



EUROPEAN COURT OF HUMAN RIGHTS  
COUR EUROPÉENNE DES DROITS DE L'HOMME

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FOURTH SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 18968/07  
by V.C.  
against Slovakia

The European Court of Human Rights (Fourth Section), sitting on 16 June 2009 as a Chamber composed of:

Nicolas Bratza, *President*,  
Lech Garlicki,  
Ljiljana Mijović,  
David Thór Björgvinsson,  
Ján Šikuta,  
Päivi Hirvelä,  
Mihai Poalelungi, *judges*,

and Lawrence Early, *Section Registrar*,

Having regard to the above application lodged on 23 April 2007,

Having regard to the decision to grant priority to the above application under Rule 41 of the Rules of Court,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

## THE FACTS

The applicant, Ms V.C., is a Slovakian national who was born in 1980 and lives in Šarišská Poruba. She was represented before the Court by

Ms V. Durbáková, a lawyer practising in Košice and Ms B. Bukovská, Legal Director of the Mental Disability Advocacy Centre in Budapest.

The Slovak Government (“the Government”) were represented by their Agent, Ms M. Pirošíková.

### **A. The circumstances of the case**

The facts of the case, as submitted by the parties, may be summarised as follows.

The applicant is of Roma ethnic origin. She finished compulsory education in the sixth grade and is unemployed. Her mother tongue is the Roma language, which she uses in daily communication, together with a local dialect.

#### *1. The applicant’s sterilisation*

On 23 August 2000 the applicant was sterilised while hospitalised at the Hospital and Health Care Centre in Prešov (now known as the University Teaching Hospital and J.A. Reiman Health Care Centre in Prešov - “Prešov Hospital”) which is under the management of the Ministry of Health.

The procedure was carried out during the delivery of the applicant’s second child via Caesarean section. The applicant’s first delivery had also been via Caesarean section. The sterilisation of the applicant entailed tubal ligation by the Pomeroy method, which consists of severing and sealing the Fallopian tubes in order to prevent fertilisation.

During her pregnancy the applicant did not have any regular check-ups. She visited her general practitioner only once.

The applicant was admitted to the gynaecology and obstetrics department of Prešov Hospital on 23 August 2000 shortly before 8 a.m. She came to the hospital in pain resulting from the progress of labour. On arrival the applicant was informed that the delivery would be via Caesarean section.

The delivery is recorded in a written record indicating the details of the labour and birth at regular intervals. The first note in the record is from 7.52 a.m. The applicant was subsequently monitored by CTG (cardiotocography); the last CTG entry is from 10.35 a.m.

According to the delivery record, after 10.30 a.m., when labour was well established and the Caesarean section was imminent, the applicant requested sterilisation. That request is recorded directly in the delivery record with the typed words “Patient requests sterilisation”. Below this is the shaky signature of the applicant. The signature was in an unsteady hand and the applicant’s maiden name which she then used is split into two words.

The applicant submitted that, after she had been in labour for several hours and was in pain, the medical personnel of Prešov Hospital had asked her whether she wanted to have more children. The applicant responded in the affirmative but was told by the medical personnel that if she had one

more child, either she or the baby would die. The applicant started to cry and as she was convinced that her next pregnancy would be fatal, she told the medical personnel “Do what you want to do”. She was then asked to sign the delivery record under the note indicating that she had requested sterilisation. The applicant did not understand the term sterilisation and she signed the form in fear that there would otherwise be fatal consequences. As she was in the last stage of labour, her recognition and cognitive abilities were influenced by labour and pain.

At 11.30 a.m. the applicant was put under anaesthesia, after which the delivery was completed via Caesarean section. In view of the state of the applicant’s reproductive organs the two doctors involved asked the head physician for an opinion as to whether they should perform a hysterectomy or a sterilisation. They subsequently performed tubal ligation on the applicant. The procedure ended at 12.10 p.m. and the applicant came round from the anaesthetic 10 minutes later.

The words “Patient is of Roma origin” appear in the record of the applicant’s pregnancy and delivery (section “Medical history”, sub-section “Social and working conditions, especially during the pregnancy” of the pre-printed form designed for that purpose).

The applicant has suffered serious medical and psychological after-effects from the procedure. Hence, at the end of 2007 and the beginning of 2008 the applicant displayed the symptoms of a hysterical pregnancy. She falsely believed that she was pregnant and exhibited all the signs of pregnancy. However, the ultrasound examination revealed that she was not pregnant. Subsequently, in July 2008, she was treated by a psychiatrist in Sabinov. According to the latter’s statement, the applicant continues to suffer as the result of her infertility.

The applicant has also been ostracised by the Roma community. Her current husband, the father of her children, has left her several times due to her infertility.

## *2. Position of Prešov Hospital*

On 3 July 2008 the Director of Prešov Hospital submitted a position on the applicant’s case at the request of the Government Agent.

It indicates that the applicant’s first delivery in 1998 ended with a Caesarean section as the size of the applicant’s pelvis excluded a normal delivery. Prior to the delivery the applicant had come to a prenatal care centre only twice, at the beginning of her pregnancy. After the delivery she was placed in a post-delivery room with sanitary equipment where she received medical care. On the third day she left the hospital without doctors’ consent and returned 24 hours later with sepsis caused by inflammation of the uterus. After nine days’ hospitalisation during which she received intensive treatment with antibiotics the applicant and her child were

discharged from the hospital. The applicant was advised to visit a gynaecologist regularly but she failed to do so.

As regards her second pregnancy, the applicant visited the prenatal care centre only once, in the initial stages. At the time of the second delivery, due to pain which the applicant experienced in the lower part of her uterus (where she had been operated on during her first delivery) and in view of the size of her pelvis, doctors indicated that a Caesarean section would be needed. They were of the view that there was a risk of rupture of the uterus. After they had explained to her the situation and the risks inherent in a possible third pregnancy, the applicant, being fully aware of what was happening, signed the sterilisation request.

### *3. Alleged discrimination against the applicant*

#### **(a) The applicant's submissions**

The applicant considered that her ethnic origin had played a decisive role in the decision by the medical personnel of Prešov Hospital to sterilise her. She referred to the attitudes of the medical personnel and also to the fact that in her medical record it was clearly stated that she was of Roma ethnic origin.

During her hospitalisation on the gynaecology and obstetrics ward of Prešov Hospital, patients were segregated by ethnic origin. The applicant was accommodated in a so-called "Gypsy room" where she was separated from women who were not of Roma origin; she was also prevented from using the same bathrooms and toilets.

#### **(b) The Government's submissions**

The Government relied on the above position of Prešov Hospital, which stated that in other similar cases where sterilisation was indicated for medical reasons the doctors proceeded in the same way regardless of patients' race or skin colour.

All patients were provided with the same care and there were no cases of separation or segregation on any grounds. That had been confirmed during visits to Prešov Hospital's gynaecology and obstetrics department by representatives of non-governmental organisations and of the European Parliament.

### *4. Criminal proceedings*

On 23 January 2003, in response to the publication by the Centre for Reproductive Rights and the Centre for Civil and Human Rights of "Body and Soul: Forced and Coercive Sterilisation and Other Assaults on Roma Reproductive Freedom in Slovakia" ("the Body and Soul Report"), the Section for Human Rights and Minorities of the Government Office

initiated a criminal investigation into the allegedly unlawful sterilisation of several different Roma women.

The criminal investigation was conducted within the Regional Directorate of the Police Corps in Žilina by the Office of the Judicial and Criminal Police. Several decisions were issued by the investigator, public prosecutors at several levels and the Constitutional Court. The proceedings were ultimately discontinued on the ground that no offence had been committed in the context of the sterilisations of women of Roma ethnic origin.

The applicant did not initiate any individual criminal proceedings.

### *5. Civil proceedings*

In January 2003, after the release of the Body and Soul Report, the applicant realised that she had been misled by the medical personnel of Prešov Hospital. She also learned that a tubal ligation was not life-saving surgery as alleged by the medical personnel of Prešov Hospital and that the patient's full and informed consent to such a procedure was required. For this reason, she unsuccessfully tried to review her medical records. She was allowed access to her medical file with her lawyer in May 2004 following a judicial order to that effect.

On 9 September 2004 the applicant lodged a claim under Articles 11 et seq. of the Civil Code with the Prešov District Court seeking protection of her personal rights. She submitted that the sterilisation performed on her had been carried out in violation of Slovakian legislation and international human rights standards including Articles 3, 8, 12 and 14 of the Convention. The applicant argued that she had not been duly informed about the procedure as such, its consequences and alternative solutions. She requested an apology for the procedure and claimed compensation for non-pecuniary damage.

In the course of the proceedings the District Court considered documentary evidence and obtained a number of statements from the applicant as well as from the medical personnel of Prešov Hospital.

In particular, the applicant described the circumstances in which she had given birth in Prešov Hospital and how she had been asked to sign the relevant note in the record. She also stated that the father of her children had left her for two years due to her infertility and that they had experienced problems in their relationship for that reason. She outlined the health problems which she was experiencing.

Doctor Č. of Prešov Hospital, who had performed the procedure on the applicant, stated that he did not specifically remember the applicant or the circumstances of her hospitalisation. His statement was based on the information in the applicant's medical file. He alleged that the applicant had been fully informed about her medical condition and the progress of the labour approximately ninety minutes prior to the delivery. The information

about the need for sterilisation had been conveyed to her by the head doctor of the gynaecology and obstetrics ward, as well as the second doctor who had participated in the surgery, and also by the anaesthetist. The sterilisation had been carried out at the applicant's request as a medical necessity. Any possible third pregnancy could have been risky for the applicant unless she was monitored regularly during the pregnancy. Doctor Č. stated that the sterilisation of the applicant had not been life-saving surgery.

Doctor K., head doctor of the gynaecology and obstetrics ward of Prešov Hospital, stated that he fully agreed with the testimony of doctor Č. Doctor K. did not specifically recall the case of the applicant either. He assumed that her case was the same as other similar cases. He had not been present during the delivery and the sterilisation of the applicant; he had been told about her case by other doctors. He described the sterilisation procedure as governed by the relevant law. In the case of the applicant, there had been no time to convene any committee as she had come to the hospital a very short time before delivery.

Doctor K. further stated that, after he had designated his colleagues Š. and Č. to perform the surgery, he had also asked them to find out whether the patient would agree to sterilisation, and to have her consent confirmed by a signature. Even if a patient refused to give written consent to sterilisation, it could be carried out under section 2 of the 1972 Sterilisation Regulation, which permitted such a move in the case of danger to a person's life.

In the civil proceedings, the applicant also submitted a psychologist's assessment of her mental capacity from 17 February 2006. It indicated that her intellectual capacity was very low, on the verge of mental retardation, but that her thinking was well developed in relation to practical issues. The psychologist concluded that communication with the applicant needed to be adapted to her mental and language skills. No mental illness was detected that would prevent the applicant from making decisions concerning her life and assuming responsibility for matters related to her life.

On 28 February 2006 the Prešov District Court dismissed the action. It held that the procedure had been performed only after the medical personnel had obtained the signature of the applicant. It admitted that the signature of the applicant on the delivery record had been obtained shortly before the Caesarean section was performed, when the applicant had been in "a lying position". The procedure had been performed on medical grounds. It had been necessary due to the applicant's poor medical condition. The medical personnel had proceeded in accordance with the law.

The fact that the procedure had not been approved earlier by a sterilisation committee amounted only to a failure to meet the formal requirements; it could not have interfered with the applicant's personal integrity as protected by Articles 11 et seq. of the Civil Code. No violation of the applicant's rights under the Convention had been established.

Finally, the District Court held that the applicant's situation was not irreversible as there was a possibility of *in vitro* fertilisation.

On 12 May 2006 the applicant appealed. She maintained that she had been sterilised without her full and informed consent in a situation where she had not been able to understand fully the nature and consequences of the procedure. There were gaps and inconsistencies in the statements of the medical personnel and the medical file contained no record of her having been duly informed about the procedure, its irreversible character and the alternative methods. In violation of the legislation in force the sterilisation had not been approved by a sterilisation committee. A tubal ligation could not be considered as life-saving surgery. The applicant relied on documents issued by international medical organisations.

On 25 October 2006 the Prešov Regional Court upheld the first-instance judgment. It concluded that the sterilisation of the applicant had been performed in accordance with the legislation in force and that it had been required by the applicant's medical condition.

The court of appeal referred to the statements by the physicians involved and held that there had been a risk of rupture of the applicant's uterus. The applicant had requested to be sterilised after she had been duly informed of the state of her health. The procedure had complied with the relevant provisions of the 1972 Sterilisation Regulation. A decision as to whether or not sterilisation was required lay in such circumstances with the head physician. Prior approval by a sterilisation committee was required only where sterilisation was to be carried out on healthy reproductive organs. However, this had not been the case with the applicant.

#### *6. Constitutional proceedings*

On 17 January 2007 the applicant lodged a complaint with the Constitutional Court. With reference to her sterilisation and the ordinary courts' conclusions in the above civil proceedings, she submitted that she had been subjected to sterilisation in Prešov Hospital without her informed consent and that she had been unable to obtain redress as a result of the conduct and decision of the Prešov Regional Court. She alleged that the latter had thereby breached her constitutional rights and freedoms prohibiting discrimination and cruel, inhuman or degrading treatment or punishment, her right to protection from unjustified interference with her private and family life and her right to protection of her family, as well as her rights under Articles 3, 8, 12, 13 and 14 of the European Convention on Human Rights and Article 5 of the Convention on Human Rights and Biomedicine. The applicant requested that the Constitutional Court quash the Regional Court's judgment.

On 14 February 2008 the Constitutional Court dismissed the complaint as being manifestly ill-founded. The decision stated that the Regional Court could not be held liable for any violation of the applicant's substantive

rights under, *inter alia*, Articles 3, 8 and 12 of the Convention, as such rights were related to the legal relationship existing between the applicant and Prešov Hospital. The task of the Regional Court in the proceedings complained of had been to provide protection for the applicant's rights under those provisions in a manner complying with the Constitution. Any failure of the Regional Court to comply with the Constitution and the international treaties by which Slovakia was bound could only result in a breach of the applicant's rights of a procedural nature.

As to the complaint under Article 13 of the Convention, and to the extent that the applicant disagreed with the reasons for the Regional Court's judgment, the Constitutional Court recalled that it lacked jurisdiction to examine alleged errors of fact or law in proceedings before the ordinary courts.

The factual or legal conclusions of the ordinary courts could be reviewed by the Constitutional Court where they were clearly unsubstantiated or arbitrary and thus untenable from the point of view of the Constitution, and where the effects of such conclusions entailed a breach of fundamental rights or freedoms guaranteed by the Constitution or an international treaty.

A prerequisite for such review by the Constitutional Court was, however, a complaint by the plaintiff of a breach of Article 6 § 1 of the Convention or its constitutional equivalent. As the applicant in her complaint had not invoked those provisions, either formally or in substance, the Constitutional Court was prevented from examining the case from that point of view.

### *7. Accounts of sterilisation practices in Slovakia*

#### **(a) Information submitted by the applicant**

The applicant referred to a number of publications pointing to a history of forced sterilisation of Roma women which had originated under the communist regime in Czechoslovakia in the early 1970s and which she believed had influenced her own sterilisation.

In particular, the applicant submitted that the Ministry of Health's 1972 Sterilisation Regulation had been used to encourage the sterilisation of Roma women. According to a 1979 document by Charter 77, a Czechoslovakian dissident group, a programme had been launched in Czechoslovakia offering financial incentives for Roma women to be sterilised because of earlier unsuccessful governmental efforts "to control the highly unhealthy Roma population through family planning and contraception."

The applicant further maintained that in Prešov district 60% of the sterilisation operations performed from 1986 to 1987 had been on Roma women, who represented only 7% of the population of the district. Another study found that in 1983, approximately 26% of sterilised women in eastern



Slovakia (the region where the applicant resides) were Roma; by 1987, this figure had risen to 36.6%.

In 1992 a report by Human Rights Watch noted that many Roma women were not fully aware of the irreversible nature of the procedure and were forced into it because of their poor economic situation or pressure from the authorities.

According to other reports, in 1999 nurses working in Finnish refugee reception centres informed researchers from Amnesty International that they had noticed unusually high rates of gynaecological procedures such as sterilisation and removal of ovaries among female Roma asylum seekers from eastern Slovakia. All the reports cited identified Prešov Hospital as one of the hospitals where such sterilisation practices were applied.<sup>1</sup>

**(b) Information submitted by the respondent Government**

The Government submitted that health care in Slovakia was provided to all women equally. Statistical data based on the ethnic origin of patients were generally not gathered as it was considered to be contrary to persons' human rights.

Following the publication of the Body and Soul Report the Ministry of Health established a group of experts with a view to investigating allegedly unlawful sterilisations and segregation of Roma women.

The Ministry's report of 28 May 2003 submitted to the parliamentary Committee on Human Rights, Nationalities and the Status of Women

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<sup>1</sup> The applicant relied on the following documents:

Commission of the European Communities, Regular Report on Slovakia's Progress Towards Accession (2002), p. 31.

European Roma Rights Centre, "Stigmata: Segregated Schooling of Roma in Central and Eastern Europe, a survey of patterns of segregated education of Roma in Bulgaria, the Czech Republic, Hungary, Romania and Slovakia", 2004, available at [www.errc.org](http://www.errc.org).

Amnesty International Report 2003, Chapter Slovakia.

European Roma Rights Centre, "Discrimination in the Slovak Judicial System", Roma Rights 1/2002, pp. 106–108;

Bureau of Democracy, Human Rights and Labour, U.S. State Department, "Human Rights Practices: Slovak Republic 2001", 2002, § 5.

Open Society Institute, "Monitoring the EU Accession Process: Minority Protection in Slovakia", 2001.

R. Tritt, J. Laber, Lois Whitman, "Struggling for Ethnic Identity: Czechoslovakia's Endangered Gypsies", Human Rights Watch, New York, August 1992, pp. 19, 22 and 139-144.

David M. Crow, "History of the Gypsies of Eastern Europe and Russia", St. Martin's Griffin, New York, 1995, p. 60.

Ruben Pellar and Zbyněk Andrš, "Statistical Evaluation of the Cases of Sexual Sterilisation of Romani Women in East Slovakia", Appendix to the Report on the Examination in the Problematic Sexual Sterilisation of Romanies in Czechoslovakia, 1990.

MUDr. Posluch and MUDr. Posluchová, "The Problems of Planned Parenthood among Gypsy Fellow-citizens in the Eastern Slovakia Region" published in Zdravotnícka pracovnička No. 39/1989, p. 220-223.

indicates that the medical records of 3,500 women who had been sterilised and those of 18,000 women who had given birth by means of Caesarean section during the preceding 10 years had been reviewed.

The rate of sterilisation of women in Slovakia amounted to only 0.1% of women of reproductive age. In European countries that rate was between 20 and 40%. The low rate of sterilisations in Slovakia was mainly due to the fact that the procedure was not widespread as a method of contraception.

In the absence of official statistical data concerning the ethnic origin of inhabitants the expert group was able to assess the position as regards women of Roma ethnic origin only indirectly. In those regions where it was possible to indirectly assess the proportion of women of Roma ethnic origin, the frequency of sterilisation and Caesarean section in the Roma population was significantly lower than among the rest of the population. The frequency of sterilisations was statistically insignificantly higher in the Prešov and Košice regions than in other regions of Slovakia.

The group concluded that in the hospitals investigated by its members no genocide or segregation of the Roma population had occurred. All cases of sterilisation had been based on medical indications. Certain shortcomings in health care and non-compliance with the regulations on sterilisation (such as failure to observe the administrative procedure) had been established in several cases. However, they affected the whole population regardless of patients' ethnic origin. Hospitals in which administrative errors had been discovered had adopted measures with a view to eliminating them.

In none of the hospitals visited by the expert group did there exist separate rooms for Roma women; all patients received treatment within the same hospital facilities.

The report also contained a set of recommendations in the field of legislation and education of both medical personnel and persons of Roma ethnic origin. It indicated that due to the situation existing during the preceding decades, medical personnel and individuals were not on an equal footing as regards responsibility for maintaining and improving individuals' state of health. This was reflected, in particular, in limited individual rights and responsibilities in matters of health care. Measures were recommended to ensure that individuals received the necessary information with a view to being able to give informed consent to their treatment or refuse it. Individual requests for medical intervention were to be made in a legally valid manner permitting the persons concerned to express their own free will after receiving the appropriate information. The measures recommended in the report comprised an amendment to the legal rules on sterilisations.

The Government further submitted that the Minister of Health had held the chief physician of the gynaecology and obstetrics department of the hospital in Kežmarok responsible for administrative shortcomings in the

work of the sterilisation committee and had removed him from office on that ground.

## **B. Relevant domestic law and practice**

### *1. The Civil Code*

Under Article 11, natural persons have the right to protection of their personal rights (personal integrity), in particular their life and health, civil and human dignity, privacy, name and personal characteristics.

Under Article 13 § 1, natural persons have the right to request that unjustified infringements of their personal rights be ended and that the consequences of such infringements be erased. They also have the right to appropriate just satisfaction.

Article 13 § 2 provides that, in cases where the satisfaction obtained under Article 13 § 1 is insufficient, in particular because the injured party's dignity or social standing has been significantly diminished, he or she is also entitled to financial compensation for non-pecuniary damage.

Pursuant to Article 37 § 1, for a legal action to be valid it must be brought freely and with a serious intention, and in a clear and comprehensible manner.

### *2. The 1972 Sterilisation Regulation*

Regulation No. Z-4 582/1972-B/1 of the Ministry of Health of the Slovak Socialist Republic, published in the Official Journal of the Ministry of Health No. 8-9/1972 ("the 1972 Sterilisation Regulation"), applicable at the relevant time, contained guidelines governing sterilisation in medical practice.

Section 2 permitted sterilisation in a medical institution, either at the request of the person concerned or with that person's consent where, *inter alia*, the procedure was necessary according to the rules of medical science for the treatment of a person's reproductive organs affected by disease (section 2(a)), or where the pregnancy or birth would seriously threaten the life or health of a woman whose reproductive organs were not affected by disease (section 2(b)).

Section 5(1)(a) authorised the head physician of the hospital department in which the person concerned was treated to decide whether or not that person's sterilisation was required within the meaning of section 2(a) of the 1972 Sterilisation Regulation. Sterilisation on any other ground required prior approval by a medical committee ("sterilisation committee").

Point XIV of the Annex to the 1972 Sterilisation Regulation indicated the following as obstetric-gynaecological reasons justifying a woman's sterilisation:

1. During and after a repeat Caesarean section, where this method of delivery was necessary for reasons which were most likely to persist during a further pregnancy and when the woman concerned did not wish to deliver again via Caesarean section.

2. In the event of repeated complications during pregnancy, in the course of delivery and in the subsequent six-week period, where a further pregnancy would seriously threaten the woman's life or health.

3. Where a woman had several children (four children for women under the age of 35 and three children for women over that age).

The Regulation was repealed by the Health Care Act 2004 with effect from 1 January 2005 (see below).

### *3. The Health Care Act 1994*

At the relevant time the following provisions of Law no. 277/1994 on Health Care (*Zákon o zdravotnej starostlivosti* – “the Health Care Act 1994”) were in force.

Section 13(1) made medical treatment subject to the patient's consent. A patient's consent to medical procedures of a particularly serious character or which substantially affected a person's future life had to be given in writing or in another provable manner (section 13(2)).

Under section 15(1) the physician was obliged to advise the patient, in an appropriate and provable way, about the nature of his/her illness and the necessary medical procedures, so that the physician and the patient could actively cooperate in the patient's treatment. The amount of information which it was appropriate to provide to the patient was to be determined by the physician in view of the particular circumstances of the case. Such information had to be given in a manner which respected the patient ethically and was not allowed to affect the patient's treatment.

### *4. The Health Care Act 2004*

The Health Care, Health Care Services and Amendment Act 576/2004 (*Zákon o zdravotnej starostlivosti, službách súvisiacich s poskytovaním zdravotnej starostlivosti a o zmene a doplnení niektorých zákonov* – “the Health Care Act 2004”) came into force on 1 November 2004 and became operative on 1 January 2005.

Section 6 governs the information and informed consent of patients. Pursuant to sub-section 1, medical practitioners are obliged, unless the law provides otherwise, to inform the persons listed below about the aim, nature, consequences and risks of treatment, the possibility of choice of proposed procedures and the risks connected with refusal to accept treatment. The above obligation to inform extends, *inter alia*, to the person to be treated or another person chosen by the former, or the statutory representative or guardian where health care is to be provided to a minor,

a person deprived of legal capacity or a person with limited legal capacity and, in an appropriate manner, also to persons incapable of giving informed consent.

Section 6(2) obliges medical practitioners to provide information comprehensibly, considerately, without pressure, allowing the patient the possibility and sufficient time to freely give or withhold his or her informed consent, and in a manner appropriate to the maturity of intellect and will and the state of health of the person concerned.

Section 6(3) provides that any person entitled to such information also has the right to refuse it. Such refusal has to be recorded in writing.

Pursuant to section 6(4), informed consent is provable consent to treatment preceded by information as stipulated by the Health Care Act 2004. A written form of informed consent is required, *inter alia*, in the case of sterilisation. Everyone with the right to give informed consent also has the right to freely withdraw that consent at any time.

Section 40 reads as follows:

“Sterilisation

(1) Sterilisation for the purposes of this law shall be the prevention of fertility without the removal or impairment of a person’s reproductive organs.

(2) Sterilisation can only be performed on the basis of a written request and written informed consent following previous information of a person with full legal capacity or of the statutory representative of a person not capable of giving informed consent, or on the basis of a court decision issued on an application by the statutory representative.

(3) The information preceding a person’s informed consent must be provided as specified by section 6(2) and must contain information about:

- (a) alternative methods of contraception and planned parenthood;
- (b) possible changes in life circumstances which led to the request for sterilisation;
- (c) the medical consequences of sterilisation as a method aimed at the irreversible prevention of fertility;
- (d) the possible failure of sterilisation.

(4) A request for sterilisation is to be submitted to the provider [of health care] who carries out sterilisations. A request for female sterilisation shall be examined and sterilisation carried out by a physician specialising in the field of gynaecology and obstetrics; requests for male sterilisation shall be examined and the sterilisation carried out by a physician specialising in the field of urology.

(5) Sterilisation may not be carried out earlier than 30 days after informed consent has been given.”

Section 50 repeals the 1972 Sterilisation Regulation.

Article IV of the Health Care Act 2004 introduces the offence of “unlawful sterilisation”, which is included in the Criminal Code as Article 246b. Sub-paragraph 1 of Article 246b provides that anybody who sterilises a person contrary to the law is to be punished by a prison term of between

three and eight years, by a prohibition on carrying out his or her activity or by a pecuniary penalty. The prison term may be between five and twelve years when the offence has been committed in aggravating circumstances (sub-paragraph 2).

*5. The Constitutional Court Act 1993 and the practice of the Constitutional Court*

Under section 53(1) of the Constitutional Court Act 1993, a complaint to the Constitutional Court is admissible only where the applicant has used effective remedies provided for by the law to protect his or her fundamental rights.

In proceedings I. ÚS 13/00 the plaintiff complained of her removal from a municipal flat. She relied on her rights under Articles 19, 20, 21 and 41 of the Constitution, which guarantee respect for private and family life and the home, protection of ownership rights, protection of parenthood and protection of children and juveniles. In its judgment of 10 July 2001 the Constitutional Court found that the Prešov Regional Court, which had dealt with the case at last instance, had violated the above rights of the plaintiff.

In its judgment the Constitutional Court held, with reference to its practice, that it was entitled to review decisions of the ordinary courts where the proceedings before them or their decisions resulted in a breach of individuals' fundamental rights or freedoms.

### **C. The Council of Europe Commissioner for Human Rights**

In the follow-up report on the Slovak Republic of 29 March 2006 the Council of Europe Commissioner for Human Rights stated:

“... The involuntary sterilisation of Roma women

32. The issue of allegations of forced or coerced sterilisation of Roma women and girls in the Slovak Republic was examined by the Commissioner in his recommendation of October 2003. The Commissioner concluded that on the basis of the available information, it could reasonably be assumed that cases of sterilisations had taken place, particularly in the eastern part of the Slovak Republic, without informed consent. The Commissioner noted that the information available did not suggest that an active or organised government policy of improper sterilisations had existed (at least since the end of the Communist regime). However, in the Commissioner's opinion, the Slovak Government had an objective responsibility in the matter for failing to put in place adequate legislation and for failing to exercise appropriate supervision for sterilisation practices. The Commissioner made a number of recommendations to the Slovak authorities concerning new legislation, access to medical files, improving the country's health care system to include gynaecological and obstetrical medical services, and consideration given to the setting up of an independent commission to offer redress.

#### Development of the situation and measures taken

33. The allegations of forced and coerced sterilizations of Roma women in Slovakia were considered as a possible grave violation of human rights and therefore taken very seriously by the Slovak Government. A considerable effort was devoted to their thorough examination. In addition to a criminal investigation, a professional medical inspection of healthcare establishments was organised and an expert opinion of the Faculty of Medicine of the Comenius University in Bratislava requested. It was not confirmed that the Slovak Government would have supported an organized discriminatory sterilizations' policy. Legislative and practical measures were taken by the Government in order to eliminate the administrative shortcomings identified in the course of inquiries and to prevent similar situations from occurring in the future.

34. The Public Health Act, which came into effect on 1 January 2005, sought to deal with these issues by including sections on sterilisation, informed consent and access to medical records. The law was elaborated in accordance with the Council of Europe Convention on Human Rights and Biomedicine, and among other things, eliminates the deficiencies in legislation found in the course of the investigations. The law, *inter alia*, guarantees informed consent and requires health care professionals to provide information to patients before, for example, undergoing sterilisation. It also requires a thirty day waiting period after informed consent is given. In addition, the new law addresses the problem many individuals face in accessing their medical records. The law explicitly allows authorisation by the patient to another person, through a power of attorney, to view and photocopy their files.

35. Women allegedly harmed by sterilisation have the right to turn to the Slovak courts with a request for compensation and it is the view of the Slovakian authorities that the existing legal framework offers them sufficient possibilities to seek compensation. Some of the cases have been concluded by rejecting the complaint or by halting proceedings. In other cases, court proceedings are still underway.

#### Conclusions

36. The Commissioner welcomes the coming into force of the Public Health Act, and its provisions on informed consent and access to medical records. These were crucial issues which the Commissioner had addressed in his Recommendation to the Slovak authorities, and he is pleased to see that the new law has explicitly addressed these problem areas.

37. The Commissioner notes with regret that the Slovak authorities have not yet established an independent commission to provide compensation or an apology to the victims. While victims may seek redress through the court system, in these types of cases, litigation has its practical shortcomings. These include the difficult and costly nature of obtaining legal counsel, particularly, for Roma women living in marginalised communities, and the extremely high evidential standards.

38. The Commissioner again encourages the authorities to consider creating an independent commission that might, on the examination of each case, provide effective and rapid non-judicial redress. Such redress would be given to individual applicants, who could show that appropriate procedures were not followed, without there necessarily having been intent or criminal negligence on the part of individual medical staff, but because of systemic shortcomings in the procedures permitted, and that in their particular case, sterilisation was without informed consent. Such a Commission might allow for alleged cases to be examined thoroughly, but with fewer formalities and less cost for applicants, than judicial proceedings.”

#### **D. The ECRI Report on Slovakia**

The European Commission against Racism and Intolerance (ECRI) published its periodic report (fourth monitoring cycle) on Slovakia on 26 May 2009. Its relevant parts read as follows:

“... Allegations of sterilisations of Roma women without their full and informed consent

110. In its third report, ECRI was of the opinion that the possibility of sterilisations of Roma women without their full and informed consent necessitated immediate, extensive and thorough investigation. ECRI also recommended that clear, detailed and coherent regulations and instructions be issued immediately to ensure that all sterilisations were being carried out in accordance with best medical knowledge, practice and procedures, including the provision of full and comprehensible information to patients about the interventions proposed to them.

111. ECRI notes with concern that the problems as regards investigations into allegations of sterilisations of Roma women without their full and informed consent noted in its third report remained. The authorities continued to investigate these allegations under the crime of genocide rather than, for example, under the crimes of assault or of inflicting grievous bodily harm. The angle under which these allegations were investigated thus rendered proof of a crime having been committed virtually impossible and the possibility for redress through the courts almost null. The investigations also reportedly continued to focus on the issue of consent forms being signed rather than on whether full prior information was provided. Due to these flaws, in most cases, the courts decided that the allegations were unproven. ECRI wishes to stress that at the very least, the authorities should secure legal aid to victims so that they can seek compensation through civil law.

112. Some legislative measures have been taken to provide better legal safeguards against the practice. The Criminal Code has been amended to include the crime of “illegal sterilisation” and it provides for a thirty-day waiting period from the time the patient has given her consent before the sterilisation is carried out. Section 40 of Law No. 576/2004 Coll. on Healthcare which entered into force on 1 January 2005 provides that sterilisation can only be performed following a written request and informed written consent from a person who has been previously informed and is fully legally responsible for him/herself, or from a person who legally represents them and can provide their informed consent, or on the basis of a court decision based on a request by a legal representative. The patient information session preceding consent must be carried out according to the law and must include information on alternative methods of contraception and family planning, possible changes in life circumstances which led to the request for sterilisation, the medical consequences of sterilisation and the possibility that the sterilisation may fail.

113. While welcoming these legislative developments, ECRI regrets that due to the above-mentioned problems in the investigations of allegations of sterilisations of Roma women without their full and informed consent, no redress has been possible for the majority of women involved.

114. ECRI recommends that the Slovak authorities monitor all facilities which perform sterilisations to ensure that the legislative safeguards concerning this procedure are respected. It also urges the authorities to take steps to ensure that complaints filed by Roma women alleging sterilisations without their full and informed consent are duly investigated and that the victims receive proper redress.”



### **E. UN Convention on the Elimination of All Forms of Discrimination against Women**

Article 12 of the UN Convention on the Elimination of All Forms of Discrimination against Women reads:

“1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.”

General Recommendation No. 24 adopted by the Committee on the Elimination of Discrimination against Women in 1999 includes, *inter alia*, the following recommendations for action by the States parties to the Convention on the Elimination of All Forms of Discrimination against Women:

“31. ... (e) Require all health services to be consistent with the human rights of women, including the rights to autonomy, privacy, confidentiality, informed consent and choice;

(f) Ensure that the training curricula of health workers includes comprehensive, mandatory, gender-sensitive courses on women’s health and human rights, in particular gender-based violence. ...”

At its 41st session (30 June to 18 July 2008) the Committee on the Elimination of Discrimination against Women considered the combined second, third and fourth periodic report of Slovakia. The concluding observations contain, *inter alia*, the following text (CEDAW/C/SVK/CO/4):

“44. While acknowledging the explanations given by the delegation on the alleged coerced sterilization of Roma women, and noting the recently adopted legislation on sterilization, the Committee remains concerned at information received in respect of Roma women who report having been sterilized without prior and informed consent.

45. Recalling its views in respect of communication No. 4/2004 (*Szjijarto v. Hungary*), the Committee recommends that the State party monitor public and private health centres, including hospitals and clinics, that perform sterilization procedures so as to ensure that patients are able to provide fully informed consent before any sterilization procedure is carried out, with appropriate sanctions being available and implemented in the event of a breach. It calls upon the State party to take further measures to ensure that the relevant provisions of the Convention and the pertinent paragraphs of the Committee’s general recommendations Nos. 19 and 24 in relation to women’s reproductive health and rights are known and adhered to by all relevant personnel in public and private health centres, including hospitals and clinics. The Committee recommends that the State party take all necessary measures to ensure that the complaints filed by Roma women on grounds of coerced sterilization are duly acknowledged and that victims of such practices are granted effective remedies.”

## COMPLAINTS

1. Under Article 3 of the Convention the applicant complained that she had been subjected to inhuman and degrading treatment on account of her sterilisation without her full and informed consent, and that the authorities had failed to carry out a thorough, fair and effective investigation into the circumstances surrounding her sterilisation.

2. Under Article 8 of the Convention the applicant complained that her right to respect for her private and family life had been violated as a result of her sterilisation without her full and informed consent.

3. Under Article 12 of the Convention the applicant complained that her right to found a family had been breached on account of her sterilisation without her full and informed consent.

4. The applicant alleged a violation of Article 13 of the Convention in that she had no effective remedy at her disposal in respect of her complaints about the infringement of her rights guaranteed by Articles 3, 8 and 12 of the Convention.

5. Finally, the applicant alleged a violation of Article 14 of the Convention in that she had been discriminated against, on the grounds of her race and sex, in the enjoyment of her rights under Articles 3, 8 and 12 of the Convention.

## THE LAW

### *1. Exhaustion of domestic remedies*

The Government objected that the applicant had not exhausted domestic remedies as required by Article 35 § 1 of the Convention. In particular, by failing to rely also on Article 6 § 1 of the Convention or its constitutional equivalent, the applicant had prevented the Constitutional Court from examining the way in which the ordinary courts had assessed the facts complained of. Furthermore, the applicant had not sought redress by means of a criminal complaint and, if necessary, ultimately by means of a complaint to the Constitutional Court in respect of any shortcomings in the context of the criminal investigation into the case.

The applicant disagreed. She argued that she had sought redress before the civil courts and, ultimately, the Constitutional Court. The way in which the Constitutional Court had dealt with her complaint showed that the remedy in issue was not an effective one. As to the possibility of filing a criminal complaint, the applicant argued that she had not been obliged to try such a remedy in parallel to the civil proceedings initiated by her and that, in any event, the domestic authorities had had an obligation to start an investigation into the case of their own motion.

The Court reiterates that the rule of exhaustion of domestic remedies must be applied with some degree of flexibility and without excessive formalism. At the same time it requires in principle that the complaints intended to be made subsequently at international level should have been aired before domestic authorities, at least in substance and in compliance with the formal requirements laid down in domestic law. Among other things the Court must examine whether, in all the circumstances of the case, the applicant did everything that could reasonably be expected of him or her to exhaust available domestic remedies (see *Azinas v. Cyprus* [GC], no. 56679/00, § 38, ECHR 2004-III; *Melnik v. Ukraine*, no. 72286/01, § 67, 28 March 2006 or *Hummatov v. Azerbaijan*, nos. 9852/03 and 13413/04, § 91, 29 November 2007).

In the present case the applicant first sought redress before the ordinary courts. In her civil action for protection of her personal rights she alleged, *inter alia*, that her rights under Articles 3, 8, 12 and 14 of the Convention had been violated in the context of her sterilisation in the Prešov Hospital.

Subsequently she lodged a complaint with the Constitutional Court which is the supreme judicial instance in Slovakia charged with the protection of persons' fundamental rights and freedoms guaranteed by the Constitution and also by the Convention. With reference to her sterilisation and the ordinary courts' conclusions in the above civil proceedings she submitted that she had been subjected to sterilisation in the Prešov Hospital without her informed consent and that she had been unable to obtain redress as a result of the conduct and decision of the Prešov Regional Court. She alleged that the latter had thereby breached, *inter alia*, her rights under Articles 3, 8, 12, 13 and 14 of the Convention.

The Constitutional Court found that only the procedural rights of the applicant were at stake in the proceedings before the Regional Court and that it could examine the case only from that standpoint and on condition that the applicant had expressly alleged that the Regional Court had breached Article 6 § 1 of the Convention or its constitutional equivalent.

The Court notes that both in the proceedings before the ordinary courts and the Constitutional Court the applicant relied on the Convention rights the violation of which she now alleges before the Court. Her complaint was directed at the Regional Court which decided in the proceedings in issue as a court of last instance.

Thus the applicant afforded the civil courts and the Constitutional Court the opportunity to redress by their own means the violation of her Convention rights in issue. There is no explicit statutory requirement in domestic law obliging plaintiffs to rely on Article 6 § 1 of the Convention or its constitutional equivalent when complaining about a breach of other rights guaranteed by the Constitution or the Convention in cases where ordinary courts were involved. The Constitutional Court itself, in a different case indicated above, dealt with complaints alleging a violation of human

rights by ordinary courts even in the absence of the plaintiff's reliance on Article 6 § 1 of the Convention.

The Court would also reiterate that the rights under, for example, Articles 3 and 8 of the Convention have been found to comprise positive obligations and procedural safeguards which States are required to comply with (see, *mutatis mutandis*, *M.C. v. Bulgaria*, no. 39272/98, §§ 149-151..., ECHR 2003-XII, with further references or *İlhan v. Turkey* [GC], no. 22277/93, § 92, ECHR 2000-VII). It has been its practice to examine, where appropriate, whether such guarantees were complied with irrespective of the applicants' non-reliance on Article 6 § 1 of the Convention (see also *Turek v. Slovakia*, no. 57986/00, §§ 111-114, ECHR 2006-II (extracts)). In these circumstances, the Court considers that subjecting the constitutional review of the case to the applicant's invoking that provision amounted to excessive formalism.

As regards the argument that the applicant should have sought redress by means of criminal law remedies, the Court reiterates that where there is a choice of remedies, the exhaustion requirement must be applied to reflect the practical realities of the applicant's position, so as to ensure the effective protection of the rights and freedoms guaranteed by the Convention. Moreover, an applicant who has used a remedy which is apparently effective and sufficient cannot be required also to have tried others that were also available but probably no more likely to be successful (see *Adamski v. Poland* (dec.), no. 6973/04, 27 January 2009, with further references).

The Court considers that the applicant's choice to seek redress by means of a civil action and a subsequent complaint to the Constitutional Court was appropriate in the circumstances. Accordingly, the applicant was not required also to have recourse to the other remedy referred to by the Government.

In view of the above, the Court is satisfied that the applicant did all that could be reasonably expected of her to exhaust available domestic remedies as required by Article 35 § 1 of the Convention. The Government's objection can therefore not be upheld.

## *2. Article 3 of the Convention*

The applicant complained that she had been subjected to inhuman and degrading treatment on account of her sterilisation and that the authorities had failed to carry out a thorough, fair and effective investigation into the circumstances surrounding her sterilisation. She relied on Article 3 of the Convention, which provides:

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

The Government argued that the procedure had been performed in a medical institution in accordance with the law and with the aim of

protecting the applicant's health and life. She had therefore not been subjected to treatment contrary to Article 3 of the Convention.

The applicant contended that her consent on the sterilisation form had been obtained in the middle of an advanced labour, a short time before the procedure itself. In the circumstances her signature could not be considered valid and, in any event, it did not constitute informed consent to the procedure. The applicant maintained that her sterilisation and the authorities' failure to carry out an appropriate investigation into the case amounted to a breach of Article 3 under both its substantive and procedural limbs.

The Court considers, in the light of the parties' submissions, that the complaint raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. The Court concludes therefore that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. No other ground for declaring it inadmissible has been established. It must therefore be declared admissible.

### *3. Article 8 of the Convention*

The applicant complained that her right to respect for her private and family life had been violated as a result of her sterilisation without her full and informed consent. She invoked Article 8 of the Convention which, in its relevant part, provides:

“1. Everyone has the right to respect for his private and family life, ...

2. 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 in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

The Government reiterated that there had been gynaecological-obstetric indications for the applicant's sterilisation as there was a serious risk of damage to both her health and life and that of her child in the event of a further pregnancy. The sterilisation had been performed at the applicant's request. As it had been performed on unhealthy reproductive organs, in accordance with section 2 (a) of the 1972 Sterilisation Regulation, the head physician of the hospital department was authorised to decide whether indications for sterilisation existed.

According to the records, the applicant had requested sterilisation some two and a half hours after she had been admitted to the hospital and she had been placed under anaesthesia approximately one hour later. Until that moment no substances had been administered to her capable of affecting her cognitive functions. With reference to the documents available, the Government maintained that the applicant had herself requested the

procedure after she had been advised, in an appropriate manner, about the risks resulting from a possible third pregnancy and the consequences of sterilisation.

Relying on the conclusions reached by the ordinary courts involved, the Government concluded that the interference complained of had been in accordance with the relevant law and necessary for protecting the applicant's own health.

The applicant submitted that the interference did not comply with the requirements of paragraph 2 of Article 8 and that the Slovakian authorities had failed to comply with their positive obligation under Article 8 in that they had not provided her with information about ways of protecting her reproductive health, including information on the characteristics and consequences of sterilisation and alternative methods of contraception.

She maintained that sterilisation via tubal ligation was not life-saving surgery. Had such been the case, there would have been no need to obtain her consent. The circumstances under which she had signed the relevant document excluded the possibility of her giving full and informed consent to the procedure.

The Court considers, in the light of the parties' submissions, that the complaint raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. The Court concludes therefore that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. No other ground for declaring it inadmissible has been established. It must therefore be declared admissible.

#### *4. Article 12 of the Convention*

The applicant complained that the facts of the case amounted also to a breach of Article 12 of the Convention, which provides:

“Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.”

The Government maintained that the applicant's inability to become pregnant in a natural way was the consequence of her sterilisation, which she had undergone of her own free will. Furthermore, the evidence taken by the domestic courts indicated that existing methods made it possible for the applicant to become pregnant despite the risk incurred.

The applicant contended that her right to found a family had been breached on account of her sterilisation without her full and informed consent as required by the law, and that the Government had failed to establish appropriate safeguards preventing such situations from occurring.

The Court considers, in the light of the parties' submissions, that the complaint raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. The Court

concludes therefore that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. No other ground for declaring it inadmissible has been established. It must therefore be declared admissible.

#### *5. Article 13 of the Convention*

The applicant complained that she had no effective remedy at her disposal in respect of her complaints about the infringement of her rights guaranteed by Articles 3, 8 and 12 of the Convention. She relied on Article 13, which provides:

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

The Government argued that in respect of the alleged violation of Articles 3, 8 and 12 the applicant had no arguable claim attracting the guarantees of Article 13 of the Convention. In any event the right to an effective remedy within the meaning of Article 13 did not guarantee a remedy bound to succeed, but simply an accessible remedy before an authority competent to examine the merits of the complaint. The applicant had had such remedies at her disposal, namely an action under Articles 11 et seq. of the Civil Code for protection of her personal rights and, ultimately, a complaint to the Constitutional Court.

The applicant disagreed and maintained, in particular, that a complaint to the Constitutional Court was not an effective remedy in respect of the alleged violation of her Convention rights.

The Court considers, in the light of the parties’ submissions, that the complaint raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. The Court concludes therefore that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. No other ground for declaring it inadmissible has been established. It must therefore be declared admissible.

#### *6. Article 14 of the Convention*

Finally, the applicant complained that she had been discriminated against, on the grounds of her race and sex, in the enjoyment of her rights under Articles 3, 8 and 12 of the Convention. She alleged a violation of Article 14 of the Convention, which provides:

“The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

The Government submitted that the applicant had not been discriminated against on any of the grounds cited. They reiterated that the sterilisation had been performed at the applicant's request. While it was true that the medical documents had included an entry indicating that the applicant was of Roma origin, that entry had been made in the delivery record, in the part describing the applicant's medical history. The medical staff of Prešov Hospital specifically mentioned the Roma origin of patients in the documents, as those patients' social and health care had been frequently neglected and they therefore required special attention. There existed no evidence indicating that doctors or other hospital staff had treated the applicant in a discriminatory manner on account of her origin.

The applicant disagreed with the Government's arguments.

The Court considers, in the light of the parties' submissions, that the complaint raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. The Court concludes therefore that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. No other ground for declaring it inadmissible has been established. It must therefore be declared admissible.

For these reasons, the Court unanimously

*Declares* the application admissible, without prejudging the merits of the case.

Lawrence Early  
Registrar

Nicolas Bratza  
President