

## **CASE STUDY: STERILIZATION AND ROMA WOMEN**

### **Background**

Some women have gynecological complications that can cause serious health risks or even death. In these cases sterilization is a medical necessity. However, throughout history forced sterilization has also been used to prevent religious or ethnic groups from reproducing.

Because sterilization is an intervention in one's bodily integrity and has consequences for one's family life, forced sterilization breaches several rights protected under the European Convention of Human Rights.

A young Slovakian national of Roma origin, who was sterilized during a Caesarean section, not only saw her right against the prohibition of torture and right to respect for private and family life violated, but also claimed that she had been sterilized because of her Roma origin.

### **Case Study**

When a woman of Slovakian nationality and Roma origin gave birth, the doctors found her reproductive organs in such a poor state that any future pregnancy would constitute a serious health risk. The doctors verbally informed her about their findings right away and suggested a sterilization to which she agreed. After the procedure was completed, she was shocked to discover she would not be able to become pregnant again. She claimed that she had not fully understood what the word "sterilization" meant, because the information was presented under pain and not in her mother tongue. She not only suffered serious psychological and medical after-effects but also claimed that she has been the subject of racial discrimination because of her Roma background. She believed this was the case because Roma have a history of discrimination in Slovakia and her medical record explicitly mentioned her Roma origins.

### **Process**

The woman appealed her case through the Slovakian national court system. In each court, her case was rejected on the basis of a national regulation on sterilization, which stated that such a procedure can be performed in cases of danger to a person's life even if the person refuses the procedure herself. In other words, the national courts concluded that the sterilization had been compliant with national law.

Dissatisfied with the proceedings, the woman lodged a complaint with the European Court of Human Rights.

## Decision

The European Court of Human Rights found that the Slovakian law breached several important international documents such as the Convention on Human Rights and Biomedicine, which states that a patient must obtain detailed information regarding the consequences of the procedure as well as alternative solutions. Therefore the court found that Article 3 (prohibition of torture) and 8 (Right to respect for private and family life) of the European Convention on Human Rights had been violated.

In order to assess the claim that she had been discriminated against on the basis of her Roma origin, the Court sought assistance from the Council of Europe Commissioner for Human Rights. The Commissioner recognized that there is a widespread negative attitude toward the high birth rate of Roma and that it could not be excluded that this attitude might have led to the sterilization. Yet, due to a lack of comparative reports between the number of Roma woman and of ethnically Slovakian women who had been sterilized, the Court ruled that there was not enough evidence to find racially motivated sterilization.

## Assessment

This case shows how difficult it is to establish evidence for discrimination. There are several reports, such as one from Human Rights Watch from 1992 as well as more recent ones (2003-2013), which document that a large number of Roma women have undergone sterilization without their full or informed consent. The reports highlight that medical personnel had often provided misleading information or spoken in a non-comprehensible way.

Yet, as there was no comparison to Slovakian women who had been sterilized available in this case, the evidence was too vague for the court to use as a basis for their judgment. Highlighting the difficulty in identifying cases of discrimination against Roma persons.