



NEWS REPORT

Date:	16 December 2011
Expert:	Janka Debrecéniová
Title:	A coercively sterilised Roma woman winning her case in Strasbourg
Country:	Slovakia
<u>Context</u>	
Issue at stake:	The case concerns a Roma woman from Slovakia who was coercively sterilised in 2000 in the hospital in Prešov (eastern Slovakia). After unsuccessfully claiming her rights on national level, she resorted to ECtHR. The ECtHR held that the sterilisation carried out without her informed consent violated her right not to be subject to inhuman or degrading treatment (Article 3 of the European Convention) and her right to respect for private and family life (Article 8).
Ground of discrimination:	Multiple discrimination (race/ethnic origin, sex)
Source:	ECtHR, case of V. C. v Slovakia, Application No 18968/07 (judgement delivered on 8 November 2011)
Field:	Health care
Legislative provisions:	Regulation No. Z-4 582/1972-B/1 of the Ministry of Health of the Slovak Socialist Republic, published in Official Journal of the Ministry of Health No. 8-9/1972 (not valid any more) Act No 277/1994 Coll. on Health Care – sections 13 and 15 (the act is not valid any more) Act No 576/2004 Coll. on Health Care, Health Care Services and on Amending and Supplementing Certain Laws – Section 6 (the act came into force on 1 November 2004 and is operative from 1 January 2005)

Content

Case: The case concerns a Roma woman from Slovakia who was coercively sterilised in 2000 in a hospital in Prešov (eastern Slovakia). The

sterilisation was carried out during the delivery of her second child. As evidenced by the medical documentation of the applicant, the medical staff obtained her signature requesting sterilisation while she was having intensive contractions and right before the birth was concluded by a Caesarean section. When obtaining the signature, the medical staff told the applicant that she must sign the request, otherwise she or her next child will die when giving the next birth. Supine, scared and having no time to consider the information received from the hospital staff, the applicant signed the request. The sterilisation was then carried out right after then Caesarean section.

As of 2004, the applicant carried out several legal steps including two-instance civil court proceedings and constitutional proceedings to claim her rights and have her damage compensated. She succeeded at none of these and so resorted to ECtHR, claiming that she had been sterilised without her full and informed consent and that the authorities' ensuing investigation into her sterilisation had not been thorough, fair and effective.

Decision of the Court: ECtHR decided that Slovak Republic violated the applicant's right not to be subject to torture or to inhuman and degrading treatment (Article 3 of the European Convention). The court held that the sterilisation procedure grossly interfered with the applicant's physical integrity as she was thereby deprived of her reproductive function (para 116 of the judgement). It noted that the procedure was not an imminent necessity from a medical point of view and that the applicant did not give her informed consent to it. Instead, she was asked to sign the typed words "Patient requests sterilisation" while she was in a supine position and in pain resulting from several hours' labour. She was prompted to sign the document after being told by medical staff that she or her baby would die in the event of a further pregnancy (para 117). Thus, the sterilisation procedure, including the manner in which the applicant was requested to agree to it, was according to the court liable to arouse in her feelings of fear, anguish and inferiority and to entail lasting suffering (para 118). With regard to the violation of Article 3, the court concluded that the medical staff acted with gross disregard to the applicant's right to autonomy and choice as a patient (para 119). It also stated clearly that the way in which the hospital staff acted was paternalistic, since, in practice, the applicant was not offered any option but to agree to the procedure which the doctors considered appropriate in view of her situation (para 114).

The court also held that the Slovak Republic violated the applicant's right to respect for private and family life (Article 8 of the Convention). In conjunction with this established violation of Article 8, the court was also considering an alleged violation of Article 14 (right to non-discrimination; the violation was alleged on the grounds of race and sex). Although the court held that it did not find it necessary to separately determine whether there was breach of Article 14 (para 180), and although it further held that the objective evidence submitted by the applicant was not sufficiently strong in itself to convince the court that the applicant's sterilisation was part of an organised policy or that the hospital staff's was intentionally racially motivated (para 178), it nevertheless concluded that Slovakia failed to secure the applicant a sufficient measure of protection enabling her, **as a member of the vulnerable Roma community**, to effectively enjoy her right to respect for her private and family life in the context of her sterilisation (para 179). The court also pointed to the materials of various human rights bodies that identified serious shortcomings in the legislation and practice relating to sterilisation.

The court awarded the applicant 31,000 € as non-pecuniary damage.

Internet link source and additional information: The case is available in HUDOC, on the website of ECtHR.