

## THE 2015 REFERENDUM IN SLOVAKIA

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### Outline

- The 2015 "Referendum on Family" was invalid due to insufficient turnout.
- It was the first referendum in Slovakia initiated not by political parties but by non-party political activists.
- A new Pro-Life and Pro-Family Social Movement was behind the petition initiative; it managed to mobilize about 10,000 volunteers and more than 100 pro-life civic associations.
- This dense and increasingly assertive network of activists has a potential to significantly influence Slovak politics in the years to come.

### Background

The 2015 Slovak "Referendum on Family", as it came to be known in public discourse, represents an important chapter in history of Slovak direct democracy and social movement development. Even though it was not valid, due to low turnout, it represents the first example of true citizen initiative: political parties initiated all other previous referenda. In addition, it was an initiative of a well-organised social movement that has a potential to influence Slovak politics in the years to come.

The main organizer of the popular initiative was the Alliance for Family, a civic association established in late 2013. It grabbed media attention when it protested against an advertisement of the IKEA company. The company's corporate magazine distributed to its customers featured a story of a lesbian

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## The 2015 referendum in Slovakia

couple raising a child. The Alliance criticized it for promoting a non-traditional form of family that it thought was alien to cultural traditions and norms of predominantly Christian Slovak society. In order to prevent legal recognition of civic unions of same sex couples in the future, the activists called for a constitutional protection of the institution of marriage as a union of one man and one woman. The activists announced they would first try to convince elected representatives to change the legislation and, if unsuccessful, would start collecting signatures for their petition to initiate referendum on the matter.

Politicians soon recognized the political potential of the whole theme. In February 2014, just weeks before the direct presidential elections took place, the National Council (the Slovak Parliament) passed a constitutional amendment that explicitly stipulated that marriage was a union between a man and a woman and that such a union was under protection of the state. The amendment was drafted and passed by the governing Smer party and the opposition Christian Democratic Movement (KDH). For the former it played a role in the presidential elections, as its leader and presidential candidate Robert Fico hoped to win support of more conservative voters (Rybař et al. 2014, pp. 52-53); the latter has long been the main party political proponent of cultural conservatism in Slovakia.

The Alliance did not find the amendment sufficient: it demanded that the legislation explicitly prevented child adoptions by same-sex couples, granted parents the rights to opt out from teaching sexual education for their children, and even demanded same-sex unions were explicitly (and pre-emptively) denied any legal basis. In early April 2014 it started collecting signatures for a petition asking for a referendum to be held on these questions. The petitioners demanded four questions were submitted to the citizens:

1. Do you agree that no other cohabitation of persons other than a bond between one man and one woman can be called marriage?
2. Do you agree that same-sex couples or groups shouldn't be allowed to adopt children and subsequently raise them?
3. Do you agree that no other cohabitation of persons other than marriage should be granted particular protection, rights and duties that the legislative norms - as of March 1, 2014 - only grant to marriages and to spouses (mainly the acknowledgement, registration or recording as a life community in front of a public authority, and the possibility to adopt a child by the spouse of a parent).

4. Do you agree that schools should not require participation of children in subjects of sexual education or euthanasia if their parents or the children themselves do not agree with the content of such education?

Article 95 of the Slovak Constitution states that the president calls the referendum on the basis of a resolution of the National Council, or upon request - by a petition - of at least 350,000 citizens. According to the law, the president shall act within 30 days. While in principle it is possible for citizens and organized interests to take part in the decision-making by initiating a popular initiative, all Slovak referenda before 2015 were initiated by political parties; either via resolution of the National Council or via petition. The 2004 referendum on calling early parliamentary elections officially organized by the Trade Union Confederation comes closest to a non-party popular initiative. Even then, however, the then opposition Smer party closely cooperated with the Unions and offered its organizational and personnel capacities to collect signatures, and played a leading role (Lastic 2011, p. 118).

The constitution states that results of a referendum can be changed no sooner than after three years by a vote of constitutional (three-fifth) majority in the parliament. The referendum is only valid if turnout exceeds 50 per cent of all eligible voters (and a majority of participants endorses the results). It cannot be held within 90 days before the parliamentary elections, though it can be held on the election day. Taxes and levies, state budget, and basic rights and freedoms may not be the subjects of referenda.

The legislative effects of referendum remain unclear. The constitution states that the proposals adopted by a referendum shall be promulgated by the parliament in the same way as ordinary laws. The Constitutional Court in its 1997 ruling concluded that the results of a referendum constitute an order for parliamentarians that they should follow. However, it did not clarify how such principle is to be reconciled with another constitutional provision stating that deputies exercise their mandates according to their conscience and are not bound by orders. In addition, the only case of a valid referendum, the 2003 vote on Slovakia's EU accession, did not provide a guide. The results of the referendum, 92.46% in favour of Slovakia's membership in the EU (turnout level was 52.15%), were fully in line with a cross-party consensus on the issue. Hence, ambiguous constitutional provisions were not clarified by practice.

The provision on minimal turnout effectively means referendum in Slovakia is not a tool to decide about "important issues of public interest" (Art. 93 of the Constitution). Rather, it provides political entrepreneurs with an opportunity to

## The 2015 referendum in Slovakia

inject into the public discourse their own agendas and mobilize potential supporters on well-crafted campaign themes.

The petition action was officially launched on April 4, 2014. The Alliance for Family managed to collect over 400,000 signatures (Table 1) within five months. Several political parties, including the Christian Democratic Movement, Ordinary People and Independent Personalities (OLaNO) and also the extra-parliamentary Slovak National Party (SNS) helped collecting the signatures. However, they all played a low profile in the whole process. Catholic Church parishes were important in providing logistical and moral support: petition sheets were available in local churches and priests regularly appealed to parishioners to support the petition. Over 3,000 volunteers were reportedly involved in collecting signatures (Šovčíkova 2015).

**Table 1: Results of the 2014 petition for referendum**

The number of signatures	408 322
Valid signatures	389 843
Invalid signatures	18 602
Contentious signatures	118

Source: Alliance for Family, [www.alianciazarodinu.sk](http://www.alianciazarodinu.sk)

The Alliance submitted the petition to president Andrej Kiska on 27 August 2014. The activists asked president to call the referendum on the day of upcoming November local elections. They hoped the timing would increase chances of a higher turnout. The president, using his constitutional prerogatives, decided to refer the petition to the Constitutional Court. He asked the Court whether the subject of the referendum was in compliance with constitutional provisions banning popular plebiscite on basic rights. After two months, on 28 October 2014, the Court ruled that the third proposed referendum question, the one on exclusive legal status of, and privileges for, a marriage between a man and a woman, was unconstitutional. Other three questions, the Court argued, were in line with the Constitution. Even though the president expressed his persisting doubts about the remaining three questions (Kern 2014), he decided to call the referendum on February 7 2015. The activists resented the Court decision and criticised the judges for misplaced judicial activism but eventually accepted the ruling and concentrated on the campaign.

## Campaign

Pro-referendum activists tried to portray the referendum in "positive tones". They claimed they only aimed at preserving the status quo, i.e. keeping the

existing legal definition of marriage and the right of parents to decide about the content of education their children receive in schools. The public debate, however, inevitably focused on attitudes towards homosexuals and involved questions of the proper role of the (Catholic) church in public life.

In order to be able to mobilize the voters who were not churchgoers but were supportive of its cause, the Alliance formed as an independent civic association and refused to be referred to as Christian or Catholic. From the outset of the campaign, however, over forty explicitly pro-life Christian civic associations supported the petition. The number of pro-life associations backing the petition reached one hundred towards the end of the referendum campaign (Šovčíkova 2015). In addition, many public faces representing the pro-referendum side were publicly known from the 2013 "National march for life", a pro-life counterpart of gay-pride-parade, organized by the Conference of Slovak Bishops (KBS)

The church backing was undoubtedly a crucial factor in the whole process. The Catholic hierarchy openly supported the petition initiative; local priests encouraged volunteers and provided theological backing for the cause. The Bishops even prepared a Pastoral Letter read aloud in all Catholic Churches less than a week before the referendum. They called upon the believers to take part in the referendum and support what they perceived as the traditional family values. The Catholic Church provided the bulk of external support for the activists; nevertheless the largest Protestant Church and the Unionist (Greek Catholic) Church were also supportive.

The Catholic bishops also provided support indirectly: the Christian-Catholic television TV Lux, owned by the KBS, offered broadcasting opportunity for a controversial advert prepared by the Alliance. The advert featured a gay couple visiting a foster home, planning to adopt a young boy. Upon their arrival, the confused boy reacted: "And where is mama?" All major national TV stations refused to air the advertisement. They claimed they did not want to be involved in such a politically controversial dispute (Polaš 2015). The activists argued that the broadcasters limited the right of expression but eventually did not take any legal actions.

For over three months, the referendum themes dominated public discourse: media were full of sharp controversies between advocates of the referendum and their opponents. Both sides used billboards, blog posts and op-eds to communicate their messages. In essence, supporters of the referendum advocated active participation, while their opponents, given the turnout

## The 2015 referendum in Slovakia

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requirement, considered non-participation in the referendum the safest option available.

LGBTI activists refused to declare themselves as the "official opposition" to the Alliance. Still, many of them presented their activities on social networks as well as in print media and a few televised debates. Their Facebook campaign "Say No to the Meaningless Referendum", for example, concentrated on giving reasons why people should not take part in the referendum. The LGBTI *Inakosť* Initiative set up a website [nejdeme.sk](http://nejdeme.sk) ("we shall not take part"), where they regularly published reasons given by publicly known figures who were critical of the referendum.

Referendum campaign also polarised the political class, at least to some extent. President Kiska was the first political representative to take a clear stance. He declared he would be against the question on opt-out from school education but would support the other two questions. Prime Minister Fico also declared he would take part in the referendum but refused to give recommendation to the voters and did not reveal his opinion on the matter. His leftist Smer party, mastering a single-party majority in the parliament since the 2012 parliamentary elections (Spač 2014), also did not provide any official position. Among the parliamentary parties, only the Christian Democrats unequivocally supported the referendum. Other parties were more reserved, including opposition centre-right Slovak Democratic and Christian Union (SDKÚ) and Slovak-Hungarian Bridge (Most-Híd) party, or let only individual representatives to express their opinions, without taking an official position (OLaNO party). The liberal opposition Freedom and Solidarity party (SaS) was the only parliamentary subject that strictly opposed the referendum and its questions. The nationalist SNS, as a non-parliamentary party since 2012, supported the referendum. All in all, political parties played a low profile role in the campaign, thus preserving the referendum as a citizen initiative.

## Results

The eighth referendum in Slovak history, in spite of massive mobilization campaign by its proponents, was invalid due to low turnout. Eventually, only 21 per cent of eligible voters took part, falling short of the absolute majority required by the constitution. Among the voters who participated in the referendum, over 90 per cent supported the Alliance for Family. The highest percentage of voters (94.5%) agreed with the definition of, and an exclusive legal status for, marriage of one man and one woman. The least support (yet still massive 90.3%) received the question on the right of parents to gain opt

out for their children from school subjects on sexual education. Adoptions by same-sex couples were rejected by 92.42% participants (see Table 2).

**Table 2: Results of the 2015 referendum**

Date of referendum	7 February 2015
Electorate	4,411,529
Total votes cast	944,674 (21.41 %)
Total valid votes	938,135
Referendum question No 1	Do you agree that no other cohabitation of persons other than a bond between one man and one woman can be called marriage?
Valid votes in favour	892,719 (94.50%)
Valid votes against	39,088 (4.13 %)
Referendum question No 2	Do you agree that same-sex couples or groups shouldn't be allowed to adopt children and subsequently raise them?
Valid votes in favour	873,224 (92.42%)
Valid votes against	52,389 (5.54%)
Referendum question No 3	Do you agree that schools should not require participation of children in subjects of sexual education or euthanasia if their parents or the children themselves do not agree with the content of such education?
Valid votes in favour	853,241 (90.32%)
Valid votes against	69,349 (7.34%)

Source: Statistical Office of the Slovak Republic, [www.statistics.sk](http://www.statistics.sk)

Compared to other referendum cases in Slovakia, turnout level in 2015 was below the average. Less people participated only in 1994 and 2000, 19.96% and 20.03%, respectively (Lastic 2011). Moreover, participation at referenda has gradually declined since the only valid referendum took place in 2003.

## Conclusions

Even though the referendum was not valid, its results were interpreted differently by the various actors: President Kiska expressed his disappointment and regret over what he perceived was the low level of mutual understanding between competing activists. Prime Minister Fico refused to comment the results, thus confirming the ambiguous position of his party in the campaign. The opposition SaS (as well as several other opponents of the referendum) emphasised the need to undertake a full separation of church and state in Slovakia. Representatives of LGBTI groups welcomed the results and claimed

## The 2015 referendum in Slovakia

Slovak society was now more open to debate on the rights of gay and lesbian citizens, who, as they interpreted it, were no longer perceived as a threat (TASR 2015).

On the other hand, in an official reaction, the leading representatives of the Alliance claimed the referendum was "an adventure" and its results "superb". (Todova 2015) The activists referred to nearly one million of voters who, in their views, gave the Alliance a new source of legitimacy and support for further activities in protecting traditional family and family values.

The referendum campaign and its results have had several important consequences. First of all, it initiated an unprecedented public debate about same-sex marriages and civic unions. Never before in the Slovak history were themes of sexual education, adoptions and forms of modern family subjected to such an intense and heated public discussion. This led some of the observers to conclude that the referendum could in fact have positive impact on perception of homosexuals by the majority of the Slovak society.

Another dimension of the referendum campaign concerns political organisations of representative democracy in Slovakia. In a way, the referendum confirmed the primacy of political parties as primary channels of effective interest aggregation: without party politicization, themes important to a significant portion of the public are unlikely to reach the level of public policy making. On the other hand, the Alliance for Family managed to mobilize, within some 14 months, a considerable amount of voters. That is a remarkable achievement in a society that has been regularly described as demobilized and apathetic. Furthermore, the Alliance is not an isolated actor; it is a part of a dense network of dozens of non-governmental organizations and civic associations. This network has been in place since the 1990s and gradually increases the scope of its activities. By 2015, it has grown into a social movement that has a strong political potential. It is estimated that some 10,000 volunteers actively participated in the referendum campaign.

What is also significant is the fact that the referendum campaign was by and large financed from contributions of many small individual donors. A similar principle was used after the campaign: The referendum activists found the media environment in Slovakia strongly biased against their cause. Several journalists sympathetic to the pro-referendum side set up a new (online) conservative daily based on crowd sourcing, i.e. on small contributions of many individual donors. Even though sustainability of these activities is still an open question, the pro-life social movement managed to demonstrate its viability



beyond the 2015 referendum. In September 2015, it mobilised over 70,000 participants who gathered in a second "March for Life". The gathering, which again articulated culturally conservative themes, attracted mostly young participants and their families. The Alliance for Family, for example, recently elaborated a set of recommendations for political parties in the realm of family policies. It also initiated a petition against ratification of the so-called Istanbul Protocol in Slovakia, citing the unacceptability of the "gender ideology" manifested by the international agreement. Hence, despite the fact that the 2015 referendum was not valid, the culturally conservative social movement has become a significant player in Slovak politics.

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## The 2015 referendum in Slovakia

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