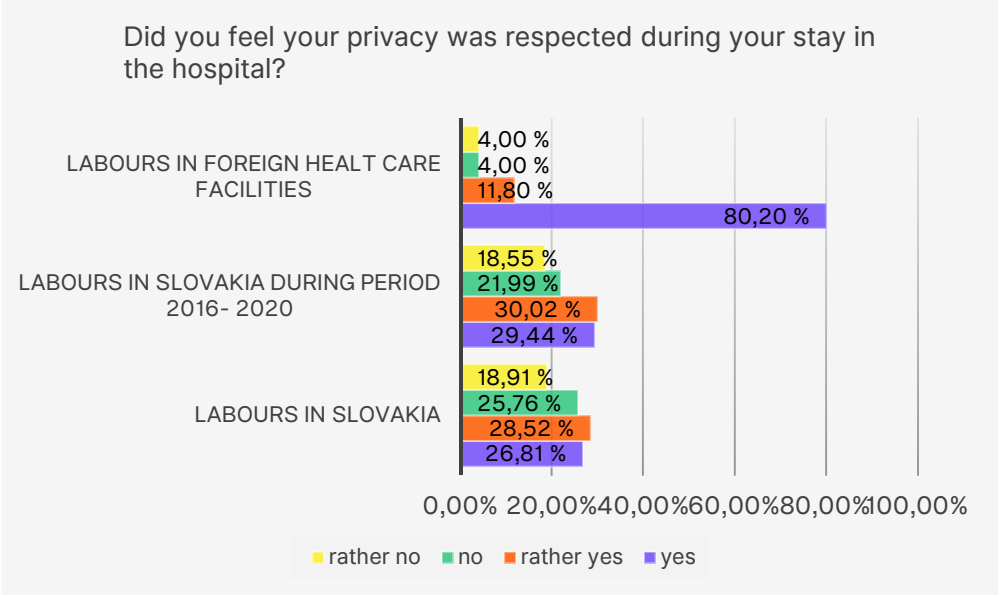
The UN Special Rapporteur on violence against women reported that some providers act without respect for privacy and confidentiality during childbirth when performing vaginal examinations during labour, including in front of third parties or permitting medical students to observe women during childbirth.[69] Research conducted in Slovakia also highlighted the issue of violation of the right to privacy and the need to maintain intimacy and confidentiality during childbirth in healthcare facilities.[70]

[68] WHO, recommendations Intrapartum care for a positive childbirth experience,p.3, 2018.
[69] Special Rapporteur on violence against women, its causes and consequences, A human rights-based approach to mistreatment and violence against women in reproductive health services with a focus on childbirth and obstetric violence, p. 11. 2019.
[70] Janka Debrecéniová, ed., Women –Mothers – Bodies: Women's Human Rights in Obstetric Care

In the course of healthcare provision, everyone has the right to respect their fundamental human rights and freedoms.[71] Patients´ right to protection of privacy have a constitutional basis in Article 16(1) of the Constitution.[72] Personal privacy must be respected, even during medical treatments, that must take place in an appropriate environment and in the presence of only those who absolutely need to be there (unless the patient has explicitly given consent or made a request).

The UN Committee on the Elimination of Discrimination against Women requires all health services to be consistent with the human rights of women, including the rights to autonomy, privacy, confidentiality, informed consent, and choice. [73]

Of the total number of respondents who gave birth in health care facilities in Slovakia, 26.81% said they felt that their privacy had been respected throughout their stay in the hospital. 28.52% of respondents experienced slight deficiencies. 25.76% of respondents said they had not had a sense of privacy. 18.91% opted for the "rather no" option.[74] Even though it can be concluded, based on survey results, that there is gradually greater respect for the privacy and intimacy of mothers in Slovak health care facilities. The online survey showed a considerable gap in the perception and experience of mothers concerning respect for the protection of the right to privacy in healthcare facilities in Slovakia and abroad.[75]



in Healthcare Facilities in Slovakia, Citizen, Democracy and Accountability (2015).

[71] Article 1, Charter of Patient Rights adopted by the Government of the Slovak Republic on 11.4.2001.

[72] Article 16, Constitution of the Slovak Republic.

[73] Committee on the Elimination of Discrimination against Women, general recommendation No. 24, women and health (article 12), 1999, ods. 31 písm. e).

[74] Women who gave birth abroad or at home are not included in this category.

[75] Respondents who gave birth in the Czech Republic, Austria, the United Kingdom, Germany, Switzerland, Hungary, the Netherlands, Scotland, Spain, Ireland, Colombia, France, Israel, Latvia participated in the questionnaire. The country was not specified by eight respondents who gave birth abroad. 70.30% of childbirths in foreign health care facilities took place in the Czech Republic and Austria.

Table - Percentage of women expressing their perception on the respect for privacy during childbirth and hospital stay in Slovakia – the online survey results

Year	yes	rather yes	rather no	no
2016	25,24 %	29,05 %	19,52 %	26,19 %
2017	23,75 %	27,42 %	21,07 %	27,76 %
2018	30,02 %	33,72 %	15,94 %	20,32 %
2019	29,11 %	29,77 %	19,57 %	21,55 %
2020	34,39 %	28,75 %	17,28 %	19,58 %

As part of the survey, the analysis is also focused on researching **the main causes and reasons that disturbed the mother's sense of privacy and intimacy**. In this open question, respondents most often cited as a violation of their privacy the **enormous movement of persons, whether it was a movement of hospital and health care staff or other persons (women and their companions) through the birthing room, or such movement near the birthing room, or in examination and waiting rooms. Respondents also mentioned frequent changes in health care staff during childbirth.**

"The presence of other mothers, various (unknown) staff (doctors, medics, nurses, nurse assistants carrying beds, cleaners etc.)." A respondent who gave birth in the Prešov region in 2016.

"During the labour, perhaps every nurse examined me there; I felt like a piece of meat." A respondent who gave birth in Trnava region in2018.

Respondents also frequently associated the lack of privacy with the presence of medical students during labour. Moreover, they stated that they were not informed in advance on the presence of medical students, or they did not give their consent. In some cases, the students were present despite the mother's opposition.

"[During the labour] students were present, although no one asked me if they could come." A respondent who gave birth in Trnava region in 2020.

"[...] I also said that I disagree with the presence of medical students. It was accepted only until the beginning of childbirth, and as soon as the birth began, everyone came in and looked at me about ten students and doctors and nurses."
A respondent who gave birth in Bratislava region in 2018.

The European Court of Human Rights addressed women's right to privacy during birth in the case of Konovalova v. Russia case[76]. The applicant alleged, in particular, that she had been compelled to give birth to her child in front of medical students, and that this was in breach of

[76] Konovalova v. Russia, No. 37873/04, European Court of Human Rights (2015).

domestic law and incompatible with the Convention. Relevant domestic law provided that medical students could assist in medical procedures under supervision but made no provision for obtaining patients' informed consent. The European Court of Human Rights found that the presence of medical students during the birth of the applicant's child did not comply with the requirement of lawfulness of Article 8 § 2 of the Convention, on account of the lack of sufficient procedural safeguards against arbitrary interference with the applicant's Article 8 rights in the domestic law at the time. The European Court of Human Rights found a violation of article 8, which states that: "Everyone has the right to respect for his private and family life" and that "There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society".

Respondents also negatively perceived the positioning of the birthing chair (or chair at other examinations) towards the door, which was not permanently closed. They also negatively perceived the birth boxes directed to the hallway and separated only by a curtain.

Respondents very often mentioned as a disturbing element that due to insufficient separation of individual birth boxes, e.g., by a curtain or an open door, they heard other births or disturbing conversations of health care staff.

"In Slovak hospitals during labour, a woman loses all dignity. I gave birth in a box that was not separated by proper walls but only by a curtain and provisional walls. I have heard absolutely everything, other births, etc. About ten people looked at me during the second stage of the labour. The chair was positioned straight towards them." A respondent who gave birth in Bratislava region in 2016.

During the first stage of labour, women stay in waiting rooms. The respondents described them as crowded and without the necessary privacy. **Concerning the equipment of hospitals, respondents complained about the lack of a sufficient number of toilets and showers, whether in the common areas of the maternity ward or the rooms.**

"We were five of us that gave birth that day. I heard everything, and we were fighting for one toilet and a shower. All the shyness had to go on the side. It was very undignified." A respondent who gave birth in the Prešov region in 2017.

COCLUSION

The results of the online survey point to frequent violations of the right to privacy, dignity and respect for physical and psychological integrity of women during labour in the health care facilities in Slovakia. The survey also revealed that these infringements are the result of inappropriate organisation, spatial capacity and inadequate equipment of maternity wards but are also exacerbated by disrespectful behaviour by medical staff.

Respondents most often cited as a violation of their privacy the enormous movement of persons, whether it was a movement of hospital and health care staff or other persons (women and their companions) through the birthing room, or such movement near the birthing room, or in examination and waiting rooms. **Respondents also mentioned frequent exchanges of medical staff during childbirth. There were situations where several "strangers" examined them, given that the medical staff did not present themselves before the examination and/or did not give a reason for the examination. Such an approach is unacceptable and constitutes a violation of the right to human dignity and respect for women's physical integrity and psychological integrity while having particular negative consequences for victims of sexual and physical violence.**

Concerning the lack of privacy, women also reported the presence of medical students. In many cases, women reported not being informed in advance about the presence of medical students or did not give their consent. In some cases, medical students attended the childbirth despite the mother's disapproval, which violates the right to informed consent and the right to decide on one's participation in teaching or biomedical research.[77]

Inappropriate organization, spatial capacities, and insufficient equipment of maternity wards were manifested in practice by overcrowded rooms, insufficient separation of birth boxes, inappropriate positioning of birthing chairs, or a lack of sanitation facilities. Respondents often reported that there was only one sanitary facility available throughout the ward for all mothers and accompanying persons.

In the context of protection of the right to privacy, intimacy and confidentiality of women, adequate measures must be taken to ensure the provision of healthcare in a manner that respects human rights, human dignity, mental health, and the emotional well-being of women during childbirth.

These measures should include ensuring adequate funding for healthcare facilities to ensure women enjoy a dignified environment during childbirth and satisfactory working conditions for healthcare providers. It is also essential to implement effective supervisory mechanisms to ensure monitoring of human rights in providing healthcare in obstetrics care. Training for health care providers should also form an integral part of these measures with the aim to build the capacities of the professionals in human rights in the provision of health care and on the issue of violence against women.

08 COMPANION OF CHOICE DURING LABOUR

According to the WHO, the presence of a companion of choice during labour is greatly beneficial to the mother. It provides women with emotional, psychological, and practical support during childbirth.

Research has shown clinically meaningful benefits of the support, including shorter duration of labour, increased rates of spontaneous

[77] For more information on informed consent, see Chapter 04.

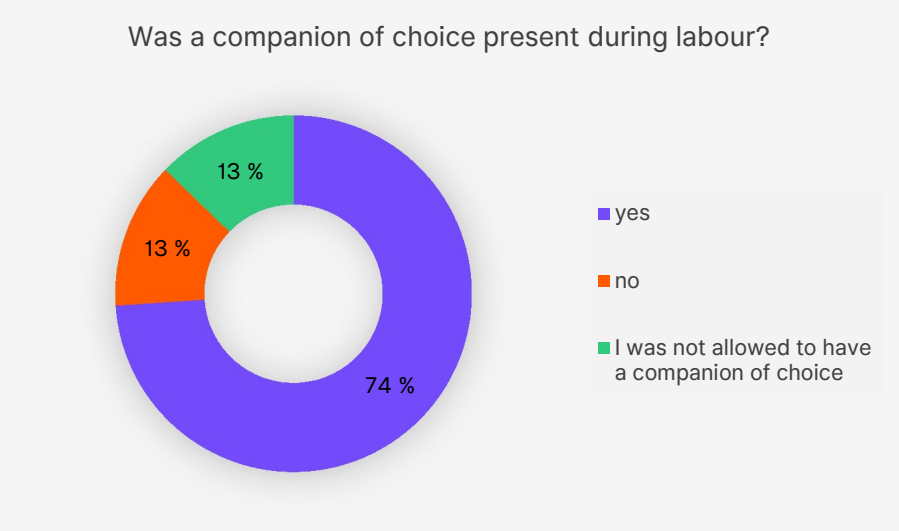
vaginal birth, decreased caesarean section and intrapartum analgesia, and increased satisfaction with childbirth experiences.

The presence of a companion of choice during labour is thus also a low-cost measure to ensure respectful health care, relieving the healthcare professionals themselves. Its presence may reduce the likelihood that medical interventions in childbirth requiring the intervention of medical personnel will be necessary. Another important aspect of the role is the potential prevention of mistreatment.[78]

The WHO also identified several barriers that do not allow women to benefit from the presence of a companion of choice These include: the absence of national or institutional policies allowing women to have a companion of choice during labour; the physical infrastructure of health facilities; lack of knowledge among healthcare providers about the benefits of the companion of choice, and negative attitudes of healthcare providers to the presence of the companion of choice at the workplace.

The online survey shows that 74% of women[79] had a companion of choice during labour. 13% of respondents gave birth without the presence of such a person. Among the most common reasons why respondents did not have a companion of choice during labour were: women's choice not to have anyone present or the child's father did not want to be present during labour. Another reason was when the companion of choice could not arrive at the health facility on time. One respondent also cited a financial barrier.

13% of respondents were not allowed to be accompanied by a companion of choice during labour. Respondents ranked the pandemic COVID-19 among the most common reasons they were not allowed to be accompanied by a person of choice. Furthermore, caesarean section was cited as the second most common reason.



[78] WHO, Companion of choice during labour and childbirth for improved quality of care, 2016.
[79] Women who gave birth in the period 2016 – 2020 in health care facilities in Slovakia.

A companion of a person in institutional care is a service related to the provision of health care. Pursuant to §5 of Act No. 576/2004 Coll. on healthcare, healthcare related services and on amendments to certain acts as amended, a companion of a person in institutional care is a person who has been admitted to institutional care together with a person receiving institutional care.

The right for a companion of choice during labour is explicitly stated in the Charter of Patient Rights, which is not legally binding. Pursuant to Article 7(4) of the Charter of Patient Rights adopted by the Government of the Slovak Republic on 11 April 2001, a woman, after agreement with a health institution, has the right to have a companion of choice during labour. However, this right is not regulated in more detail in the legislation.

The right to a birth companion of a woman´s choice forms a part of the right to respect for his private and family life. The European Court of Human Rights stated that Article 8 § 1. "Private life" incorporates the right to respect for the decisions to become a parent. The right concerning the decision to become a parent includes the right of choosing the circumstances of becoming a parent. Thus, the circumstances of giving birth incontestably form part of one's private life.[80]

It is essential that women can exercise women's right to a birth companion of choice during the whole labour. The presence of a companion of choice during childbirth should in no case be perceived as an above-standard service.

CONCLUSION

The presence of a companion of choice during labour provides women with emotional, psychological, and practical support during childbirth. Research has shown clinically meaningful benefits of the support, including increased rates of spontaneous vaginal birth and decreased caesarean section. It represents a low-cost measure to ensure respectful health care that relieves the healthcare professionals themselves as it reduces the likelihood that medical interventions in childbirth require the intervention of medical personnel.

The right to a birth companion of a woman´s choice forms a part of the right to respect for his private and family life and it should in no case be perceived as an above-standard service.

[80] Ternovszky v Hungary, Application no. 67545/09, 2011. ods. 22 rozsudku.

Although the survey results show that 74% of women had a companion of choice during labour, national legislation does not guarantee this right to women.

Therefore, in the absence of legislation concerning the companion of choice, I recommend revision of the legislation to ensure that mothers and minor patients, have the right to the presence of accompanying person when providing healthcare. At the same time, it is essential that healthcare providers are trained on the benefits of the presence of a companion of choice during labour and, conversely, that accompanying person is instructed on their role during childbirth.

09 SEGREGATION AND ILL-TREATMENT OF ROMA WOMEN IN MATERNITY WARDS

"In [...] the hospital in the maternity wards, there are literally gipsy rooms where all the gipsies' women are put together, and also we are different. We are not all illiterate and dirty. In these rooms there is no possibility to bath a child as in other rooms, where there are non-Roma women, they have portable baby beds on wheels, and we could only dream about the opportunity to have lunch with the children in the hallway. It felt like we were just a trash there." A respondent who gave birth in the Banská Bystrica region in 2017.

In the past years, non-governmental organisations and UN committees expressed concerns over the segregation and ill-treatment of Romani women in maternity hospitals in the Slovak Republic. Several respondents in an online survey also pointed out the existence of separate rooms for Romani mothers or the ill-treatment of Romani women during childbirth.

"While I was moved to the operating room, I witnessed a young Romani mother shouting in a box and crying that she was about to give birth and her doctor from behind the table x meters away from her she shouted at her that she should not scream as she is not giving birth yet. Terrible approach. " A respondent who gave birth in the Košice region in 2015.

In 2017, the Center for Reproductive Rights and Slovak organization Center for Civil and Human Rights released a report *Vakeras Zorales – Speaking Out: Roma Women's Experiences in Reproductive Health Care in Slovakia.*[81] It documents personal stories of 38 Roma women from marginalized communities who reported suffering discrimination and abuse in reproductive and maternal health care facilities in eastern Slovakia. The report speaks about segregation in maternity care departments, racial harassment and humiliation, neglect, physical restraint and abuse during childbirth, and failures related to informed consent and decision-making with regard to medical treatment.

"They did the CR [caesarean section] because the daughter turned transversely. Moreover, there was a risk that she could turn the pelvis down, and her large head could cause birth complications. What I did not

[81] Center for Reproductive Rights and Slovak organization Center for Civil and Human Rights, ay Vakeras Zorales – Speaking Out: Roma Women's Experiences in Reproductive Health Care in Slovakia, 2017.

like was the obstetrician's remark that Romani women give birth in this way, that they are like animals; they give birth anyhow. I have no idea why he needed to say that, but he stopped being sympathetic to me; he disgusted me. " A respondent who gave birth in the Košice region in 2002.

In 2019, the Committee on Economic, Social and Cultural Rights expressed concerns "about reports that Roma women seeking maternal health care face segregation in maternity wards, harassment and humiliation, neglect, physical restraint and abuse during childbirth and violations of the obligation to obtain their informed consent with regard to medical treatment". [82] The Committee urged the Slovak Republic to "prohibit completely the practice of segregation of Roma women in maternity wards and verbal, physical and psychological violence against the Roma women seeking maternal health care".[83]

National legislation guarantees the right to healthcare equally to everyone in under the principle of equal treatment.[84]

Adherence to the principle of equal treatment shall lay in the prohibition of discrimination on grounds of sex, religion or belief, race, nationality or ethnic origin, disability, age, sexual orientation, marital or family status, colour, language, political affiliation or other conviction, national or social origin, property or any other status.

These provisions reflect European legislation, in particular, the Council Directive 2000/43 / EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. This Directive shall apply, within the framework of the powers delegated to the Community, to all persons, as regards both the public and private sectors, including public bodies, in relation to: education, social benefits, and social protection, including social security and health care.

At the same time, the principle of equal treatment in social security, health care, provision of goods and services, and in education is enshrined in § 5 of Act no. 365/2004 Coll. on Equal Treatment in Certain Areas and Protection against Discrimination, and on amending and supplementing certain other laws as amended (Antidiscrimination Act).

However, it is important to note that some individuals may face discrimination based on more than one aspect of their identity. The European Union Agency for Fundamental Rights (FRA) points out that "the discrimination from the perspective of a single ground fails to capture or adequately tackle the various manifestations of unequal treatment that people may face in their daily lives".[85]

This approach is particularly important when assessing access to health care for Roma women, as they are the ones who "may

[82] Committee on Economic, Social and Cultural Rights (ESCR Committee), Concluding Observations: Slovakia, para. 44, U.N. Doc. E/C.12/SVK/CO/3 (2019).
[83] Committee on Economic, Social and Cultural Rights (ESCR Committee), Concluding Observations: Slovakia, para. 45, U.N. Doc. E/C.12/SVK/CO/3 (2019).
[84] § 11 Act No 576/2004 Coll. of 21 October 2004 on healthcare and healthcare-related services and amending and supplementing certain acts.
[85] FRA, Handbook on European non-discrimination law 2018 edition, p. 60.

experience discrimination based on more than one aspect of their identity, including sex, race and social status".[86]

The United Nations Committee on Economic, Social and Cultural Rights has explained that "[i]individuals belonging to particular groups may be disproportionately affected by intersectional discrimination in the context of sexual and reproductive health". [87] The committee included poor women or ethnic groups among these vulnerable groups.

The UN Committee on the Elimination of Discrimination against Women urged the State parties to legally recognize intersecting forms of discrimination. The Committee stated that "the discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation and gender identity".[88]

At present, there is no uniform definition of multiple and intersectional discrimination. Nevertheless, the European Commission states that multiple discrimination describes a "situation where discrimination takes place on the basis of several grounds operating separately. Intersectional Discrimination refers to a situation where several grounds operate and interact with each other at the same time in such a way that they are inseparable ".[89] For this reason, in connection with the access of Roma women to sexual and reproductive health, we can talk about intersectional discrimination.

The concept of intersectional discrimination is included in the framework document Strategy for Equality, Inclusion and Roma Participation until 2030[90]. This document represents the commitment of the Government of the Slovak Republic and defines the direction of public policies in the areas of Roma equality and inclusion. However, the anti-discrimination legislation of the Slovak Republic does not include multiple and intersectional discrimination as a form of discrimination.

In 2016, the Committee on the Rights of Persons with Disabilities recommended that Slovakia "amend section 2a (1) of the Anti-Discrimination Act to include intersectional and multiple discrimination as a form of discrimination, and definitions of the term, and adopt legal remedies and sanctions to reflect the aggravated nature of violations arising from multiple and intersectional discrimination". [91]

CONCLUSION

[86] Center for Reproductive Rights and Slovak organization Center for Civil and Human Rights, ay Vakeras Zorales – Speaking Out: Roma Women's Experiences in Reproductive Health Care in Slovakia, p.15, 2017.
[87] Committee on Economic, Social and Cultural Rights general comment No. 22, para. 30, U.N. Doc. E/C.12/GC/22 (2016)
[88] Committee on the Elimination of Discrimination against Women, General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, para. 18.
[89] European Commission,Tackling Multiple Discrimination Practices, policies and laws, 2007, p. 16 - 17.
[90] Strategy for Equality, Inclusion and Roma Participation until 2030 adopted by the Government of the Slovak Republic on 7. of April 2021.
[91] Committee on the Rights of Persons with Disabilities, Concluding Observations: Slovakia, para. 18, U.N. Doc. CRPD/C/SVK/CO/1 (2016).

Under Slovak and European legislation, health care providers are obliged to comply with the principle of equal treatment and comply with the prohibition of discrimination against persons in the field of healthcare. Even though Slovak legislation guarantees that health care should be provided in good quality and without discrimination, Romani women face discrimination and ill-treatment in access to health care during childbirth due to prejudices and stereotypes.

Therefore, it is essential to put in place adequate procedures and mechanisms that ensure effective investigation, monitoring, elimination and sanctioning of the segregation of Roma women in maternity wards.

The Strategy for Equality, Inclusion and Participation of the Roma until 2030 also draws attention to the segregation of Roma people in health facilities. One of the partial goals of the strategy is to ensure equal access to the provision of health care for marginalized Roma communities. As an indicator for achieving this goal, the strategy defines the existence of a system for evaluating complaints of discrimination in healthcare facilities.

Another strategy indicator to achieve the sub-objective - ensuring equal access to health care for marginalized Roma communities - is the number of health professionals trained to increase skills and acquire competencies with patients coming from marginalized Roma communities.

In this context, it is also essential to develop effective training programs for health professionals working in reproductive health to combat stereotypes and prejudices that promote discriminatory treatment of Roma women patients.

At the same time, it is also essential to take adequate measures to properly implement concluding observations on Slovakia by United Nations treaty monitoring bodies in the field of reproductive health care.

10 RIGHT TO BE TREATED IN A HUMANE, ETHICAL AND DIGNITY MANNER BY THE HEALTHCARE PROFESSIONALS

Every patient has the right to be treated in a human, ethical and dignity manner by health professionals. [92] Therefore, the focus of this chapter is to analyse the results of the online survey concerning the healthcare professionals' approach towards women in labour during facility-based childbirth.

According to the survey, 40% of respondents were satisfied with the obstetricians' approach, and 35% of respondents were very satisfied.[93] According to the respondents, the most common reasons for satisfaction were: health professionals' nice, human, and pleasant behavior, which included encouragement and support; respectful care; patience; helpfulness; and respect for privacy. Very common reasons

[92] § 11 Act No 576/2004 Coll. of 21 October 2004 on healthcare and healthcare-related services and amending and supplementing certain acts.
[93] Women who gave birth abroad and at home are not included in this category.

also reported included health professionals' professional approach, good communication and care.

"The obstetrician was very positive, radiating peace, respect, from the beginning of childbirth. She informed me about everything, about every step; she supported me if I needed time, help, anything, listened to me. At the same time, she was professional, I felt that professionally I was in good hands." - A respondent who gave birth in the Bratislava region in 2019.

" The professionalism, communication, feeling like they do respect me, and they do not just take me as the next one in line." A respondent who gave birth in the Prešov region in 2018.

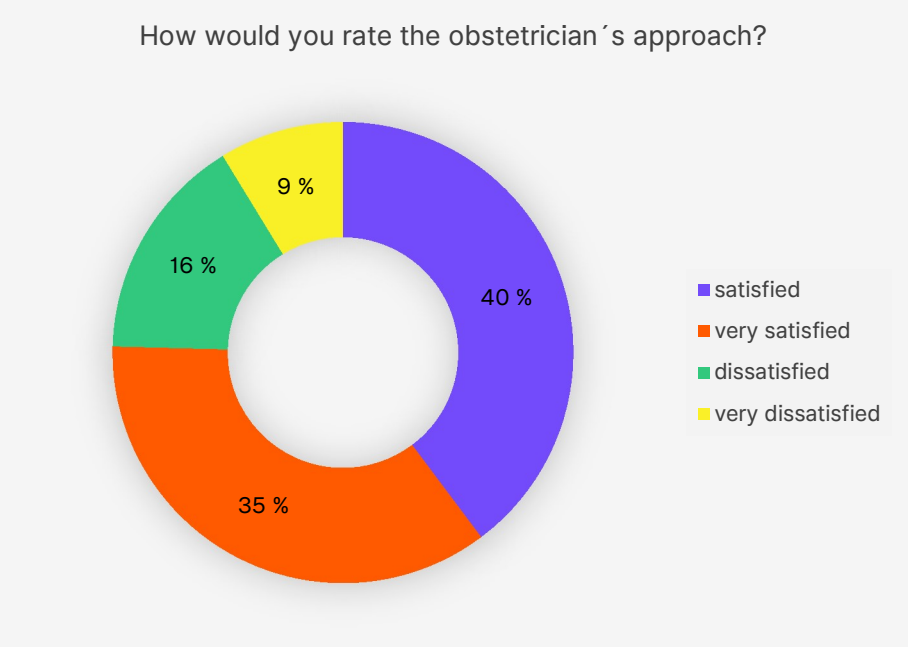
"Communication was active; they answered all my questions, they helped me to deal with childbirth pain, massaging, they advised me on what to do. They were supervising, asking. It was clear that they knew what they were doing and were happy to do it, human and at the same time a professional approach." A respondent who gave birth in the Banská Bytrica region in 2016.

"The female doctor was great; it went without an episiotomy or injuries. It took half an hour for the baby to come out, but everyone around me was competent. They helped and encouraged me and explained to me what to do. They also put my baby girl on me and left her there with me; it has not been hours, just a few rare minutes skin to skin, but I am grateful for that because I know it is still not a matter of course." A respondent who gave birth in the Nitra region in 2018 .

"They supported me, accepted my needs, answered my questions. They were empathetic." A respondent who gave birth in the Trenčín region in 2020 .

According to the online survey, 16% of respondents were dissatisfied with the obstetrician's approach and behavior and 9% were very dissatisfied. Among the most common reasons for dissatisfaction, the respondents reported insufficient or absent communication, including performing interventions without prior information, consent or against their will. Among the common reasons, women reported rude and undignified behaviour; unpleasant, impersonal, insensitive, cold or even arrogant behaviour, including inappropriate comments. Another reason for dissatisfaction reported was unnecessary clinical intervention in the birth process
and accelerating its course. Respondents also complained about the insufficient presence of an obstetrician and failure to respect the birth plan / wishes / needs, including failure to choose a position for labour.

GRAPH - HOW WOULD YOU RATE THE OBSTETRICIAN'S



APPROACH?

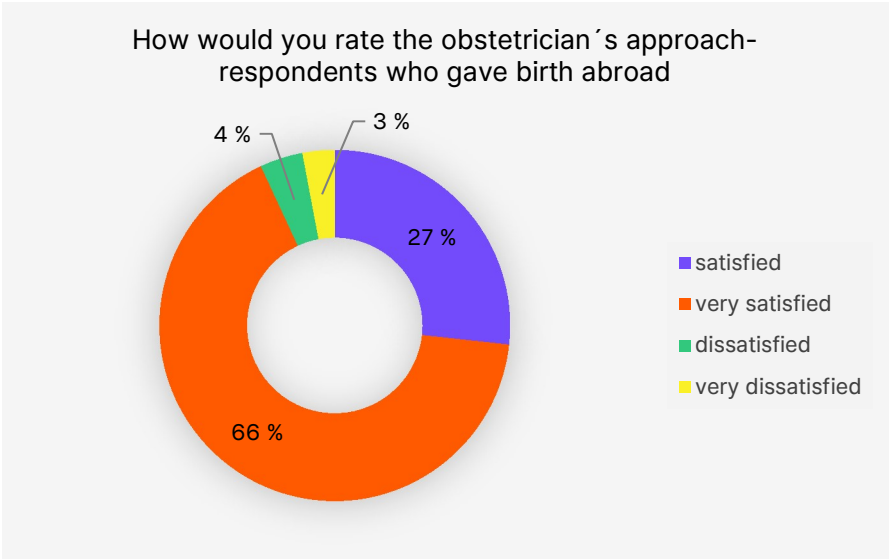
TABLE: How would you rate the obstetrician's approach?

Year	I was very satisfied	I was satisfied	I was dissatisfied	I was very dissatisfied
2016	26,67 %	40,00 %	23,81 %	9,52 %
2017	29,10 %	44,48 %	16,05 %	10,37 %
2018	34,56 %	40,32 %	19,07 %	9,22 %
2019	42,79 %	39,84 %	11,64 %	5,73 %
2020	47,44 %	37,74 %	9,70 %	5,12 %

For compar

For comparison, the results of the online survey of women who gave birth abroad are presented. 27% of respondents were satisfied with the approach of an obstetrician, and 66% of respondents were very satisfied. 4% of respondents were dissatisfied with the obstetrician's approach, and 3% of respondents were very dissatisfied.

GRAPH - HOW WOULD YOU RATE THE OBSTETRICIAN'S APPROACH - RESPONDENTS WHO GAVE BIRTH ABROAD [94]



Apart from the focus on the obstetrician´s behaviour towards women in labour during facility-based childbirth, the online survey also focuses on the perception of respondents concerning the approach of other medical staff presented during and after the childbirth. According to the results of the online survey, 46% of respondents were satisfied with the approach of other medical staff and 23% were very satisfied.

The most common reasons for satisfaction were expertise, professional approach, and sufficient communication. Other reasons involved calm, sensitive and pleasant behavior, which included support, encouragement, human attitude, patience and helpfulness. Respondents also viewed positively respectful approach, which included respect for privacy, non-interference with childbirth and care.

"Friendly staff, constant professional communication at a high level." A respondent who gave birth in the Trnava region in 2020.

"While waiting for the childbirth (7 hours in the waiting room), 3 different midwives changed. Each of them introduced herself to me, informed me that she was taking over from another colleague, made sure I didn't need anything, checked regularly on me, etc. They performed well, correctly, and professionally. I was satisfied. [...] " A respondent who gave birth in the Bratislava region in 2020.

"The staff was very supportive and friendly, especially during the pushing period itself and then during the bonding with the baby, they came to check on me if everything was fine. Also, the care while in the hospital after birth was good. I also received breastfeeding support." A respondent who gave birth in the Prešov Region in 2020.

"Everyone was nice, they communicated and informed me about

[94] This category includes respondents who voluntarily decided to give birth abroad, but also those who gave birth there because they live there.

everything. I thank them. " A respondent who gave birth in the Nitra region in 2020.

23% of respondents were dissatisfied with the attitude of other medical staff, and 8% of respondents were very dissatisfied. Among the most common reasons for dissatisfaction were lack of communication and conflicting information and practices. Other common reasons for dissatisfaction with the approach were unpleasant, insensitive, inhuman attitudes, including rude, undignified, or intimidating behaviour. Respondents also reported insufficient care or assistance, including disinterest. Respondents also negatively perceived interventions without information / against their will, including separation with the new-born and routine interventions.

GRAPH – HOW YOU WOULD RATE THE APPROACH OF OTHER HEALTHCARE PROFESSIONALS?

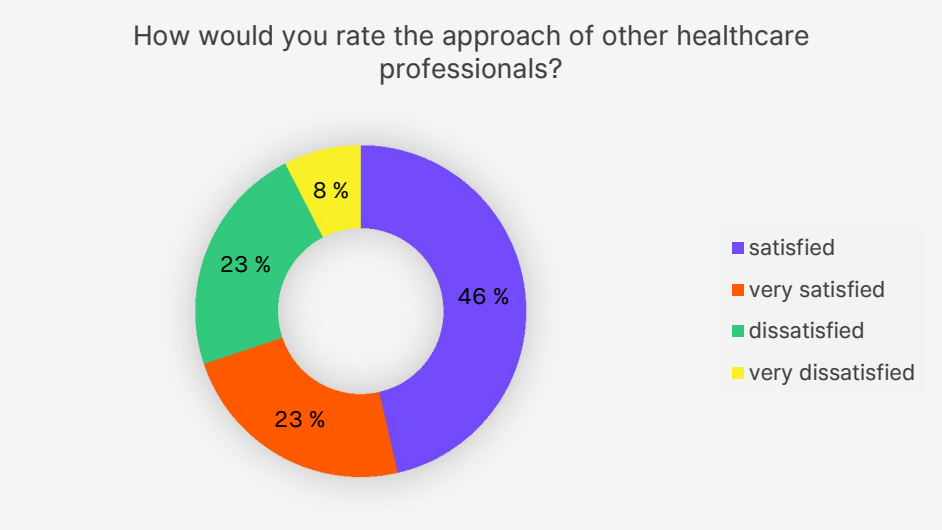


TABLE: How would you rate the approach of other medical staff?

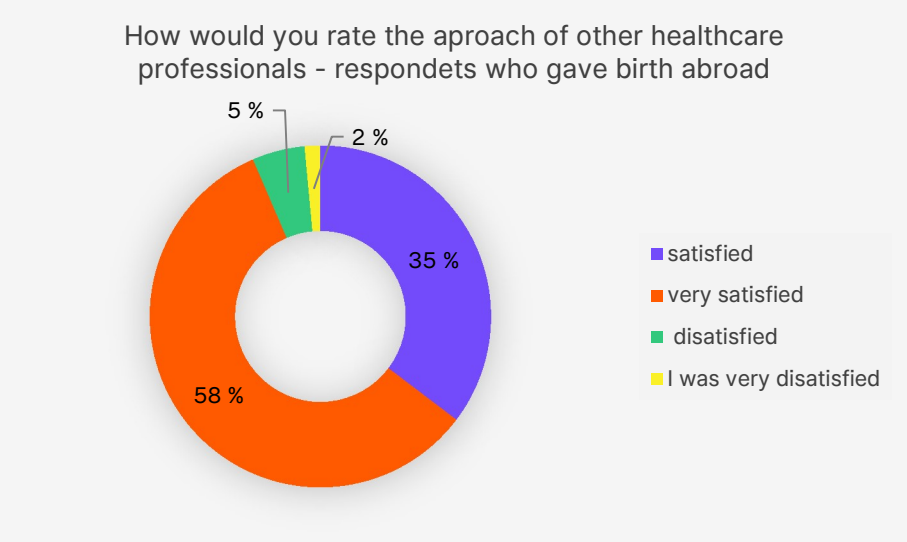
Year	I was very satisfied	I was satisfied	I was dissatisfied	I was very dissatisfied
2016	19,08 %	44,55 %	26,82 %	9,55 %
2017	18,75 %	46,05 %	28,62 %	6,58 %
2018	23,97 %	49,54 %	21,00 %	5,49 %

2019	27,45 %	47,88 %	18,62 %	6,05 %
2020	30,18 %	46,32 %	17,89 %	5,61 %

For com

According to the mothers who gave birth in health facilities outside of Slovakia, 35% of respondents were satisfied with the approach of other medical staff, and 58% were very satisfied. 5% of respondents were dissatisfied with the approach of other medical staff, and 2% of respondents were very dissatisfied.

GRAPH - HOW WOULD YOU RATE THE APPROACH OF OTHER HEALTHCARE PROFESSIONALS - RESPONDENTS WHO GAVE BIRTH ABROAD [95]



11 MONITORING AND ACCOUNTABILITY MECHANISM

Dubravka Šimonović, United Nations Special Rapporteur on violence against women, its causes and consequences recommended that States „establish human rights-based accountability mechanisms to ensure redress for victims of mistreatment and violence, including financial compensation, acknowledgement of wrongdoing, formal apology, and guarantees of non-repetition“.[96] States should also ensure that “regulatory bodies, including national human rights institutions, ethic commissions and ombudspersons and equality bodies have the mandate and resources to exercise oversight over public and private birthing facilities to guarantee respect for women’s autonomy and privacy“.[97]

[95] This category includes respondents who voluntarily decided to give birth abroad, but also those who gave birth there because they live there.
[96] Special Rapporteur on violence against women, its causes and consequences, A human rights-based approach to mistreatment and violence against women in reproductive health services with a focus on childbirth and obstetric violence, p. 22, 2019.
[97] *Ibid*.

The Parliamentary Assembly of the Council of Europe in the Resolution on Obstetrical and gynaecological violence[98] called on Council of Europe member States to ensure that health care during childbirth is provided in a manner that respects human rights and human dignity. States should adopt accessible reporting and complaint mechanisms for victims of gynaecological and obstetrical violence, within and outside hospitals, including with ombudspersons. Relevant ministries at national level should ensure data collection on medical procedures during childbirth. States should also organize information and awareness-raising campaigns on patients' rights.

According to the Council of Europe Commissioner for Human Rights, States should effectively prohibit, investigate and sanction physical and verbal abuse against women.[99]

NATIONAL LEGISLATION

Every patient has the right to participate in the healthcare process, to co-decide on its provision and treatment. The patient has the right to receive health care, which is characterized by a high professional level, the use of modern technology, but also a dignified, ethical and a humane approach.[100]

In the provision of health care, everyone has the right, under the conditions laid down by law, to maintain and protect his or her dignity, and the right to respect for physical and mental integrity, the right to information relating to his/her state of health, information on the purpose, nature, consequences and risks of providing healthcare, on the options for choosing proposed procedures and risks of refusing to provide health care, refusal to provide health care, except where health care can be provided without informed consent, and the right to be treated in a humane, ethical and dignity manner by health care professionals.[101]

Therefore, the subject of protection is also immaterial values and aspects of the patient's personality, such as name, honour, dignity, privacy, and physical integrity. Almost every health care procedure interferes with a person's physical integrity.

The mission of a health professional is to practice medical profession conscientiously, dutifully, with a deep human understanding, in compliance with the rights, regulations, available medical and biomedical evidence, and in consideration of technical and material resources of a health care facility in which the health care is provided.[102]

[98] Parliamentary Assembly of the Council of Europe, Resolution 2306 (2019) on Obstetrical and gynaecological violence, http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=28236&lang=en.
[99] Council of Europe Commissioner for Human Rights, Women's sexual and reproductive health and rights in Europe, p. 122017,.Conseil de l'Europe - brochure A4 portrait (coe.int).
[100] Article 2, Charter of Patient Rights.
[101] § 11, Act No. 576/2004 on health care and on services related to health care.
[102] the Code of Ethics for Health Professionals which constitutes an annex to Act No. 578/2004 Coll. on healthcare providers, medical workers, and professional organisations in the healthcare sector and on amendments to certain acts.

It is the duty of health professionals not only to preserve life, to protect, to promote and restore health and to prevent disease but also **to reduce patient suffering, regardless of nationality, race, religion, sexual orientation, political affiliation, social status, moral or intellectual level and reputation of the patient.**

11.1 COMPLAIN IN CASE OF POOR AND LOW-QUALITY HEALTH CARE, MALPRACTISE AND ERRORS?

The primary body responsible for issues of proper health care provision is the Health Care Surveillance Authority (HCSA). It has been established by the Act No 581/2004 Coll. on health insurance companies, health care supervision and on the amendment and supplementing of certain laws, as amended. It is a legal entity which is vested with performing surveillance over provision of health care. The HCSA performs surveillance over all relevant aspects of health service system.

When is health care provided properly?

Health care is provided properly if all medical procedures are performed to determine the diagnosis properly, with the provision of timely and effective treatment, to heal the person or improve the condition of the person, taking into account the latest knowledge of medical science and following standard prevention procedures, standard diagnostic procedures and standard therapeutic procedures taking into account the individual condition of the patient**.**[103]

The outcome of the administrative procedure by the Health Care Surveillance Authority can further constitute bases for a civil process, for the initiation of criminal prosecution, or it may affect employment relations.

11.2 COMPLAIN MECHANISM ON VIOLATION OF FUNDAMENTAL HUMAN RIGHTS DURING CHILDBIRTH

Patients' rights are regulated under Article 11 of Act No 576/2004 Coll. of 21 October 2004 on healthcare and healthcare-related services and amending and supplementing certain acts.

I addressed the Ministry of Health of the Slovak Republic with a request for information on human rights monitoring mechanism in the provision of health care in the area of obstetrics. The Ministry of Health informed me by letter that as a body, it supervises health care providers defined as defined in the relevant legislation.

The Ministry of Health of the Slovak Republic stated that the patient's rights are regulated under Article 11 of Act No 576/2004 Coll. In the approved control plan of the Ministry of Health of the Slovak Republic for 2021, the monitoring of compliance of healthcare providers focusing

[103] § 4 of Act No 576/2004 Coll. of 21 October 2004 on healthcare and healthcare-related services and amending and supplementing certain acts.

on patients' rights under Article 11 is not included. Moreover, the Ministry stated that it does not register any complaints received under this subject.

The Ministry of Health of the Slovak Republic further stated that the authorized entities for investigating patients' complaints on the behaviour of healthcare professionals are either the statutory body of the health care provider, in which the healthcare professional is in the position of an employee or if the healthcare professional is a member of the chamber, the supervisory authority is the competent chamber.

It is essential to note that the exercise of a doctor's profession in the Slovak Republic territory is conditional only on registration in the register of doctors of the Slovak Republic. **Membership in the Slovak Medical Chamber is therefore voluntary.** The same applies to nurses and midwives, who can be registered with the Slovak Chamber of Nurses and Midwives.

In the context of the ministry's response, it is also important to emphasize that the issue of a humane, ethical and dignified approach of medical personnel in providing health care cannot be perceived only through ethics but mainly from the human rights perspective. Pursuant to Section 11(h) of the Health Care Act, every patient has the right to be treated in a humane, ethical and dignity manner by health care professionals, and therefore the role of the Ministry of Health of the Slovak Republic is to monitor the compliance of health care providers with obligations is under this Act. Moreover, it is essential to note that the Human Rights Catalog in the provision of health care is broader than § 11 of Act No 576/2004 Coll. of 21 October 2004 on healthcare and healthcare-related services. Patients' rights are enshrined in the national legislation of the Slovak Republic (especially in the Constitution and in-laws) and international conventions; the Slovak Republic is bound.

For example, Act no. 448/2008 Coll. on social services and on the amendment of Act no. 455/1991 Coll. on Trade Licensing (Trade Licensing Act) as amended stipulates that the Ministry of Labor, Social Affairs and Family of the Slovak Republic supervises compliance with the said Act and generally binding legal regulations in the provision of social services and the manner of its implementation in particular with respect for fundamental human rights and freedoms.

However, a similar explicit provision on the body responsible for the compliance of health care providers with obligations primarily in terms of respect for fundamental human rights and freedoms of patients is absent in the relevant legislation on health care.

CONCLUSION

At level of the Ministry of Health of the Slovak Republic, an effective monitoring system that will guarantee mothers and patients in general, in case of violation of fundamental human rights, independent review, possible sanctioning, compensation and redress, is missing.

Based also on the individual complaints received at the Office of the Public Defender of Rights, mothers or their family members lack an independent and impartial body which, in the event of a negative opinion of the statutory body of the healthcare provider, could relevantly assess complaints.

In the Program Statement of the Government of the Slovak Republic for the period 2021 - 2024, the Government of the Slovak Republic declares that the critical values in the health care system are justice, solidarity, quality and equality of access to health care for every citizen. In part devoted to improving the population's health care, in the patient category, the Government of the Slovak Republic has set itself the goal of creating the position of the patient ombudsman.

In this context, it should be emphasized that ombudsperson Institutions have an important role to play in strengthening democracy, the rule of law, good administration and the protection and promotion of human rights and fundamental freedoms. According to principles for the protection and promotion of the institution of the Ombudsperson **"Venice Principles"** that represents the legal principles necessary for the establishment and functioning of ombudsperson institutions, issued by **the European Commission for Democracy through Law (Venice Commission)**, one of the necessary preconditions for the establishment and functioning of an ombudsperson institution **is its independence.** While there is no standardised model across Council of Europe Member States, the State shall support and protect the Ombudsperson Institution and refrain from any action undermining its independence.

The institution of ombudsperson should be based on a firm legal foundation, preferably at constitutional level, while its characteristics and functions may be further elaborated at the statutory level. The ombudsperson should be elected or appointed according to procedures strengthening to the highest possible extent the authority, impartiality, independence, and legitimacy of the Institution.[104]

Ensuring a thorough investigation of human rights violations in the provision of health care, sanctioning, and compensation is an important public interest. Whether in establishing an effective human rights-based accountability mechanism, a new institution will be created (such as the aforementioned patient ombudsperson). Or, an existing institution will have its competencies strengthened (for example, at the level of the Ministry of Health of the Slovak Republic, or the institution of the Public Defender of Rights), the necessary part of this system must be clear and sufficient competencies and resources set up for the institution responsible for to ensure a proper investigation of complaints.

An independent body that will investigate human rights violations in the provision of health care, in addition to the medical records and the

[104] EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION) PRINCIPLES ON THE PROTECTION AND PROMOTION OF THE OMBUDSMAN INSTITUTION ("THE VENICE PRINCIPLES", para. 2 and 6,2016.

opinion of the health care professional concerned, should be able to obtain other evidence, such as the testimony of all persons who may have witnessed the event (other health professionals, accompanying person, other mothers and their accompanying persons). A relevant piece of evidence could also be a video produced, for example, by the mother's companion of choice.

In connection with protecting the rights of patients and women during labour, I also consider it necessary to strengthen the curriculum on human rights standards in the provision of health care at medical schools and the postgraduate training of health professionals. At the same time, I consider it essential that information and awareness-raising campaigns on patients' rights are introduced to increase the protection of patients' and mothers' rights.

11 CONCLUSION

Childbirth is a unique moment in a woman's life and, at the same time, a critical step in creating a bond with her baby. Increasing research also points out that childbirth has a significant impact on children's lifelong health.

Therefore, it is in the state's interest to create the best possible conditions for women to ensure that they receive health care that respects human rights, human dignity, mental health, and the emotional well-being of women during childbirth.

In order to map the protection and respect for women's rights during childbirth, I conducted a survey, the analysis of which points to a gross violation of women's rights during childbirth in health care facilities in Slovakia.

Even though the survey points to improvements in some areas, for example, concerning the perception of health workers' behaviour towards women, the provision of health care during childbirth in health care facilities in Slovakia does not fully consider scientific and medical developments while fully respecting women's rights.

The circumstances of giving birth incontestably form part of one’s private life for the purposes of Article 8 of the European Convention on the protection of human rights and fundamental freedoms. The ECtHR also noted that woman is entitled to a legal and institutional environment that enables her choice.

The national legislation does not explicitly prohibit a woman from giving birth at home and but does not create the conditions for a safe home birth. Despite the absence of legislation and official data on planned home births, the online survey confirmed that some women choose to give birth at home every year. Even though in the social debate about home births, the prevailing opinion is that their primary reason is mothers' desire for natural childbirth, the survey results showed a different cause - a bad experience or trauma from previous labours in healthcare facilities.

The existence of the phenomenon of "birth tourism" was confirmed by the online survey results. As the most common reason for choosing to give birth in a healthcare facility abroad, respondents reported a better level of healthcare provision, a higher standard of scientifically based health care and patient information, also respectful approach of medical staff and privacy.

The survey results point to gross violations of the right to informed consent and the right to information. Even though an intervention in the health field may only be carried out after the person concerned has given free and informed consent to it**,** the survey shows that many healthcare professionals identify informed consent with a signature alone. 55.10% of respondents who said they signed informed consent when admitted to the maternity care ward received informed consent only in writing and were not further informed about its content.

The survey also highlights the problematic implementation of the legal requirement related to the need for sufficient time to freely decide on informed consent, given that most women only receive informed consent after being admitted to a health facility when childbirth could already be in progress.

The research on the provision of healthcare during childbirth in terms of protecting women's rights also shows a routine use of episiotomy and the frequent violation of the right to informed consent in connection with the performance of this procedure.

In the survey, I also focused on the procedure of Kristeller's expression that is not recommended by WHO due to serious concerns about the potential for harm to mother and baby. The Kristeller's expression was removed from the official data collection in 2017 as a non-lege artis procedure.

However, the online survey results show that even after 2017, the procedure continues to be used during childbirth. Its form varies. In some cases, it is a gentle and sensitive procedure; in others, intense pressure is used, which causes pain and injuries to the mothers. Moreover, this procedure is very often practiced despite the mother's disapproval.

The results of the online survey also point to frequent violations of the right to privacy, dignity, and respect for physical and psychological integrity of women during labour in the health care facilities in Slovakia. The survey also revealed that these violations are the result of inappropriate organisation, spatial capacity and inadequate equipment of maternity wards but are also exacerbated by disrespectful behaviour by medical staff.

Inappropriate organisation, spatial capacity and inadequate equipment was manifested by overcrowded rooms, insufficient separation of birth boxes, inappropriate positioning of birthing chairs, or a lack of sanitation facilities.

Concerning the lack of privacy, women also reported the presence of medical students. In many cases, women reported not being informed in advance about the presence of medical students or did not give their consent for their presence. In some cases, medical students attended

the childbirth despite the mother's disapproval, which violates the right to informed consent and the right to decide on one's participation in teaching or biomedical research.

Under Slovak and European legislation, health care providers are obliged to comply with the principle of equal treatment and the prohibition of discrimination against persons in the field of healthcare. Even though Slovak legislation guarantees that health care should be provided in good quality and without discrimination, Romani women face discrimination and ill-treatment in access to health care during childbirth due to prejudices and stereotypes.

The right to a birth companion of a woman´s choice forms a part of the right to respect for his private and family life. The presence of a companion of choice during labour provides women with emotional, psychological, and practical support during childbirth. Although the survey results show that 74% of women had a companion of choice during labour, national legislation does not guarantee this right to women.

Despite the adopted national legislation in the field of health care, the protection of women's rights in the provision of obstetric care is insufficient. At the level of the Ministry of Health of the Slovak Republic, an effective monitoring mechanism to guarantee mothers and patients in general, in case of violation of fundamental human rights, independent review, possible sanctioning, compensation and redress, is missing.

The state has the ultimate responsibility for protecting women's human rights in the provision of health care during childbirth. In accordance with its statute, the Ministry of Health of the Slovak Republic is the central body of state administration for health care, public health, medical schools, and further education of health professionals.

With reference to the above conclusions, pursuant to Section 17(2) (e) of Act No. 564/2011 on the Public Defender of Rights, I propose a set of measures designed to improve protection and respect for women's rights in the provision of health care during childbirth in the Slovak Republic.
I present a summary of the proposed measures in the next and last chapter of this report.

12 OVERVIEW OF THE MEASURES PROPOSED

OVERVIEW OF THE MEASURES PROPOSED ON HOME BIRTHS:

- Consolidate the relevant legislation on home births in line with scientific and medical developments while fully respecting women's rights.

OVERVIEW OF THE MEASURES PROPOSED ON INFORMED CONSENT:

- Ensure the effective implementation and monitoring of legal and administrative procedures and practices related to informed consent in obstetrics.

- Collect systematically data on medical procedures during childbirth and public them on regular basis.
- 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, in accordance with the recommendations of the UN Committee on the Elimination of Discrimination against Women. Such training should be carried out in cooperation with national human rights institutions, non-governmental organisations, and international human rights institutions.
- Ensure sharing of good practices for obtaining informed consent for medical interventions in the field of women's reproductive health among healthcare providers. The possibility for women to become fully informed about the informed consent before admission to maternity care wards can be done during a consultation with a gynaecologist prior to childbirth or during a free antenatal course organised by a particular health institution.

OVERVIEW OF THE MEASURES PROPOSED ON CLINICAL STANDARDS IN OBSTETRICS:

- Adoption of standards in the field of obstetrics, to ensure that women have access to appropriate and safe obstetric care while fully respecting women's autonomy and rights, as well as the requirement of free, prior and informed consent.
- Systematic collection of data on the use of episiotomy. This surgical procedure should be compulsorily recorded in the mother's medical documentation.
- Adoption of effective tools at the central level that will ensure uniform implementation of standards in the field of obstetrics and their regular monitoring and evaluation to ensure all mothers, have access to equally high-quality health care throughout Slovakia.

OVERVIEW OF THE MEASURES PROPOSED ON THE PROTECTION OF THE RIGHT TO PRIVACY, INTIMACY AND CONFIDENTIALITY:

- Take adequate measures to ensure the provision of healthcare in a manner that respects human rights, human dignity, mental health, and the emotional well-being of women during childbirth.
- Ensure appropriate funding for health-care facilities to ensure decent working conditions for care providers, respectful and caring reception of patients and women in labour.
- Introduce an obligation for health professionals to introduce themselves to women before the examination.
- Conduct training for health care providers with the aim to build the capacities of the professionals on human rights in the provision of health care and on the issue of violence against women.

OVERVIEW OF THE MEASURES PROPOSED ON COMPANION OF CHOICE:

- Adopt legislation to ensure that mothers and minor patients, have the right to the presence of accompanying or a person designated by the patient when receiving healthcare.

- Take measures to ensure the physical infrastructure of medical facilities allows for the presence of a companion of women´s choice during the whole duration of labour.
- Provide trainings to healthcare providers on the benefits of the presence of a companion of choice during labour.
- Provide trainings to accompanying persons on their role during childbirth.

OVERVIEW OF THE MEASURES PROPOSED ON SEGREGATION OF ROMA WOMEN IN MATERNITY WARDS:

- Put in place adequate procedures and mechanisms that ensure effective investigation, monitoring, elimination and sanctioning of the segregation of Roma women in maternity wards.
- Introduce training programs for health professionals working in reproductive health to combat stereotypes and prejudices that promote discriminatory treatment of Roma women patients.

OVERVIEW OF THE MEASURES PROPOSED ON MONITORING AND ACCOUNTABILITY MECHANISM:

- Ensure that health care during childbirth is provided in a manner that respects human rights and human dignity.
- Establish an effective mechanism for oversight over public and private birthing facilities and health care facilities to guarantee respect for women's rights and patients' rights to ensure redress for victims, including financial compensation, acknowledgement of wrongdoing, formal apology, and guarantees non-repetition.
- Ensure adequate mandate and resources for a body responsible for oversight over public and private birthing facilities and health care facilities to guarantee respect for women's rights and patients' rights.
- Ensure that the examination of human rights violations, in addition to the medical records and the opinion of the health care professional concerned, includes other evidence, such as the testimony of all persons who may have witnessed the event (other health professionals, accompanying person, other mothers and their accompanying persons). A relevant piece of evidence could also be a video produced, for example, by the mother's companion of choice.
- Respect the principles for the protection and promotion of the institution of the Ombudsperson “Venice Principles” that represents the legal principles necessary for the establishment and functioning of ombudsperson institutions, issued by the European Commission for Democracy through Law, in the event of the establishment of a new body - patient ombudsperson.
- Strengthen the curriculum on human rights standards in the provision of health care at medical schools and the postgraduate training of health professionals.
- Conduct information and awareness-raising campaigns on patients' rights.
- Adopt effective measures to fully implement concluding observations on Slovakia by United Nations treaty monitoring bodies in the field of reproductive health care.