

November 2011

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## **V.C. v. Slovakia - 18968/07**

Judgment 8.11.2011 [Section IV]

### **Article 3**

#### **Degrading treatment**

#### **Inhuman treatment**

Sterilisation of Roma woman without her informed consent: *violation*

### **Article 8**

#### **Positive obligations**

Absence of safeguards giving special consideration to the reproductive health of a Roma woman: *violation*

*Facts* – In 2000 the applicant, a Roma woman, was sterilised in a public hospital during the delivery of her second child by Caesarean section. The sterilisation consisted of severing and sealing her Fallopian tubes in order to prevent fertilisation. The applicant's delivery record contained a clear reference to her ethnic origin together with a request for sterilisation along with her signature. However, the applicant claimed that she had not understood the term "sterilisation", and that she had signed the request while in labour and after being told by the hospital staff that if she fell pregnant again either she or the child might die. According to the applicant, during her stay in the hospital she had been put in a room with other Roma women and they were not allowed to use the same bathrooms or toilets as non-Roma women. The applicant unsuccessfully sought redress in civil proceedings, arguing that her sterilisation had been in violation of national legislation and international human-rights standards and that she had not been duly informed about the procedure, its consequences or alternative solutions. Her consequent constitutional complaint was also dismissed.

*Law* – Article 3: Sterilisation constituted a major interference with a person's reproductive health status and bore upon many aspects of the individual's personal integrity including his or her physical and mental well-being and emotional, spiritual and family life. Without the consent of a mentally competent adult patient, it was incompatible with the requirement of respect for human freedom and dignity. Moreover, generally recognised international standards laid down that sterilisation may be carried out only subject to prior informed consent, save for exceptional emergency situations\*. The applicant had been sterilised in a public hospital immediately after giving birth via Caesarean section since the doctors considered that a future pregnancy would put her and the baby's life at risk. However, as had been confirmed by one of the doctors, there had been no medical emergency involving imminent risk of irreparable damage to her life. Since she was a mentally competent adult patient, her informed consent was a prerequisite for such procedure, even assuming it to have been "necessary" from a medical point of view. The applicant was asked to give her consent in writing

when already in labour, without being fully informed about her health status, the proposed procedure or the alternatives. Asking for her consent in such a delicate position clearly did not permit her to take a decision of her own free will, after consideration of all the implications or consultation with her partner. The paternalistic manner in which the hospital staff had acted had left the applicant with no option but to agree to the procedure the doctors considered appropriate. Consequently, the sterilisation procedure, including the manner in which the applicant was required to agree to it, must have aroused in her feelings of fear, anguish and inferiority. It had also resulted in lasting suffering, since due to her infertility, she had ended up divorced from her husband and ostracised from the Roma community. Although there had been no indication that the medical staff had intended to ill-treat her, their gross disregard for her right to autonomy and choice as a patient had subjected her to treatment contrary to Article 3 of the Convention.

*Conclusion:* violation (unanimously).

Article 8: Numerous international bodies, such as the European Commission against Racism and Intolerance (ECRI), CEDAW and the Council of Europe Commissioner for Human Rights, had noted the problem of sterilisation of Roma women in Slovakia and called for adequate safeguards to be put in place. In order to explain the reference to the applicant's Roma origin in her medical record, the Government had submitted that such an entry had been necessary since Roma patients frequently neglected social and health care and therefore required special attention. Even if this were accepted, the Court could not but note a certain mindset on the part of the medical staff as to the manner in which the medical situation of a Roma woman should be managed. Despite the fact that the domestic legislation in force at the material time required patients' consent prior to sterilisation, in the applicant's case those provisions had not provided appropriate safeguards and had resulted in a medical intervention of a particularly serious nature being carried out without her informed consent. Consequently, the absence of safeguards giving special consideration to the reproductive health of the applicant as a Roma woman had constituted a failure by the respondent State to comply with its positive obligation to secure the right to respect for her private and family life. Specific measures aimed at the elimination of such procedural shortcomings had been enacted in 2004, only after the relevant facts of the applicant's case had occurred, and could therefore have no bearing on her situation.

*Conclusion:* violation (unanimously).

The Court further found unanimously that there had been no violation of the procedural aspect of Article 3 or of Article 13 in conjunction with Articles 3, 8 or 12.

Article 41: EUR 31,000 in respect of non-pecuniary damage.

\* See, for example, the [Council of Europe Convention](#) on Human Rights and Biomedicine, the [World Health Organisation's Declaration](#) on the Promotion of Patients' Rights in Europe and [General Recommendation No. 24](#) of the UN Committee on the Elimination of Discrimination against Women (CEDAW).

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