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SLOVAKIA

Failed investigation into allegations of illegal sterilization of Romani women

Amnesty International's concerns

Amnesty International issued a report in September 2003 (AI Index: EUR 72/002/2003) raising concerns that allegations of illegal, including forced, sterilization of Romani women in Slovakia were not being investigated independently, thoroughly and impartially as required by international law. In October 2003 the official investigation was concluded, finding that no criminal offence had been committed. Amnesty International reiterates its concern that this investigation failed to meet international standards. Furthermore, Amnesty International is concerned about the Slovak government's refusal to accept responsibility for failing to ensure that no sterilizations could be performed without free and informed consent.

Amnesty International welcomes the Slovak government's plans to revise the legislation and regulations in force regarding sterilization procedures. The organization reiterates its appeal to the Slovak government to ensure that the revised law and regulations are fully in line with international legal and professional standards.

The investigations by the Slovak authorities

The Slovak authorities initiated two separate investigations into the allegations of forced sterilizations at the beginning of 2003. Both the administrative investigation, which was carried out by an expert group formed by the Ministry of Health, and the criminal investigation, which was done by the Prosecutor's Office, found no serious wrongdoing. On 28 October 2003 the Slovak government issued a report saying that no serious crimes were found during the investigation by police and Ministry of Health officials into allegations of forced sterilization of Romani women. The Deputy Prime Minister for Integration and Minorities, Pál Csáky, further stated in an interview on 4 November 2003 that: "Illegal sterilizations did not take place in Slovakia and so there is no failure to admit or take responsibility for something that did not take place. There really is no reason to doubt the results of the investigation". The Slovak government, consequently, closed the criminal investigation on the basis that no criminal act had been committed.

Amnesty International is concerned that criminal investigations into the allegations of illegal sterilization were not conducted independently, thoroughly and impartially as required by international law. Many of the victims had been reportedly threatened and harassed by the

police and investigators at various stages of the investigation, which has greatly undermined their capacity to present full and accurate statements. At the same time, the government, in breach of internationally recognized principles, had intimidated human rights defenders who reported on the alleged forced sterilization.

Amnesty International has already pointed out to the Slovak authorities that the investigation was inherently flawed because it was based on two fallacious premises. Firstly, the investigators apparently examined only the existence and authenticity of the signature on the consent form to the procedures as proof that free and informed consent had been obtained¹, and insufficiently examined the circumstances under which consent was given. Secondly, the investigators based their findings on Slovak medical policy and opinion which is at variance with internationally recognized best professional practice that there are no situations which would require a sterilization procedure to be carried out without obtaining the patient's free and informed consent.

Notwithstanding the Slovak officials' conclusion that illegal sterilizations did not take place, the government report confirms that some minors were indeed sterilized without parental consent and that other women were misled into believing that sterilizations which were performed at the time of their caesareans were necessary to save their lives. Still, the government report states that there was no wrongdoing and, consequently, the government has failed to prosecute these violations.

According to information provided by the New York-based Center for Reproductive Rights (CRR) and *Poradňa pre občianske a ľudské práva* (Center for Civil and Human Rights – hereafter referred to as *Poradňa*) in Slovakia, of the 36 women who were interrogated in the criminal investigation, 12 women were reportedly not aware that what they were signing was a consent form to undergo sterilization or they did not remember signing it at all. A medical expert from the Ministry of Health administrative investigation, which had concluded six months earlier that there had been no illegal sterilizations in Slovakia, was also commissioned by the Prosecutor to provide his opinion in the criminal investigation. This sharing of experts raises further doubts about the impartiality of the investigation.

Although the complaint filed by the Slovak authorities against the non-governmental organizations was not pursued, there was no public retraction of the charges against the authors. Consequently, the Romani women have reportedly continued to feel intimidated by the attack on their defenders and other human rights defenders fear that they may also be prosecuted for their activities.

The report from the Commissioner for Human Rights of the Council of Europe

Concerns expressed by Amnesty International, CRR and *Poradňa* received strong confirmation by the report from the Commissioner for Human Rights of the Council of Europe² (the Commissioner) which was issued immediately after the Slovak government report and after a delegation from the Commissioner's office had visited the Slovak Republic on 21-24 September 2003 and examined the issue of sterilizations in the country. The Commissioner's report appeared to support the findings contained in the report issued earlier this year by CRR and *Poradňa*. The Commissioner concluded that while it was not a deliberate government policy, "it can reasonably be assumed that sterilizations have taken place, particularly in eastern Slovakia, without informed consent". He noted that it was unlikely that the investigations by the Slovak government "will shed full light on the sterilizations practices".

¹ *Slovakia: Failing to ensure an impartial and thorough investigation into allegations of illegal sterilization of Romani women*, AI Index: EUR 72/002/2003.

² Reference number CommDH (2003)12 at: [http://www.coe.int/T/E/Commissioner_H.R/Communication_Unit/Documents/CommDH\(2003\)12_E.asp#TopOfPage](http://www.coe.int/T/E/Commissioner_H.R/Communication_Unit/Documents/CommDH(2003)12_E.asp#TopOfPage).

The Commissioner stated that although people from other ethnic backgrounds have “been exposed to the risk of sterilization without proper consent”, he “is convinced that the Roma population of eastern Slovakia has been at particular risk”. While welcoming the initiation by the authorities of an investigation into the sterilization practices, the Commissioner observed that “Reports of police violence against the Roma, and of an indifferent attitude of the police towards crimes committed against the Roma in the region, are common” and that the extremely difficult relations between the police and the Roma were not conducive to potential victims coming forward to the investigators. Some of the alleged victims found the manner in which the police came to the settlements without prior notice looking for potential victims intimidating; they were warned by the police that the consequence of giving false information was up to three years’ imprisonment. Furthermore, the under-aged potential victims were frightened by the police information that the fathers of their children would face prosecution for sexual assault. Consequently, very few women came forward and very little evidence was gathered.

The report of the Commissioner doubted whether “the consent given in a number of cases can be considered as valid, due to the circumstances under which the consent was apparently given, such as under severe labour pain or already under the impact of anaesthesia”. He is concerned that the women were not asked before a caesarean whether they agreed to be sterilized. The Commissioner further stressed that the requirement of informed consent “is not clearly laid out in the regulations on sterilizations, which refer only to the necessity for consent”.

The Commissioner also found that the sterilized women have difficulties in accessing their medical files, which makes it difficult to bring their cases to court. There seems to be confusion about the interpretation of the Slovak legislation on access to medical files. The Commissioner noted that “The Slovak legislation allows the patient or his or her legitimate statutory representative to look into and obtain excerpts of their medical files, but hospitals have repeatedly denied the access, in particular for lawyers representing the patients. Moreover, patients have not been authorized to make photocopies of their own files, which is particularly problematic in cases where the patient cannot read or write.” Although *Poradňa* has reportedly managed to obtain medical reports in three cases, it remains a difficult task. Furthermore, before a civil case for damages in medical malpractice can be filed, the plaintiff must have a medical expert to assess the damages using a standard table of values. To complicate the matter further, the doctor making the evaluation must come from the region where the claim is being filed.

In his recommendations the Commissioner called on the Slovak government to bring legislation concerning informed consent for medical procedures, such as sterilizations, in line with the international law standards and to adopt specific regulations guaranteeing the patients’ right to access their medical files. He also called on the Slovak government to accept “responsibility for failing to ensure that no sterilisations were performed without free and informed consent, as required by international human rights instruments” and to offer remedies which should include compensation and an apology.

AI’s Recommendations

Amnesty International reiterates its recommendations to the Slovak government issued on 11 September 2003 and urges the authorities to:

- reopen the investigation into allegations of forced sterilization of Romani women in Slovakia and to ensure that it is carried out impartially, thoroughly and effectively;
- accept responsibility for failing to ensure that no sterilizations were performed without free and informed consent and to ensure that the victims receive appropriate compensation;
- ensure that the victims are not subjected to any harassment and intimidation in any

judicial or administrative proceedings which might be initiated in the wake of closing the criminal investigation;

- bring to justice anyone found responsible for human rights violations;
- enact laws that will guarantee that the patients and their legal representatives have the right to access their medical files and other appropriate information without which they are not able to file compensation claims;
- enact a new law requiring free and informed consent for medical interventions, including sterilizations;
- set up an independent commission of enquiry to investigate past and present sterilization practices.