Bratislava, 12 January, 2023

**INPUT OF THE SLOVAK NATIONAL CENTRE FOR HUMAN RIGHTS CONCERNING FREEDOM OF RELIGION OR BELIEF AND FREEDOM FROM VIOLENCE AND DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY**  
*About the Slovak National Centre for Human Rights:*

*The Slovak National Centre for Human Rights (hereinafter the “Centre”) is a national human rights institution established in the Slovak Republic, accredited with status B by the Global Alliance of National Human Rights Institutions (GANHRI). As an NHRI, the Centre is a member of the European Network of NHRIs (ENNHRI). The Centre was established by the Act of Slovak National Council No. 308/1993 Coll. on the Establishment of Slovak National Centre for Human Rights. Pursuant to the Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and on Protection from Discrimination, as amended (the Anti-Discrimination Act), the Centre also acts as the only Slovak equality body. As an NHRI and equality body, the Centre performs a wide range of tasks in the field of protection and promotion of human rights and fundamental freedoms including the observance of the principle of equal treatment.*

*The Centre among other powers:*

*1) monitors and evaluates the observance of human rights and the observance of equal treatment principle;*

*2) gathers and, upon request, provides information on racism, xenophobia and antisemitism in the Slovak Republic;*

*3) conducts research and surveys to provide data in the field of human rights; gathers and distributes information in this area;*

*4) prepares educational activities and participates in information campaigns aimed at increasing tolerance of the society;*

*5) provides legal assistance to victims of discrimination and manifestations of intolerance;*

*6) issues expert opinions on matters concerning the observance of the equal treatment principle;*

*7) performs independent inquiries related to discrimination;*

*8) prepares and publishes reports and recommendations on issues related to discrimination; and provides library services and other services in the field of human rights.*

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**The Centre submits the following input to the Call for Submission to the report on** **freedom of religion or belief and freedom from violence and discrimination based on sexual orientation and gender identity:**

1. **What are the actual or perceived points of tension (if any) between the right to manifest one’s freedom of religion or belief, and freedom from violence and discrimination based on sexual orientation and gender identity? Are there any areas in which they are mutually exclusive?**

The fundamental area where the right to manifest one’s freedom of religion or belief (hereinafter referred to as “*FoRB*”), and freedom from violence and discrimination based on sexual orientation and gender identity (hereinafter referred to as “*SOGI*”) are mutually exclusive in the Slovak Republic is the Institute of marriage guaranteed by the Constitution of the Slovak Republic (hereinafter referred to as the “*Constitution*”). According to Article 41 para. 1 of the Constitution “*marriage is a unique union between a man and a woman*”. There are no recognised registered partnerships or other same-sex legal unions in Slovakia, nor are there any initiatives to legalise them mainly due to the conservative composition of legislators and policy makers together with the lack of political will to improve protection of the rights of LGBT+ individuals.[[1]](#footnote-1) Moreover, same-sex partners have faced obstacles to have their marriage concluded abroad recognised in Slovakia due to the strict interpretation of the definition of marriage in line with Article 41 para. 1, which has recently been found in violation of Article 12 para. 2 and Article 19 para. 2 of the Constitution, which guarantee everyone the right to protection against unjustified interference with private and family life, regardless of gender, as well as of the right to respect for private and family life under Article 8 of the European Convention on Human Rights.[[2]](#footnote-2)

The constitutional definition of marriage was adopted by an amendment to the Constitution in 2014[[3]](#footnote-3), which was also supported by the Conference of Bishops of Slovakia. The constitutional protection of marriage between a man and a woman has been promoted by the Conference of Bishops of Slovakia by the prayer "*let us pray for lawmakers to protect the good of families*", that was meant to be demonstrated on a holy mass.

Campaigns against LGBT+ individuals have been reinforced by homophobic comments of a catholic priest and his brother, an MP, who stated that “*The World Health Organisation once classified homosexuality as a mental illness.*”[[4]](#footnote-4) Referring to traditional Christian family values and the sanctity of the marriage as a union between a man and a woman a group of conservative MPs has submitted a draft amendment to the School law in 2022, inspired by the Hungarian “Pedophilia Act”[[5]](#footnote-5), which the proponents described as an act implementing a pro-family policy based on the cultural and ethical principle of Christianity and protecting the concept of the family as a union of a man and a woman. In the light of the above-mentioned, the proposal introduced any content promoting deviation from the gender identity determined at birth, gender reassignment or homosexuality for persons under the age of 18 as a violation of a child's rights to healthy social, mental and physical development. One of the main goals of the above-mentioned proposal was to protect the rights of children and the rights of parents to ensure the upbringing and education of their children in accordance with their religious, philosophical and pedagogical beliefs.

A conflict between FoRB and discrimination based on SOGI has occurred when an evangelical priest was made redundant for his views on the notion of marriage pursuant to the Constitution for refusing to agree at a staff meeting with bishops that marriage is exclusively a union of a man and a woman. Furthermore, he expressed his personal opinion, that marriage is a union entered into by two consenting adults on the basis of a free decision and a lifelong vow of mutual fidelity and love.[[6]](#footnote-6)

In general, many high-ranking politicians, including the former prime minister or a speaker of the Parliament, use a narrative that denounces the rights of LGBT+ people, oftentimes justifying it by the preservation of traditional Christian values and traditional family. Hate speech and discrimination based on SOGI are increasingly becoming a tool of populism. The intensity of such hate speech is rising especially ahead of the expected parliamentary elections irrespective of the terrorist attack on two LGBT+ people, that was committed in October 2022 on Zámocká Street, Bratislava. Less than a month after the terrorist attack, the Archbishop of Trnava sent a circular to priests, in which he, without evidence, questions the innocence of the victims.[[7]](#footnote-7)

1. **Are there any ways in which the right to freedom of religion or belief, and freedom from violence and discrimination based on sexual orientation and gender identity are mutually reinforcing?**

The Constitution of the Slovak Republic provides the “*right of everyone to manifest his religion or belief freely”[[8]](#footnote-8)* and declares that the Slovak Republic “*is not tied to any ideology or religion*”[[9]](#footnote-9) The latter along with the concept of neutrality have been used as a supporting argument at the submission of a proposal to the Parliament, that aimed to prohibit displaying symbols promoting any kind of sexual orientation including rainbow flags at the office of the Public Defender of Rights. In support of the proposal, some politicians argued, that if Christian symbols, such as a cross, were being placed on state buildings, it would not be accepted.[[10]](#footnote-10)

The neutrality of the state in terms of any ideology or religion has been a crucial factor in assessing a proposal to amendments to the Government's Legislative Rules, which suggested to integrate the Conference of Bishops of Slovakia, representing the Catholic Church, into the inter-parliamentary procedures.[[11]](#footnote-11) The proposed privileged status of the Conference of Bishops of Slovakia was perceived discriminatory against entities, associations and groups exercising their right to freedom of thought, religion and belief, which are not granted such a status. Although the proposal was not adopted, it can be considered an attempt to privilege a particular religious institution in contradiction to one of the main principles of the Constitution, according to which the Slovak Republic is not tied to any religion.

Despite the absence of a major political initiative to provide protection against discrimination based on sexual orientation or gender identity by adopting legislation based on protecting the freedom of religion or belief, there has been an effort to provide increased protection for transgender people against hate speech in criminal law. A proposed amendment of the Criminal Code, which has been open to participatory comment procedure in the second half of 2022, seeks to expand the characteristics of specific motive as a special qualifying characteristic of crimes for the application of a higher sentence (also known as the so called “motive of hatred” giving legal base to regulation of hate crime in Slovakia) by including *(i)* *gender identity* together with *(ii)* *the fact that a person is without a religion*.[[12]](#footnote-12) The current wording already includes sexual orientation.

1. **Are there examples where gender and sexual diversity has been used in religious, traditional, or indigenous narratives or values in a manner which promotes the acceptance of LGBT+ individuals, or protects LGBT+ individuals from violence and discrimination? Has this informed any legal interventions or public policies?**

Narratives of religious representatives that promoted the acceptance of LGBT+ individuals were communicated in the wake of the Referendum on the so-called traditional family initiated by the Slovak civic initiative Alliance for the Family (hereinafter referred to as the “*Referendum*”), that was held in 2015.[[13]](#footnote-13)

Among the many religious responses supporting the Referendum there have been also positive statements condemning the Referendum and calling for mutual respect. For instance, The Presbytery of the Evangelical Church Bratislava - Staré mesto (hereinafter referred to as the “*Presbytery*”) expressed its concern about the situation in society with regard to the Referendum and declared that the activities, promotion, and content of this campaign are an expression of misunderstanding and abuse of Christian principles and faith. It sees the importance of the churches in promoting peaceful coexistence and called for love for marginalised members of society. Furthermore, the Presbytery stated, that the result of such efforts is and remains the deepening of intolerance towards minorities living in our society. Such actions are in stark contrast to the principles of Christian love.[[14]](#footnote-14) The referendum was also condemned by 18 theologians from academic backgrounds of mostly evangelical churches in a joint opinion disagreeing with the official position of the Bishop General.[[15]](#footnote-15)

The Pastoral Letter of the bishops of Slovakia stressing that “*it is important, whether future generations will be made up of internally balanced and morally mature persons, or whether they will be people who have been demoralised since childhood and are incapable of forming strong relationships*”[[16]](#footnote-16) has caused outrage among young Christians during the Sunday reading in the Jesuit Church in Bratislava, who left the church in protest.

On the occasion of the International Day Against Homophobia and Transphobia the Presbytery published a statement,[[17]](#footnote-17) in which they apologised to all people who, because of their sexual orientation or gender identity, are subjected to derogatory and hateful expressions motivated by their Christian faith. It also called on the leaders and members of the Evangelical Church in Slovakia to begin to communicate openly about the problems these people face in our society and to seek ways of helping them that respect their God-given sexual orientation and gender identity.

1. **Good Practices:**
   1. **Provide any examples of good practice – at the international, national or local level – where State and non-State actors (including faith leaders, groups and organisations, international organisations, civil society organisations, and the UN human rights system) have taken effective measures to protect and promote freedom of religion or belief of LGBT+ and gender-diverse persons, and made efforts to prevent, mitigate and respond to any violence and/or discrimination justified in the name of religion.**

Evangelical pastor, Anna Polck, played a significant role during the Rainbow Pride, in which she announced she no longer wanted to remain silent and was ready to become a voice for the homosexual minority. She also added that she was ashamed that the LGBT community is being silenced systematically, even in the name of God, which she considers a violation of the commandment of love.[[18]](#footnote-18) An evangelical theologian, Ondrej Prostredník, also stood up for the rights of the LGBT+ community at the Rainbow Pride where he spoke out in the name of Christians who disagree with the hateful approach of the Church to LGBT+ people.[[19]](#footnote-19)

* 1. **Provide any examples of measures by State or non-State actors to ensure effective participation of people with diverse gender identities and sexual orientations in religious, cultural, social, and public life. Please provide relevant examples where LGBT+ people have asserted their individual or collective rights to access (or establish) religious or spiritual frameworks and institutions.**

A civic association, SIGNUM – Rainbow Christians, who describe themselves as “*Christians with a non-majority sexual orientation or gender identity (LGBT+)*” participate in public discussions about difficulties of LGBT+ people of faith in Slovakia and about their relationship with the churches and in other events organised by churches. SIGNUM promotes the view that Christianity and homosexuality need not be contradictory.[[20]](#footnote-20)

1. Individual Submission of The Slovak National Centre For Human Rights (Upr Mid-Term Report) Available at: <http://www.snslp.sk/wp-content/uploads/UPR-Mid-term-Report-3rd-cycle.pdf> [↑](#footnote-ref-1)
2. See Judgment of the Regional Court in Žilina, ECLI:SK:KSZA:2022:5020200430.3. Available in Slovak at: [Rozsudok - MSSR (justice.sk)](https://obcan.justice.sk/infosud/-/infosud/i-detail/rozhodnutie/c912d541-92f4-4913-acf0-cb228ccf654d%3A06df0226-35f2-43b4-b699-615f7692d449?_isufront_WAR_isufront_parentDetailPart=rozhodnutia&_isufront_WAR_isufront_parentEntityPk=130) [↑](#footnote-ref-2)
3. The Ordinary people will support the change of the Constitution by Smer so that it does not negotiate with the KDH, SME, 27.12.2014. Available in Slovak at: [Obyčajní podporia zmenu Ústavy od Smeru, aby sa nedohadoval s KDH - SME](https://domov.sme.sk/c/7117844/obycajni-podporia-zmenu-ustavy-od-smeru-aby-sa-nedohadoval-s-kdh.html) [↑](#footnote-ref-3)
4. OľaNO loses conservative MP Štefan Kuffa. He is leaving to the KDH, aktuality.sk, 11.9.2015. Available in Slovak at: <https://www.aktuality.sk/clanok/303982/olano-straca-konzervativneho-poslanca-stefana-kuffu-odchadza-do-kdh/> [↑](#footnote-ref-4)
5. What is the Hungarian “Pedophilia-Act” and What Is behind It? Rita Beres-Deak. Available at: <https://lefteast.org/what-is-the-hungarian-pedophilia-act/> [↑](#footnote-ref-5)
6. Evangelical priest at work quit for his views on marriage: LGBT is not discussed in the church, Denník N, 11.8.2016. Available in Slovak at: <https://dennikn.sk/534094/evanjelicky-knaz-v-praci-skoncil-za-nazor-na-manzelstvo-v-cirkvi-sa-o-lgbt-nediskutuje/> [↑](#footnote-ref-6)
7. Orosch's circular outraged the Catholics. Archbishop responds: I am sorry if I have inadvertently touched the families of the victims, Denník N, 7.11.2022. Available in Slovak at: [Oroschov obežník pobúril katolíkov. Arcibiskup reaguje: mrzí ma, ak som sa neúmyselne dotkol rodín obetí (dennikn.sk)](https://dennikn.sk/3095840/oroschov-obeznik-poburil-katolikov-arcibiskup-reaguje-mrzi-ma-ak-som-sa-neumyselne-dotkol-rodin-obeti/#:~:text=Arcibiskup%20J%C3%A1n%20Orosch%20prep%C3%AD%C5%A1e%20svoj%20obe%C5%BEn%C3%ADk%2C%20v%20ktorom,Tepl%C3%A1rni%20razie%20pre%20drogy%20%C4%8Di%20pre%20pr%C3%ADtomnos%C5%A5%20mladistv%C3%BDch.) [↑](#footnote-ref-7)
8. Article 24 para. 2 of the Constitution [↑](#footnote-ref-8)
9. Article 1 para. 1 of the Constitution [↑](#footnote-ref-9)
10. Gyimesi: The rainbow flag is not in itself a flag of tolerance. It is a Europe-wide trend, we want to stop it, Štandard, 28.9.2022. Available in Slovak at: <https://standard.sk/253718/gyimesi-duhova-vlajka-nie-je-sama-osebe-vlajkou-tolerancie-je-to-celoeuropsky-trend-chceme-ho-zastavit/> [↑](#footnote-ref-10)
11. Available in Slovak at: <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2019/33> [↑](#footnote-ref-11)
12. Available in Slovak at: <https://www.slov-lex.sk/legislativne-procesy/-/SK/dokumenty/LP-2022-511> [↑](#footnote-ref-12)
13. The Referendum, aiming to increase hostility towards the LGBT+ community, dealt with the following three questions:

    “*1.Do you agree that no cohabitation of persons other than a union between one man and one woman could be named marriage?*

    *2.Do you agree that neither same sex couples nor groups shall be allowed to adopt children and subsequently raise them?*

    *3. Do you agree that schools should not require participation of children in classes dedicated to sexual behaviour or euthanasia if their parents or the children themselves do not agree with the content of the lessons?”* The Referendum on the So-Called Traditional Family in the Slovak Republic, Daniel Kroslak, 2015. Available at:<https://www.academia.edu/25907553/The_Referendum_on_the_So_Called_Traditional_Family_in_the_Slovak_Republic> [↑](#footnote-ref-13)
14. Available in Slovak at: <http://www.velkykostol.sk/2015/stanovisko-presbyterstva-k-dianiu-v-spolocnosti/> [↑](#footnote-ref-14)
15. Available in Slovak at: <https://spravy.pravda.sk/domace/clanok/344398-od-referenda-sa-distancuje-18-teologov/> [↑](#footnote-ref-15)
16. Presbytery's position on developments in society, Veľký kostol, 25.1.2015. Available in Slovak at: <https://www.kbs.sk/obsah/sekcia/h/dokumenty-a-vyhlasenia/p/pastierske-listy-konferencie-biskupov-slovenska/c/pastiersky-list-k-referendu-o-ochrane-rodiny> [↑](#footnote-ref-16)
17. Invitation to the ecumenical Divine Liturgy 17.5.2020 and Statement of the Presbytery of CZ on the occasion of the International Day Against Homophobia and Transphobia (IDAHOT), Veľký kostol, 14.5.2020. Available in Slovak at: <http://www.velkykostol.sk/2020/pozvanie-na-ekumenicke-sluzby-bozie-17-5-a-vyhlasenie-presbyterstva-cz-pri-prilezitosti-medzinarodneho-dna-proti-homofobii-a-transfobii-idahot/> [↑](#footnote-ref-17)
18. Parish Priestess Polck on Pride: If I remained silent, I would be cowardly and false, Denník N, 26.7.2020. Available in Slovak at: [Farárka Polcková na Pride: Ak by som mlčala, bola by som zbabelá a falošná (dennikn.sk)](https://dennikn.sk/1977033/fararka-polckova-na-pride-ak-by-som-mlcala-bola-by-som-zbabela-a-falosna/?cst=5ec528c04ca797f023479b8b89ec2ea1846cacf0) [↑](#footnote-ref-18)
19. Theologian who attended Pride prevented from teaching, The Slovak Spectator, 6.9.2017. Available at: <https://spectator.sme.sk/c/20643290/theologian-who-attended-pride-prevented-from-teaching.html> [↑](#footnote-ref-19)
20. Available at: [SIGNUM – Rainbow Christians – Civic association and community of LGBT+ Christians in Slovakia (duhovi-krestania.sk)](https://duhovi-krestania.sk/en/preface/) [↑](#footnote-ref-20)