



PORADŇA PRE OBČIANSKE A ĽUDSKÉ PRÁVA
CENTER FOR CIVIL AND HUMAN RIGHTS
KRIVÁ 23, 040 01 KOŠICE, SLOVENSKO

» telefón/fax: 055 – 68 06 180, 181 » mobil: 0908 69 55 31
» www.poradna-prava.sk » poradna@euroweb.sk, poradna@poradna-prava.sk
» IČO: 37 86 72 70 » bankove spojenie: 5519629/5200

fidh

Fédération internationale des ligues des droits de l'Homme
International Federation for Human Rights
Federación internacional de los derechos humanos
الفدرالية الدولية لحقوق الإنسان

COMMENTS TO THE FOURTH PERIODIC REPORT OF THE SLOVAK REPUBLIC

ON PERFORMANCE OF THE OBLIGATIONS ARISING FROM THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Submitted to the Committee on the Elimination of Discrimination against Women

For its 41st Session in June – July 2008

by the Centre for Civil and Human Rights

May 2008

Contact in New York: Vanda Durbáková, e-mail: vanda.durbakova@poradna-prava.sk,
tel.: FIDH- office (212) 614-6420; cell: Mona Patel (248) 790-6264

Executive Summary

The Centre for Civil and Human Rights (Poradňa pre občianske a ľudské práva (*hereinafter* “Poradňa”), a non-governmental human rights organization based in Košice, Slovakia, in cooperation with the International Federation for Human Rights (*hereinafter* “FIDH), respectfully submits these written comments concerning the Slovak Republic for consideration by the Committee on the Elimination of Discrimination against Women (*hereinafter* “the Committee”).

Poradňa has been closely following the efforts undertaken by the Government of the Slovak Republic to comply with its obligations under the International Convention on the Elimination of All Forms of Discrimination Against Women (*hereinafter* “the CEDAW”), as detailed in its Fourth Periodic Report to the Committee (*hereinafter* “Fourth Periodic Report”). Although the Slovak Government has taken some steps towards fulfilling its obligations under the CEDAW, Poradňa believes that the measures taken so far have proven insufficient to ensure the effective implementation of the Convention, particularly with respect to Articles 2 and 12 of the CEDAW.

Poradňa asserts that Romani women are the primary victims of the Government’s failure to fully comply the CEDAW. As Poradňa has a particular expertise in promoting and protecting reproductive rights of Romani women, this shadow report focuses solely on the situation concerning Romani women and their treatment in relation to reproductive and maternal health services.¹ The omission of other issues does not mean or imply that Poradňa finds the performance of the Slovak Government in other areas satisfactory.

Regarding Article 2: although Slovakia has passed the legislation to define and prohibit discrimination, as mandated by Article 2 of CEDAW, legislation is meaningless without enforcement. Discrimination and racial stereotypes against Romani women are still pervasive in many aspects of Slovak life, particularly medical services. This discrimination is intrinsic to forced and coercive sterilizations which has continued in the post-communist Slovak Republic and that represents a practice of both gender and racial discrimination of Romani women. Rather than condemning and eliminating the discrimination, as dictated by Article 2 of the CEDAW, the Slovak Government has ignored and at times encouraged it.

Regarding Article 12: the Slovak Government has failed to comply with its Article 12 obligation to eliminate discrimination of Romani women in the field of health care. The forced and coercive sterilization of Roma women in state hospitals and the treatment they received is the polar opposite of the type of medical care the CEDAW envisioned in Article 12. At the same time, the Slovak Government failed to protect those Romani women who brought complaints against medical providers for forced sterilization and failed to provide them with remedies for the violations suffered.

Regarding Article 13: the Slovak Government has failed to comply with its Article 13 obligation to eliminate discrimination in access to social benefits. The current Slovak legislation on

¹ Issues addressed in this shadow report are further incorporated in an overall shadow report of Slovak women’s rights organizations on the implementation of the CEDAW, also submitted to the Committee. A copy of the overall report can be found at www.moznostvolby.sk

Maternity Allowances and its implementation in practice constitutes a case of indirect discrimination of Romani women.

In view of these inadequacies, the Slovak Government should recognize its failures in respective areas, introduce legislative changes and adopt comprehensive policies and mechanisms to both prevent future violations and remedy the past ones.

Expertise and Interest of Poradna

Poradňa (the Centre for Civil and Human Rights) is a nongovernmental nonprofit organization, based in Košice, Eastern Slovakia, established in 2001. Poradňa is focusing on the protection of human rights in Slovakia with special emphasis on protection of the rights of minorities and protection from racial discrimination. With this regard, it implements projects and programs where through research, litigation and advocacy aims to point the attention to a given problem, gain compensations for the victims of human rights violations and bring systematic changes. Currently, Poradňa is engaged (among other issues) in advocacy and litigation of discrimination in health care system and fights for elimination of practice of coerced and forced sterilization and attempts to obtain compensations for the victims of these practices.

The submission of this report and the advocacy with the Committee is supported by the International Federation of Human Rights (FIDH – Federation of Human Rights), based in Paris.²

Poradňa welcomes the opportunity for the Committee to utilize this shadow report in analyzing where the Government of the Slovak Republic has failed to live up the CEDAW.

Discussion

Article 2:

Although in 2004, the Slovak Government has adopted legislation defining and prohibiting gender and racial discrimination³, there is still an enormous problem with proper implementation of the law. Part of this problem is due to pervasive prejudice and discrimination against Roma that still exists at all levels of Slovak society and the Slovak Government failed to rectify this problem.

In particular, discrimination towards Romani women manifests itself in health care system through: practice of forced sterilization, segregation of Romani patients and verbal and physical abuses of Romani women.

a) Sterilizations

The violations of the CEDAW in a form of forced and coercive sterilizations are discussed in detail in the section on Article 12 of the CEDAW below. However, Poradňa wishes to note here that racial stereotypes, prejudice, and hostile attitudes Romani women are highly prevalent among state medical personnel and played a decisive role in the implementation of forced sterilization practices. This has become particularly clear in the actions of state medical personnel in regional hospitals in Eastern Slovakia. As Poradňa has documented, the staff of many hospitals (including hospitals in Prešov, Košice, Krompachy and Gelnica) has been performing forced and

² See www.fidh.org

³ See Law No. 365/2004 of the Coll., Law on Equal Treatment in Some Areas and on Protection from Discrimination (Anti-Discrimination Law), As Subsequently Amended.

coercive sterilizations on Romani women, while there are strong indications that reasons for these sterilizations, were prejudices and racial discrimination.⁴

There are many false attitudes toward Romani women which are commonly accepted in Slovak society. Two major stereotypes common among medical practitioners is that Romani women are promiscuous and that they have too many children.⁵ The majority of Slovak believes that Romani women have excessive numbers of children in order to get extra government benefits – a belief in keeping with a broader stereotype that Roma exploit the system and thief whenever they can. The existences of these attitudes towards the Romani women have been documented also among health care personnel in several reports.⁶ For example, the chief gynaecologist of Krompachy Hospital, doctor Ján Králik, in an interview he gave for a 2003 report by the Centre for Reproductive Rights and the Centre for Civil and Human Rights entitled *Body and Soul: Forced Sterilization and Other Assaults on Roma Reproductive Freedom in Slovakia* (hereinafter “Body and Soul”), which documents over 100 cases of illegal sterilisation of Romani women in eastern Slovakia. Specifically, stated that “Roma do not know the value of work,” that they abuse the social aid system and have children only to obtain more social benefits from the state.⁷ This stereotype has even more insulting emanation; for example, one hospital administrator thought that Roma deliberately intermarry in order to have handicapped children and thus receive more state money.⁸

The other major stereotype of Romani women is their sexual promiscuousness. Medical personnel all think that Romani women have constant sex with multiple partners. They often repeat an urban legend of a Romani couple seen copulating in front of an elevator shortly after the woman gave birth.⁹ These rampant stereotypes and untruths are used as justifications for the sterilizations.

Discrimination of Romani women is further connected with public fear over high Romani birth rates and calls, from society and politicians, to regulate Roma fertility. The issue of growth of Romani population has been a constant subject of social and political debate in Slovakia. For example, in 1993, Prime Minister Vladimír Mečiar, speaking about the higher birth rates of Roma compared to the non-Roma population, told a gathering in Spišská Nová Ves: “We ought to take into consideration...the extended reproduction of the socially inadaptible population. Already children are giving birth to children – poorly adaptable mentally and socially, with serious health problems, who are simply a great burden on this society... If we do not deal with them now, then they will deal with us in time”.¹⁰ In 1995, the Slovak Minister of Health Lubomír

⁴ Center for Reproductive Rights & Poradňa pre občianske a ľudské práva, *Body and Soul: Forced Sterilization and Other Assaults on Roma Reproductive Freedom in Slovakia*, issued on 28 January 2003, p. 87.

⁵ See *Body and Soul*, p. 54

⁶ See, e.g., Ina Zoon, *On the Margins: Slovakia - Roma and Public Services in Slovakia* (hereinafter “On the Margins”), 2001; Open Society Institute, *Monitoring the EU Accession Process: Minority Protection in Slovakia* (hereinafter “Monitoring the EU Accession Process”), 2001; Dena Ringold, *Roma and the Transition in Central and Eastern Europe: Trends and Challenges*, 2002; Organization for Security and Co-operation in Europe (OSCE), High Commissioner on National Minorities, *Report on the Situation of Roma and Sinti in the OSCE Areas*, 2000; *Body and Soul*.

⁷ See *Body and Soul*, p. 87

⁸ *Ibid.*

⁹ See *Body and Soul*, p. 54

¹⁰ See Speech of the Prime Minister delivered in Spišská Nová Ves, Associated Press, September 8, 1993.

Javorský, publicly stated that “*the government will do everything to ensure that more white children than Romani children are born*”¹¹. Between 1999-2000, newspapers frequently published inflammatory estimates of the growing number of Roma as well as warnings from the representatives of the SMER Party and the Slovak National Party that there will be more than 1.2 million Roma in Slovakia by 2010, more than twice the current number.¹²

Poradňa also points out that the practice of forced sterilization of Romani women that has been undergoing in Slovakia represents both gender and racial discrimination because they are sterilized for being Roma and for being women (as sterilizations have been occurring solely in relation to Romani women pregnancies). White men, white women and Romani-men have not been targeted in the same manner. With this respect, we refer to the fact that the Committee previously supported the conclusion that differential treatment, that is occurring in relation to women pregnancy, constitutes sex discrimination and in such cases, women do not need to prove that hypothetical man would be treated the same way.

b) Segregation in maternities

Discrimination of Romani women is also manifested in a form of racial segregation in maternities in Eastern Slovakia. It has been documented that public hospitals segregate patients according to their ethnic origin. Maternity and gynaecological wards have so called “Gypsy rooms” where Romani women are accommodated separately from white women and are prevented from using the same bathrooms and toilets as white women, as well as were prevented from entering the dining room (which, in addition to being the dining room, was also a place where there was a TV). This practice has been documented by Poradňa in hospitals in Prešov, Košice, Gelnica, Krompachy and others.

The Slovak Ministry of Health and the medical personnel of concerned hospitals on several occasions admitted to racial segregation,¹³ but argued that it only “appears to be according to the racial lines.” For example, the chief gynaecologist of Krompachy Hospital, doctor Ján Králik, claimed that patients are first categorised as “adaptable” or “non-adaptable” and as “low-hygiene” or “high-hygiene,” patients, and are then segregated accordingly. As for the specific evaluation criteria, he claimed that those are set on an individual basis by him, as he can see immediately who will fall into which category.¹⁴ Not surprisingly, the adaptability criterion also breaks down along racial lines, separating Romani women from all others. Some doctors claim that Romani women wish to be segregated, going so far as to sleep multiple women in a single bed to avoid all others. Other doctors claim they must place Romani women in segregated rooms

¹¹ See U.S. Helsinki Commission, Report Coercive Sterilization of Romani Women in Slovakia 1 (2003) (citing *Slovak Roma Uneasy about Health Minister’s Statements*, OPEN Media Research Institute Daily Digest, October 31, 1995); *Minister Seeks to Regulate Romanies’ Birthrate*, Bratislava, *Národná Obrada Daily*, (Foreign Broadcast Information Service trans., 1995).

¹² See *On the Margins*, p. 66.

¹³ See, e.g., *Body and Soul*, p. 77; Good Romani Fairy Kesaj Foundation, “Segregation with the Silent Consent of the Authorities”, in *White Book 2000*, 2000, p. 23–25.

¹⁴ See *Body and Soul*, p. 77.

due to the wishes of white women, who do not wish to share rooms with Roma or that the practice was necessary to “respect the intimacy of white women”.¹⁵

c) Verbal and physical abuses in hospitals

Verbal and physical abuse against pregnant Romani women is prevalent in the healthcare system in Slovakia.¹⁶ Poradňa has previously documented that Roma women who seek gynaecological care in hospitals of Prešov, Košice, Krompachy, Gelnica and other hospitals in Eastern Slovakia are frequently degraded by doctors and nurses who refer to them as “dirty, stinky gypsies,” “stupid Gypsies,” and “young whores” who have too many children.¹⁷ Moreover, Roma women have complained that doctors and nurses in eastern Slovak hospitals have slapped them or tried to suffocate them during childbirth for either complaining about pain or for “having too many children.”¹⁸

Under Article 2 of the CEDAW, the Slovak Government is obliged to refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation. The examples listed above demonstrate that the failure to implement this obligation. Some public officials even feed anti-Roma sentiment by making racist statements in public forums and calls to control the growth of the Romani population is a continuing subject of political and public debate in Slovakia. Also, whether the racial segregation in maternities is intentional or merely *de facto*, it is still counter to the mandate of Article 2. The Slovak Government has not tried to prevent or prohibit the practices of the hospitals that segregate Romani women. Due to these stereotypes and racist actions directed toward them, Romani women do not even expect the basic dignities and respect that are their right as human beings and citizens of the Slovak Republic.

Article 12:

Most blatant violation of Article 12 of the Convention constitutes a practice of forced and coercive sterilization of Romani women in Slovakia that has been going on in Slovakia for decades.

a) History of the practice

There is a long history of the practice, dating back to communist regime in a former Czechoslovakia. During late 70s and 80s, Romani women became a special target group of the Governmental program that provided financial incentives to all citizens who had undergone sterilization. Although the law that instituted this practice did not explicitly state that its aim was to regulate the birth rate of the Roma, its implementation resulted in violation of the Romani women reproductive rights as they were coerced to undergo the sterilization.

¹⁵ See Body and Soul, p. 77.

¹⁶ See for example, On the Margins, p. 52-53; Monitoring the EU Accession Process p. 448-49.

¹⁷ See, Body and Soul.

¹⁸ See, Body and Soul.

This practice been identified and documented by several statistical studies and by international human rights organizations. For example, a study entitled “Statistical Evaluation of the Cases of Sexual Sterilisation of Romani Women in East Slovakia”¹⁹ noted that in Prešov (a district in Eastern Slovakia), 60% of the sterilisation operations performed from 1986 to 1987 were on Romani 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 Applicants reside) were Romani women; by 1987, this figure had risen to 36.6%.²⁰ In 1992, a report by Human Rights Watch addressed the practice of coercive sterilisation in Czechoslovakia, noting that many Romani women were not fully aware of the irreversible nature of the intervention and was forced into it because of their poor economic situation or pressure from authorities. The report also documented complaints about sterilisation after caesarean deliveries or abortions without consent, or as a result of deliberate attempts to mislead women in order to obtain their consent.²¹

Provision of financial incentives for sterilization was abolished after the fall of communism, however, these practices have never been investigated. No post-communist government of the Slovak Republics has ever publicly condemned the policy or the practice of coercion related to it.

b) Continuation of forced sterilization in post-communist Slovakia

Notwithstanding the official abolition of this policy in 1990, the Romani women continue to be subject to unlawful sterilisation interventions through hospital practices. Recent cases of coercive sterilisation of Romani women in eastern Slovakia were documented in two publications of the Open Society Institute in 2001.²² The reports documented recent cases of coercive and forced sterilisation and noted that in 1999 nurses working in Finnish refugee reception centres told researchers from Amnesty International that they noticed unusually high rates of gynaecological interventions such as sterilisation and removal of ovaries among female Romani asylum seekers from eastern Slovakia. Despite the calls in all of these reports to investigate the practice and provide remedies, the Slovak government failed to respond or conduct an effective and transparent investigation into the practices.

The latest report documenting the practice in recent years is an above mentioned report *Body and Soul*. The findings in this report clearly indicate the continuation of the practice and clear violations of the CEDAW requirements. As documented in the *Body and Soul* report, coercive sterilization practices are occurring while Romani women are undergoing caesarian sections, and when doctors perform sterilizations without their informed consent. The lack of full and informed consent in performing sterilizations is striking. Some women know they have been sterilized and while other women only suspect they have. Women that do know they have been sterilized were told by doctors that the next pregnancy was life threatening; that either they will die or their child

¹⁹ 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.

²⁰ MUDr. Posluch and MUDr. Posluhová, *The Problems of Planned Parenthood among Gypsy Fellow-citizens in the Eastern Slovakia Region*, *Zdravotnícka pracovníčka* No. 39/1989, p. 220-223.

²¹ Human Rights Watch, *supra* note 15, p. 22.

²² See *On the Margins and Monitoring the EU Accession Process*, above, *supra* note 6.

will die during birth, therefore they should be sterilized during the caesarian section operation. These women are usually coerced to authorize sterilization under situations where they are not able to make clear, informed decisions. Many women are first told of the purported future “risk” of their next pregnancy and are asked to sign a consent document while on the operating table and in great pain. Others are told nothing except that if they want to live they have to be sterilized, and still other women are told to sign documentation authorizing sterilization, *after* they are sterilized. In addition, there were documented cases in which unmarried minors were sterilized during a caesarian section without parental consent. Additionally, Romani women are not given any information on post-sterilization medical care.

The practice can be specifically illustrated by the following examples.

The case of Ms. X - sterilized in 2000 at the age of 16

Ms. X was sterilized in January 2000 during a cesarean section delivery of her second child in hospital in Krompachy. The sterilization was performed after she came to the hospital in a progressed labor at 05:30 p.m. and gave birth shortly afterwards (at 07:00 p.m.) Ms. X does not remember giving her consent to sterilization. However, since she was a minor at the time of sterilization, the consent of her legal guardian with the intervention was required by the Slovak legislation. However, her legal guardians were not asked and did not grant their consent to the intervention, thus, the surgery was clearly illegal. Ms. X found out that she had been sterilized only several years later, in 2003, when she and her lawyer examined her medical record in the hospital.

The case of Ms. Y - sterilized in 2002 without her informed consent

Ms. Y was sterilized in 2002, also during the cesarean delivery of her fourth and fifth child (twins), at the age of 30, in hospital in Krompachy. It was her first delivery performed via cesarean section. The sterilization was performed after she came to the hospital in a progressed labor after 10:00 p.m. The delivery was concluded in the early morning hours of the next day. Ms. Y was not informed about the nature of sterilization before it had been performed, its consequences or alternative contraception methods. She only remembers the physician giving her some document to sign when she was being released from the hospital seven days later. Only then, the physician informed her that the sterilization had been performed on her. Ms. Y had not given her prior informed consent with the intervention. Her medical file contains a statement that she requested sterilization for “medical reasons”, however, it fails to document what medical reasons those should be.

The case of Ms. Z - sterilized in 2000 without her informed consent.

Ms. Z was sterilized in hospital in Prešov during the delivery of her second child, also via cesarean section. Ms. Z does not clearly remember the circumstances of the delivery as she was already in labor when she arrived at the hospital. Her medical record shows that she was received in the hospital at about 08:00 a.m. Approximately one hour before the delivery, when Ms. Z was in a great pain and was lying in hospital bed, the staff told her she had to sign the request for

sterilization, otherwise she or her baby would die if she got pregnant again in future. Being frightened, Ms. Z signed the form with a shaking hand directly in her medical record. The signature itself is shaky and does not correspond with her usual signature. The delivery was concluded with a cesarean section at 10:35 a.m. The staff did not inform Ms. Z about the nature of the intervention before it had been performed or its consequences or about alternative ways of contraception.

c) Failure of the Slovak Government to rectify the situation

Despite obvious violations of the CEDAW and other international obligations, the Slovak Government has failed to effectively and adequately investigate the aforementioned practices and did not prosecute those responsible. As such, Poradňa asserts that it further violated its obligations and even silently condoned the practices.

Although - under international pressure - the Slovak Government initiated two investigations into the practices (one administrative with the Ministry of Health and one criminal- with law enforcement agencies), those have proven completely insufficient and similarly flawed: each governmental entity has reached hasty conclusions, ignored key facts and created an intimidating atmosphere for victims that has tended to dissuade them from voluntarily coming forward with their complaints.

As for the investigation of the Ministry of Health, it was conducted only in one hospital – Krompachy hospital, only concerned a limited period of time (from 1999 to 2002), and depended fully on information provided by the hospital. The Ministry ignored also the obvious violations, as for example, in its final report, it concludes that there is compliance with the sterilization regulations, despite the fact that they have found two cases of minors who were illegally sterilized (they concluded those were only “administrative mistakes”). The major failure of the investigation, however, is that the Ministry focused merely on whether medical records contained signature of patients, without examining the conditions under which the signatures were provided. The Ministry noted that, “all patients who underwent sterilization ..., signed the application for sterilization permission and all applications had been reviewed and approved by the sterilization commission.”²³ The Ministry disregarded that the presence of a signature on a form is not *de facto* evidence of informed consent, especially if this occurs in a coercive environment or if the risks and benefits of the procedure are not explained to the patient in a way that allows the patient to comprehend the information.

As for the investigation by law enforcement agencies, it suffered from similar insufficiencies. The investigation has been particularly lengthy, pending since January 2003 and being challenged at the Constitutional Court already three times.²⁴ The latest development is that the criminal

²³ See Report on the findings of the investigation of the State Control Section at the Ministry of Health of the Slovak Republic, p. 4.

²⁴ The investigation was initiated on 30th January 2003 by the Section for Human Rights and Minorities of the Office of the Government of the Slovak Republic. On 31st January 2003, the Regional Judicial and Criminal Police Office in Košice initiated criminal prosecution for the criminal offence of genocide. Some Romani women, victims of the practice, joined in the criminal prosecution as aggrieved parties. On 23 October 2003, the police investigator terminated the proceedings, stating that the act, for which the proceedings were held, had not occurred. Romani

investigation continued during the year of 2007 in a highly formal manner, resulting in final closing of the investigation on 28 December 2007.

The major problems in the criminal investigation are similar to those of the administrative proceedings at the Ministry of Health. Law enforcement agencies also failed to examine the circumstances under which victims signed the consent forms and concluded that the presence of signatures proves the interventions were performed with the consent of victims. The agencies also failed to recognize a clear violation of the law in cases of sterilization of minors who were sterilized in the absence of parental consent are thus unjustified as a matter of fact. Additionally, the agencies claimed that sterilizations could have been performed without consent of women because they were “medically necessary”. However, it should be noted that according to standard medical practice, sterilization is never a life-saving intervention that would need to be performed under extenuating circumstances without the patient’s full and informed consent.

Moreover, the investigation focused solely on whether there have been committed a crime of genocide, and disregarded a possibility that medical personnel could have committed other crimes, as for example crimes of assault or violation of bodily integrity. Even when investigating genocide, they focused only on the period between 1999-2002, despite the fact that the cases of forced and coerced sterilization date back to the fall of communism. Plus, if they were investigating the practice of forced and coerced sterilization as a crime of genocide, they should have necessarily conducted interviews with non-Romani women in order to have comparative data. However, Poradňa knows of no non-Romani women have been identified or interviewed to date. The investigation suffered of many other violations that Poradňa is able to specify on request.

Poradňa would also like to point out that the Slovak Government created an environment of hostility and threats from state police and medical personnel towards Romani women that discouraged them to seek justice. For example, the police was threatening concerned Romani women with three years in prison for false charges if they filed complaints of forced or coerced sterilization against health care workers. The Slovak Government also targeted members of Poradňa for exposing the practice and claiming they would be prosecuted for documenting the practice of forced sterilization. Finally, health care personnel in the Krompachy hospital have been verbally abusing pregnant Romani women for their complaints and bringing charges against doctors; accusing the women of suing the hospital who is giving them good care. Such harassment and verbal abuse intimidates women into not using the health care system that they so rely on for fear of retaliation

victims filed a complaint against this decision in October 2003. Their complaint was later, on 9th March 2004, dismissed by the Regional Prosecutor’s Office in Košice, claiming that they, despite of having the status of aggrieved parties in the criminal proceeding, were not entitled to file a complaint against the decision. This decision was subsequently dismissed by the decision of the Constitutional Court No. III.ÚS 86/05-45 from 1 June 2005. The Constitutional Court held that the Regional Prosecutor’s Office in Kosice did not act appropriately if it had dismissed the aggrieved party complaint and therefore ordered the Prosecutor to act in the case again. The Regional Prosecutor’s Office speedily issued its decision on the matter on 28th September 2005 dismissing the complaint of the victims as groundless. This was again challenged at the Constitutional Court, which, by the decision no. III.ÚS 194/06-46 of 13 December 2006, declared the investigation as inadequate.

Poradňa asserts that by failure of the Slovak Government to recognize the practice of forced sterilization during communism and provision of compensations to victims, as well as failure to ensure equal treatment of Romani women in the area of maternal health care, contributed to continuation of the practice after the fall of communism. Ignorance and reluctance to the continuous practice, despite international criticism, caused that the doctors in public hospitals freely continued in the practice and have abused their position and responsibilities by performing illegal sterilizations on Romani women. Whether the sterilization is done on an unsuspecting patient or consent is achieved through intimidation and incorrect medical advice, sterilizations have been conducted by doctors in public hospitals for whose action the Slovak Government is responsible. Thus, the Slovak Government violated the CEDAW through their actions. Failure to stop the practice, condone it, compensate the victims and effectively investigate the practices constitutes a direct violation to the guarantees of the CEDAW.

Article 13:

Under Article 13, the Slovak Government has failed to eliminate discrimination of Romani women in access to maternity benefits as it introduced the legislation that has a disproportionate impact on Romani women. As such, it constitutes a case of indirect discrimination, however, as the legislation was specifically introduced to target Romani women, it might even constitute a case of direct discrimination.

This discrimination is caused by the Law No. 235/1998 of the Coll. of Laws, the Law on Maternity Benefits, as amended by the Law No. 471/2005 of the Coll., from 1 November 2005. Under this law, one time benefit (birth allowance) is provided to every woman who gives birth to a child. It is a state social welfare benefit, aimed to assist the families to cover the costs associated with child birth. According to Article 3 para 4 of the Law, woman “who after the delivery left the child in the medical facility without the permission of the treating physician” does not have the right to receive the benefit. This measure was introduced upon to prevent “escapes” of Romani women from maternities after they give birth which is common in Slovakia.

There is an established practice in Slovakia that after delivery, woman should remain in the maternity for a certain time together with her child (usually minimum five days after natural delivery and seven days after a caesarean delivery). Such stay does not depend on the health state of either a woman or her new born baby; basically, she is required to stay there even if there both her and the child have no medical complications. After the expiry of this time, woman and her baby are formally “released” from the hospital.

In many instances, Romani women in Eastern Slovakia are refusing to respect this practice and “escape” from hospitals upon giving birth, that is they leave hospitals prior to expected period. Reasons for this are two fold. First of all, as already describe above, Romani women are subjected to inferior treatment and abuses in maternity. They are refusing to endure such treatment, in particular when there stay in hospital is not medically necessary. The second reason is that Romani women want to return to their families, especially their other children. As such, they cannot “afford” to stay in hospital for a longer period if it is not absolutely necessary. After the respective period, they come back to hospitals to take their babies as they usually do not

manage to take the children away (e.g. often, children are housed in different wards). However, under the afore-mentioned legislation, such woman forfeits her right to receive the maternity benefit. Although she later returns to hospital for her child, and the child is eventually living with the biological family, she loses the right to the benefit.

It has been documented that the Law in its current form has a disproportionate impact solely on Romani women. According to the field research conducted by Poradňa in July-December 2006, the Law clearly targets Romani women and in practice, it is only Romani women who are affected by it.²⁵ Consequently, disproportionate impact of the Law on Romani women was confirmed by the expert statement of the Slovak National Center²⁶ (a state institution divested with authority in discrimination measures) from 15th August 2007, which declared that the respective legal provisions do not allow for an effective protection and actual performance of rights guaranteed under the Constitution of the Slovak Republic and relevant international conventions. The Center recommended to amend the legislation accordingly, however, up to date no amendment has been adopted.

Failure to amend the legislation with disproportionate impact on Romani women and its implementation in practice goes opposite of the obligations of the Slovak Government under Article 13. Poradňa urges the Slovak Government to remedy the situation immediately.

Conclusions

As outlined above, the Slovak Government failed to comply with the requirements of the CEDAW as they relate to Romani women. Accordingly, Poradňa concludes the following measures should be adopted immediately:

- Publically recognize a long-term practice of forced sterilization practices and public apologize to all its victims.
- Establish an independent commission to investigate the full extent of the practice of coerced and forced sterilization in the communist and post-communist period in Slovakia, to propose institutional and administrative measures to prevent the recurrence of the practice and to recommend financial and other reparations for victims. This commission should include also independent and highly qualified members of civil society and members of the Romani community. When establishing this commission, the Slovak Government should draw from the experiences of other countries that have dealt with or are currently dealing with similar issues, such as Sweden, Norway and Peru.
- Conduct a thorough criminal investigation into all relevant crimes in sterilization cases with focusing on conditions under which signature on sterilization forms were given and criminally prosecute those responsible for blatant violation of the Slovak law (in particular sterilizations of minors).

²⁵ See the results of the field research of Poradňa in 2006, available in Slovak at <http://www.poradna-prava.sk/dok/Terenny%20prieskum%20-%202006.pdf?PHPSESSID=8c20eabd3ebacd0d56496b5de67a5d97>.

²⁶ On the file with Poradňa.

- Provide clear guidance and trainings to medical personnel on issues related to informed consent and establish comprehensive monitoring mechanisms to ensure that sterilizations are performed only when patients gave their full and informed consent as mandated by international standards.
- Provide support and information to victims of sterilization practices on how to seek compensations and necessary medical care.
- Establish control mechanisms to prevent and sanction segregation of medical facilities and physical and verbal abuses towards Romani women from medical personnel.
- Raise awareness among Romani women on their reproductive rights. In particular, the Slovak Government should develop and implement specific policies on this issue together with Romani organizations, particularly Romani women's organizations. Programs should include information on basic rights, such as the right to decide on the number and spacing of children and should also address the myths about sterilization and cesareans and empower women to ask doctors for detailed information about their reproductive health condition and about family planning information.
- Amend the legislation on provision of maternity benefits in a non-discriminatory manner. At the same time, introduce educational programs motivating Romani women in participation on preventive maternal and child health care and to engage medical personnel in individualized and tailored made approach to their patients.