
amnesty international

EXTERNAL



AI Index: EUR 72/002/2003

Date: 11 September 2003

SLOVAKIA

Failing to ensure an impartial and thorough investigation into allegations of illegal sterilization of Romani women

Amnesty International's concerns

Amnesty International is concerned about allegations of illegal, including forced, sterilization of Romani women in Slovakia. The organization is particularly concerned that in spite of its repeated appeals the investigation into these allegations is not being conducted independently, thoroughly and impartially as required by international law. Furthermore, Amnesty International is concerned about the continued reported harassment and intimidation of victims, witnesses, and human rights defenders, in breach of international law and internationally recognized principles.

Amnesty International has received the following information from the Center for Reproductive Rights and *Poradňa pre občianske a ľudské práva* (Center for Civil and Human Rights – hereafter referred to as *Poradňa*) which illustrates the organizations continued concerns. On 13 and 14 August 2003, in the course of interrogations held at the police stations in Spišské Vlachy and Krompachy, investigators threatened at least 11 Romani women that they would be prosecuted for submitting a false complaint if the investigation fails to prove their allegations of forced sterilization. Furthermore, women, who had been pregnant before they were 15 years old, were told that their husbands or partners would be prosecuted for statutory rape. Some of them were subsequently questioned by the relevant investigators. On 13 August 2003, Romani women in Bystrany were interrogated in Spišské Vlachy without having received prior written notice or summons. Police officers simply came to the settlement and told the women that they should immediately come to the police station for questioning. On 20 of August 2003 investigators who interrogated Barbora Bukovska and Viera Kusendova, *Poradňa* representatives, were reportedly solely focused on where the report, which gave rise to the investigation was written and the intentions of the authors in writing it.

The investigation appears to be focused on establishing whether free and informed consent to the sterilization had been obtained and whether there had been medical indications for carrying out the sterilization procedure. Amnesty International has concerns about how the investigation is reportedly handling both of these issues.

Firstly, the investigators are reportedly examining only the existence and authenticity of the signature on the consent form to the procedures as proof that free and informed consent had been obtained. In doing so, the investigators are failing to clarify all relevant circumstances in which a form may have been signed. These circumstances would include whether the patient had freely requested the procedure; whether the patient was appropriately counselled concerning the risks (and the irreversibility) and benefits of the procedure and of its alternatives; what condition the patient was in when the form was signed and when and if this information was provided: whether the information was provided in a manner and a language understandable to the patient; and whether the patient was given appropriate time to consider this information and to include other appropriate persons in this decision. According to international standards and international medical associations, a signature alone is not *de facto* evidence of full and informed consent.

Secondly, the investigators are failing to take into account that under internationally recognized best professional practice there are no situations which would require a sterilization procedure to be carried out without obtaining the patient's free and informed consent¹. In light of this it is highly questionable what medical indications are reportedly being examined by the investigators for each case under the investigation.

The Slovak authorities are apparently failing to ensure an independent, thorough and impartial conduct of the investigation into all the circumstances surrounding the alleged illegal sterilization of Romani women. Moreover, they are also responsible for other measures that have impeded justice for the alleged victims of these grave human rights violations. Although *Poradňa* lawyers representing Romani women commenced work on civil compensation claims in the summer of 2002, no such claims have yet been filed in courts because the authorities have persistently denied the lawyers access to information from the patient's hospital files. In the most recent development, on 21 August the head of the maternity ward of the Prešov Hospital refused to release medical files to the patients' lawyer despite a Prešov District Court decision which became effective on 14 August requiring the hospital to release the files. The head of the maternity ward reportedly told *Poradňa* lawyer that he had orders from the hospital director not to release any files to her. The hospital director, who is also member of the National Council (Slovak one-chamber parliament), reportedly told the *Poradňa* lawyer over the telephone that under no circumstances will he allow her to review the files as "the hospital is governed by his instructions, not by court decisions".

Background

Following the publication of a report by the Center for Reproductive Rights and *Poradňa*, [Body and Soul: Forced Sterilization and Other Assaults on Roma Reproductive Freedom in Slovakia](#), on 28 January 2003, the Office of the Deputy Prime Minister initiated a criminal investigation into the reported allegations. On the same day, a press release issued by the Office of the Deputy Prime Minister implied that the co-authors of the report, should the allegations in the published report prove true, would be investigated for failing in their legal duty to report a criminal offence. Furthermore, if the allegations in the report were not found to be corroborated, criminal proceedings would be initiated against the authors of the report for "spreading false rumours".

From the very outset the criminal investigation did not comply with international standards. On 12 February 2003, 21 women from Romani settlements in Richnava and Bistrany had been questioned at the Krompachy police station in connection with sterilization procedures to which they had been subjected. The names of 19 women had apparently been

¹ See at <http://www.poradna-prava.sk/emain.htm> International Federation of Gynecology and Obstetrics, letter of 15 March 2003, and American College of Gynecologists and Obstetricians, letter of 13 March 2003.

given to the police by the staff of the Krompachy hospital. All of the women were taken for questioning by police officers who had come to their homes unannounced. Most of the women did not understand in what capacity they were wanted for questioning nor were they aware of their right to refuse to comply with an orally presented summons. Some women thought that they were being treated as criminal suspects. In view of the poor relations between the police and the local Romani communities such police conduct was perceived, particularly by women, as threatening and degrading. Furthermore the questioning of Romani women concerning the sterilization procedure to which they had been subjected had been conducted by male police officers who reportedly demonstrated no sensitivity to the intimate nature of the procedure, the circumstances in which it took place or its effects. At least two women who had claimed to have been forcefully sterilized stated that they were threatened by officers who questioned them. The officers reportedly implied that the women had been induced to claim that they had been forcefully sterilized with promises of financial and other gain. The women were reportedly told that they should sign a criminal complaint for the offence of genocide, although they had no knowledge of, nor had they been instructed about, the significance of the formulation of this charge. At the same time they were told that they would face imprisonment of up to three years for false accusation in case their complaint should prove to be false.

In February 2003 Amnesty International wrote to Pál Csáky, Deputy Prime Minister responsible for Human and Minority Rights, expressing concern about allegations of forced sterilization of Romani women in Slovakia. The organization was also concerned that the investigation into these allegations appeared not to be conducted independently, thoroughly and impartially as required by international law, that some of the victims had been reportedly threatened and harassed by the investigators, and that the government, in breach of internationally recognized principles, had intimidated human rights defenders who reported on the alleged forced sterilization.

In March 2003 the Deputy Prime Minister wrote to Amnesty International to assure the organization that the allegations of forcible sterilization of Romani women would be investigated thoroughly and impartially. Among a number of measures that had been put in place to ensure this the Minister of the Interior had appointed a special investigation team, comprising specialists on various issues involved in the case. The team would be based in Žilina, outside the region where the alleged offences had been perpetrated, with staff from departments from all parts of the country. A woman investigator had been appointed as chief of the investigation team. All investigation procedures would be videotaped. The Attorney General's Office had taken over the monitoring of the investigation. The Deputy Prime Minister had invited Christine McCafferty, Vice-chairperson of the Council of Europe Parliamentary Assembly's Committee for Social, Health and Family Affairs to conduct a fact-finding mission regarding the investigation.

On 23 June 2003 the Slovak government reported to the Council of Europe Parliamentary Assembly on the criminal and administrative investigations being conducted into allegations of forced and coerced sterilization in Slovakia and provided assurances that it will not pursue criminal proceedings against the authors of *Body and Soul*.

On 22 July 2003 Amnesty International, Center for Reproductive Rights, European Roma Rights Center, Human Rights Watch, International Helsinki Federation for Human Rights, *Konzorcium Urobme to* (Consortium Let's Do It), *Ludia proti rasizmu* (People Against Racism), *Poradňa pre občianske a ľudské práva* (Center for Civil and Human Rights), and *Slovenský helsinský výbor* (Slovak Helsinki Committee) issued a joint statement expressing concern about the investigation into the reported forced sterilization of Romani women in Slovakia (see AI Index: EUR 72/001/2003). They issued detailed recommendations to the Slovak Government to ensure that the investigation is impartial and thorough. They also urged the Slovak government to establish a commission of inquiry independent of the criminal investigation to inquire into past and present sterilization practices.

AI's Recommendations

Amnesty International reiterates to the Slovak authorities the recommendations issued jointly with eight other NGOs on 22 July 2003, and urges the authorities to:

- ensure that the investigation into allegations of forced sterilization of Romani women in Slovakia is carried out impartially, thoroughly and effectively;
- fully examine the circumstances under which consent to sterilization was given, noting that according to international standards and international medical associations a signature alone is not *de facto* evidence of full and informed consent and there is no immediate threat to health that would require a doctor to perform sterilization without the full and informed consent of the patient;
- ensure as a matter of utmost urgency that the victims, witnesses and human rights defenders are protected from harassment and intimidation; that the rights of the victims are respected and that they are treated with dignity;
- bring to justice anyone found responsible for human rights violations; and
- ensure that the victims promptly receive appropriate compensation; the victims and their legal representatives should be given unimpeded access to the appropriate information without which they are not able to file compensation claims.

Amnesty International also reiterates its appeal to the Slovak authorities to set up a commission of inquiry independent of the criminal investigation to inquire into past and present sterilization practices.