



PERMANENT MISSION
OF THE SLOVAK REPUBLIC
TO THE UNITED NATIONS OFFICE
AND OTHER INTERNATIONAL ORGANISATIONS
IN GENEVA

NOTE VERBALE

The Permanent Mission of the Slovak Republic to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, Special Procedure Branch, and, referring to the joint communication from special procedures registered under ref. OL SVK 2/2025, has the honor to submit in attachment the reply of the Slovak Republic to the above mentioned communication from the 1st September 2025.

The response consists of 2 parts, the first one is the reaction to the allegations and the second part comprises the observations on eleven concrete matters raised by the special procedures mandate holders.

The Permanent Mission of Slovakia would be most grateful if the OHCHR could kindly acknowledge the receipt of this communication.

The Permanent Mission of the Slovak Republic to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights, Special Procedures Branch, the assurances of its highest consideration. 

Geneva 24 September 2025



Office of the United Nations High Commissioner for Human Rights
Special Procedures Branch
Palais Wilson
52 rue des Pâquis
CH-1201 Geneva, Switzerland

Reply of the Slovak Republic to the UN Joint Communication OL SVK 2/2025

Further to UN Joint Communication OL SVK 2/2025 the Slovak Republic would like to provide comments and observations to some of the allegations and responses to the three questions raised in the Communication.

A. General

First of all, it should be noted that the Slovak Republic is a democratic state governed by the rule of law and will remain so even after the adoption of the amendment to the Constitution, which does not change anything in terms of its effect, on the contrary, it only preserves the existing state of affairs in the country. The aim of the amendment is to increase the constitutional protection of the fundamental values of the Slovak Republic and to ensure that decisions in important areas of public life are taken on the basis of broad democratic consensus. The proposed constitutional amendment not only takes into account the decision-making practices of constitutional courts in Europe, the international legal obligations of the Slovak Republic and the rule of law, but also ensures the protection and strengthening of the constitutional sovereignty and national identity of the Slovak Republic. We see the amendment to the Constitution as an important step towards the protection of human rights and values, as well as towards the stabilisation of the legislative system. At the same time, it is in line with the international obligations of the Slovak Republic, respects the principles of democratic decision-making and the rule of law, and ensures better protection of the fundamental rights of citizens. Its approval guarantees that the Slovak Republic will remain faithful to its values and cultural and historical traditions, while at the same time providing legal certainty and protection of the constitutionally guaranteed rights of its citizens. We consider that the amendment is in accordance with the Constitution of the Slovak Republic and all applicable constitutional laws, decisions of the Constitutional Court of the Slovak Republic, as well as international treaties to which the Slovak Republic is a party.

Respect for international law and the obligations of the Slovak Republic is enshrined in particular in Article 1(2) of the Constitution of the Slovak Republic, which provides: *'The Slovak Republic recognises and respects the general rules of international law, the international treaties by which it is bound and its other international obligations.'*

It follows from the above provision that the legal order of the Slovak Republic is not isolated, but is deliberately linked to international law. This is a fundamental principle that allows for active participation in cooperation with other states and, at the same time, membership of international organisations.

In this context, **the Vienna Convention on the Law of Treaties** to which the Slovak Republic is a party, **should be mentioned**. Particularly significant is the provision of Article 27, according to which: *"A party may not invoke the provisions of its national law as a ground for non-performance of a treaty."*

At the same time, we emphasise the wording of Article 4(2) of the Treaty on European Union: *“The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. In particular, national security remains the sole responsibility of each Member State.”* The concept of "national identity" is a legal concept that has been used by several constitutional courts. For example, the Federal Constitutional Court, in its decision on the Lisbon Treaty, determined what belongs to the German identity: the concept of democracy and self-determination of the German nation as well as criminal law, the monopoly on the use of force, fundamental decisions on fiscal policy, the welfare state and cultural issues. Specifically, cultural and national identity included schools and the education system, family law, the use of language, part of the regulation of the media as well as the status of churches, religious and ideological communities. In the regulation of these areas comes a link with the traditions, experiences and values of each State, which evolve over time (§ 260 of the judgment)¹. Similarly, the Polish Constitutional Court² has done so or the French Constitutional Council³ (albeit only in general terms). Unlike the constitutional courts, identity in the conditions of the Slovak Republic is formulated by the Parliament as a democratic representative, which is in line with the Slovak tradition of amending and revising the constitution.

Moreover, the amendment of the Constitution uses open-textured language, and thus only the application practice will show the actual reality of its application. We also refer to Article 128 of the Slovak Constitution, according to which: *‘The Constitutional Court shall interpret the Constitution or a constitutional law if the matter is disputed. The decision of the Constitutional Court on the interpretation of the Constitution or a constitutional law shall be promulgated in the manner laid down for the promulgation of laws. The interpretation shall be generally binding from the date of its promulgation.’*

We also stress the fact that, according to the case-law of the Constitutional Court of the Slovak Republic, the interpretation of the Constitution is **carried out systematically**, and thus the individual provisions of the Constitution are interpreted in relation to each other as parts of a whole. It is based on the fact that the Constitution is a coherent legal document. An example of the above-mentioned case-law is the **Decision III. ÚS 72/2010** from 4 May 2010: *“In the interpretation and application of the provisions of the legislation, it is undoubtedly necessary to base the interpretation and application of the provisions of the legislation primarily on their literal wording. However, the court is not bound by the literal wording of a statutory provision absolutely. It may, and indeed must, depart from it (the literal wording of the legal text) where the purpose of the law, systematic coherence or the requirement of a constitutionally consistent*

¹https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2009/06/es20090630_2bve000208en.html

² <http://www.europeanrights.eu/public/sentenze/Polonia-24novembre2010.pdf>

³ <https://www.legifrance.gouv.fr/cons/id/CONSTEXT000017664891/>

interpretation of laws and other generally binding legal provisions (Article 152(4) of the Constitution) so requires for compelling reasons."

Decision - Interpretation Resolution I. ÚS 30/99 from 28 June 1999: *"The Constitutional Court applied the method of linguistic, logical, historical and systematic interpretation in interpreting the provision at issue. The conclusions reached by the various methods of interpretation overlap. Ultimately, however, this is a confirmation of their interconnectedness and, in particular, that their results are not mutually exclusive."*

The concept of respect for the national identities of Member States has been confirmed several times by the case law of the Court of Justice of the EU ("CJEU"). To illustrate, we refer to the Ilonka Sayn-Wittgenstein judgment⁴, in which the CJEU inserted the concept of respect for the national constitutional identity of the Member States into its jurisprudence concerning the resolution of the conflict between fundamental (economic) freedoms and fundamental rights, in which the principle of proportionality is applied. This indicates that a possible conflict between the national requirements shaping the national constitutional identity of the Member States and Union law should be resolved precisely by applying the principle of proportionality.

As an example, see the judgment of the CJEU in Case C-430/21, paragraph 59:

*„... According to Article 4(2) TEU, the Union respects the national identity of the Member States as embodied in their fundamental political and constitutional systems."*⁵

⁴ <https://curia.europa.eu/juris/document/document.jsf?text=Ilonka%2BSayn-Wittgenstein%2B&docid=83459&pageIndex=0&doclang=SK&mode=req&dir=&occ=first&part=1&cid=1346695#ctx1>

⁵ <https://eur-lex.europa.eu/legal-content/SK/TXT/PDF/?uri=CELEX:62021CC0430>

B. On the questions raised by the UN experts

1. Please provide any additional information and/or comment(s) you may have regarding the draft constitutional law addressed in this communication, including your Government's views on the above analysis.

The Government of the Slovak Republic fundamentally disagrees with the comments of the UN experts on the amendment to the Slovak Constitution. Detailed explanations of the individual criticised provisions of the amendment are provided in the text below. In this section we address the topic of cultural and ethical issues, the key document being the Declaration on Sovereignty in Cultural and Ethical Issues, which was approved by the National Council of the Slovak Republic in 2002. Decisions on cultural-ethical issues are not within the competence of any international organisation of which the Slovak Republic is a member, including the EU. Increasingly, the institutions of the Council of Europe and the EU are adopting acts (normative acts, decisions or soft-law) that are closely related to these issues and do not respect the principle of subsidiarity or the national identity of the member states.

Not to mention the fact that decision-making on these sensitive issues falls within the competence of the national legislature in terms of self-determination and democracy. A supranational body has no democratic legitimacy to decide on cultural and ethical issues. Transformative social change in the protection of life, the family, culture and morals must take the form of national development (from below) and not external imposition by supranational institutions (from above) that have no relationship to a particular country.

For this reason, too, we consider it important to emphasise in the Constitution that there has never been a transfer of competences in these areas, either to the EU or to other international organisations. The Slovak Constitution not only presupposes sovereignty, but also guarantees it, including in relation to supranational law. In the event of a conflict between the constitution and supranational law, Slovak constitutional law logically prevails and remains superior to any legal norm or law.

The aim of the proposed wording of the amendment to the Constitution is also to prevent the unwanted disregard of our international obligations and the decisions of international courts, which, in the absolute majority, also increase the level of protection of rights in the Slovak Republic. On the contrary, the aim of this amendment is to create a well-defined interpretative framework that will make it possible to protect the sovereignty of the Slovak Republic in fundamental cultural and ethical issues in cases where international courts have ruled in areas where there has been no transfer of competences, or where they have usurped these competences and this is unwanted judicial activism on their part, threatening democratic rules.

2. Please provide details of the process by which the draft constitutional law was developed, including how public expressions of concern were taken into account, as well as any assessment undertaken to ensure that its provisions comply with Slovakia's obligations under international human rights law, particularly with respect to the rights to equality and non-discrimination, education, health, and freedom from arbitrary or unlawful interference with one's privacy and family life.

The proposed constitutional amendments were the subject of a public debate during which citizens could submit their suggestions and comments via a designated e-mail address. The draft law went through the proper legislative process, including inter-ministerial and public consultations (lasting 15 working days) and subsequent discussion by the Legislative Council of the Government of the Slovak Republic. In addition, the provisions relating to the amendment of Article 7 of the Constitution of the Slovak Republic were discussed with a number of leading experts in the field of constitutional law, international law and legislation at an expert meeting under the auspices of the Prime Minister of the Slovak Republic. The aim of the legislative process as well as of the above-mentioned expert meeting was to find the most appropriate legislative solution and legislative wording for the intended substantive objectives. Subsequently, the proposal was submitted to the Government of the Slovak Republic for consideration and, following its approval, to the National Council of the Slovak Republic, where it was discussed both in plenary session and in parliamentary committees.

With regard to the consultation with representatives of sexual minorities on the draft law, these representatives were given the opportunity to comment on the draft law during the inter-ministerial and public consultations. For example, the organisation 'Inakost' Initiative', whose mission, according to its website, is 'to improve life of LGBTI+ people in Slovakia so that they can express their true selves and feel safe, respected and accepted for who they are', submitted its collective comments on the draft law, which were the subject of conflicting discussions at the Office of the Government of the Slovak Republic. With regard to consultations with experts and professionals in the field of health, education or childcare and social welfare, the Ministry of Education, Science, Research and Youth of the Slovak Republic and the Ministry of Labour, Social Affairs and Families of the Slovak Republic commented on the draft law. The Ministry of Health of the Slovak Republic did not submit any comments during the inter-ministerial and public consultations.

All comments submitted during the inter-ministerial and public consultations, as well as other relevant comments and suggestions sent during the public consultation, have been duly considered. During the inter-ministerial and public consultation 117 comments (14 of which were substantial) were submitted. 19 comments (3 substantial) were fully accepted, 42 comments (6 substantial) were partially accepted and 56 comments (5 substantial) were not accepted. In addition, there were 8 collective public comments (the category of collective comments refers to a situation where at least 500 natural and/or legal persons have expressed an opinion and, by means of a petition, have authorised and empowered a representative to represent them and defend their interests during the dispute settlement procedure), of which 2 were partially accepted and 6 were not accepted. In total, 50.4% of the comments (up to 64%

of the substantive comments) on the draft law were at least partially accepted and 49.6% of the comments (36% of the substantive comments) were not accepted. Therefore, most of the comments were assessed positively and at least partially taken into account in the further legislative procedure.

As part of the legislative process, an expert roundtable was held on 27.2.2025 with the participation of:

Doc. JUDr. Robert Fico, CSc. - Prime Minister of the Slovak Republic

JUDr. Boris Susko, PhD. - Minister of Justice of the Slovak Republic

Doc. JUDr. Milan Hodás, PhD. - State Secretary of the Ministry of Justice of the Slovak Republic

JUDr. Zuzana Gálisová, PhD. - Director General of the Government Legislation Section of the Slovak Government Office

JUDr. Michal Malatinský, PhD. - Director of the Legislative Department of the Government Legislation Section of the Slovak Government Office

JUDr. Štefan Grman, CSc. - Adviser to the Prime Minister on Legislation

Mgr. Marek Para - Advisor to the Prime Minister of the Slovak Republic in the field of legal services related to the implementation of the Programme Declaration of the Government of the Slovak Republic

doc. JUDr. Boris Balog, PhD. - Director of the Legislative and Legal Department of the Office of the President of the Slovak Republic

JUDr. Eduard Bárány, DrSc. - former Vice President of the Constitutional Court of the Slovak Republic, former member of the Judicial Council, Head of the Department of Public Law and Theory of State and Law at the Institute of State and Law of the Slovak Academy of Sciences, v.v.i.

JUDr. Milan Ľalík - former judge of the Constitutional Court of the Slovak Republic, Supreme Court of the Slovak Republic and former member of the Judicial Council, advisor to the Prime Minister of the Slovak Republic in the field of Constitutional Law

prof. JUDr. PhDr. Miroslav Slašťan, PhD. - advisor to the President of the Slovak Republic on international affairs, professor at the Department of International Law and International Relations, Faculty of Law, Comenius University in Bratislava

JUDr. Jozef Červenka - attorney at law

During the legislative process, several formal and informal meetings with DG JUST and the EC took place at the same time:

- 6.3.2025, meeting of the First State Secretary of the Ministry of Justice of the Slovak Republic doc. JUDr. Milan Hodás, PhD. with Commissioner McGrath during the JHA in Brussels (at the

meeting the amendment to the Constitution was briefly presented, while the traditional Euroconformist interpretation of the Constitutional Court of the Slovak Republic was emphasized on the part of the Slovak Republic),

- 24.3.2025, meeting of the PP, Ambassador, J. Nociar with Fiona Knab-Lunny, Director of the Cabinet of the Commissioner for Justice,

- 11.4.2025, letter from M. Hodás, State Secretary of the Ministry of Justice of the Slovak Republic, to Commissioner McGrath (annexed to the letter was the case-law of the CJEU),

- 27.5.2025, bilateral meeting of the Secretary of State of the Ministry of Justice M. Hodás with DG Ana Gallego on the sidelines of the GAC Council,

- 2.6.2025, meeting of the Secretary of State of the Ministry of Justice, M. Hodás with representatives of the DRFMG.

Compliance with international law and international obligations of the Slovak Republic is stipulated in particular in Article 1(2) of the Constitution of the Slovak Republic: *"The Slovak Republic recognises and respects the general rules of international law, international treaties to which it is bound and its other international obligations."* The above-mentioned provision expresses that the Slovak Republic is not a closed legal order, but consciously links its national legal system with international law. This is a fundamental principle that allows cooperation with other states and membership in international organisations. *'It is one of the key provisions of the entire legal order in terms of its orientation towards international law and a fundamental norm of reception. The provision touches on the phases of making, applying and interpreting national law. The obligation to respect international law, not only international treaties but also the case-law of international judicial institutions, can be characterised as one of the most important constitutional principles.'*⁶

The Constitutional Court has in its decision-making touched upon the modification of Article 1(2) of the Constitution in its legal opinion, according to which: *"Article 1(2) of the Constitution applies to all international obligations of the Slovak Republic, regardless of their content, and establishes the obligation to comply with them. Each international obligation of the Slovak Republic has its specific content (wording) included either in an international treaty, international custom or in another source of international law. As a result, the relevant national legislation (law) may come into conflict with such an international obligation and the Constitutional Court is entitled to rule on such a conflict in the procedure on the compatibility of legislation (provided that other conditions for such a procedure are also met)."*⁷

The Constitutional Court, in the decision cited above, explicitly recognised the primacy of the Slovak Republic's international obligations over laws only.

Article 154c of the Constitution of the Slovak Republic provides:

⁶ Čorba, J. The primacy of international treaties over the law. Justice Review, 2002, No. 6-7, pp. 704-705

⁷ PL. ÚS 44/03. Resolution of 21.10.2003.

„(1) International treaties on human rights and fundamental freedoms, which the Slovak Republic has ratified and have been promulgated in the manner prescribed by law before the entry into force of this Constitutional Act, shall form part of its legal order and shall prevail over the law if they provide for a greater scope of constitutional rights and freedoms.

(2) Other international treaties ratified by the Slovak Republic and promulgated in the manner prescribed by law before the entry into force of this Constitutional Act shall form part of its legal order if so provided by law."

International treaties under this provision shall be applied on the basis of a statutory reference to their preferential application. This establishes a rebuttable presumption that all provisions of the international treaty referred to are directly applicable, the direct applicability of its individual provisions being decided by the body applying the law and, in the event of a dispute, ultimately by the general or Constitutional Court.

In this context, we refer to the ruling of the Constitutional Court of the Slovak Republic, Case No. II. ÚS 148/06 of 12 April 2007: *„ ... all public authorities are obliged to interpret legal norms in doubt in favour of the exercise of fundamental rights and freedoms guaranteed by the Constitution (and also by international treaties)."*

Currently, the Constitutional Court also takes into account and applies the case-law of the European Court of Human Rights (hereinafter referred to as "ECtHR") on comparable human rights and fundamental freedoms guaranteed by the Convention in its jurisprudence. The Constitutional Court regards the case-law of the ECtHR as fully relevant and applicable also to the protection of individual fundamental rights arising from the Constitution. As an example, we refer to the resolution of the Constitutional Court in Case No. III. 110/2011 of 31 May 2011, Case No. III. 351/2014 of 15 October 2014, Case No. I. ÚS 592/2017 of 5 December 2017.

We also refer to the Vienna Convention on the Law of Treaties, to which the Slovak Republic is a party, in particular to Article 27: *"A party may not invoke the provisions of its national law as a ground for non-performance of a treaty."*

The proposed changes can therefore have no impact on the Slovak Republic's international obligations under international treaties. The principle of *Pacta sunt servanda* is therefore not affected. The Slovak Republic continues to be a proud member of the United Nations and the interpretation of the Slovak Constitution is in line with its obligations under international law. Moreover, legal pluralism does not say which norm should prevail - the Constitution or international law. Any potential conflict will be resolved by the Constitutional Court on an ad hoc basis, and the Constitution and national identity may prevail or international law may prevail. This mechanism is applied in most European countries, for example the Federal Constitutional Court and the Görgülü decision against the European Court of Human Rights and the limits of ECtHR case law in Germany⁸. Judgment No. 238/2014 of the Italian Constitutional Court⁹ declared that the principle of immunity of States under international law is inapplicable in Italy if it would impede the exercise of fundamental rights guaranteed by the

⁸<https://hudoc.echr.coe.int/eng#%7B%22docname%22:%5B%22Gorgulu%22%5D,%22documentcollectionid%22:%5B%22GRANDCHAMBER%22,%22CHAMBER%22%5D,%22itemid%22:%5B%22001-61646%22%5D%7D>

⁹ https://www.cortecostituzionale.it/documenti/download/doc/recent_judgments/S238_2013_en.pdf?

European Union law has full effect, the general court has, inter alia, the procedure laid down in Article 109(1)(c) of the Rules of Civil Procedure, i.e., if necessary, it decides to 'request the Court of Justice of the European Communities (after the entry into force of the Treaty of Lisbon, the 'Court of Justice of the European Union', cited above) to rule on a preliminary question under an international treaty' and, in that connection, to stay the proceedings."

- **Resolution of the Constitutional Court of the Slovak Republic III. ÚS 260/2012 of 19.06.2012**

*"A fundamental characteristic of Community law is its primacy over national law. An example of a decision which contains the issue of the principle of the primacy of Community law is the judgment of the Court of Justice in Case 106/77 *Amministrazione delle finanze dello Stato c/a S.p.A. Simmenthal*, according to which every national court is under an obligation to apply Community law in full and to protect the rights conferred by Community law on the individual, leaving unapplied any provision of national law which is contrary to Community law, irrespective of whether the provision of national law was adopted before or after the adoption of the Community legislation. Where there is a conflict between Community law and a national rule of law, it is incumbent on the authority applying the law to interpret the national law in accordance with Community law (the so-called 'Euro-conform interpretation'). Where a legal rule of a Member State does not allow for a Euro-conform interpretation, it is the duty of the law applying authority not to apply that rule in so far as it conflicts with Community law."*

- **Resolution I. ÚS 14/2017 of 11.01.2017**

*„In favour of the second alternative, reference may also be made to the changing significance of directives in the case-law of the Court of Justice. The Court of Justice has referred to a Euro-conform interpretation of the directives as one in which the directives are recognised as a source of law regulating the legal status of natural persons and legal persons when those subjects of law derive from the directive more rights or a greater range of rights than those conferred by national law. The application of the directive is limited to the vertical relations of a person vis-à-vis the State (C-14/83, *Sabine von Colson and Elisabeth Kamann v Land Nordrhein-Westfalen*; C-106/89, *Marleasing SA v La Comercial Internacional de Alimentacion SA*). In other words, the Euro-conform interpretation of the directive makes it possible to apply the directive in favour of a natural person or a legal person, but excludes the application of the directive to their detriment. This doctrine of Euro-conform interpretation has already been applied by the Constitutional Court, although it did not uphold the complaint in the proceedings in which it was applied (II. ÚS 440/2011)."*

- **Resolution III. ÚS 666/2016 of 11.10.2016**

'The Constitutional Court recognizes the importance and relevance of the interpretation of the provisions of the legal order with regard to the examination of the intention (goal) of the legislator. Any authority applying the law in individual cases must, in complex cases, give primary importance to the will of the legislator when interpreting and applying the law.'

However, the constitutional and legal context of the integration of the Slovak Republic into the European Union cannot be overlooked."

- **Ruling II. ÚS 481/2024 of 11.12.2024**

"It is indisputable that whenever a national norm is applied which has its origin in a transposed directive (as a source of secondary EU law), a Euroconform interpretation of the national norm in question must be carried out, provided that the prerequisites and conditions for such an interpretation are fulfilled. This involves ascertaining whether the transposition has taken over the rule set out in the directive in whole or in part, whether the rule in the directive enshrines a specific subjective right of the individual and, last but not least, establishing, inter alia, whether the interpretation of the rule formulated by the directive is disputed or whether the rule is not in conformity with the directive, or whether the rule is not in conformity with the directive. on the contrary, that its interpretation falls within the scope of the acte clair, and then, by comparison with the national rule, to establish whether that rule has been transposed correctly (to the extent necessary) and, consequently, to interpret the national rule in accordance with European law, in the present case Article 4(2)(c) of Council Directive 87/102/EEC, as amended by Council Directive 90/88/EEC, and with the aim and purpose of that directive, as set out in the recitals of the directive in question.'

As regards the question of the child's right to sex education, all international human rights instruments (Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights, European Convention on Human Rights) refer to the right of parents to bring up and educate their children in accordance with their own religious and philosophical convictions. The role of the State is subsidiary and secondary; the primary role belongs to the parents. The above statement is therefore contrary to binding international law. Moreover, this right of parents is not linked to morality but to the right to family life. Moreover, the Slovak legal system allows for homeschooling, where the state has only a slight influence on upbringing and education.

Allowing parents to decide on the specific education of their children in the area of intimate life and sexual behaviour ensures pluralism of values and builds mutual tolerance. The reverse positive effect of the proposed amendment to the Constitution is to protect against indoctrination by the State, including uniformity in morality, which is always a feature of dictatorships.

The Government's draft constitutional law amending the Constitution of the Slovak Republic No. 460/1992 Coll., as amended, goes through the standard legislative procedure prescribed for executive draft laws, which includes a public comment procedure, a meeting of the Government's advisory bodies, a meeting of the Government and a meeting of the National Council of the Slovak Republic. The draft constitutional law was prepared by an expert group under the responsibility of the Office of the Government of the Slovak Republic in cooperation with the ministries concerned. The draft law was submitted to the public comment procedure

on 28 January 2025,¹² while the comment procedure was conducted in an orderly manner for 15 working days. Following the end of the comment procedure, the comments received, including those of the professional public, were duly evaluated.

The draft Constitutional Law was subsequently submitted to the Legislative Council of the Government of the Slovak Republic, which discussed it on 4 March 2025.¹³

The Government of the Slovak Republic discussed and approved the draft Constitutional Law on 5 March 2025,¹⁴ whereby the bill became a government bill and was submitted to the National Council of the Slovak Republic and is marked with the parliamentary press number 733.¹⁵

The National Council of the Slovak Republic discusses the bills in three readings. The purpose of the first reading is to consider the draft law and decide whether it will be discussed at the second reading or whether it will be returned for further elaboration or not discussed at all. The second reading focuses on the technical discussion of the bill, with the second reading taking place first in the committees of the National Council and then in the plenary of the National Council. In the second reading, amendments may be tabled by Members. The third reading is the final stage of the discussion of the bill, which is linked to the vote on the amendments and on the bill as a whole. No corrections may be made to the bill at third reading, except for the correction of legislative and technical errors and linguistic mistakes.

The Government's draft constitutional law was included in the agenda of the 33rd session of the National Council of the Slovak Republic,¹⁶ and the National Council discussed it at its first reading on 9 April 2025. The National Council decided to discuss the draft Constitutional Law in the second reading in the following committees: the Committee on Human Rights and National Minorities, the Committee on Constitutional Law and the Committee on Education, Science, Youth, Sports and Tourism with the deadline for discussion until 23 May 2025. The Committee on Constitutional Law has been designated as the committee responsible.

The Constitutional Law Committee discussed the Government's draft constitutional law on 16 June 2025.¹⁷ The Committee on Human Rights and National Minorities discussed the Government's draft constitutional law on 26 May 2025.¹⁸ The Committee on Education, Science, Youth, Sport and Tourism discussed the Government's draft constitutional law on 22 May 2025.¹⁹ The Responsible Committee discussed the Government's draft constitutional law on 16 June 2025.²⁰

The second reading of the Government's draft law in the plenary of the National Council took place at the 35th session of the National Council.²¹ During the consideration of the

¹² <https://www.slov-lex.sk/elegislativa/legislativne-procesy/SK/LP/2025/24>

¹³ <https://hsr.rokovania.sk/187491/24-/?csrt=7745108706360429972>

¹⁴ <https://rokovania.gov.sk/RVL/Material/30506/1>

¹⁵ <https://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&MasterID=10218>

¹⁶ <https://www.nrsr.sk/web/Default.aspx?sid=schodze/schodza&ID=546#current>

¹⁷ <https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=567682>

¹⁸ <https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=565977>

¹⁹ <https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=565816>

²⁰ <https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=567684>

²¹ <https://www.nrsr.sk/web/Default.aspx?sid=schodze/schodza&ID=548#current>

Government's draft constitutional law in the plenary, 6 amendments were tabled by deputies. The National Council proceeded to vote on the amendments, only three of which were adopted. The first²² of the approved amendments addresses the postponement of the effective date with regard to the course of the discussion of the government's draft constitutional law in the National Council. The two remaining amendments,²³ which were approved by a 3/5 majority of all MPs, contain substantive changes to the draft constitutional law and are the result of an effort to secure the constitutional majority of MPs needed to vote on the draft constitutional law as a whole, as the current government does not have a constitutional majority in parliament. There was no vote on the Government's draft constitutional law at the 35th sitting. The government's draft constitutional law has thus been postponed to the 39th session of the National Council, which began on 9 September 2025,²⁴ with a vote on the draft constitutional law as a whole expected at this session.

3. Please provide details of how the domestic legal framework safeguards the rights of all persons of diverse sexual orientations, gender identities and sex characteristics, and how consistency with Slovakia's international human rights obligations will be ensured in the context of the draft constitutional law.

The second title of the Constitution of the Slovak Republic (Articles 14-54), which is entitled "*Fundamental Rights and Freedoms*", constitutes **the core of the constitutional order of the Slovak Republic**. It contains a list of fundamental rights and freedoms (civil, political, economic, social and cultural) which are **inviolable, inalienable, imprescriptible and irreparable** (Article 12(1) of the Slovak Constitution). The obligation to protect fundamental rights and freedoms is borne by all public authorities, i.e. the Parliament, the Government, the President, the Courts, as well as local authorities. The obligation of the Slovak Republic to protect fundamental rights and freedoms is reinforced by the fact that the Slovak Republic is bound by the European Convention on Human Rights, the EU Charter of Fundamental Rights and other international treaties.

The protection of fundamental rights and freedoms implies not only a passive obligation not to "interfere", but also an active obligation to create the conditions for their real application. This is one of the **highest principles of the constitutional order**, the protection of which is ensured by the constitutional judiciary and international mechanisms.

The anchoring of the two sexes (male and female) on the basis of biological features in the Constitution of the Slovak Republic reflects the objective reality that has existed so far in the conditions of the Slovak Republic. This regulation does not affect the rights of the LGBTI+ community, it does not restrict their rights in any way. It is only a preservation of the existing situation. Article 12 of the Constitution of the Slovak Republic provides:

²² <https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=567694>

²³ <https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=567691>

<https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=567689>

²⁴ <https://www.nrsr.sk/web/Default.aspx?sid=schodze/schodza&ID=552#current>

“(1) All human beings are free and equal in dignity and rights. Fundamental rights and freedoms are inviolable, inalienable, imprescriptible and irreparable.

(2) Fundamental rights and freedoms shall be guaranteed in the Slovak Republic to everyone regardless of sex, race, colour, language, belief and religion, political affiliation or other conviction, national or social origin, affiliation to a nation or ethnic group, property, descent or any other status. No one shall be harmed, discriminated against or favoured on any of these grounds.”

...

(4) No one shall be deprived of their rights for exercising their fundamental rights and freedoms.”

The principle of equality and dignity is reflected in the quoted article of the Constitution of the Slovak Republic. This means that the Constitution of the Slovak Republic is based on the principle that every person has equal worth and dignity regardless of his or her characteristics or social status. Equality in dignity means **equal access to rights and protection from discrimination.**

Rights and freedoms are defined as inalienable and irrevocable - the state only recognises and guarantees them, it cannot "grant" them. This corresponds to the natural law understanding of rights, i.e. that rights do not come from the state but from the inherent dignity of the human person.

We consider paragraph 2 of the above article to be immanent, i.e. the prohibition of discrimination on the grounds of sex, race, religion, political opinion, social origin, property, etc. This is an 'open list' - at the end is the phrase 'or other status', which makes it possible to include grounds that are not explicitly mentioned (e.g. disability, sexual orientation, age, etc.).

Furthermore, no provision of the proposed constitutional amendment can be considered to be in conflict with the provisions of Act No 365/2004 Coll. on equal treatment in certain areas and protection against discrimination, as amended (hereinafter referred to as the 'Anti-Discrimination Act'), which also provides comprehensive protection against discrimination on the grounds of sex, gender or sexual orientation

The anchoring of the two sexes (male and female) also reflects the traditional notion of marriage as a **unique union between a man and a woman**, which is part of the cultural heritage enshrined in the preamble of the Constitution of the Slovak Republic. We believe that such a change will strengthen **legal stability and the protection of traditional values. Thus, nothing will change in the protection of human rights and freedoms, only the legal status quo will be raised to the level of the Constitution. Since 2014, the Constitution recognises marriage only between a man and a woman, and other forms of cohabitation do not exist in the eyes of the law.**

Moreover, we would stress that a provision should be added to the Constitution guaranteeing equality between men and women in remuneration for work performed.

We consider the argument about potential discrimination to be premature and incorrect; on the one hand, it is unclear whether the amendment to the Constitution will be approved by the Parliament and, on the other hand, it is open how the public authorities will deal with national identity, taking into account their obligations under international law.

At the same time, we would like to stress that the Constitutional Court of the Slovak Republic does not lose its competence to consider infringements of rights and freedoms, neither in the proceedings on the conformity of legislation nor in the proceedings on a constitutional complaint.

Last but not least, we refer to the findings and recommendations of the Report of the Special Rapporteur on violence against women and girls²⁵, Reem Alsalem, according to which: *'Gender' is understood as a biological category and as a difference between women and men, as well as between boys and girls. References to "gender" refer to the biological difference between men and women, which is characterized by distinct evolutionary modes of reproduction.'*

The report goes on to argue that *"recognizing the reality of biological sex is crucial in addressing the specific forms of oppression faced by women and girls."* In this regard, the Special Rapporteur also draws attention to findings that ignoring biological sex diminishes the ability of States to effectively identify and eliminate such forms of violence, while the report also criticizes the substitution of gender-specific language with neutral or gender-identity focused language, which can lead to the dehumanization of women and weaken their legal protections.

The negative consequences of omitting gender-specific language were also reflected in the recent decision of the Supreme Court of the United Kingdom of Great Britain and Northern Ireland in **For Women Scotland Ltd v The Scottish Ministers** (UKSC 2025/0042) of 16. April 2025²⁶, which established that the terms "sex" and "woman" in domestic anti-discrimination law must be read as references to biological sex in the context of the Equality Act 2010²⁷ and the determination of its proper interpretation, which is intended to provide statutory protection to those who are at risk of unlawful discrimination.

²⁵ <https://www.ohchr.org/en/documents/thematic-reports/ahrc5947-sex-based-violence-against-women-and-girls-new-frontiers-and>

²⁶ <https://www.supremecourt.uk/cases/uksc-2024-0042>

²⁷ <https://www.legislation.gov.uk/ukpga/2010/15/contents>