COERCIVE AND CRUEL

A REPORT BY THE EUROPEAN ROMA RIGHTS CENTRE

Sterilisation and its Consequences for Romani Women in the Czech Republic (1966-2016)

CHALLENGING DISCRIMINATION PROMOTING EQUALITY

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Address: 1077 Budapest, Wesselényi utca 16, Hungary
Office Tel: +36 1 413 2200
Office Fax: +36 1 413 2201
E-mail: office@errc.org
www.errc.org

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Abbreviations and Acronyms

CAT	United Nations Committee against Torture
CEDAW	United Nations Committee on the Elimination of Discrimination against Women
CERD	United Nations Committee on the Elimination of Racial Discrimination
HCR	United Nations Human Rights Council
CRPD	United Nations Committee on the Rights of Persons with Disabilities
C-section	Caesarean section, surgical procedure in which incisions are made through a mother's abdomen and uterus to deliver a baby
Commission	Commission of the Government of Czech Socialist Republic for Roma Population Issues
The Group	Group of Women Harmed by Involuntary Sterilisation
ICU	intensive care unit in the hospital
IUD	contraceptive intrauterine device
ECtHR	European Court of Human Rights
ECRI	European Commission against Racism and Intolerance (Council of Europe)
Ombudsman	Czech Public Defender of Rights (VOP)
Sterilisation Directive	Directive No. 01/1972 of Ministry of Health and Social Affairs of Czech socialist Republic passed on 17 December 1971, valid from 1 January 1972. The Directive expanded the provisions of the Law on Public Health from 1966
Sterilisation Incentive Decree	Decree No. 152 of Ministry of Health and Social Affairs of Czech socialist Republic that executes the Act on Social Security] adopted on September 8, 1988

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Executive Summary

This report examines the practice of coercive involuntary sterilisations in the Czech Republic as experienced by Romani women against their will or without free and informed consent. Along with a review of the institutional, legal and policy context within which these sterilisations took place, the main focus of the report is on the personal experiences of sterilised Romani women. These were obtained through individual interviews and focus groups with 22 involuntarily sterilised women.

It presents accounts of Romani women of their treatment by medical personnel and social workers. The report reveals how Romani women were subjected to sterilisation without prior information that such an operation would be performed on them; in some instances the women claim that their consent forms and other medical documentation were manipulated and their signatures forged. The procedure was often performed at the same time as caesarean sections or women were presented with consent forms when in great pain or distress during labour or delivery. In other instances Romani women were coerced into accepting sterilisation by misinformation about the nature of this procedure as well as through threats of the institutionalisation of their children and withdrawal of their social benefits. For some Romani women, sterilisation was falsely justified by their doctors as a life-saving intervention.

The report also describes the consequences of sterilisation for women's psychological and social life. It follows their struggles with depression, mood swings, loss of sex drive, feelings of inferiority and existential anxiety. It also captures narratives of divorces and broken partnerships in the aftermath of sterilisation.

Finally, the report analyses the legal, political and other obstacles in reaching an effective remedy for the victims. It includes an update on the legislative changes, compensation mechanism proposals, updates on court cases, comments on the information provided by the Czech government and recommendations for government action. The Annex contains detailed information about the selected methodology.

1 Introduction

The present report examines one of the most serious human rights violations against women[1] – the practice of coercive sterilisation that was aimed at and programmatically performed on Romani women and women with disabilities starting from the 1970s until the 1990s. In Communist Czechoslovakia[2] this practice was legally sanctioned by the 1971 Decree on Sterilisation.[3] This Decree gave public authorities a more or less free rein to systematically sterilise Romani women and women with disabilities without their full and informed consent as a means of birth control. In 1979, Czechoslovakia also initiated a programme of financial incentives for Romani women to undergo sterilisations motivated by the need "to control the highly unhealthy Roma population through family planning and contraception".[4] An investigation into the practices of involuntary sterilisation of Romani women by the Czech Ombudsperson in 2005 estimated that, since 1972, thousands of women may have been involuntarily sterilised throughout the former Czechoslovakia.[5]

Female sterilisation was a state policy in Czechoslovakia until 1993 when the Sterilisations Directive was abolished.[6] However, the practice of sterilising Romani women and women with disabilities against their will did not end with the abolition of the legislation which allowed it, but continued throughout the 1990s[7] and 2000s, with the last known case occurring as recently as 2007.[8]

Roma are the largest national minority in the Czech Republic. The Council of Europe estimates that some 150,000 to 250,000 Roma live in the Czech Republic.[9] According to the 2011 National Census, 13,109 Czech citizens declared that they belonged to the Roma ethnicity.[10]

1 See for example the UN HRC Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, February 2013, available at: **http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.53_English.pdf**.

2 Czechoslovakia was a federal state of Czechs and Slovaks, which existed from 1918 to 1993, when it dissolved in two separate states of the Czech Republic and Slovakia.

3 Ministry of Health of the Czechoslovak Republic, *Decree on Sterilisation No. 01/1972* passed on 17 December 1971, in force from 1 January 1972. Number 252. 3-19. 11. 71 [*Směrnice Ministerstva zdravotnictví ČSR ze dne 17. prosince 1971 o provádění sterilizace*]. The Decree expanded the provisions of the Law on Public Health from 1966.

4 Public Defender of Rights (VOP), *Final Statement of the Public Defender of Rights in the Matter of Sterilisations Performed in Contravention of the Law and Proposed Remedial Measures*, 2005, p. 3.

5 *Ibid.*

6 Ministry of Health of the Czechoslovak Republic, *Sterilisation Directive.*

7 Human Rights Watch, 1992 Report, p. 31, available at: **https://www.hrw.org/reports/pdfs/c/czechrep/czech.928/czech928full.pdf**.

8 ERRC, *Coercive sterilization of Romani women*, 2011, available at: **http://www.errc.org/article/coercive-sterilisation-of-romani-women/3843**.

9 Council of Europe, Roma population estimates, available in the Annex to the EU Framework for National Roma Integration Strategies up to 2020, available at: **http://ec.europa.eu/justice/policies/discrimination/docs/com_2011_173_en.pdf**.

10 Czech Statistical Office, 2011 National Census, available at: **https://vdb.czso.cz/vdbvo2/faces/cs/index.jsf?page=statistiky#katalog=30261**.

The official government estimates suggest that the actual number of Roma is in the range of 160,000 to 350,000 (1.4-3.2% of the country population).[11] Similarly to other national and ethnic groups, there are also Roma assimilated into Czech society who do not declare themselves as Roma and thus remain omitted from the national census and estimates.

The most recent data on the socio-economic conditions of Roma in the Czech Republic revealed that over a period of ten years (2005-2015), the number of socially excluded areas, which are inhabited mostly by Roma, doubled and there are currently more than 600 socially excluded areas in the Czech Republic.[12] Discrimination against Roma in the main areas of social life such as education, housing, access to employment and access to health care, has been an invariable feature of their experience in the Czech Republic, both before and after the fall of Communism. One of the most striking discriminatory practices which emerged at the times of Communist Czechoslovakia and had its continuation in the new democratic state after 1989, is the practice of involuntary sterilisations of Romani women along with women with disabilities.

Over the last fifteen years during which the practise of involuntary sterilisation has been systematically researched, it has been widely criticised as a gross violation of the right to health, the right to privacy, the right to found a family, and the right to information.[13]

In March 2014, the ERRC and the League of Human Rights (Liga Lidských práv, LHR)[14] announced a Gender Fellowship, which focused on coercive sterilisation of Romani women and women with disabilities[15] in the Czech Republic. The Fellowship sought to complement existing evidence of administrative and legal practice of coercive sterilisation with qualitative research mapping the life tracks of women harmed by involuntary sterilisation in the Czech Republic since 1970s until the present. Research Fellows documented specific cases

11 Czech Government, Ministry of Human Rights, *The Roma Integration Concept* 2010-2013, available at: **http://ec.europa.eu/justice/discrimination/files/roma_czech_republic_strategy_en.pdf**.

12 GAC, *Analysis of Socially Excluded Areas in the Czech Republic, 2015*, available (in Czech) at: **http://www.gac.cz/userfiles/File/nase_prace_vystupy/Analyza_socialne_vyloucenych_lokalit_GAC.pdf**.

13 Zoon, I. 2001. *On the Margins: Slovakia – Roma and Public Services*, available at: **http://www.romadecade.org/cms/upload/file/9687_file1_on-the-margins-roma-and-public-services-in-slovakia.pdf**;

Zoon, I. *et al.* 2003. *Body and Soul. Forced Sterilization and Other Assaults on Roma Reproductive Freedom in Slovakia*, available at: **http://poradna-prava.sk/dok/bodyandsoul.pdf**; Public Defender of Rights, *Final Statement of the Public Defender of Rights in the Matter of Sterilizations Performed in Contravention of the Law and Proposed Remedial Measures*, Brno 2005: available at: **http://www2.ohchr.org/english/bodies/cerd/docs/ngos/Public-defender-rights.pdf**; ERRC, 2006. *Ambulance Not on the Way: The Disgrace of Health Care for Roma in Europe,* available at: **http://www.errc.org/cms/upload/media/01/E6/m000001E6.pdf**.

14 The League of Human Rights is a Czech human rights organisation, which advances the rights and freedoms of all people the Czech Republic. In their work, they mainly focus on the rights of especially vulnerable persons or persons facing social exclusion, such as the rights of children, persons with disabilities or victims of police violence. Their vision is just, free and engaged society for all. For more information see: **www.llp.cz/en**.

15 The original research design counted on analysing coercive sterilisation accounts of women with disabilities in conjunction with those of Romani women. However, even though we consulted the research with the Czech representative of the Mental Disability Advocacy Centre (MDAC), we eventually did not manage to identify any disabled women harmed by sterilisation. The research, however, included an account of Nora, a Romani woman diagnosed with mental disability.

that demonstrate stories of individual women against the background of state policies and hospital practice. Simultaneously with the Fellowship, the ERRC and the LLP launched the work on a joint individual complaint on behalf of six affected women to the UN CEDAW Committee, which was submitted in February 2016. The case is currently pending.

The findings of this research are action-oriented aiming to provide tools and paths for the affected women to stand up for their rights and pressure the responsible public authorities to create compensation schemes. The research objective is to raise awareness about the advocacy options among affected women but also to raise awareness of the general public among which the practice of involuntary sterilisation remains unknown. The participating women have considered this research as one of their options to actively influence the 2009-2015 compensation mechanism debates in the Czech Republic.

2 Sterilisations from a Human Rights Perspective

In medical terms, sterilisation is a surgical intervention which permanently removes an individual's ability to reproduce.[16] In addition to the purpose of contraception, sterilisation can also be performed for health-related reasons when reproductive organs have been damaged.[17] Medical and human rights expertise collected in the manual of the International Federation of Gynaecology and Obstetrics (FIGO) maintains that sterilisation is never a life-saving operation that needs to be performed on an emergency basis and without full and informed consent.[18]

According to the Guiding Principles for the Provision of Sterilisation Services defined by international human rights bodies, sterilisation should be performed in accordance with the principle of autonomy, expressed through full, free and informed decision-making.[19] The principle of autonomy requires that "any counselling, advice or information given by health-care providers or other support staff or family members should be non-directive, enabling individuals to make decisions that are best for themselves, with the knowledge that sterilization is a permanent procedure and that other, non-permanent methods of fertility control are available."[20] Furthermore, the Principles highlight that "sterilization for prevention of future pregnancy cannot be justified on grounds of medical emergency, which would permit departure from the general principle of informed consent" and that "[e]ven if a future pregnancy might endanger a person's life or health, there are alternative contraceptive methods to ensure the individual concerned does not become pregnant immediately, and the individual concerned must be given the time and information needed to make an informed choice about sterilization."[21]

The rules, procedures, and safeguards under which someone can undergo sterilisation surgery vary country by country; in this report we will focus specifically on those in place in the Czech Republic.

16 Ťápalová, V. R. Hudeček, 2011 "Operační techniky a legislativní podmínky sterilizace žen v České republice." [Surgical procedures and legislative conditions of female sterilisation in the Czech Republic.], in: *Praktická gynekologie* 15(3-4): 197-201.

17 Kučera, 2001, "Sterilizace ženy a muže - indikace, technika, komplikace." [Female and male sterilisation - indication, technique, complications.], in: *Moderní gynekologie a porodnictví* 10(2): 173-177.

18 FIGO, *Guidelines for Female Contraceptive Sterilisation*, available at: **http://www.womenenabled.org/pdfs/International_Federation_of_Gynecology_and_Obstetricts_Sterilization_Guidelines_FIGO_2011.pdf?attredirects=0**.

19 World Health Organization 2014, "Eliminating forced, coercive and otherwise involuntary sterilization. An interagency statement OHCHR, UN Women, UNAIDS, UNDP, UNFPA, UNICEF, WHO", p. 9, at: **http://apps.who.int/iris/bitstream/10665/112848/1/9789241507325_eng.pdf?ua=1**.

20 *Ibid.*

21 *Ibid.*

2.1 Involuntary Sterilisations in the Twentieth Century and Compensation

Involuntary (non-consensual) sterilisation is any sterilisation that happens against the will or without the knowledge of the affected person. Each person who is about to undergo this surgery should be fully aware of its nature, possible consequences and alternative methods of contraception. If these conditions are not present, the sterilisation is involuntary. Forced sterilisation occurs when a person is sterilised after expressly refusing the procedure, without her knowledge or is not given an opportunity to provide consent. Coerced sterilisation occurs in situations when individuals are compelled to undergo the procedure by financial or other incentives, misinformation, or some form of intimidation.

Involuntary sterilisations as a method of population control were practiced in the beginning of the twentieth century when the science and social movement of eugenics reached its highest popularity. Several countries, among them Germany, Austria, Sweden, Switzerland, Norway, Peru,[22] Bolivia,[23] the USA, Puerto Rico,[24] Australia,[25] and Japan[26] adopted laws promoting coercive sterilisation as a method of improving the genetic constitution of their populations.

Forced sterilisation in the twentieth and early twenty-first centuries has often been based on the ethnicity or the disability of the victims, but has also targeted unmarried mothers, pregnant women who have sought to terminate pregnancies, and the poor. The most prominent involuntary sterilisation policies in Europe were carried out in Austria, the Czech Republic, Denmark, Finland, France, Germany, Norway, Slovakia, Sweden, and Switzerland. Of those countries, Austria, Germany, Sweden, Norway and Switzerland have assumed responsibility for those policies and put in place special remedies for victims. So have Peru and the U.S. states of North Carolina and Virginia. This ERRC report provides an overview

22 The Guardian, *The shameful history haunting Peru's election*, 8 April, 2016, available at: **https://www.theguardian.com/global-development/video/2016/apr/08/peru-election-forced-sterilisation-lima-protest-keiko-fujimori**.

23 Molly Geidel, "Sowing Death in Our Women's Wombs: Modernization and Indigenous Nationalism in the 1960s Peace Corps and Jorge Sanjinés' Yawar Mallku", in: *American Quarterly* – 62/3, 2010, pp. 763-786. See also Jorge Sanjinés' movie *Blood of the Condors*, 1969.

24 Laura Briggs 1998, "Discourse of "Forced Sterilisation" in Puerto Rico: The Problem with the Speaking Subalterns", in: *Differences: Journal of Feminist Cultural Studies 10/2*, pp. 30-66, available at: **https://lhcs497.files.wordpress.com/2015/10/discourses-of-forced-sterilization.pdf**.

25 The Guardian, *UN examines Australia's forced sterilisation of women with disabilities*, 10 November, 2015, available at: **https://www.theguardian.com/australia-news/2015/nov/10/un-examines-australias-forced-sterilisation-of-women-with-disabilities**.

26 See UN CEDAW, *Concluding Observation on Japan*, 7 March, 2016, available at: **http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/JPN/CEDAW_C_JPN_CO_7-8_21666_E.pdf**;

(24) "The Committee notes that under the Eugenic Protection Act, the State party through the Prefectural Eugenic Protection Committee, sought to prevent births of children with diseases or disabilities and, as a result, subjected persons with disabilities to forced sterilisation. The Committee notes that out of approximately 16,500 cases of sterilization without consent, 70% concerned women, and no efforts have been made by the State party to provide redress such as compensation, official apologies and rehabilitation."

of the developments in these six places in order to demonstrate an emerging international recognition of the need to provide special remedies for victims of forced sterilisation.

Austria: Victims of forced sterilisation during the Nazi period are eligible for compensation under the Victims' Pension Law (*Opferfürsorgegesetz*). Article 1(2)(j) of the law specifically recognises forced sterilisation (*Zwangssterilisation*) as a form of damage entitling someone to compensation. Victims of forced sterilisation receive various forms of compensation, including reduced payments for social insurance and studies.

Germany: Compensation for victims of forced sterilisation during the Nazi period has been a contentious issue in Germany, particularly in relation to the extent to which victims of forced sterilisation could be considered victims of Nazi persecution. However, in 1980 a fund was established to make lump sum payments to victims, and since 1988 victims of forced sterilisation have been able to claim a monthly pension (currently in the amount of 291 EUR). According to figures made available by the German Government in response to a question from Parliament, as of 27 February 2012, 13,816 people who were forcibly sterilised received the lump-sum payment and 9,604 victims received monthly payments.[27]

Sweden: In 1934 Sweden approved a law allowing for forced sterilisations of "inferior" members of society, which included Roma, people in prison, people with intellectual disabilities, and women who had sought to terminate their pregnancies. The law was changed in 1976 to require freely given consent for sterilisation. The issue of forced sterilisations came to popular attention in 1997, when the newspaper *Dagens Nyheter* published a series of articles about it. In response, the Swedish Government established a committee to investigate the practice. The committee's report[28] set out the total estimated number of sterilisations between 1934 and 1976 (some 63,000) and broke them down into various categories based on the voluntary or involuntary nature of the sterilisation. Legislation[29] was introduced in 1999 to provide compensation for people who were sterilised and met certain criteria (such as never signing an authorisation for sterilisation, being an inmate, or having been subjected to undue influence). Victims were given until December 2002 to make compensation claims. Some 1,600 victims of forced sterilisation received compensation of 175,000 SEK each.[30]

27 The response is available at: **http://dip21.bundestag.de/dip21/btd/17/087/1708729.pdf**.

28 The full report (in Swedish) is available at: **http://www.regeringen.se/contentassets/68b217b7f8e746a799536f3ad851c05e/steriliseringsfragan-i-sverige-1935---1975**.

29 Government of Sweden, Law on the Compensation for Sterilisation in some cases (Lag (1999:332) *'om ersättning till steriliserade i vissa fall'*), 27 May 1999, available at: **http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/sfs_sfs-1999-332/**.

30 Karin Johannson 2005, '1 600 tvångssteriliserade har fått skadestånd, *Sydsvenskan'*, 2005, available at: **http://www.sydsvenskan.se/sverige/1-600-tvangssteriliserade-har-fatt-skadestand/**. In 2016, Sweden has further agreed to adopt a compensation mechanism for involuntary sterilised trans people, see: Transgender Europe, *Trans people to receive compensation for forced sterilisation in Sweden*, available at: **http://tgeu.org/trans-people-to-receive-compensation-for-forced-sterilisation-in-sweden/**.

USA: In 1927, the U.S. Supreme Court held[31] that it was compatible with the federal constitution for individual states to sterilise people forcibly, so as to reduce the economic and social burden they posed. More than 65,000 people were involuntarily sterilised in over fifteen U.S. states, many of them were Mexican[32] and Native American women.[33] In 2013, North Carolina became the first state to legislate compensation for forced sterilisations, awarding those victims who were still alive 50,000 USD each.[34] The State's Office of Justice for Sterilization Victims[35] is administering the compensation scheme. In February 2015, Virginia followed suit, passing a law to provide compensation of 25,000 USD to those forcibly sterilised under the state's eugenics law. Victims are currently able to fill out a form to submit a claim to the competent authority.[36]

Switzerland: The coercive sterilisation policies influenced by eugenic ideology were in place in several Swiss federal cantons from the 1920s to 1980s. They mainly targeted young socially disadvantaged women diagnosed with some form of mental disorder. In 1986, the Swiss government issued an official apology to the victims of forced fostering and forced sterilisation among which were a significant group of Sinti and Yenish. In October 1999, a member of the Parliament, Margrith von Felten, proposed to adopt legal measures enabling financial redress of persons sterilised against their will, which was further supported by the National Council for Legal Issues. However, the compensation law was eventually voted down in the Parliament (Swiss National Council). Since 2013, a new government initiative has been preparing a new compensation law to rehabilitate victims of "compulsory social measures", including the victims of forced sterilisation measures.[37] In April 2013, a commemorative event for victims was held and it was followed by a round table of experts called by the Ministry of Justice. The compensation draft law was prepared and adopted by the Parliament in April 2016. It will be voted on by the Senate in the autumn of 2016, and it is expected that the law will be in force from early 2017.

31 *Buck v Bell*, 274 U.S. 200 (1927). Justice Oliver Wendell Holmes, Jr. famously wrote that "*three generations of imbeciles are enough*" in his opinion for the majority and found that forced sterilisation of people who were "feeble-minded" and "promiscuous" was not incompatible with the due process clause of the US Constitution's Fourteenth Amendment, by analogy with compulsory vaccination programmes. See also Kathry Krase, *History of Forced Sterilisation and Current US Abuses*, 1 October, 2014, available at: **http://www.ourbodiesourselves.org/health-info/forced-sterilization/**.

32 Washington Post, *Sterilised against their will in a Los Angeles hospital*: Latinas tell the story in a new film, 10 January 2016, available at: **https://www.washingtonpost.com/news/arts-and-entertainment/wp/2016/01/10/sterilized-against-their-will-in-a-los-angeles-hospital-latinas-tell-the-story-in-a-new-film/**, or Huffington Post, *That Time the United States Sterilised 60000 of its Citizens*, 7 January 2016, available at: **http://www.huffingtonpost.com/entry/sterilization-united-states_us_568f35f2e4b0c8beacf68713**.

33 Jane Lawrence 2000, 'The Indian Health Service and the Sterilisation of Native American Women', in; *The American Indian Quarterly,* 24/3, pp. 400-419, available at: **http://muse.jhu.edu/article/200**.

34 The appropriations bill can be found at: **http://www.ncleg.net/sessions/2013/bills/senate/pdf/s402v7.pdf**.

35 The office's website is: **http://www.sterilizationvictims.nc.gov/**.

36 Full information is available at: **http://www.dbhds.virginia.gov/individuals-and-families/sterilization-compensation**.

37 Association Humanrights.ch/MERS, *Compulsory Social Measures: the long way to rehabilitation*, 14 January, 2015, available at: **http://www.humanrights.ch/en/switzerland/internal-affairs/protection/miscellaneous/compulsory-social-measures-long-rehabilitation**.

Norway: In 1996, the Norwegian Research Council funded a four-year-long research project on the situation of Tater/Romani in Norway from 1850 to the present. Specific funding was earmarked to investigate coercive sterilisation policies in place from 1934 to 1977.[38] The research documented 128 Tater/Romani coercive sterilisation cases and concluded that they were overrepresented among the people submitted to these policies. It also pointed out that in the Svanviken work camp, created for Tater/Romani, almost 40% of all women were sterilized in the period 1949-1970. Following the research findings, in October 2002, the Norwegian government set up a special inter-ministerial working group to consider compensation. The report of the working group, published in August 2003, concluded that most of the compensation claim cases had an ethnic dimension and were affected by statute of limitation period, and recommended the government to adjust existing ex-gratia compensation mechanisms for redressing the victims of coercive sterilisation. In 2004, the Government established the compensation mechanism for Tater/Romani people who (1) experienced ethnic bullying, (2) lived in Svanviken work camp, and/or (3) were subjected to coercive sterilisation. Between 2006 and 2013, 1251 people applied through this special arrangement and 1231 individuals received compensation on at least one of the grounds. There were however only seven people compensated for coercive sterilization.

Peru: In the 1990s, some 300,000 women and 22,000 men, mostly poor indigenous and rural people, were forcibly sterilised by the authorities. In 2003, the Inter-American Commission on Human Rights approved a friendly settlement agreement[39] in a case of forced sterilisation and subsequent death: the Peruvian Government agreed to pay 80,000 USD to the heirs of the deceased victim and to undertake a series of individual measures, such as a thorough investigation of what happened to her. In October 2015, the Peruvian Government announced that they will offer free services and create a national registry of victims of forced sterilisation.[40] The Government adopted Supreme Decree 006-2015-JUS[41] to this end; the decree, among other things, should guarantee free legal assistance to victims of sterilisation to ensure they have access to justice to pursue any claims they may have. Victims should also receive psychological and social support.

Czech Republic and Slovakia: In the former Czechoslovakia, a Public Decree on Sterilisation,[42] in force from January 1972, enabled public authorities to take programmatic steps to encourage the sterilisation of Romani women and women with disabilities placed in mental institutions, in order to control their birth rate.[43] Hundreds of Romani and disabled women were sterilised under the decree. In the Czech Republic and Slovakia, where the practices of

38 Report of the working group on Compensation to Roma/Tater subjected to Coercive Sterilisation submitted to the Ministry of Local Government and Regional Development, 2003, available at: **https://www.regjeringen.no/globalassets/upload/fad/vedlegg/sami/nasjmin/rapport_tvangsster_romani_en.pdf**.

39 Report no.71/03, petition 12.191, friendly settlement, María Mamérita Mestana Chávez, Peru, 22 October 2003.

40 The decision to established registry points only in large cities has been criticized as most of the victims live in rural areas distant to the cities.

41 The decree can be found (in Spanish) at: **http://busquedas.elperuano.com.pe/normaslegales/decreto-supremo-que-declara-de-interes-nacional-la-atencion-decreto-supremo-n-006-2015-jus-1308828-2/**.

42 Ministry of Health, *Sterilisation Directive No. 01/1972*.

43 See ERRC, 2006. *Ambulance Not on the Way: The Disgrace of Health Care for Roma in Europe,* available at: **http://www.errc.org/cms/upload/media/01/E6/m000001E6.pdf**.

involuntary sterilisations were deeply rooted in policies of the communist era, governments have been less willing to admit responsibility for these practices and provide effective redress for these human rights violations.

In Slovakia, a detailed report by a local NGO[44] on the practices of involuntary sterilisations has been submitted to the government, but still with no decent response as yet. In addition to this, the civil courts refused to consider sterilisation without full and informed consent to be a violation of human rights. The affected women have thus been seeking justice through civil courts with limited success.[45]

In the Czech Republic, a report by the Ombudsman published in 2005 concluded that the practice of involuntary sterilisation up to 1991 was directly and solely motivated by eugenics, and recommended that all women subjected to involuntary sterilisation between 1972 and 1991 should be eligible for compensation. In 2009 and 2012, the Czech Government's Human Rights Council passed resolutions recommending that the Czech Government introduce a mechanism for adequate financial redress for victims of involuntary sterilisation. In February 2015, the working group under the auspices of the Human Rights Ministry finalised a Compensation Act proposal.[46] In September 2015 the government rejected adopting this law without stating official reasons.[47] In the reply to the concerns of the Council of Europe Commissioner for Human Rights over the rejected bill, the Prime Minister Sobotka maintained that the state did not support the systemic sterilisation practice among Romani women and women with disabilities. He also claimed that the state adopted all necessary measures to prevent any further incidents of involuntary sterilisation and, despite the legal evidence that the statute of limitation expired in the absolute majority of cases, recommended all previously harmed women to seek justice at the Czech courts.[48]

44 Zoon, I. *et al.* 2003. *Body and Soul. Forced Sterilization and Other Assaults on Roma Reproductive Freedom in Slovakia*, available at: **http://poradna-prava.sk/dok/bodyandsoul.pdf**.

45 Except in the ECtHR cases of Romani women N.B. or M.K. against Slovakia who obtained a partial redress from the hospitals. See: EctHR, *Case of N.B. v. Slovakia*, 12 September 2012, available at: **http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-111427**; and ECtHR, *Case of I.G. and Others v. Slovakia*, 29 April 2013, available at: **http://hudoc.echr.coe.int/sites/fra/pages/search.aspx?i=001-114514#{%22itemid%22:[%22001-114514%22]}**.

46 Human Rights Council of the Government of the Czech Republic, *Draft Law of the Compensation for Illegally Sterilised Persons*, February 2015. This draft legislation proposes that the Ministry of Health will establish an independent expert Committee which would review the individual claims of involuntarily sterilised persons and advise the Ministry on compensation. The committee of nine members should have at least one practising lawyer, practising gynaecologists and social worker nominated by the ministries (one member should be nominated by the Ombudsperson). The compensation should have included an official apology, compensation and free-of-charge rehabilitation or artificial fertilisation treatment. The compensation was set at 300.000 CZK (approximately three-times less than the ECtHR awarded) and the compensation law should be valid for three years, during which the affected women can make their claim. Persons involuntarily sterilised between July 1966, when the Public Health Act was adopted, and March 2012, when a new Special Health Services Act annulled the previous legal provision, should be eligible for compensation.

47 Romea.cz, *Government Rejects Bill to Compensate Victims of Illegal Sterilisation*, 1 October 2015, available at: **http://www.romea.cz/en/news/czech/czech-government-rejects-bill-to-compensate-victims-of-illegal-sterilizations**.

48 Prime Minister of the Czech Republic, Reply to the Commissioner's letter, 7 October 2015, available at: **https://wcd.coe.int/ViewDoc.jsp?Ref=CommDH/GovRep%282015%2911&Language=lanEnglish**.

2.2 Sterilisations as Human Rights Violations

Involuntary sterilisations are nowadays considered a flagrant violation of human dignity, and of the physical and mental integrity of the human being.

Sterilisations lacking full and informed consent contradict a number of the provisions of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), including Article 10(h), which stipulates that State parties have an obligation to take "*all appropriate measures"* to ensure *"the health and well-being of families, including information and advice on family planning."* These practices also call seriously into question the State's compliance with Article 16 of the Convention which requires State parties to *"take all appropriate measures […] in all matters relating to marriage and family relations."* The Convention specifically requires that State parties ensure men and women "*the same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights."* Article 12 of the CEDAW Convention further stipulates that, *"State parties shall ensure to women appropriate services in connection with pregnancy, confinement, and the post-natal period."*[49]

General Recommendation 21 of the Committee on the Elimination of Discrimination against Women stresses the importance of access to information, specifically in the context of sterilisation.[50] Under General Recommendation 24 the Committee urges State parties to *"not permit forms of coercion, such as non-consensual sterilisation […] that violate women's rights to informed consent and dignity."* Finally General Recommendation 19 states that *"Compulsory sterilisation adversely affects women's physical and mental health […]."* In the communication No. 4/2004 of 12 February 2004, the Committee on the Elimination of Discrimination against Women made use of the CEDAW provisions in cases of coercive sterilisations in the case of A.S. v Hungary, concluding that Hungary violated Article 10 (h), 12 and Article 16, paragraph 1 (e) of the CEDAW.[51]

The Human Rights Committee (HRC) in its General Comment 28 on Equality of Rights between Men and Women addresses the prohibition of forced sterilisation at Article 7 of the *International Covenant on Civil and Political Rights*, prohibiting torture, cruel, inhuman or degrading treatment; Article 17, ensuring the right to privacy; and Article 24, mandating special protection for children.[52] The Committee Against Torture (CAT) has recommended that States take urgent measures to investigate promptly, impartially, thoroughly, and effectively all

49 UN Convention on the Elimination of All Forms of Discrimination Against Women, available at: **http://www.un.org/womenwatch/daw/cedaw/**.

50 In order to make an informed decision about safe and reliable contraceptive measures, women must have information about contraceptive measures and their use, and guaranteed access to sex education and family planning services, as provided in article 10 (h) of the Convention: *"Women are entitled to decide on the number and spacing of their children."* (Ibid.).

51 A.S. v Hungary, CEDAW/C/36/D/4/2004, 12 February 2004, revised on 14 August 2006, available at: **http://reproductiverights.org/sites/crr.civicactions.net/files/documents/ww_CEDAW_Hungary_2006.pdf**.

52 Human Rights Committee, International Covenant on Civil and Political Rights (CCPR), *General Comment No. 28: Equality of rights between men and women*, 29 March 2000, CCPR/C/21/Rev.1/Add.10, paras. 11 and 20.

allegations of involuntary sterilisation of women, prosecute and punish the perpetrators, and provide the victims with fair and adequate compensation.[53]

The Beijing Declaration of the Fourth World Conference on Women declares forced sterilisation an act of violence against women.[54] It reaffirms the right of women *"to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence."*[55] Reproductive health is defined as *"a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes"*.[56] The right to reproductive health includes: "*the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant."*[57]

A number of the UN and Council of Europe bodies sent the Czech government recommendations of urgent action to investigate the extent of involuntary sterilisation practice and to establish a compensation mechanism: the UN Committee on the Elimination of Discrimination against Women (CEDAW) in 2006, 2010, and 2016, the UN Committee on Elimination of Racial Discrimination (CERD) in 2007 and 2011, the UN Human Rights Committee in 2007 and 2013, the UN Human Rights Council under the Universal Periodic Review in 2008 and 2012, the European Commission against Racism and Intolerance (ECRI) in 2009, the Commissioner for Human Rights of the Council of Europe in 2010, the UN Committee against Torture (CAT) in 2012, and the UN Committee on the Rights of Persons with Disabilities (CRPD) in 2015.[58] The UN High Commissioner for Human Rights, Navanethem Pillay,[59] the UN OHCHR Chief of Americas, Europe and Central Asia Branch of Field Operation and Technical Cooperation Division, Gianni Magazzeni,[60] the Council of Europe Commissioner

53 UN Committee against Torture, *Concluding Observations*: Slovakia, para 14, U.N. Doc. CAT/C/SVK/CO/2(2009); Czech Republic, para 6(n), U.N. Doc.CAT/C/CR/32/2.

54 Fourth World Conference on Women, Beijing Declaration and Programme of Action, 4-15 September 1995, para 115.

55 *Ibid*., para 96.

56 *Ibid*., para 94.

57 *Ibid.*

58 The recommendations of the UN bodies to the Czech Government concerning involuntary sterilisation can be accessed here: **http://www.ohchr.org/EN/countries/ENACARegion/Pages/CZIndex.aspx**; the ECRI Report on the Czech Republic is available at: **http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Czech_Republic/CZE-CbC-IV-2009-030-ENG.pdf**; the report of the Human Rights Commissioner of the Council of Europe is available here: **http://www.coe.int/en/web/commissioner/country-report/czech-republic/-/asset_publisher/McxMQ9JIN8n9/content/report-on-visit-to-czech-republic-2010-?redirect=%2Fen%2Fweb%2Fcommissioner%2Fcountry-report%2Fczech-republic&inheritRedirect=true**.

59 Letter from the UN Human Rights Commissioner Navanethem Pillay to the Minister of Foreign Affairs of the Czech Republic, Mr Lubomír Zaorálek, 30 March, 2014.

60 Letter from the OHCHR Chief of Americas, Europe and Central Asia Branch of Field Operation and Technical Cooperation Division, Gianni Magazzeni to Jan Kára, Permanent Representative of the Czech Republic to the UN and other international organisations in Geneva, 18 November, 2015.

for Human Rights, Nils Muižnieks,[61] OSCE/ODIHR's Senior Adviser on Roma and Sinti Issues, Mirjam Karoly, and MEP Soraya Post,[62] have been also critically attentive to the issue and requested action towards a compensation scheme.

2.3 Individual Cases in Front of International Tribunals

Two cases of Romani women harmed by involuntary sterilisations from the Czech Republic had reached the European Court of Human Rights (ECtHR) as of 2015. The case *Ferenčíková v. the Czech Republic*[63] was closed with a friendly settlement between the applicant and the Czech Republic in August 2011. In 2005, the District court in Ostrava decided that the applicant was sterilised without voluntary consent and ordered the hospital to offer an official apology. The financial redress was however barred by the statute of limitation. The Supreme and the Constitutional Courts rejected the appeal for financial compensation. Consequently the applicant launched the ECtHR proceedings in response to which the government awarded her with 10,000 EUR in a friendly settlement.

The case *R.K. v. the Czech Republic*[64] also ended with a friendly settlement between the applicant and the Czech Republic in November 2012. The settlement followed four years of the case pending before the ECtHR and previous positive decisions of the District and Regional Courts which had established the rights violation and ordered financial compensation. The parties agreed to the financial award of 10,000 EUR. The government admitted this was an exceptional failure by the state and denied any systemic practice.

In Slovakia, three cases were decided by the ECtHR as of 2015. In the case of *V.C. v. Slovakia [2011]* the court unanimously found that V.C. had been the victim of coerced sterilisation in violation of Article 3 (prohibition of inhuman or degrading treatment) and Article 8 (right to respect for private and family life) of the European Convention on Human Rights. V.C. is a Romani woman who was sterilised in 2000 during a Caesarean section of her second child.[65] When already in an advanced stage of labour, healthcare personnel told her that a subsequent pregnancy would be risky for her or her third child. Scared that her next pregnancy would be fatal for her, V.C. signed the delivery record under a note indicating that she had requested sterilization. In finding a violation of Article 3, the court noted that sterilization amounts to

61 Council of Europe Commissioner for Human Rights, Letter to the Prime Minister of the Czech Republic concerning the bill on reparations for involuntary sterilisation of Roma women, 06 October 2015, available at: **https://wcd.coe.int/ViewDoc.jsp?Ref=CommDH%282015%2925&Language=lanEnglish**.

62 OSCE/ODIHR, Conference "Forced and Coercive Sterilization of Roma Women: Justice and Reparations for Victims in the Czech Republic, Prague, 1 June, 2016, press release available at: **http://www.romea.cz/en/news/world/osce-odihr-event-to-focus-on-justice-and-redress-to-roma-victims-of-forced-sterilization-in-the-czech-republic**.

63 European Court of Human Rights, *Ferenčíková v the Czech Republic* (Application no. 21826/10).

64 European Court of Human Rights, *R.K. v the Czech Republic* (Application no. 7883/08).

65 European Court of Human Rights, *V.C. v. Slovakia*, 8 February 2012, available at: **http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-107364#{%22itemid%22:[%22001-107364%22]}**.

a major interference with a person's reproductive health status and involves many aspects of personal integrity, including physical, psychological, emotional, spiritual, and family wellbeing. In finding a violation under Article 8, the court added that Slovakia failed to fulfil its obligation to respect V.C.'s private and family life by not ensuring that particular attention was paid to her reproductive health as a Roma woman. On the other hand, the court refused to separately examine the violation of Article 14 (rights and freedoms guaranteed to each individual without any discrimination) due to the lack of substantive evidence.

In the case of *N.B. v Slovakia [2012]* the ECtHR also unanimously found that N.B. had been sterilised without informed consent in contravention of Articles 8 and 13 (right to an effective remedy). Similarly to V.C., N.B. was also sterilised while undergoing a caesarean section at a public hospital. She was given a consent form to sign after the administration of tranquilising premedication. Moreover, although she was a minor at the time, the hospital did not obtain the consent of her legal guardians. N.B. did not learn of her sterilisation until several months after, because it was not noted in her release report from the hospital. Similarly to V.C.'s case, the court refused to examine separately the violation of rights under Articles 12 (right to marry) and 14 (prohibition of discrimination).[66]

The third case decided by the ECtHR is *I.G. and Others vs. Slovakia [2012]*. It concerned three Romani women — I.G., M.K. and R.H. who were sterilised in 2000, 1999 and 2002, respectively. In the hospital they were asked to sign a document, which they learned only a few years later during an investigation into their cases, was in fact a request form for sterilisation. In addition to not providing informed consent, both I.G. and M.K. were (similarly to N.B.) minors at the time, and the doctors sterilised them without the consent of their legal guardians. R.H. died during the legal process, so her case was dismissed from the ECtHR. I.G. and M.K. have been redressed for violation of their rights under Articles 3 and 8.[67] It is disappointing that the Court has, for the third time, refused to consider the discriminative character of forced sterilisations of Romani women. In spite of the fact that in the V.C.´s case the judge Mijovic tried to highlight the fact that there are many similar cases pending before Court, he failed to convince the Court to take into consideration the discriminatory nature of these practices. The Court decided that in view of the documents available, it could not be established that the doctors involved acted in bad faith, that the applicants' sterilisations were a part of an organised policy, or that the hospital staff's conduct was intentionally racially motivated. At the same time, the Court insisted that shortcomings in legislation and practice relating to sterilisations were liable to particularly affect members of the Roma community, so their discrimination in these cases would be only indirect and unintentional.[68]

66 European Court of Human Rights, *Case of N.B. v. Slovakia*, 12 September 2012, available at: **http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-111427**.

67 European Court of Human Rights, *Case of I.G. and Others v. Slovakia*, 29 April 2013, available at: **http://hudoc.echr.coe.int/sites/fra/pages/search.aspx?i=001-114514#{%22itemid%22:[%22001-114514%22]}**.

68 On 19 February, 2016, the District Court in Košice awarded a Romani woman, sterilised without her informed consent after giving birth to her second child back in 1999, 17.000 EUR compensation. The decision was not final as the hospital has appealed. See more at: **http://www.errc.org/…/joint-submission-to-un-crc-on-sl…/4472**.

In Hungary, the case of A.S. was taken to the Committee on the Elimination of Discrimination against Women.[69] In 2001, A.S., the mother of three children, was taken to hospital in order to give birth. Doctors found out that the baby died and performed a Caesarean section to remove it. Along with the Caesarean section, A.S signed the hand-written request for sterilisation. She didn´t know what she was signing, because when she was leaving the hospital, she asked when she would be able to conceive again. The Committee stipulated that in the case of A.S. Articles 10, 12, and 16 of the CEDAW were violated and the Hungarian government had to give her financial compensation.[70]

In December 2015, the ERRC and the League of Human Rights has submitted a third-party intervention in a new involuntary sterilisation case communicated by the European Court of Human Rights.[71] Moreover, we have also submitted a joint individual complaint on behalf of six affected Romani women to the UN CEDAW in February 2016.[72]

69 Committee on the Elimination of All Forms of Discrimination against Women (CEDAW), *A.S. v Hungary, CEDAW/C/36/D/4/2004*, 12 February 2004, available at: **http://www2.ohchr.org/english/law/docs/Case4_2004.pdf**.

70 According to Article 10 (h) of the Convention: States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women: (...) (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning. Article 12 reads: 1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health-care services, including those related to family planning. 2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connexion with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation. Article 16, paragraph 1 (e) states: States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women: (...) (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights.

71 ERRC, LHR, *Maděrová v Czech Republic, third-party intervention*, 8 December 2015, available at: **http://www.errc.org/article/mad%C4%95rova-v-czech-republic-third-party-intervention-pending/4436**.

72 Romea.cz, *Czech Government Should Stop Gambling with the Country's Reputation – the Fight for Forced Sterilisation is not over*, 4 November 2015, available at: **http://www.romea.cz/en/features-and-commentary/analyses/marek-szilvasi-czech-government-should-stop-gambling-with-the-country-s-reputation-the-fight-for-compensation-for-forced**.

3 Sterilisation Law and Policies in the Czech Republic

In 1972 the sterilisation procedure received a specific legal recognition with the adoption of a new Directive to the Act on Health (1966) enabling sterilisation on healthy organs after the fulfilment of specific conditions.[73] Although it was not explicitly mentioned in the regulation, about the same time municipalities started providing those who had undergone sterilisation with a single social benefit of 900 Kčs (Czechoslovak crowns). In specific cases the benefit payment could have been raised up to 5000 Kčs.[74] The connection of the benefit to sterilisation was not initially stated in any legal provision, but it was instructed by an internal guideline of the Ministry of Labour and Social Affairs.[75] In the guidelines, social workers were advised to stress health and genetic aspects of the "voluntary sterilisation", which was supposed to take place in the best interest of the citizen and her/his family.[76] The single benefit payment offered for undergoing sterilisation was legislated in 1988 by a specific decree.

3.1 The 1971 Sterilisation Directive

The 1971 Sterilisation Directive, which came in force on January 1, 1972, contained guidelines governing the sterilisation in medical practice and was valid until the new law came into effect in 2011. The Directive permitted sterilisation in a medical institution either at the request of the person concerned, or with that person's consent (Article 2). The Directive stated that sterilisation is allowed if their reproductive organs have been affected by disease (Article 2(a)). In the case of healthy organs, sterilisation could be performed only if the future pregnancy/birth would endanger the life or heavily damage the health of a mother or a child and if the health condition of the woman would endanger healthy mental and physical development of the child;[77] and if the woman permanently meets the

73 Ministry of Health, *Directive on Sterilisation No. 01/1972.*

74 "Concerning the rarely used possibility of sterilization, health workers say that the reason is the low financial benefit for paying costs connected with hospitalization after sterilization. Even a backward Gypsy woman is able to calculate that, from an economic point of view, it is more advantageous for her to give birth every year because she gets significantly more financial resources from the state for the fifth and later descendants... for each child, she can get more than the benefit of sterilization. [...] Therefore, health workers recommend increasing the grant for sterilization to 5,000 Crowns." See: Material Designated for the Deliberation of the Governmental Commission of the Slovak Socialist Republic for Questions of Gypsy inhabitants" ("Material určený na rokovanie Komisie Vlády SSR pre otázky ciganských obyvateľov,") number SKC-6406/77, available at: **https://www.hrw.org/reports/pdfs/c/czechrep/czech.928/czech928full.pdf**.

75 This information was retrieved from the materials sent to Ombudsperson´s office from the Ministry of Labour and Social Affairs (Report of Ministry of work and social affairs on sterilisations of Romani women), available in the ERRC upon request.

76 This information was retrieved from the materials sent to Ombudsperson´s office from the Ministry of Labour and Social Affairs (Report of Ministry of work and social affairs on sterilisations of Romani women), available in the ERRC upon request.

77 Conditions under Section 2b and 2c applied also to men if they were unwilling or unable to undergo the surgery.

conditions for abortion (Article 2 (b)).[78] However, even if the medical indications were met, there are additional conditions regardless of the type of medical indication:

1. Request or consent of the woman who is supposed to undergo the sterilisation - based on free will, except for the women who are under guardianship or under-age, in this case their consent should be replaced by the guardian´s consent (Article 6)
2. Approval of sterilisation commission[79] and indication of the objective medical reason[80] to perform sterilisation was needed, as the commission dealt with the matter only if the gonads were healthy (Article 5(b))
3. Consent of the person to the surgery - patient needed to be given precise and full information about the nature and consequences of the procedure (Article 11).

All the above-mentioned steps needed to be documented in writing and added to medical documentation (Article 11). If some condition was not able to be met, surgery could not be performed. When it came into force in 1972, doctors and lawyers reacted to the new Sterilisation Directive with objections as they considered it excessively restrictive. Several amendments were therefore proposed in a short time period. The main critique was that the Directive does not adequately specify the conditions for sterilisation. Several authors claimed that the procedural difficulty to undergo sterilisation stipulated in the 1972 Sterilisation Directive meant that women would not consider it as a contraceptive measure anymore and thus these legal constrains would violate women's right to freely decide on the number and spacing of their children.[81]

3.2 The 1988 Sterilisation Incentive Decree

In 1988, a new Decree amended the Social Security Act, which stipulated the compensation schemes for sterilisation and was valid until its abolition in 1991.[82] The Decree stated that a sterilised woman has the right to receive a single social benefit within the year after undergoing the procedure initiated in order to preserve the healthy population. This benefit was to support families to overcome their unfavourable material situation. This single benefit could

78 These conditions were annexed to the amendment of the Sterilisation Directive.

79 The Sterilisation Commission consisted of the director of the hospital, senior staff from gynaecological or surgical department, and expert for the respective indication or contra-indication (Article 5(1b)). In case of genetic conditions, stand of the national genetic commission was needed (Article 5(2)).

80 The list of medical reasons included mental illnesses, gynaecological reasons (e. g. Caesarean section, repeating complications during pregnancy/birth/childbed; 4 children up to the age of 35, 3 children after the age of 35) and genetic reasons.

81 Kučera, E. 2001. "Sterilizace ženy a muže - indikace, technika, komplikace." [Female and male sterilisation - indication, technique, complications.] *Moderní gynekologie a porodnictví* 10(2): pp. 173-177; Stolínová, J. 2004. "Právní aspekty antikoncepce, sterilizace a interrupce." [Legal aspects of contraception, sterilisation and interruption.] *Moderní babictví* 4(2): pp. 39-44; Veselská, R. 2010. "Reprodukční medicína." [Reproductive medicine.] pp. 27-34 in *Kapitoly z lékařské etiky* [Chapters from medical ethics.] ed. by J. Kuře. Brno: Masaryk University.

82 Ministry of Health and Social Affairs, *Decree no. 152 of Ministry of Health and Social Affairs of Czech socialist Republic that executes the Act on Social Security*] dated September 8, 1988 [*Vyhláška č. 152 Ministerstva zdravotnictví a sociálních věcí České socialistické republiky, kterou se provádí zákon o sociálním zabezpečení*].

be either material household equipment coupons to purchase a washing machine or furniture (worth up to 5,000 Kčs), or a monetary contribution (up to 10,000 Kčs). With the Decree, the Czechoslovak government explicitly declared the eugenic intent behind the Sterilisations Decree as it was clear that they have interest in regulating reproduction strategies of certain populations. Although Roma were not defined as a target group in ethnic terms, they were targeted through the proxy of their socio-economic situation as the Decree provided for incentives specifically for women from poor families.

3.3 The 2011 Act on Specific Medical Services

The Act on Specific Medical Services[83] adopted in 2011 significantly changed the practice of sterilisation in the Czech Republic. This Act stipulates sterilisation procedures and safeguards: in case of sterilisation for health-related reasons, the written consent is needed, the person needs to be at least 18 years old and s/he needs to be eligible for legal acts (Article 13 (1)). If the person does not meet these basic three criteria, then the written consent of the legal guardian is needed along with the approval of the court and special commission (Article 13 (2). The hospital personnel have to provide detailed information about the nature and consequences of the procedure in front of a witness, who is medical staff. All people involved are requested to sign the record of this information delivery. There needs to be at least seven days between the information handover meeting and the procedure (Article 15 (1)).

In case of sterilisation for health-unrelated reasons, the person needs to be at least 21 years old, request the sterilisation in writing and the time between the information and the procedure needs to be at least 14 days (Article 14). The new law thus allows sterilisation for purely contraceptive reasons and includes legal safeguards that the person is sufficiently informed on the nature of the procedure and, therefore, it limits the occurrence of (non-consensual) involuntary sterilisations to take place nowadays. Finally, conversely to previous law, the Act also forbids performance of sterilisations in prisons (Article 16).

83 Government of the Czech Republic, *Act no. 373/2011 on Specific Medical Services* [Zákon o specifických zdravotních službách č. 373/2011 Sb], available at: **https://www.zakonyprolidi.cz/cs/2011-373**.

4 Societal and Institutional Context in the Czechoslovak Federative Republic

In order to understand the broader societal and institutional context of the sterilisations, we conducted the research in the archives of the Museum of Romani Culture in Brno.[84] The reviewed documents contained mostly the reports from the meetings of the Commission of the Government of the Czech Socialist Republic for the Gypsy Population Issues (*Komise vlády České socialistické republiky pro otázky cikánského obyvatelstva,* hereinafter 'the Commission').

The Commission had been established in 1970 by the government and was meeting 3 to 4 times a year. It consisted of the representatives of Ministries of Health, Labour and Social Affairs, and Education, and representatives of other bodies - the Union of the Gypsies-Roma (*'Svaz Cikánů-Romů'*), the Czech Union of Women (*'Český svaz žen'*), the Czech brand of the Red Cross (*'Český červený kříž'*) and the Socialist Union of the Youth (*'Socialistický svaz mládeže'*). The Commission's mandate was to request ministries and other public authorities to prepare reports on relevant aspects of Romani people's lives that were subsequently presented to the government.

The available archive records in the Museum end in 1984 and it is for this reason that we are not able to adequately assess broader societal context preceding the Sterilisation Incentive Regulation from 1988. We studied all the available documents with the specific focus on records related to Roma's reproduction and health issues, even though the other aspects of co-existence of the Roma and non-Roma people will be also briefly described.

Kučera (2008) pointed out that the policies in the Czech-Slovak Federal Republic in the 1970s were dominated by pro-population and procreation measures. These support measures were however focused exclusively on families in which the government could expect that their children would be raised healthy and their development would not be blocked with any material deprivation.[85] According to the analysed documents, on the national level, the situation of Roma and their reproductive strategies in particular were not considered to be a systematic issue to which the central government should develop appropriate measures. Nevertheless, in the reports of local and regional authorities, 'the Gypsy way of life' represented a problem to be urgently addressed. For example, the report on the town of Přerov from 1977 stated: "High fertility rate of the poor quality population living in dysfunctional families is nowadays well-regulated through the interest of these citizens to undergo the procedure [sterilisation]."[86] The regional reports tend to embrace a harsher and more hostile rhetoric than the one produced by the central government.

According to the available documents, Czech authorities, regardless whether on a national, regional, or local level, aspired to capture Roma in clear-cut categories. Hence, in 1965 the

84 Archive of the Museum of Romani Culture, **www.rommuz.cz**, the documents under file 243/2004.

85 Kučera, M. 2008. "Padesát let hodnocení populačního vývoje České republiky." [Fifty years of the Czech Republic´s population development.], in: *Demografie* 50(4): 230-239.

86 Report from the 21st meeting of the Commission of the Czech-Slovak Socialistic Government for the Gypsy population issues from 16-17 June 1977, p. 3.

Ministers of Justice and Interior together with the General Prosecutor developed four categories of Roma people corresponding with the level of their integration:

1. Those fully integrated, qualified, living in their own houses, regularly sending children to school; they are just one step away from full integration with the majority.
2. Those trying to gain some work experience, but lacking in qualifications
3. Those living according to a typically Gypsy way of life
4. Those who escaped the Romani environment - very small and weak group[87]

The Commission developed special procedures in order to get closer to Roma families.[88] The four groups of Roma were targeted with different degrees of intervention in their health and family situation.

When the Commission examined family life, they stressed the need to educate Romani women about sanitation in general and the methods of contraception and ways of running the household in particular. In this respect, short-term re-education camps for young Romani women were proposed and later, when the proposal was implemented, evaluated by the Commission as successful practice. The Committee did not approve any national report proposing a contraception awareness campaign for Romani women in the Czech Republic, only some local reports mentioned contraception in the context of parental planning. In 1972, one section of the meeting was devoted to the means to be used to introduce conscious parenthood planning among Romani families.[89] One of the proposed measures was to provide Romani women with free contraception, but as it will be demonstrated later, free contraception was not available to the majority of the interviewed Romani women.

A local report from the town of Český Krumlov from 1984 communicated that the Romani women became more interested in sterilisations and therefore social workers were closely cooperating with the doctors in order to allow the women to undergo the procedure.[90] The reason for the increased interest in sterilisation stated in this report is that:

> "…the Gypsy women try to solve their difficult position in the family, where they have too many children, often with disabilities and the men are not very helpful in this regard."[91]

87 Report of Minister of Justice, Minister of Interior and General Prosecutor on the analysis of the effectivness of the Act no. 74/1958 on the permanent settling of nomadic people [*Zpráva ministra spravedlnosti, ministra vnitra a gen. prokurátora o rozboru účinnosti zákona č. 74/1958 Sb. o trvalém usídlení kočujících osob*].

88 For example the Rules for the health-related education for the Roma population approved during the 12th and 18th meetings of the Commission.

89 Report from the Seventh meeting of the Commission of the Czech-Slovak Socialistic Government for the Gypsy population issues from 1 December 1972 [*Zápis ze 7. jednání Komise vlády České socialistické republiky pro otázky cikánského obyvatelstva, 1. 12. 1972*].

90 Report of the District Committee in Český Krumlov for the 41st meeting of the Commission of the Czech-Slovak Socialistic Government for the Gypsy population issues from June 21-22, 1984 *[Zpráva okresního národního výboru v Českém Krumlově. 41. jednání Komise vlády České socialistické republiky pro otázky cik. obyvatelstva, 21. -22. 6. 1984]*.

91 *Ibid*., p. 21.

The authors of the report at the same time complained that the Sterilisation Regulation is procedurally too strict and makes it difficult for women to undergo the procedure. In a report from the town of Přerov from 1977, the possibility of allocation of social benefits and household equipment is mentioned as the reason for Romani women agreeing to undergo sterilisation.[92] Furthermore, a report from the South Bohemian region from 1984 noted that more and more Romani women are undergoing interruptions or, after the guidance of medical workers, use contraception (often without the knowledge of their husbands).[93] Sterilisation is thus in these documents contextualised as a policy empowering Romani women to take control over their reproductive rights.

Another important document reporting on the state concerns over the (Romani) family planning was the Commission's Report on social and psychological consequences of families with five or more children. In this report the Commission requested the Ministry of Health to raise awareness about health education in families with more children, especially in terms of methods of contraception and voluntary sterilisations for health reasons. The report also stated:

> "It can be expected that the numbers of families with five or more children will be decreasing also in Romani families. However, the permanent education to conscious parenthood is necessary, just as much as certain support aiming to limit the births of children in dysfunctional families."[94]

The report does not specify which authority decides on defining families as dysfunctional nor what the 'support' in order to not give birth would entail. Although we can assume that not all Romani families were considered principally dysfunctional, the report refers to all families with five or more children as such.

4.1 State Response to Public Criticism for Coercive Sterilisation of Romani Women

For the first time public criticism of the state policy of involuntary sterilisation of Romani women in Czechoslovakia was voiced by activists and signatories of Charter 77.[95] Their

92 Report from the 21st meeting of the Commission of the Czech-Slovak Socialistic Government for the Gypsy population issues from 16-17 June 1977 [21. zasedání Komise vlády České socialistické republiky pro otázky cik. obyvatelstva v dnech 16.-17.6. 1977. Podkladová zpráva pro jednání Komise vlády ČSR pro řešení otázky cik. obyvatelstva za období 1974-1976], p. 8.

93 Report for the Commission on the current stage of processing the Gypsy issues in South Bohemia region with a specific focus on the care for young generation [*Zpráva o současném stavu řešení otázek cik. obyvatelstva v Jihočeském kraji se zaměřením na péči o mladou generaci. 41. jednání Komise vlády České socialistické republiky pro otázky cik. obyvatelstva, 21. -22. 6.1984*].

94 Report on social and psychological consequences of families with five and more children presented during the 21st meeting of the Committee in March 25, 1977 [*Sociální a psychologické důsledky rodin s 5 a více dětmi. 21. jednání Komise vlády České socialistické republiky pro otázky cik. obyvatelstva, 25.3.1977*].

95 Charter 77 (Charta 77) was an informal civic initiative of individual opponents of the Socialist regime, who signed the document of the same name. The Charta 77 described the violations of human rights by the government. The signatories got into conflict with the communist leadership and were labelled regime enemies, for more information see: **http://www.freedomcollection.org/artifacts/c/charter_77/**.

report "The Situation of the Gypsies Roma in Czechoslovakia" issued in 1978 claimed that the sterilisation of Romani women is a "planned administrative policy" and that "at internal meetings the success of social workers is assessed by the number of Romani women whom they have convinced to undergo the sterilisation.[96] The report was followed by field research conducted by two members of the Charter 77, Zbyněk Andrš and Ruben Pellar, in 1989.[97] They concluded that hundreds of sterilised Romani women in Czechoslovakia had undergone the procedure in breach of the 1971 Sterilisation Directive and nobody was held responsible for this violation of the law. They also emphasised that women had been persuaded to undergo sterilisation by a single benefit payment that was at a time three times the average salary. This information received high interest among international human rights bodies of the "Western liberal world" and the Czechoslovak government was urged to explain and justify the high occurrence of sterilisations among Romani women.

Despite the fact that the documents of the Charter 77 gained wide attention abroad, they remained largely unnoticed by the Commission of the Government of the Czech Socialist Republic for Roma Population Issues. Only in 1990 the Minister of Labour and Social Affairs presented to the Commission a Report on Sterilisations of Romani Women in Czechoslovakia and the stance towards them was rather defensive.[98] The authors of the Minister's report emphasised that all sterilisations were practiced voluntarily; the reported cases of alleged involuntary surgeries were investigated by the prosecutor's office and the investigation did not conclude any violations of the law.[99] The report further pointed out that sterilisation has important social and health-related functions and it is available to all groups of the population equally. In this regard, the report emphasised that the Sterilisation Regulation was not targeting Romani population, but the higher occurrence of the sterilisation among Romani women was caused by the fact that they tend to have larger families than non-Roma. The Minister's report concluded that the documents of the Charter 77 concerning high sterilisation rates among Romani women misunderstood the sterilisation regulations which consider the number of children as a health complication. The policy offering social benefits for contraceptive sterilisation aimed to help responsible large families overcome difficult times.[100] In order to avoid such misunderstanding, the report suggested annulling the benefit payment.

96 The Situation of Gypsies/Roma in Czechoslovakia [Situace Cikánů-Romů v Československu]. This document was designated as document no. 23 of the Charter 77 and it is available upon request in the Museum of Romani culture.

97 Pellar, R., Z. Andrš. 1989. *Report on the Examination in the Problematics of Sexual Sterilization of Romanies in Czechoslovakia.* The results of this research were published by the Lau Mazeril Foundation in Amsterdam in June, 1990, "Het Afkopen van Vruchtbaarheid: Een onderzoek naar sterilisatiepraktijec ten aanzien van Romavrouwen in Tsejchoslowakije, uitgevoerd door Paul Ofner en Bert de Rooij in opdracht van de Verenging Lau Mazeril en de Stichting Informatie over Charta 77.

98 Mikloško, J.; P. Miller, 1990. *Informace pro vládu České a Slovenské Federativní Republiky. Sterilizace romských žen.* [Information for the government of Czech and Slovak Federal Republic: Sterilisation of Romani women] (unpublished).

99 *Ibid.*

100 *Ibid.*

In 1992, a Human Rights Watch report on the situation of Roma in Czechoslovakia also criticised the practice of involuntary sterilisations.[101] The report pointed out that Romani women were sterilised under pressure from social workers or without consent during their Caesarean sections or abortion. Investigation into the performance of coercive sterilisations in Czechoslovakia took place on the behest of the Government's Committee for Human Rights, which notified Czech and Slovak prosecutors, but the police eventually found the practice of sterilisation in accordance with law.[102] However, the Human Rights Watch emphasised that in response to a growing critique since early 1990 a lawyer had to be present at the meetings of Sterilisation Commissions.[103]

In 2002-2004, the ERRC documented cases of involuntary sterilisation of Romani women that were performed in public hospitals in the Czech Republic, Slovakia and Hungary.[104] The cases revealed serious human rights violations such as: (1) lack of consent in either oral or written form prior to the intervention; (2) consent was sought during delivery or shortly before delivery, during advanced stages of labour in circumstances where the mother was in great pain or intense stress; (3) consent was given in error with respect to the intervention, its effects, or upon the provision of manipulative information on sterilisation; and lastly (4) consent was given under duress or pressure from public authorities for women to undergo sterilisation under the threat of withholding social benefits or under the promise of financial awards.[105] This research also showed that the practice of involuntary sterilisation of Romani women continued after 1989, despite the new safeguards for individual human rights set forth in the Constitution and the new international human rights commitments undertaken by the Czech Republic.

The Czech Public Defender of Rights (Ombudsperson) launched its own investigation and in 2005 published a report on the practice of sterilisation of Romani women pre- and post-1989. This report included preliminary data on the scope of the problem and recommendations on how to address the issue and compensate victims of coercive sterilisation.[106] The report documented and filed the criminal complaints to the General Prosecutor in 50 cases of unlawful sterilisations (out of 87 requests which came to the Ombudsman).[107] All of these cases were dismissed for procedural reasons (doctors complied with objective indication, signed consent form, lost documentation, etc.) or statute of limitation (victims could claim compensation only within a three year period since they acknowledged the act). The Ombudsperson's report

101 Human Rights Watch, 1992. *Struggling for Ethnic Identity. Czechoslovakia´s Endangered Gypsies.* Washington: Helsinki Watch, available at: **https://www.hrw.org/reports/pdfs/c/czechrep/czech.928/czech928full.pdf**.

102 *Ibid*, p. 31.

103 *Ibid*, p. 31.

104 European Roma Rights Centre, 2006, *Ambulance Not on the Way: The Disgrace of Health Care for Roma in Europe*, Budapest, pp. 44-49. See also: Claude Cahn 2014, *Human Rights, State Sovereignty and Medical Ethics: Examining Struggles Around Coercive Sterilisation of Romani Women*, Brill-Nijhof.

105 European Roma Rights Centre, *Ambulance Not on the Way. The Disgrace of Health Care for Roma in Europe*, 2006, p. 47.

106 Public Defender of Rights, *Final Statement of the Public Defender of Rights in the Matter of Sterilizations Performed in Contravention of the Law and Proposed Remedial Measures*, Brno 2005.

107 *Ibid*. Between 2005 and 2010, 101 sterilised women requested the Ombudsman office to launch investigation in the unlawful nature of their sterilisation act.

concluded that the state policy and practice of involuntary sterilisation up to 1991, was directly motivated by eugenics.[108]

The Ombudsperson's first step was to request the Ministry of Health to assume responsibility and establish a commission which would investigate cases of sterilisations of Romani women. However, when it turned out that the Ministry approached the problem merely as an administrative and procedural failure to obtain consent for the surgery, the Ombudsperson launched their own investigation employing a human rights perspective.[109] The Ombudsperson's office conducted a legal analysis of each case that was submitted to them and found total absence of, or essential flaws in, obtaining a free and informed consent in all 87 cases. Based on these analyses, the Ombudsperson published a report in 2005 that included a set of recommendations to the government urging them to specify the procedure for obtaining free, informed and qualified consent in the law (Act on Specific Medical Services) and to redress the women involuntarily sterilised between 1973 and 1991 as, according to the report's findings, a direct state involvement in sterilisation of Romani women was traceable through the connection of sterilisation with a social benefit enlisted in the 1971 Sterilisation Directive.[110]

The report also concluded that the Ministry of Health did not exert adequate control and that in almost all investigated cases the women were either not provided with true or complete information on the nature of the procedure, or they were not given sufficient time to think their decision through or were forced/enticed to undergo the procedure. The state has thus violated the human rights of the sterilised women, namely the right to be protected from torture and inhuman treatment, the right to privacy and family life and the right to make decisions on one´s own body.[111] In addition to this, the report concluded that there was a violation of the right to equal treatment and non-discrimination on the basis of gender and ethnicity as the involuntary sterilisation was practiced mainly on Romani women.

The Healthcare Act adopted in 2004, which entered into force in 2005, repealed some older regulations on sterilisations. In November 2011, a new Act on Specific Medical Services was adopted and came into force in April 2012, which re-defined the provision on sterilisation.[112] It contains stricter control mechanisms and these changes could be seen as reflection on inadequacies of former mechanisms, which did not require consulting and documenting the procedures. The Act incorporates some of the provisions from the International Federation

108 Public Defender of Rights, *Final Statement of the Public Defender of Rights in the Matter of Sterilizations Performed in Contravention of the Law and Proposed Remedial Measures,* pp. 68-72.

109 *Ibid*., pp. 3-6.

110 *Ibid*., pp. 73-77.

111 Articles 3 and 8 of the European Human Rights Convention. Making decisions about your own body is not stated as a basic human right, but the current practice within medical institutions stresses the need to see the patient as a partner and independent subject, not just a mere object of medical interventions.

112 Government of the Czech Republic, *Act on Specific Health Services*, November 6, 2011, available at: **https://www.zakonyprolidi.cz/cs/2011-373**.

of Gynaecology and Obstetrics (FIGO) Guidelines;[113] and puts in place more robust safeguards in regards to legally incapacitated people and minors. It also forbids sterilisations performed in prisons, and sterilisations performed on people with mental disability for anything other than medical reasons. Regarding the sterilisation of minors and legally incapable people, additional decisions of the expert commission and the court are required. In Part 2, the law defines sterilisation procedure and includes instructions for medical personnel on how to consult with patients on its consequences; risks and the nature of sterilisation including how to acquire informed consent from the patient. An independent witness (medical person) is now required to attend the consultation with the patient and one more witness can be present on the request of the patient as well. The minutes from the consultation, signed by all participants, are archived in personal medical files. There should be a period of seven days' delay for medical indication and 14 days for other reasons between the consultation and the surgery.

There are, however, prevailing shortcomings with provisions relating to the informed consent necessary for a sterilisation to be undertaken. The Act does not define the concepts of informed consent and informed choices. It also does not oblige the medical personnel to inform the patient that sterilisation is only one of many methods of contraception. In this regard, the law omits reference to when it is appropriate for doctors to initiate a discussion on sterilization with patients. It equally does not contain provisions not to raise the possibility of undergoing sterilisations, if patients are in a vulnerable state, such as during the labour or when emotionally unstable.

Section 12 of the Act defines sterilisation and describes the medical and other situations under which it can be performed.[114] However, not once does it indicates that sterilisation is never a solution to a medical emergency nor a life-saving intervention.[115] Arguments of medical necessity were used by medical personnel to either pressure Romani women to agree with the procedure, or it served as the retrospective justification for "emergency sterilisations" performed entirely without the patient's consent.

Although the Act prescribes the period between the consultation and the performance of the sterilisation (Section 15(1)), Section 15(2) oddly allows starting performing sterilisation immediately after signing the consent form. This provision raises further concerns regarding the performance of sterilisations on women in vulnerable states and under the pretext of medical emergencies, for example during Caesarean sections when many Romani women have reported to be pressured to sign the consent form.

113 FIGO, *Guidelines for Female Contraceptive Sterilisation*, available at: **http://www.womenenabled.org/pdfs/International_Federation_of_Gynecology_and_Obstetricts_Sterilization_Guidelines_FIGO_2011.pdf?attredirects=0**.

114 Government of the Czech Republic, *Act on Specific Health Services,* Section 12.

115 See the ECtHR case V.C. v. Slovakia, November 2011, para. 110, or the *FIGO Guidelines for Female Contraceptive Sterilisation.*

4.2 Avenues for Redress of the Affected Women

Significant barriers to access to justice persist for the victims of coercive sterilisation in the Czech Republic. The primary challenge is that the three-year statute of limitation, dating from the moment of acknowledging the sterilisation occurred, prevents the majority of victims from bringing civil claims for damages nowadays. Many women were sterilised during the Communism when it was practically infeasible for citizens to sue the state.

To date there have been three court cases in which Romani women who suffered involuntary sterilisations received financial compensation. Two cases were decided by the European Court of Human Rights[116] and one case was decided by a domestic court.[117] These cases, however, are exceptions to the rule that either the statute of limitations or inadequate amounts of awarded compensation constitute a substantive barrier to getting efficient redress for involuntary sterilisation. They also confirm that obtaining compensation for involuntary sterilisation is not a straightforward procedure by which women can obtain redress for the violations they have suffered.

Up until 2013 the Czech Civil Code differentiated between the claims for so-called material and immaterial damages. The statute of limitations applied to claims for material damages only, which sought financial or other material compensation. In theory, it was possible for the victims of involuntary sterilisation to seek an official apology from the state through the Courts outside of the statute time-frame. However, a decision by the Supreme Court in 2008 established that whenever a financial compensation is sought for immaterial damages, the status of limitations should apply.[118] Moreover, a new Civil Code,[119] which came into force in January 2014, abolished this distinction applying the statute of limitation to all claims for damages, thus even a claim against the state to recognise the injustice is bound by the statute of limitations.

Furthermore, the Act on Equal Treatment and on Legal Means of Protection against Discrimination (the Anti-discrimination Act)[120], which came in force in September 2009 does not

116 ECtHR, *V.C. v. Slovakia*, para. 110.

117 In June 2012, the Czech Constitutional Court rejected an appeal for a greater level of compensation for a woman who was sterilised without her consent following a delivery by a Caesarean section. Revising the District Court's decision, the Supreme Court upheld the award of financial compensation, of 150,000 CZK. The inadequacy of the compensation was argued by the compensation given that she cannot bear any more children and her husband had divorced her. She sought compensation of 1 million CZK (approximately EUR 40,000) however; the Constitutional Court ruled that the previous lower courts' decision on the amount of compensation did not violate the woman's fundamental rights. See: League of Human Rights, *Constitutional court rejected the claim of a sterilized woman who sought higher financial compensation,* available at (in Czech): **http://llp.cz/2012/06/us-odmitl-stiznost-zeny-jez-chtela-vyssi-nahradu-za-sterilizaci/**.

118 Supreme Court Judgment no. 31 Cdo 3161/2008 from 12 November 2008.

119 Government of the Czech Republic, *New Civil Code of the Czech Republic*, available at: **http://obcanskyzakonik.justice.cz/**.

120 Parliament of the Czech Republic, Antidiscrimination Act 198/2009 of 17 June 2009, available at: **http://www.ochrance.cz/fileadmin/user_upload/DISKRIMINACE/pravni_predpisy/Antidiskriminacni_zakon.pdf**.

allow for *actio popularis*, which would have permitted lodging complaints with higher numbers of victims or with unknown victims of involuntary sterilisation.[121]

The current legal system has denied justice and the right to seek compensation through domestic civil remedies to the majority of victims of involuntary sterilisation. The ERRC and the LHR remain concerned that the Czech state is not being held to account for their past systemic human rights violations against Romani women.

4.3 Development of a Compensatory Mechanism

In November 2009, Czech authorities acknowledged individual failures of medical personnel and expressed regret for forced or coerced sterilisations.[122] The Prime Minister Fischer expressed regret about the involuntary sterilisations practiced by individual doctors and hospitals, but refused to acknowledge that this was a state-supported systematic practice.[123]

Shortly after the official acknowledgement of individual failures of hospital personnel, a former Minister of Health, Tomáš Julínek, wrote an article in which he stated that the government should not have apologised to Romani women only as the practice was not racially motivated but it applied to all women sterilised under the paternalistic socialistic ("Bolshevik") state system which did not respect individual rights.[124] In other words, according to this liberal politician (Julínek was a member of the liberal party Občanská demokratická strana (ODS)), it was not anti-Roma discrimination, but a coercive socialistic policy which required the current government to resolutely distance itself from.

In 2009 and 2012, the Czech Government's Human Rights Council passed resolutions recommending that the Czech Government should introduce a mechanism for adequate financial redress of victims of involuntary sterilisation.[125] The Council advised establishing a systematic and transparent compensation mechanism for women subjected to involuntary sterilisations. In this regard, the resolutions suggested creating a compensation committee that would review cases of sterilisation and propose appropriate remedies.[126] The Council estimated a minimum of 50 cases

121 European Roma Rights Centre, *Czech Republic: Country Profile 2011-2012*, p. 12. The Czech Civil Procedure Code provides for the entitlement of associations to engage in judicial proceedings.

122 The Government of the Czech Republic, *Resolution of the Government of the Czech Republic 1424,* 23 November, 2009, available at: **http://racek.vlada.cz/usneseni/usneseni_webtest.nsf/0/6430E40ED2EFF39AC1257674004347C2/$FILE/1424%20uv091123.1424.pdf**.

123 See Czech Radio: **http://www.rozhlas.cz/zpravy/politika/_zprava/661506**.

124 Tomáš Julínek, "Apology to Romani women only?", *Právo daily*, 25 November, 2009, available at: **http://virtually.cz/archiv.php/banner//banner/art_download.php?art=19766**.

125 Human Rights Council, *Recommendation related to the sterilization of women executed in the Czech Republic in breach with the law*, 2012, available at (in Czech): **http://www.vlada.cz/cz/ppov/rlp/cinnost-rady/zasedani-rady/zasedani-rady-dne-17--unora-2012-98737/**.

126 More details can be found in an ERRC/partners letter of concern, *NGOs Welcome Czech Republic Recommendation on Forced Sterilisation*, available at: **http://www.errc.org/article/ngos-welcome-czech-republic-recommendation-on-forced-sterilisations/3971**.

(the cases previously documented by the Czech Ombudsman), and as many as thousands (an estimate based on the Swedish experience) of women could be entitled to compensation.

The Council's recommendation proposed compensation of between 300,000 to 400,000 CZK (approximately 10,000 EUR) depending on the degree of harm caused and the degree to which existing regulations were violated. The Council's recommendations also included the provision of free legal assistance for sterilised women as well as the preservation of medical documents on sterilisation as the law allowed hospitals to dispose of documents after 40 years. This already has significant consequences for women sterilised in the early 1970s.

Under the Council's compensation proposal, only women subjected to involuntary sterilisation between 1972 and 1991 would have been directly eligible for compensation. The proposal referred to the findings of the Czech Ombudsman, which declared that there was direct involvement from the State's social sector in the practice of sterilisation during the Socialist period, as the State provided financial and material incentives to women who underwent this procedure. Women sterilised after 1991 were to seek their claim through the courts and were thus effectively excluded from seeking compensation as outlined in the previous section. Women sterilised after 1991 were viewed, in this proposal, as victims of individual doctors and hospitals rather than of State policies. Moreover, the proposal would not apply to women sterilised in the current territory of Slovakia who have eventually resided in the Czech Republic after the dissolution of Czechoslovakia.[127]

Relevant Czech Ministries did not endorse the Human Rights Council's recommendations. The Ministry of Health, which was assigned a leading role, denied that any problem with sterilisation existed and refused to review the period for archiving documentation. In addition, the Ministry of Justice rejected the consideration of introducing free legal aid for vulnerable applicants with insufficient finances. The inter-ministerial group review concluded that new legislative measures for redress will not be introduced – without a legislative footing it is more likely that a budget will not be earmarked for such a scheme. This was confirmed by the Ministry of Finance that officially stated that no money would be made available by the government for compensation. The Council's recommendations were in fact never debated in the Czech Parliament.[128]

Almost three years after the Czech Government's Human Rights Council's issued its second resolution urging the Government to develop a compensation scheme and no progress had been achieved, the Czech Helsinki Committee (CHC) designed a new legislative proposal detailing an alternative compensation scheme for involuntary sterilisation, which tackles the shortcomings of the previous resolution.[129] Among the most significant changes is that this draft legislation abolishes the division between women sterilised before and after 1991. The CHC submitted this

127 European Roma Rights Centre, *Submission to the UN UPR on the Czech Republic*, April 2012, available at: **http://www.errc.org/article/errc-submission-to-un-upr-on-the-czech-republic-april-2012/3978**.

128 European Roma Rights Centre, *Submission to the UN HRC on the Czech Republic*, June 2013, available at: **http://www.errc.org/article/errc-submission-to-un-hrc-on-the-czech-republic-june-2013/4152**.

129 Romea, *Czech Helsinki Committee designs law to compensate illegally sterilized people,* January 2014.

proposal to the Ministry of Justice in January 2014.[130] Meanwhile, Anna Šabatová, the former President of the CHC, was elected as the new Czech Ombudsperson, making a public commitment that she will prioritise the compensation mechanism for involuntary sterilisations. The newly appointed Minister of Human Rights established a new inter-ministerial working group entrusted with preparing legislation on a compensatory mechanism.[131]

In February 2015, this working group adopted a piece of draft legislation.[132] This draft legislation called for the Ministry of Health to establish an independent expert committee which would review the individual claims of involuntarily sterilised people and advise the Ministry on appropriate remedies. The committee of nine members would have had at least one practising lawyer, one practising gynaecologist, and one social worker, each nominated by a ministry (with one member nominated by the Ombudsperson). The remedy provided for under the proposed legislation would have included an official apology, compensation, and free-of-charge rehabilitation or artificial fertilisation treatment. The compensation was set at 300,000 CZK. The law would have been valid for three years, during which time affected women could have made their claims. People involuntarily sterilised between July 1966, when the Public Health Act was adopted, and March 2012, when a new Special Health Services Act replaced it, would have been eligible for compensation. The draft legislation was put forward for the Government's approval. In September 2015 the government rejected to adopt this law without stating official reasons.[133] In the reply to the concerns of the Council of Europe Commissioner for Human Rights over the rejected bill, the Prime Minister Sobotka maintained that the state did not support the systemic sterilisation practice among Romani women and women with disabilities. He also claimed that the state adopted all necessary measures to prevent any further incident of involuntary sterilisation and, despite the legal evidence that the statute of limitation expired in an absolute majority of cases, recommended all previously harmed women to seek justice at the Czech courts.[134] In February 2016, the Czech government delegation made the same argument on the only effective remedy being Czech courts during the UN CEDAW Session, but the CEDAW has not been persuaded and upheld its resolute criticism for the lack of an effective ex-gratia compensation mechanism.[135]

130 Czech TV, *A Compensation for Illegal Sterilisations*, January 2014, available at: **http://www.ceskatelevize.cz/ivysilani/1097181328-udalosti/214411000100113/obsah/302100-odskodneni-za-protipravni-sterilizaci/**. Along the law proposal, the CHC collected details of forty Romani women sterilised in the past.

131 Romea, *Czech Human Rights Minister drafting law to compensate*, available at: **http://www.romea.cz/en/news/czech/czech-human-rights-minister-drafting-law-to-compensate-illegally-sterilized-women**.

132 Human Rights Council of the Government of the Czech Republic, *Draft Law of the Compensation for Illegally Sterilised Persons*, February 2015, available (in Czech) at: **https://apps.odok.cz/kpl-detail?pid=KORN9UYE4ZVB**.

133 Romea, *Government Rejects Bill to Compensate Victims of Illegal Sterilisation*, 1 October 2015, available at: **http://www.romea.cz/en/news/czech/czech-government-rejects-bill-to-compensate-victims-of-illegal-sterilizations**.

134 Prime Minister of the Czech Republic, Reply to the Commissioner's letter, 7 October 2015, available at: **https://wcd.coe.int/ViewDoc.jsp?Ref=CommDH/GovRep%282015%2911&Language=lanEnglish**.

135 UN CEDAW, *Concluding Observation, Czech Republic*, 7 March, 2016, available at: **http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/CZE/CEDAW_C_CZE_CO_6_21660_E.pdf**.

In December 2015, the ERRC and the League of Human Rights submitted a third-party intervention in a new involuntary sterilisation case communicated by the European Court of Human Rights.[136] Moreover, we have also submitted a joint individual complaint on behalf of six affected Romani women to the UN CEDAW in February 2016.[137]

136 ERRC and League of Human Rights, *Maděrová v Czech Republic, third-party intervention*, 8 December 2015, available at: **http://www.errc.org/article/mad%C4%95rova-v-czech-republic-third-party-intervention-pending/4436**.

137 Romea, *Czech Government Should Stop Gambling with the Country's Reputation – the Fight for Forced Sterilisation is not over*, 4 November 2015, available at: **http://www.romea.cz/en/features-and-commentary/analyses/marek-Szilvási-czech-government-should-stop-gambling-with-the-country-s-reputation-the-fight-for-compensation-for-forced**.

5 Sterilisations in the Personal Accounts of Harmed Romani Women

The individual and group interviews with affected women focused on the circumstances of the sterilisation and its consequences for the personal health and physical integrity of the women, but also on their general well-being and family life. In all cases described below, the women were not given a real opportunity to understand the nature and the consequences of the intervention that had been or would be performed on them. In the most extreme cases, Romani women were not told by medical professionals that they would undergo sterilisation. This is the situation with all interviewed Romani women from Ostrava, except Filomena. Filomena, as well as the women from Krnov and Most were purposefully misinformed that the procedure had a temporary character. The other women were consulted about what the sterilisation procedure entails, but they were either coerced to undergo it by social workers under the threat of institutionalising children or cutting their family welfare benefits, or persuaded that it was necessary for their health or for saving their life.[138] Finding out what had happened to them, changed their lives forever.

5.1 "Having More Children is Dangerous for Your Health"

In a number of cases sterilisation was medically prescribed to women after two deliveries by C-section. It was considered a common medical procedure meant to protect the health and the life of a woman. It was perceived that another pregnancy requiring C-section would have fatal consequences for the woman and/or her baby.[139] This practice granted absolute authority to medical personnel and provided minimal space for women to have a say if they wanted to bear the risks of another pregnancy. Instead of being consulted on the risks, they were automatically prescribed a sterilisation. Moreover, most of the women interviewed reported that they were informed about the necessity to be sterilised due to health risks only shortly before the C-section itself, despite the nine months of pregnancy period during which the doctors could have consulted them. The absence of consultations and the lack of choice for affected women to decide on bearing the risks was not only a violation of their human right to decide about their own body and the number and spacing of their children, but it ironically also violated the 1971 Sterilisation Directive as it did not follow its own consent policy.

Among the interviewed women, Zuzana (72) from Louny and Ivana (58) from Prague were sterilised after repeatedly giving birth by C-section. In Zuzana's view, the doctors did not

138 The idea of the law is to compensate those women who were sterilised involuntarily, however, many of the affected women signed the consent form uninformed or under various pressure.

139 The 1971 Sterilisation Regulation enlisted following gynaecological reasons for sterilisation: *"1. Along with or after iterative Caesarean section, if it is indicated for the reason that will probably repeat in the next pregnancy, if a woman does not wish to undergo another Caesarean section."* The Regulation does not carry the urgency of health-or-life endangering connected with repeated C-section which was argued by medical personnel.

provide a substantial medical reason to conduct the second C-section. Her first pregnancy in 1971 was without incident and it ended with a natural birth. The second pregnancy in 1974 was also qualified by her gynaecologist as "by the book". However, the doctor recommended that she could safely be overdue by three weeks without medical intervention. Nevertheless, the baby was unfortunately stillborn and the doctors removed it through a C-section procedure. When she got pregnant a year later doctors decided to do the C- section preventively as a way of making sure that nothing would go wrong this time. During the delivery, Zuzana was asked to sign the consent form and was sterilised right after:

> When I was in the operating room, they were watching me already. Suddenly, they gave me Ajatin,[140] right? It was all burning and sore [...] they brought me a piece of paper to sign that said they will do a sterilisation. But seriously, just like that - no explanation, nothing. [Zuzana, 72, II]

Ivana, on the other hand, was given a bit more space to consult on the prescribed sterilisation. She was pregnant three times with the last one ending up with a C-section and sterilisation in 1984 after she was recommended not to have more children. Ivana remembered:

> They said that they don't recommend that I get pregnant again, so they did it to me. I didn't mind, because I didn't have a man in my life to raise the kids with. It was okay not to have more. [Ivana, 58, II]

However, soon after the operation Ivana realised what had happened and she panicked about what she would do when she met a good man would want to have children with her in the future, and she felt terribly sad about her fate.

Sterilisations were performed on Romani women also after the first C-section delivery. In 1969, Kristýna, then 29, was prematurely giving birth to her eighth child. She was hospitalised with heavy bleeding and doctors immediately performed an emergency C-section surgery. Kristýna could still vividly remember that while being taken to the hospital she was screaming that she does not want to experience anything like this again, but it did not occur to her that the doctors would take it as a sterilisation request. Despite being sterilised without consultation and consent, she felt grateful when she was told about it after she woke up, especially when she found out that her baby son was alive and well. She was told that sterilisation was urgently needed to save her life and she has believed that since.

Similarly, Gita (44) was manipulated into agreeing to sterilisation by arguments about the deterioration of her health condition. Firstly, her gynaecologist told her not to have any more children after the one she was expecting, because her liver was too big during her pregnancy and that was dangerous for her health. Gita did not accept this recommendation without asking for more information:

140 A type of disinfectant.

> "So what can I do to have more children?" I asked. I was then told, "I guarantee you, Mrs. Zelená, you give birth one more time and you're not here anymore, it could happen that you will die while giving birth. I would recommend that you get sterilised so you can't give birth anymore." And then I got scared. I didn't sign anything, because I was stressed and didn't know what it was. She [the gynaecologist] told me to call my husband. She explained to him what the situation was and what problems I have and then he went and signed it. Then I went to the hospital, had a C-section, and gave them the signed papers. All doctors saw it and then they sterilised me. And it's been 13 years since then. [Gita, 44, II]

What is significant in Gita's case is that when the life-threatening argument did not make her agree to the sterilisation procedure, the medical personnel turned with his threatening expertise to her husband, who eventually succumbed and signed the forms on her behalf. In health matters fear is incited by medical experts playing with the fact that patients have very limited and superficial knowledge of what would be their best option. The affected women were not provided with any meaningful consultation on the use of contraception. Neither doctors nor social workers had introduced these Romani women to family planning, despite the fact that raising awareness on contraceptive methods and family planning was an official state policy.[141] Although some of the interviewed women had contraceptive devices (IUD), these were often prescribed by doctors without consultation and women using them often ended with a pregnancy, because they were either incorrectly inserted or broken. Other than these devices, the women interviewed were never introduced to any other contraceptive methods and according to them no authority ever suggested discussing family planning.

5.2 "I Only Found Out After the Operation"

It could be argued that Nora's case was perhaps the most extreme among the women who were unaware about undergoing sterilisation. She was sterilised in a hospital in the town of Most in 1977 after she was hospitalised with a miscarriage. She was 16 at that time and was previously diagnosed with a mental disability and thus was under the legal guardianship of her parents. Her parents were consulted by a local social worker, Mrs. Marcová,[142] who recommended that Nora should be sterilised and made it clear to them that if they agreed a financial instalment would be delivered to them. Advised by the authority that represented the state in their neighbourhood, Nora's parents signed the consent form allowing Nora to be sterilised. A few weeks later they received money as they were her legal guardians. Neither parents, nor social worker or medical personnel felt the need to inform Nora about the sterilisation. Despite this coercive experience, Nora managed to move on and with the support of her partner

141 See Chapter on Societal and institutional context in the Czechoslovak Federative Republic.

142 This social worker was reported having a powerful position among Roma in Most. As a public authority assigned to deal with Roma she regularly visited and supervised most of the local Roma families. We changed her name in this report.

escaped a likely placement in a mental institution. Nowadays, she lives with her partner and three dogs that, she says, are like her children.

Petra and Eva had almost identical stories. The two women went to the hospital for operations for tumours during which they were also sterilised. According to both, they were misdiagnosed with tumours after giving birth, and urged to come back to undergo another surgery, during which they were sterilised. In both cases there was no sign of tumour before they delivered their children and according to Eva, she had been misled in order to come to the hospital again where sterilisation had been performed without her being informed about it.

Eva was already a mother of two in 1981 when her third pregnancy ended tragically with a spontaneous miscarriage. After this she decided not to have another child in the foreseeable future, and therefore asked her gynaecologist to prescribe her a contraceptive measure. The doctor prescribed her a contraceptive intrauterine device (IUD). When she visited the doctor next time due to a growing suspicion that something had gone wrong with the device, she received surprising news:

> As I didn't get my period for three months with the IUD, I went to the doctor and found out I was pregnant with twins. I wanted to get another abortion straight away, because we lived in a small flat and didn't have much money, but the next morning babies started to move, so it would have been a murder. [Eva, 54, II][143]

Six months later Eva gave birth to boys, who were born naturally without medical intervention as all her previous children. However, something went different this time:

> They've told me at that time that while I was giving birth they found out that I have some tumours after those twins. That's crap, because I gave birth naturally so how could they have found any tumours? Well [...][144] then they told me that I will have to come for the surgery again. So [...] boys were born in March 1982 and I went to the maternity ward again in October 1982 for that surgery. They narcotised me, all as usual, but on the next morning I didn't feel at all as if I had a surgery. You know what I mean? I should have been dizzy or in pain or something, shouldn't I? And I didn't feel anything so I think they´ve just narcotised me and didn't really operate. [Eva, 54, FG2]

Until today Eva remains unsure when exactly she was sterilised; she was not told in the hospital and found out only later when she talked to her gynaecologist during one of her regular visits with the new-born boys. Moreover, the gynaecologist mentioned cursorily while checking her files that she could see that the sterilisation procedure went well. It is most likely that Eva had been sterilised during the alleged tumour surgery rather than during the birth, because she said, she was fully conscious during the childbirth and sterilisation procedures at that time were not performed without full anaesthesia.

143 II is used for Individual Interview, FG represents the focus group with a respective number.

144 […] replaces emotional pauses and silences.

In Petra's case, the doctor misdiagnosed a tumour after she visited the hospital suffering from abdominal pain following her delivery. It took six months of uncertainty between the diagnosis and the surgery during which she feared the worst for her and worried about her children. While eventually she got her surgery appointment, the surgeons found out that the problem was of a different kind, but they also did an additional procedure:

> I found an object in my belly. I went to see the doctor. For six months he was telling me that I have a tumour on my ovary. I didn't eat, I didn't sleep, I only cried, I was so scared of dying [...] of leaving five little kids alone, the youngest was two years old in 1986. I kept crying that he will remain without mother. Then they finally decided to conduct a surgery. Fortunately, it was not cancer, only gall stones. It would, however, never have occurred to me that they also sterilised me. We did not even discuss it [...] the doctor said nothing about it. [Petra, 64, II]

After the surgery Petra woke up suffering from unbearable pain which lasted for three more weeks, which she connected with having to go through two surgeries at the same time:

> So I had two surgeries instead of one. I was in horrible pain. I swear, on the third day I asked nurses to call the doctor that I want to die, I wanted him to give me some morphine. This big the pain was [...] I was in the ICU [intensive care unit] for three weeks. I was in awful pain. I swear, I didn't eat, didn't drink, just moistened my lips with water in order not to die. What I´ve suffered [...] I wouldn't wish it to anyone. And after three weeks, after the pain was gone, the doctor who operated on me told me that he took out my [uterus], so I wouldn´t have any more kids. Without my knowing. [Petra, 64, II]

Hedviga (50) and Henrieta (48) also underwent sterilisation without their knowledge performed on the basis of a medical request. Both surgeries were conducted by the medical personnel of the Fifejdy hospital in Ostrava in 1997 and 2001 respectively, while doctors were dealing with their miscarriages. Hedvika, a mother of four, was taken into the operation room in a coma caused by blood poisoning. Only then the doctors found out that she was carrying a dead baby and the dead body caused blood poisoning. She was sterilised while her dead baby was taken out. She found out about the sterilisation only from her husband, after he came to the hospital and was told by the medical personnel.

The circumstances of Henrieta's case were similar. She was thirty-five and had two children. Despite not thinking of another child in the immediate future and using contraception (IUD), she got pregnant. She was diagnosed with an ectopic pregnancy complication during which the embryo develops outside the uterus,[145] and while doctors were doing the necessary procedure of abortion, they also sterilised her. Reflecting on this situation Henrieta pointed out:

145 For more information on ectopic pregnancy, see: **http://www.medicinenet.com/ectopic_pregnancy/article.htm**.

> It was not the right time to get pregnant, but if I had been pregnant and the baby would be healthy, I would have kept it. I've always wanted five children, because it is better to have a big family than the small one. [Henrieta, 48, II]

Henrieta said that nobody before talked to her about the possibility of 'permanent contraception' (sterilisation) and even if they did, she would have refused as she wanted to have a bigger family in the future when the family settled and they would be able to provide for more children. Moreover, the doctor who did the abortion was not officially employed by the hospital as he was already retired. Henrieta was involuntary sterilised in 2001, years after the old Sterilisation Directive (1971) and Decree (1988) were officially abolished in 1993. There was no official state policy allowing the sterilisation of Romani women, and hence the sterilisation in her case was most probably based on a decision of a doctor used to previous policies of dealing with the Romani women.

Shortly after the surgery, she went for a compulsory check-up of her new born baby to another doctor and the doctor saw it in her documents and announced that she was sterilised. Henrieta did not receive this news easily as she could not come up with a possible reason why they would do it to her:

> I was down and shocked, I was crying, how was this even possible? We wanted more kids, right? The IUD was good for us, I've taken it out after 13 years and I had a son, so why they needed to do this to me? [Henrieta 48, II]

Henrieta's case is incomprehensible, but indicative at the same time. She did everything right in terms of family planning; she was using the contraceptive device for thirteen years after which she and her partner decided to have another child. She got pregnant soon after and regularly checked with her gynaecologist. There was no reason for the medical personnel or social workers to intervene with her reproductive choice, but they nevertheless did and sterilised her, while she was giving birth. The interviews revealed that Romani women like Henrieta were in the most vulnerable position: Being responsible in regards to their family planning and child care, they had regular visits to their doctors and thus became an easy target of the sterilisation policy.

In Štěpánka's (55) case, a nurse coming to her home to check on her new born baby warned her she had some problems with her blood and needed to return to the hospital:

> I have three daughters. The youngest was born in 1982, the birth went well. […] I came home, right! And after five days, there comes a nurse, and says that I've had a bad blood and will have to go back to the hospital again, also with my daughter. I had no idea what she was talking about. I thought you need to be healthy, when they let you out of the hospital, but I went there again […] That's when they did the sterilisation to me. I was 23 and we really wanted to have a boy also in our family. [Štěpánka, 55, FG1]

Štěpánka discovered about the sterilisation from a doctor who visited her after the operation:

> The head surgeon came to see me, his son attended the same class as my daughter. He came and said: "Mrs. Fialová, I'm very sorry that this has happened to you." And I said:

> "What happened to me?" "We operated you, you will never have more children [...]" I fell in silence [...] "How [...] never have more children?" I felt like I did not understand. "We did the sterilisation to you." And then I was crying, I was not eating and the depression hit me so hard that I didn't eat all week long, while I was there. I was just crying. I was in a shock and since then I´m not psychically well [...] since that surgery. [Štěpánka, 55, II]

In 1992, twenty-six-year-old Jana, was about to give birth to her fourth child. In her case, the reason for another surgery after giving birth was some loose stitches which needed to be fixed after her C-section. She was sterilised during this procedure two days after she gave birth to a healthy boy:

> I was giving birth on the 13th of November. Then they came to check on me on the 15th. They didn't come to tell me that they want to sterilise me. They told me that after I had some stitches, they had ruptured and I will have to get new stitches... I got scared, I didn't want to go, because it hurt, but I really thought they are doing the stitches and I was anesthetised during the surgery, so I couldn't have known even if they just threw me on the garbage pile. [Jana, 48, II]

Jana found out about her sterilisation from a social worker:

> After ten days in hospital, I was given some forms and told that I should go to see a social worker with them in order to get some money. I had no idea what the money was for, I thought it was for having my stitches done twice, but the social worker told me that I was sterilised. I didn't know what it means so she explained it to me, and also that they are not giving money for it anymore. I had to take it normally, what other option did I have? I was totally dumbfounded, that they've done that [...] Without saying a word. I felt really weird in that moment. [Jana, 48, II]

Tatiána (52) from Ostrava was also sterilised without her knowledge. In her case no medical indications were developed to justify it as she was sterilised while giving birth.

Like Jana, Tatiána was also sterilised in the same Fifejdy hospital in Ostrava in 1992. She was 30 and a mother of a girl and a boy, when the third baby was about to be welcomed into the family:

> I used the IUD [a contraception device], although I didn't ask for it, but a doctor at my workplace prescribed it to me. I was not even supposed to have it for medical reasons, but he gave it to me anyway. And then I got pregnant again, this time even with IUD.[146] When I was about to give birth, they said it was not going well and I would have to have the Caesarean section. Afterwards, they told me something like I won't be able to have kids anymore. [Tatiána, 52, II]

146 Occurrence of pregnancies after the sterilisation or with IUD was unusually high among the interviewed women, we will discuss it in the Section: Negligent treatment by medical personnel

Filoména (48) was approached by the medical personnel of the hospital Fifejdy in Ostrava during her delivery saying they need to perform an additional procedure. As she said she already felt the head of the baby between her legs and when they took her to the operating room, she got very confused and had no idea what was happening to her. At that point, the doctors had told her that they would just do some after-birth cleansing. She woke up from the surgery sterilised.

Her sister-in-law wanted to see her belly after the delivery and when she had seen the scar, she immediately realised that Filoména was yet another sterilised Romani woman in the neighbourhood as Filoména did not give birth by C-section. The sister-in-law started to shout at her, asking how she could have been so stupid and let the doctors do it. Filoména's husband heard the noise of his sister screaming about sterilisation and quickly realising what she was saying, he physically attacked Filoména, so she did not even have the chance to process the new piece of information before being punished for it. The emotional reaction of Filoména's sister-in-law and husband, who held her responsible for the sterilisation, was unfair but not rare.

All the above-quoted women were misinformed about the nature and urgency of the surgeries they were made to undergo. After having to face medical diagnoses with potentially serious effects on their health and lives, they might have woken up with the relief that they survived these complications, yet devastating and shocking news was awaiting them.

These sterilisations took place at the moment when the women were the most vulnerable and entirely dependent on the medical personnel. Regardless of they were giving birth, undergoing abortion or any other recommended surgery, these women trusted their doctors and nurses and complied with unfavourable treatment which was in their eyes deemed necessary. None of them had even the slightest suspicion that medical and social authorities were considering sterilisation procedures for them. Given that involuntary sterilisation continued to be practiced even after the abolition of the official state incentives, apparently the motivation of medical personnel also mattered. Practicing involuntary sterilisations is certainly a consequence of paternalistic and discriminatory approaches of the medical personnel, who felt entitled to decisions on behalf of "degenerate Roma". These attitudes remained alive long after they lost support in official state policies.

5.3 A "Temporary Contraceptive"

Many Romani women did not know of the permanent nature of the sterilisation procedure as they were made to believe by doctors and social workers that sterilisations are temporary interventions. It was a tremendous shock when they eventually became aware that they would not be able to have children anymore. Even those women who knew about the contraceptive effects of the surgery, did not have a clear idea of the exact meaning of sterilisation and no medical authority ever took the time to explain the details. In many Romani (but also in Czech lower middle class) families there was another Czech word used to describe the procedure – *podvaz vaječníků* - the ligation of ovary. Sterilisation is a medical term rather than one from the

layman's vocabulary and many of the interviewed women did not understand its meaning.[147] Interviewed women reflected on this discrepancy:

> They've told me that they've performed a sterilisation on me. I had no idea what sterilisation was, because I hadn't heard it before. You know, for the Roma it is ... we were not educated enough to understand it. And I was young, I was only 23 years old. [Štěpánka, 55, II]

Misinformation, together with the prospect of financial benefit, persuaded them to agree to sterilisation. The interviews demonstrated that this benefit was not limited to the terms of the 1988 Sterilisation Incentive Regulation which limited the maximum amount to 10,000 Kčs. However, the women in Krnov said that they all received the benefit of 15,000 Kčs (5,000 in cheque and 10,000 in cash), which means that the benefits for sterilisations in this region were financially supported not only through national policy, but also through the local authorities. Marie (51) described how she was advised for sterilisation:

> I have two healthy girls [...] the way it went in my town was that the social worker started to come to the families. Each of us had two-three kids so she said that it would be good if we all undergo sterilisation for some time, but only with the prospect of not having children for the next 5-6 years, which suited all of us at that time [...] They even offered us to get paid, so it motivated us even more, there was no work, money would be good and we didn't want the child right away anyway. If they undid the sterilisation in 5-6 years that would be sufficient. So we went to hospital one by one. I refused to, because I got sick, but they went on with the surgery despite of that. It was in 1987 and I was 24 at that time. [Marie, 51, FG1]

Marie and her sisters who also underwent the surgery sought medical advice soon after they decided that the time had come to have another baby. They went to consult with their doctors to ascertain the exact effect of the contraception and what they should do: "Then they told us, that it is not possible to undo the sterilisation." None of the medical personnel contacted during this research showed any curiosity why these women came to ask such a thing and who did they get this information on temporary sterilisation from.

Romani women in Krnov like Marie considered that a pause in having children by using a "temporary contraceptive" proposed by the social worker, complemented by a financial incentive from the state, sounded like a good solution. This was the case especially when women were pressured by their husbands to have more children, while they felt otherwise. In this way, the decision to undergo sterilisation could have been understood as their exercising of the right to freely decide on the number and spacing of their children. However, in the case of Marie and others who had similar experiences, the exercise of rights is out of question because they were fundamentally mislead by the state's officer about the "temporary" nature of the procedure.

147 See: Betty Pierce Dennis, "The origin and nature of informed consent: Experiences among vulnerable groups", in: *Journal of Professional Nursing*, 1999, 15/5, pp. 281-287.

The majority of women from Most were consulted in some way on the consequences of sterilisation, but Olga (55), Beáta (62), and Hana (54) were pressured by the social worker to agree to the procedure. Olga, who at that time broke up with her partner, described the circumstances:

> It was 1987, I had two kids and Marcová [the social worker] came and said, why have more kids? She said that I will find another man and have more children with him. And I said, well, if he will be good, why not? But she continued and said, do you want to live like that? With each guy another kid? She prepared me for it: Olga, I advise you to go for sterilisation, it's just for five years, don't worry. And then I was waiting and trying to get pregnant after those five years and nothing happened [Olga, 55, II].

Olga realised that the procedure she had underwent was permanent some 2-3 years after the surgery when somebody commented that she was stupid if she thought that sterilisation was temporary:

> Don't even ask, how I felt after this discovery, I felt so stupid, I only wished I had more children than the two I had, just to annoy all those people who were saying that the Romani people shouldn't have children. [Olga, 55, II]

Mrs. Marcová used the same argument about the temporary nature of the procedure along with financial incentives with Beáta and Hana. Beáta reported that Mrs. Marcová organised a preventive check-up in the hospital for her, but when she got there she was anaesthetised and sterilised instead. Anna (51) and Beáta (62) were told that the procedure they underwent was not temporary as they were made to believe, but permanent, the day after the surgery:

> B: When I had an incision over my stomach and doctor came to examine it, naturally I asked what the hell does this mean? He said that it means I would never have children again.
> Researcher: And how did you feel in that moment?
> A: So, for me it was something really devastating.
> B: You can´t really describe [...] Even if I was older, but it was so [...]
> A: I cried a lot when I heard about this.
> B: I´ve felt really bad, when I lost two of my children in miscarriage, it hurt. But this was worse. I just want to say that we Roma love children, even if we had plenty of them, we would take good care of them. […] and then you find out that you can never have more children, how would you feel? If I was single, it wouldn´t be so bad, but I had a husband, too. [II]

Similarly to Anna and Beáta, other interviewed women were also told about the permanent nature of sterilisation while they were still in the hospital. Romana (37) remembered a nurse asking her after the surgery why she went for the sterilisation procedure when she was so young; she was devastated to find out and started crying when she realised what had been done to her.

Most of the interviewed women did not even encounter any sympathy on the part of the medical personnel. Petra (64) got very upset when she was explained the real consequences of the surgery and what it meant for her future:

> It was after the pain had decreased and I kept asking the doctor: "Why did you do that to me? Why? Without my awareness and knowledge? Why did you do that to me?" and he was terribly silent. "I´ve signed only for the surgery knowing nothing of the permanent sterilisation, so why? I want to have more children, what will my husband say?" But it felt like talking to the wall. The doctor didn't explain anything. [Petra, 64, II]

Some of the interviewed women found out about being sterilised only when visiting their gynaecologist for a medical check-up. For example, Eva (54) had been advised to undergo sterilisation by her gynaecologist while expecting to deliver a child. She discussed the issue with her husband at home and they decided against it and informed the doctor. When she gave birth to a healthy child and was released from the hospital, she visited the gynaecologist for a compulsory check-up and this was the moment when she found out that she had been sterilised anyway despite the fact that she and her husband were strictly against it:

> The doctor just said: "The sterilisation was successful" as if it was the most ordinary thing in the world and I was like: "What?!" And she said that I had actually asked for it after my IUD failed and I got pregnant. That made absolutely no sense, but she continued through the check-up as if everything was all right [Eva 54, II].

In all these cases, Romani women were provided with false information about sterilisation and therefore they did not give free and informed consent for it.

5.4 "You Have No Choice"

There were two categories of threats by which social workers coerced Romani women into agreeing to sterilisation. Most of the interviewed women in Most reported that they were told to undergo a sterilisation surgery under the threat of having their children taken away and institutionalised. They were further threatened that not only their own, but also their partners' welfare transfers will be stopped. In many families welfare instalments were the major source of income. Similar threats from local authorities and social workers were reported by women from other towns. For example, Lucie (49) from Frýdek-Místek was 23 when she was giving birth to her fourth child in 1989. The day after the delivery, the doctor came and told her that they had just received some papers from the social worker's office requesting the doctor to conduct a sterilisation surgery on her. Lucie described this moment of brief consultation under the threat of institutionalisation of her new born child:

> I was explained what it means to be sterilised, but he said I have no choice; otherwise, they will take my new born baby to the children's home. I was crying just when I imagined that I won't have any more children. [Lucie, 49, II]

It seems that in Frýdek-Místek there are three Romani women[148] who were sterilised at similar time on the orders of the same social worker. All three incidentally lived with a non-Roma partner and this would open a possible interpretation that the social worker was troubled by the idea of mixing 'Roma and non-Roma blood'. This would correspond well with eugenic practices that literally forbid mixed marriages/procreation (Spiro 2009).

Unlike the proactive intervention of social workers in Frýdek-Místek and Most, Romana (37) from Vsetín was sterilised in 2001 at the instruction of her gynaecologist. She was 24 in 2001 and pregnant with her fourth child, when her gynaecologist suggested sterilisation and then convinced her to sign the sterilisation request (or some kind of other sterilisation-related paper) on the grounds of medical reasons:

> I had no idea what kind of paper I'm signing, but she told me that for medical reasons I just can't have any more kids, but I was healthy at that time, I had no difficulties down there, I felt well. I don't understand why she did that. [Romana, 37, II]

As we noted in the previous section, the Romani women who were informed that they had to undergo sterilisation were not in a position to argue with medical experts and resist the threats of social workers. Resistance would have had grave consequences, especially on the material well-being of the families which were already living at the edge of poverty. The authority of medical experts and social workers and their position in society was used to threaten women with health problems in the future.

5.5 Absent, Forged, and Forced Consents

According to the 1971 Sterilisation Regulation which had been in force when most of the sterilisations of the women interviewed in this research took place, a patient could have been sterilised for two reasons. Either it was done by her own request while meeting prescribed procedural conditions (consultation, waiting period, consent form signed, etc.), or because of an urgent medical reason in which case it was mandatory to sign a consent form. In both situations, the legality of the sterilisation was contingent on medical personnel providing complete information on the nature, possible risks, consequences and alternatives to the procedure to the women concerned.

Despite the legal prescription to do so, the practice of acquiring informed consent was often very different from the way the law set it out. As the report of the Czech ombudsperson shows, the consent forms or requests were often visibly written or signed by someone other than the women who were sterilised. Most of the interviewed women testified that they either did not sign any form or they were asked to give their written consent to an unspecified or vaguely explained

148 Elena Gorolová, an activist and spokesperson for the Group of Women Harmed by Forced Sterilization in the Czech Republic, is actively involved in looking for the women who had been involuntarily sterilised and she is also working in the area of Frýdek-Místek as a social worker. If there were more women, there is a high probability she would know about them.

procedure. It could be argued that these women should have read what exactly they were signing, however, considering that they were asked to sign when they were in vulnerable situations such as during labour and that they were mostly poorly educated and in some cases Czech was not their first language, it is more than understandable that they trusted medical personnel and did not read the forms. For these reasons, in this case, truly informed and educated consent cannot be considered to have been given, Filoména describes her situation exactly in these terms:

> They put me in the delivery room, then the doctor came. The doctor went out, came back with a black folder and told me: "Mrs. Modrá, you have to sign the consent for the sterilisation." And I said: "I´m not signing anything, don't you see that I'm giving birth here? Why don't you help me? Why you didn't take all the details from me before?" I asked. They didn't touch me and really the boy almost fell down to the floor. Then I just ticked off an empty paper, there was nothing written in it, nothing, or I didn't see what I had to sign. So I took it, signed and I have no idea what was in it even today [...] I didn't read anything, I just signed and okay [...] I thought because of the pain that something is wrong, that they will have to operate on me, cut my belly, because the baby is not coming out, that's what I thought and then they came and took me for that "after-birth cleansing". [Filoména, 48, FG2]

Eva (54) remembered that she signed two papers -- before giving birth and before the alleged tumour surgery soon after her child was born. She was unsure what the forms were about as no explanation was provided by the medical personnel.

Besides failing to adequately consult and/or suggesting sterilisation during delivery to unaware Romani women, the research also revealed also cases when medical personnel forged signatures on consent forms and faked other details in the medical documents:

> I was making a copy of my medical documentation and there I found out that my signature had been forged. Also, the date of delivery was incorrect - I didn't give birth on the 25th, I gave birth on the 13th and they wrote in the documentation that I was gave birth on the 25th and that I had a C-section. And I had not once had a C-section. And they forged my signature, that I signed it, that I knew [...] Then there was written that the sterilisation was on 29th and I was already at home at that time. [Jana, 48, II]

Some of the affected Romani women, most of those from Most, were forced to sign the consent form by the local social worker. Olga remembered the circumstances:

> She [social worker] was even working late-night shifts, signing the papers, filling in our names and details, just to have everything prepared. Then she came and said: "Here you are, sign it here, I'll come tomorrow to tell you, when you will go" and that was it. [Olga, 55, II]

> I didn't think that it may have been illegal, that I could resist to it and say something against it. I can say that I was totally naive; she said we have to, so I went, why bother reading? [Olga, 55, II]

One day the social worker arrived with the consent form, the next day the Romani women had an appointment in the hospital. In the hospital, before undergoing surgery all interviewed women from Most first met a psychologist and then went through pre-operative examinations. Finally, they signed all necessary formal papers. Reportedly the social worker instructed the women merely to nod in agreement and to answer the doctor's questions shortly. They were handed over a form that had been pre-filled by the social worker, provided a pen and were asked to sign it with the psychologist and social worker as witnesses. No information on the nature, possible risks, consequences and alternatives to the procedure were mentioned. The active intervention of a social worker in the consent procedure was also reported by Lucie (49) from Frýdek-Místek. Her consent forms and other medical documents were pre-filled by a social worker and the doctors in the hospital merely asked her to put her signature on them. Unlike the Romani women in Most, Lucie was consulted on the procedure but she was given no space to raise questions or concerns. She had just given birth and was threatened that if she did not consent to sterilisation, her newborn child would be institutionalised.

Even when a medical explanation was used as a reason for sterilisation, the women were not adequately consulted and were hurried into giving their consent by medical professionals who emphasised the urgency of the procedure - that it should be done "before it was too late".. The request for consent often came soon after the diagnosis of a health problem and the women were given no time to search for alternative consultations with other doctors, her family or the people from the community. Zuzana (72), one example out of many, was handed over the pre-filled forms while she was already on the operating table in agony. It is difficult to understand why the medical personnel did not raise the issue of sterilisation as a procedure solving potential medical problems in the preceding nine months of pregnancy and did not prepare the women for this possibility. If complications with the delivery were likely to happen, then why didn't the doctors raise the issue with pregnant women during their regular checks, but pretended that it was an exceptional and unforeseeable emergency during the labour? The absence of any consultation on sterilisation during the pregnancy makes the medical necessity a weak argument. Hence, even if the medical personnel argued that sterilisation was a standardly prescribed medical intervention for some health problems, the fact that they did not raise it with the affected women during their check-ups over a nine-month-long period makes this argument hard to believe.

5.6 "We Were Told That Romani Women Should Not Give Birth at All"

Many women emphasized the crucial role of the local social worker in the process of their sterilisation. They threatened Romani women and their families with cutting their public benefits and institutionalising their children. They also actively manoeuvred Romani women towards sterilisation by promising financial rewards. Finally, they administered all necessary paperwork and logistics, and communication with medical personnel.

The interviews with Romani women revealed a personal commitment on the part of some social workers to facilitate the sterilisation of Romani women. For example, Štěpánka was

told by a social worker responsible for her neighbourhood that "Roma people are used to having children each year because of the social benefits and that they live on these benefits and other things like this. When the Roma people had more children, they had them just for the benefits and then they didn't take care of them" [Štěpánka 55, II].

One of these social workers at first agreed to be interviewed for this project. However, later, after she discussed it with her colleagues, she ultimately refused to talk about the sterilisations of Romani women for this research formally, but stated on the phone that:

> The state didn't know what to do with them [the Roma], sometimes they isolate them, other times they try to assimilate and it kept changing. I don't remember anyone being sterilised without their consent. The situation in our neighbourhood was not so extreme, Roma just have it all a little differently, but they should take responsibility for their decisions, especially when they have 7 or more children. [...] I don't remember any regulation on how to pay for the sterilisations, I think it depended on their needs, if there was some kind of unified procedure I would have remembered it. [SW]

In the social worker's account, when Romani women were undergoing sterilisation it was with their consent. However, it upset the social worker that they did not take responsibility for having too many children, the responsibility which the state eventually bore on their behalf. Although she claimed that there was no state policy to sterilise Romani women, the social worker admitted that her job description contained a clause on advocating for sterilisation among Romani women:

> There was no direction for us to convince the women to undergo sterilisations. However, it was in our job description to motivate the Romani women little bit with the money, but I felt that it's not ideal, so I was very careful doing that. [SW]

According to other interviewed women, social workers in their towns shared similar views on the necessity of infringing on the reproductive rights of Romani women. Jana remembered the speech of a social worker addressed to her mother:

> The moment I knew what happened [sterilisation], I thought it's because I'm a Romani woman. We've been told that Romani women shouldn't give birth to children at all, I remember a social worker telling it already to my mother, when I was a little girl. And it was so unfair, because my mother took care of six of us, alone. She's been hard-working all her life. [Jana, 48, II]

The case of the town of Most is an example of systematic interventions of social workers in the reproductive rights of Romani women. The majority of the Roma in Most were concentrated in one particular neighbourhood named Chánov. Women recall that they were systematically coerced to undergo the sterilisation by the local social worker. The social worker Mrs. Marcová enjoyed a strong authority among Roma in Most. She was perceived as the representative of the state who cannot be opposed without consequences because she was too powerful and could make a hell of their life in no time.

In 2013, the Czech Helsinki Committee in cooperation with the League for Human Rights appealed to all the women who had been involuntarily sterilised to answer a call and fill in the questionnaires about the circumstances of their sterilisations in order to gain a more accurate image of how many women were sterilised and under which circumstances. The local consultant Olga (55), herself a sterilised Romani women, has collected 44 questionnaires and she estimated that about 70 Romani women in total had been involuntary sterilised in Most during the socialist era.

The majority of women were sterilised between 1977 and 1988 and all claim that the local social worker, Mrs Marcová, played a crucial role in their sterilisation. The table below shows the years of sterilisation, the age of the women and the number of children they had.

Table 1: Numbers of Romani women sterilised in the town of Most (1977-1988)

	1977	1979	1980	1981	1982	1985	1986	1987	1988
Total	2	1	1	2	1	3	5	17	12
Age range	16-30	36	34	30-35	32	22-26	24-32	18-31	18-38
Number of children	0-4	6	9	5-6	7	4	2-4	2-6	1-6

The table 1 demonstrates certain patterns. Until 1982, the pattern shows that mostly women over 30 years old with a larger number of children were targeted for sterilisation. Nora (53), who was sterilised in 1977 at the age of 16, was an exception, as she was diagnosed with a mental disability and sterilised on the request of her legal guardians. From 1982, neither the number of children, as the women with one to six children were sterilised, nor the age were indicative anymore. The difficulty with finding any pattern in terms of number of children or the age supports the argument of women who claim that the social worker went door to door in the Romani neighbourhoods and under the amalgam of threats and promises coerced women to get sterilised. Anna eloquently illustrated this: "She didn't care, if you had two children or 20, or not even how black you were, you could have been as white as a goose and she would still send you for the sterilisation." [Anna 51, II]

In 12 cases the women didn't answer any questions except for the basic personal information. Four women claimed that they were sterilised with an abortion, 14 others were sterilised in a separate operation, and 16 women were sterilised during labour.

Almost half (14) of the interviewed women claimed that they were told by the social worker Mrs. Marcová that their children would be taken away if they did not agree to undergo the sterilisation. They all also reported that they were not informed about the permanent nature of the sterilisation surgery. The rest of the women also reported the substantial intervention of the social worker Mrs. Marcová who used other coercive methods to force them to undergo sterilisation. The women reported that she was harassing them by coming three times a day to their homes, checking if they were taking adequate care of their households and children, threatening that if their husband had only one absence at work, he would go straight to the jail or forewarned them that they would receive no money, but only vouchers, which would seriously limit their shopping options. All this was to make them agree to sterilisation.

Olga, who was also working as a social worker for the last 25 years, shared her view as to why Mrs. Marcová was so zealous and systematic in her efforts to sterilise Romani women and claimed that these reasons had something to do with anti-Roma prejudices:

> They [non-Roma] wanted us to become extinct, not to have any more children. She didn't like the Roma people, but she knew each one of us, by name, she came straight to the flat, didn't even have to knock or ask for permission. [Olga, 55, II]

Hana also depicted Mrs. Marcová acting disrespectfully towards Roma:

> She was like a member of Gestapo, she acted like she was omnipotent. She was walking around in her black coat, black walking shoes [...] the white band around her arm, papers in her hands, I can see her as clearly as if she was in front of me right now. She was blonde and walking around Chánov as if she was walking in a concentration camp, we were lucky we were not numbered like the prisoners, but it didn't matter so much, because she knew all about us. [Hana, 54, FG2]

Anna and Olga also pointed out to the detailed knowledge Mrs. Marcová had about each individual family and their failures or vulnerable parts, which she used to make them comply with her decisions:

> All the Roma in Chánov were considered as socially vulnerable families and these families were the main focus of Mrs. Marcová. She was coming from family to family and she knew who lives badly, who lives well, she knew that you're single and you're having hard time getting by, or that the man left you. She offered money [for sterilisation] to some, to others not. She knew, who would welcome little financial support, she knew where she can interfere. There were moments when she was really evil and mean and nobody dared to oppose her, because she was threatening with those above and she also knew everyone, at school, at the police station, in hospital - all was prepared, when you got there. [Olga, 55, II]

Allegedly, Mrs. Marcová did not use only threats but also lied to several women about the temporary nature of sterilisations. She convinced some Romani women by indicating that the effect of the procedure will last for five or so years, and in this respect it is similar to the IUD. Moreover, the interviewed women reported that Mrs. Marcová also created an air of inevitability about sterilisation, to which they did not feel entitled to oppose. Olga explained it:

> With advocating sterilisation among almost all Romani women, Mrs. Marcová created an atmosphere of routine procedure, which everybody is going through. She also made sure about every logistic and administrative detail. [Olga, 55, II]

Blaming herself instead of state and medical experts, Darina admitted that they were all too young and stupid at that time, and also too scared to oppose the suggestions of the social worker:

> Today I would stand up against her, today we know what she had done in Chánov, how many families she had destroyed, I wouldn´t let that happen to me, if I knew what I know now. [Darina, 50, II]

5.7 Negligent Treatment by Medical Personnel

The interviewed women communicated a surprisingly high number of incorrect diagnoses as an outcome of casual and negligent medical checks. The most common occurrences of negligence reported were failures to recognise pregnancy. In many cases, the negligence came from the fact that gynaecologists previously prescribed and inadequately applied the contraceptive device (IUD), which often led to an ectopic or otherwise risky pregnancy or miscarriage. Henrieta (48), Eva (54) and Darina (50) had this experience with their gynaecologists failing to see that they were pregnant and applying IUDs or ordering sterilisation, which led to miscarriages and serious health problems. If a woman comes to a doctor in her seventh month of pregnancy and announcing problems and they fail to even realise that she is pregnant, it cannot be only about careless execution of their profession, but also about inherent prejudices driving an utmost negligence to the life-threatening situations for the Romani patients:

> I was at the general practitioner at half-past twelve in the afternoon, telling him that I have bad smell coming from my mouth and that my belly is somehow growing. He didn´t examine me, didn't ask anything, he told me I'm fine. And then at half-past two I happened to be on the operating table not knowing of the world. They had to resuscitate me and change the blood and everything. I had blood poisoning, because I had a dead foetus in me, already in my seven month of pregnancy. And he didn't recognise it. [Hedvika, 50, FG1]

A different example of negligent treatment was shared by Marie, who despite having a fever was brought in for a sterilisation surgery:

> I refused to go to the hospital, because I had tonsillitis [the inflammation of the tonsils], but they gave me the pills for fever and pain-killers and did the surgery, while I had a fever of 39 ºC. I stayed in the hospital for two months afterwards, I could have died from this fever. [Marie 51, FG1]

Her sister Simona (49) was also unwell when she was forced to undergo the sterilisation surgery.

5.8 Disrespectful and Prejudicial Treatment in Hospitals

During the sessions Romani women provided abundant evidence of being treated by medical personnel in a discriminatory way. Romana (37) emphasised that the Romani women were not "liked" at the maternity ward in a hospital in Vsetín and that some nurses did not allow visitors to Romani women. Tatiana (52) pointed out that when she was in the maternity ward in the hospital in Ostrava, nurses would not allow her visitors: "They were not treating us decently, whenever more people came to visit, the nurses were sending us away. But they were expecting me to abandon the baby; we are not wanted." [Tatiana 52, II]

Filoména (48) confessed that she felt disdained and treated differently by the medical personnel in the hospital in Ostrava because of her Romani ethnicity:

> You know, when somebody doesn't like you, right? You talk to the person and think this is really weird [...] So I felt it from the doctors that they treat me differently, because I am a Romani. [Filoména, 48, II]

She also shared an incident of racist insult while giving birth in the hospital:

> You know what the doctor told me, when I was [...] "Spread your legs!", and he hit me on my legs, "spread those legs - when it went in, it has to go out, too." That's what he told me [...] And I slapped a nurse, who suddenly jumped on my belly. I told her to give me a soaked towel or something [...] that I can't breathe, that I need to suck on something otherwise I won't be able to push it out [...] And she didn't do it, she didn't do it. She came and said: "You will just shit it out, you Gypsy whore!" This big she was [showing how big with the arms spread wide]. And she jumped straight on my belly. Pressed down with her elbows [...] and then the baby almost fell out on the floor. [Filoména, 48, FG2]

Jana (48) also experienced disrespectful treatment in the same hospital in Ostrava:

> A doctor came to my room and told me that I need to have my stitches redone. I didn't like the idea and I was scared. So he said: "If you want, I can leave you with a hole down there" and he laughed, and the nurse, too. [Jana, 48, II]

Eva (54) has a similar experience of insensitive and disrespectful treatment in a hospital in Prague:

> There came a fat doctor. I was monitored and the sensor somehow fell down to the floor, I was in awful pain [...] And then in all that pain I had, he slapped me so that I saw all the stars immediately [...] Three days later I slapped him back, I think he got fired afterwards. [Eva 52, FG2]

On the other hand, instead of the neglecting and careless approach, some women reported that they received priority treatment and all their issues were handled promptly. All interviewed women from Most pointed out receiving such priority treatment and argued that this was arranged by the social worker Mrs. Marcová. She delivered instructions on the administrative paperwork, helped to organise schedule for multiple surgeries, and assisted with releasing the women from the hospital. Olga (55, II) in this regard commented that when in the hospital it felt like doctors were practising on them on how to deal with sterilisation procedures. Some of the medical personnel expressed regret to the affected women for what was arranged for them. Gita, Kristýna, and Romana from Vsetín and Štěpánka from Ostrava remembered visibly mournful faces of medical personnel who were sorry for the fact that they had to be sterilised at such a young age.

5.9 Health, Family, and Community After the Sterilisation

Sterilisation has influenced the lives of the affected women in many different respects. This chapter focuses on the consequences of sterilisation on the women's health, family life and also on their life within the community.

Romani women who have undergone sterilisation suffered serious health conditions in the aftermath. Although based on the current medical research, it is not possible to draw a direct connection between these conditions and the sterilisation, we describe their health problems because the trauma experienced after the discovery of the sterilisation could not be dissociated from multiple health problems they had.

When Jana (48) suffered a heart-attack the doctor's first question was whether she was sterilised, implying that there is some correlation. Indeed, some studies[149] suggest that certain hormonal changes connected to sterilisation may have an effect on the vascular system. Romana (37) was also told by her doctor that after the sterilisation was performed she should be prepared for mood swings and less desire for her husband. While conducting visits to the hospitals, Elena, the research consultant, could read in many medical documents (informed consent forms and others) that sterilised women were warned against a plethora of subjectively perceived health complications.

Many sterilised women, including the interviewed women but others as well, suffered from uterine cancer, ovarian cancer or breast cancer. According to Olga (55), a Romani woman in her neighbourhood died of cancer six months after the sterilisation. In addition to this, there were at least seven sterilised Romani women (out of about 70 sterilised Romani women in Most) who had already died of cancer. Olga (55) and Beáta (62) had breast cancer. Olga was recently also diagnosed with an uterine cancer. Doctors have found that she has had a tumour in her uterus for the last thirty years since being sterilised. This long-term absence of medical diagnosis was due to the fact that after being sterilised Olga refused regular medical checkups. Anna (51) was told by her doctor that the surgery of the cervix she had to undergo was in a direct correlation with sterilisation.

Doctors interviewed for this research suggested that the main reasons for the health conditions of the affected women were smoking and being overweight. In one instance, the doctor's comment bore obvious racist overtones: "All Romani women are fat, almost obese, so, why would you be surprised that they are having health problems?" At the same time, at least four women claimed that they have gained weight after the sterilisation: "I had 28 kilograms and 4 kids, after the sterilisation I started to gain weight." [Jana, 48, FG2] Filoména (48), Eva (54) and Hana (54) shared the same experiences. The fact that the involuntary sterilisation

149 See Børdahl, P. E. 1984. "The Social and Gynecological Long-term Consequences of Tubal Sterilization: A personal six-year follow-up investigation", in: *Acta Obstetricia et Gynaecologica Scandinavica* 63(6): 487-495. 495 or Kučera, E. 2001. "Sterilizace ženy a muže - indikace, technika, komplikace." [Female and male sterilisation - indication, technique, complications], in: *Moderní gynekologie a porodnictví* 10(2): pp. 173-177.

and the psychological problems after it could have an impact on gaining weight was entirely omitted from the doctor's prejudicial reasoning.

Some of the interviewed women have experienced severe difficulties with their uterus in the aftermath of sterilisation and needed to undergo the hysterectomy (surgical removal of uterus, eventually also other reproductive organs). Filoména (48) had her uterus removed due to fibroids (type of benign tumour) and Jana's (48) uterus was diagnosed too damaged after the delivery and sterilisation and should have been removed as well: "The doctor said that my uterus is enlarged and cracked, so it will have to go out before it ruptures" [Jana 48, II].

Health problems with the uterus are closely related to complications with menstruation. Most of the interviewed women reported the change in their usual menstruation patterns after the sterilisation. Beáta (62) stated that she had started to have irregular menstruation: "Sometimes I menstruated even twice in a month, sometimes it was really heavy bleeding, sometimes it didn´t come at all." Beáta [62, II] Experiencing menstruation was also bitterly received as a reminder that they could still have children had they not been sterilised. Moreover, most of the women also experienced an early menopause shortly after they turned 40 years old, which was, according to them, about ten years earlier compared to their mothers.[150] Ivana (58), Eva (54), Anna (51) and Hedvika (50) said they had not experienced menstruation since they were 35.

Heart attack at a young age was another consequence mentioned during the interviews. Three women independently reported that they never had any problems with their hearts and the heart attacks came from nowhere. In Jana's (48) case the heart attack was also an example of misdiagnosis:

> I've never had problems with my heart. And then, suddenly, it started with my joints, hands, I was crying from pain. The doctor thought it's my cervical spine, she was injecting me for 14 days, giving me pills. One day I returned home and next morning I was in an ambulance with serious heart attack [Jana 48, II].

Although Lucie (49) did not experience significant health complications after the sterilisation, she was suddenly hit by a heart attack.

5.10 Psychological Consequences

Although the objective symptoms of health problems directly related to sterilisation are difficult to indicate, there are also psychological consequences. Many interviewed women pointed out that they relate differently to their own bodies after the sterilisation. As a consequence of a more problematic relationship to their bodies, they noticed losing their sexual appetite, and more frequently experienced feelings of inferiority and mood swings. Additionally, some of

150 The average age for entering menopause is around 51 years, any menopause that occurs before the age of 40 is considered as an early menopause. For more on this see: **http://www.webmd.com/menopause/features/menopause-age-prediction**.

the women also referred to the fear and distrust of the doctors and hospitals, which they had not experienced before the surgery.

The decrease in sexual needs became one of the central themes during the focus groups. The sincerity and spontaneity of the discussions revealed that the women have not been talking about it openly and that sharing it with other equally affected women had somehow a cathartic effect for them. During the discussion, out of all twenty-two women, only Filoména (48, II) stated that she is still enjoying sex, but also she admitted the change in her self-perception and the perception of others: "Once you were sterilised, you're just a wretch among the Romani women, they say you're not such a woman, you should be". Other women have either taken on sex as something mechanical or gave it up totally. Petra (64) summed it up:

> The worst thing about the sterilisation is that I couldn't have sex anymore. If you put me next to a wood log, it would be just the same. I was not interested in it at all. I didn't feel anything for him. Even if he touched me, I didn't feel anything. So it was pointless [...] better to leave each other alone. [Petra, 64, II]

For some of the women this lack of sexual desire had seriously distorted their relationship to their partners. Having serious consequences on her sexual perception, Olga (55) could express the changes in her sexual life in great detail:

> Since about two months after the sterilisation, it [sex] started to mean nothing to me, it became disgusting. My only salvation was my children, so when he wanted to sleep with me, he couldn't. [...] I would have killed him if I could. It just means nothing to me. […] and if I am or if I was with a man, the only reason was that life isn't only about sex. It depends on how two people get along. [Olga, 55, II]

The fact that a decisive majority of the sterilised women felt anxious about their sexual life and described their partners' demands as excessive and unpleasant.

> Anna (51): I will talk just for myself, I haven't been so active in this respect. I've changed my view of sex - here, just get in, get it off and leave me alone... And that was it.
> Eva (54): It seems that we all see it in the same way [...]
> Anna (51): But this has started only after the sterilisation.
> Eva (54): Yes, in my case it also started about three years after the sterilisation, it was not straight after.
> Jana (48): It was not right after it, just some time later. And then one is somehow... the woman is almost angry, it's too much even when he touches me, I start to shout.
> Unanimously: Yes, yes, yes, yes.
> Jana (48): I´m so allergic to him.
> Hana (54): Exactly, yes. [FG2]

It is quite unlikely that so many women would experience unsatisfactory relationships, besides they did not express complaints about their partners in other areas, but only in sexual

life. For some women, disinterest in sexual life could have been caused by knowing that they cannot have a child anymore: "After I got home, I thought: well, I won't have kids any more. So I'm just garbage now." [Jana, 48, II] Having children is seen as a very important value by many Romani women, and being denied this could have had a devastating effect on their self-respect and self-worth. Marie (51, II) shared her view that "for me it was the feeling of inferiority that I can't give birth to any more children and I didn't feel well about the fact that I've allowed someone to interfere with my body so much, I had no reason to do that."

Many women experienced mood swings and they related them to the sterilisation. Ivana (58, II) said that she often felt "weird, moody. Sometimes I was really mean, regretful. Sometimes I had depression and it has lasted until today. I feel inferior sometimes." Other interviewed women also reported having sudden attacks of intense feelings.

Some of the women felt the situation with mood swings, depression and feelings of inferiority was so serious that they needed to seek out expert assistance. Filoména (48) talked openly about her psychological problems following the sterilisation: "I had psychological problems, I hit the bottom and life just made no sense to me. I was seeing a psychologist regularly" [Filoména, 48, II]. Anna (51) was hospitalised at the psychiatric clinic. She argued that the reasons were more related to the complicated relationship with her husband, who started ostentatiously cheating on her after the sterilisation surgery. Štěpánka (55) and Tatiána (52) also admitted that they needed to seek out the help of professional psychologists. Although, they both managed to deal with their psychological problems, as Tatiána (52) concluded, she "will never be able to entirely cope with the trauma she experienced, because it is all kept deep inside her heart and head." Tatiána [52, II]

Unlike Tatiána, other women emphasised that they have managed to cope with the sterilisation more or less successfully. Mostly, the majority of them argued, thanks to their children who have been giving them joy and strength. Time was a great help too, and given the fact that they are becoming grandmothers, the women do not contemplate much on not being able to have children anymore. In addition to this, Olga, who had only two children, has not stopped thinking of having another child, but claims that work was even more helpful in recovering after the sterilisation:

> I'm lucky, I'm really lucky that I'm still at work, that my thoughts have no time to get busy with the idea of another child. Now with the time it doesn't really matter anymore. I was really lucky with my job and colleagues, everyone there helped me to get through it, my work kept me busy. [Olga, 55, II]

Another psychological consequence directly connected to sterilisation is distrust and fear of doctors and other hospital personnel. Filoména (48) was terrified just speaking about the hospital she was sterilised in and showed a very high level of distrust in medical personnel:

> Whenever I go to that hospital, I remember, what happened to me, whatever examination, I'm a wreck. I hate that hospital in Fifejdy. Whenever they send me there [...]

> because there are all the X-rays and scanners and you just have to go there from time to time, all the time I'm telling myself, how badly [...] You will never forget something like that. They've turned my life upside down. I don't trust them anymore [Filoména, 48, II].

Gita (44) was also scared of going for a regular check-up to her gynaecologist, she was afraid of the treatment and the results of the examination as she has heard about the complications women were having after sterilisation. As she was not coming, the doctor threatened her with asking the police to bring her in.[151] Even though, Gita (44) and Romana (37) did not experience health problems, they strongly believe that sterilisation could cause such problems as this is the common knowledge transmitted among Romani women. The constant concern about health naturally brings about a large amount of stress in their lives.

Since she was sterilised, Olga approaches all medical personnel in "white coats" with distrust and fear:

> I have phobia of doctors, of white coats, nobody ever saw me, since that time nobody had seen me at the doctor, I just refused to [...] I didn't need a doctor, so I was avoiding hospitals as much as I could, but now they found something wrong with me, so I have to go [...] I'm doing it for myself, otherwise I'd never go to the doctor, since that sterilisation I have a terrible phobia, I was totally done, I wouldn't wish it to anyone. And back then they treated me like an idiot. [Olga, 55, II]

In her case, however, the consequences of this fear may be really serious as she has been avoiding doctors for almost thirty years, during which time she was growing tumours unknowingly in her uterus.

5.11 Partner's Reaction and Life Together After the Sterilisation

Losing the ability to procreate can seriously harm the way the family operates along with the relationship of the spouses. The sterilisation of the interviewed women changed their relationships with their husbands or partners, and in many cases it led to separation or divorce, sometimes accompanied with domestic violence.

At the time when they were sterilised, two of the women were single mothers. For them the surgery seriously complicated their path to finding a partner. As Anna (51), one of the two, put it:

> When you find a partner, that partner won't be living with you just for your beautiful eyes and especially in our community, right? He wants to have his own family and when it's about to happen, he will tell you [...] I'm listening to this up to today [...] that

151 In Vsetín some of the doctors tend to visit socially excluded areas, where mostly Roma live, to see their patients, if they are not willing to come to the office. However, in the Czech Republic, gynaecological check-ups are not mandatory by law, so there was no legal basis for calling the police.

> you're a barren cow. So [...] It's hard, today I just keep thinking why that woman [social worker] why she made me to do that. Why? [Anna, 51, II]

Anna further explained how she was hiding the fact that she had been sterilised from her partner, whom she met after the surgery. She was convinced that had he found out, he would not have married her. On the other hand, Ivana (58) gave up seeking a partner after the sterilisation. She made this decision because she did not feel like explaining her situation to anyone. Similarly, Filoména shared that after her partner left her for reasons related to her infertility, she had tried once, but soon gave up looking for a new partner. [Filoména 48, FG2]

Most of the interviewed women reported that their relationship with their husbands deteriorated rapidly after they found out about the sterilisation. At the same time, despite the complicated relationships, many of them were glad that their partners stayed with them, because they were concerned, like Anna and Ivana, that any new partner they might find would want to have his own children with them. They considered that the partners with whom they already had children would not perceive their infertility as a damage to their manhood so strongly.

The first reactions of the husbands and partners to the fact that their women were sterilised varied depending on the circumstances under which the surgery took place. Men whose women were sterilised on alleged medical grounds tended to show more understanding than those, whose women were forced to undergo the surgery by the social workers or those who were sterilised without knowing. The most obvious example of this was Gita's (44) husband, who respected the medical authority that upon the doctor's urgency he signed the consent to sterilisation for his wife and was relieved that his wife would be safe after the surgery. The doctor's indication of his wife's allegedly serious condition made him agree although the prospect of not having more children was very saddening.

In other cases, however, the reaction of partners to sterilisation was agitated and violent as they were not consulted by medical personnel and often found out only retrospectively. Štěpánka's husband rushed to the hospital right after her surgery; Štěpánka called him to share what had just happened to her. When in the hospital he had a hard time not assaulting the doctor:

> He almost hit the doctor, because he wanted a boy. He came there and the doctor had him escorted from the hospital by the police. He called him, sorry for my language, a dick. I have to talk honestly, as it happened [...] How come that I underwent surgery without his consent and that he wants a boy. And I just, I had tears running down my face, I was shocked [...] You know, I called him before to tell him that I had a surgery and won't have any more kids and he was like: "WHAT?! What are you talking about?" He also didn't understand, but I told him what the doctor told me and he rushed in the hospital and straight to him and they took him out immediately, called the police to take him. [Štěpánka, 55, II]

Her husband eventually calmed down and started to cope with the situation in the local pub. When talking to other Romani men in the pub, he found out that his wife was among many

others who were sterilised. Other men assured him that it was not Štěpánka's idea, but an order from above. The fact that his wife was not complicit with the sterilisation, but it was a decision of the municipality and the medical authorities made it somehow easier for her husband to accept it.

The most difficult part to deal with for affected partners was to comprehend that their women did not consent to the procedure freely. Their first spontaneous reaction in many cases was to blame the women for what has been done to them.

> He started to talk crap, that he would find another woman, the one he could have children with and [...] I did it [sterilisation] on purpose [...] that I hate him, don't want him, and I told him it's not true, they just did it this way. He didn't believe me. [Eva, 54, II]

The reason for this reaction was that men believed that sterilisation was a way to cover the fact that their women were cheating on them. Such allegations brought mutual distrust and disrespect into their relationship.

Filoména's husband had lost control and turned violent against her after finding out about the sterilisation. He started drinking which intensified his violent outbursts at home even more:

> My sister-in-law said: "You stupid cow, you won't be able to have more children, you've been sterilised, you'll never have children." I started to cry, my partner heard it, he came over and kicked me in my stomach. My stitches came apart, blood started to run, an ambulance had to come, they didn't sew it back, just put on it some kind of plasters to hold it together. And since then I continued arguing with him [...] That hospital destroyed all my life, we lived well, we trusted each other, we loved each other, took care of children and then he just didn't care anymore. He started to drink, thousands times I was standing with children in their pyjamas in the street, the police came, took him away, it was just hell since the sterilisation. He broke the window once. I had a cot right under the window, baby girl lying in it, six-months old, thanks God she was sleeping and didn't start to play with that broken glass. Hell on earth we had. I divorced him, we had been together since we were 15 and he keeps coming back even today. [Filoména, 48, II]

Divorce after the sterilisation was a common story in the lives of the interviewed women. They were the ones who initiated it because they were not able to sustain the physical and mental terror they were exposed to. On the other hand, after some time of separation the men frequently found their way of coping with the sterilisation fact without blaming their women, and tried to return back. For example Hedvika (50) describes her situation like this:

> We got divorced 3 years after the sterilisation, he was leaving, coming back, in three or six months and it's like that until today. I gave my flat away because of him, I ran away from that street, but now we're back together anyway. And it's not what it's used to be like anymore. [Hedvika 50, FG1]

In Hana's (54) case, her husband sorted out his frustration soon after she made him leave the family and they reconciled: "I kicked him out, he calmed down, came back, now he's taking it just fine, now he's not even reminding me of that. Today, whatever I say, he takes it, he composed himself" [Hana, 54, FG2]. Other interviewed women had a more pragmatic view of why their men returned back to them. They argued that their men returned because they did not have much luck with a new woman either in managing to conceive a child

> He had a girlfriend, but [...] that girlfriend had the same thing done as me and he didn't know about it. So suddenly he was trapped, she was also sterilised, so the Mister came home, right? Because his situation hasn't worsened, neither has it improved. [Anna, 51, II]

For some interviewed women the separation and divorce remained a permanent situation. This was the case of Beáta and her husband who separated for good soon after her sterilisation:

> My husband was also leaving and coming back constantly, all the time I was listening; there he had something with that woman, there with another, what he did where and so on [...] So I was bothered with it, I had three children with him and he was behaving like this [...] When nothing can be done, nothing can be done, so I divorced him. [Beáta, 62, FG1]

Olga (55) even got divorced twice in the aftermath of sterilisation. She did not tell her second husband about it either and when he eventually found out that she was not able to have children with him, he divorced her.

Finally, some husbands stayed with their families after acknowledging the sterilisation, but the interviewed women were convinced that they did so only because of their children and not them. The women thought this because in many cases, their husbands did not show much enthusiasm in having sex with them anymore. Petra brought a specifically telling account of this:

> They've destroyed the most valuable thing in life - my youth. I haven't made love to my husband since 1986. He told me he doesn't want me, that I'm cold, I've grown a moustache. He didn't want me, my husband! He said that he didn't want to have any intimate intercourse. He was with me. We lived together without papers, but he stayed with me only because of the kids, we've had five of them. He went after other women. I had to tolerate that. He even told me that he was going to see some other women to make love. And I didn't really care, I had no sexual appetite anyway. [Petra, 64, II]

Similarly, when Eva (54) was asked about the bond which has held their partnership together, she resolutely responded that it was not because of her that her husband stayed:

> I didn't, the kids made him stay [...] But you know, when my little one, three-year-old sat by the piano, and he started to play, Mário joined in, so they were playing four-hands. And I don't know how it's possible, but my husband only showed them once. For Elise [Mozart's song], really only once and 14 days later they played it, I had no

> idea how. Back then, I don't know [...] they were really skilful and well-behaved. So, I think that the kids kept him with us, not me. And especially these twins, who he loves more than anything to this day. [Eva, 54, II]

In this section, we discussed the reaction of partners to the women's sterilisation. About half of the men were eventually able to make peace with the newly emerged situation. On the other hand, ten of the interviewed women divorced their husbands after life with them turned complicated due to men not being able to cope with the sterilisation of their partner. In four cases, the partners found a way back to each other again, but even they claim that their life together has irrevocably changed towards resignation and apathy.

5.12 Reaction of the Broader Family and the Local Community

The reaction of the people from the local community after the sterilisation was closely related to the extent of information they had on the sterilisations and their own experience with it. The general rule, however, was that the interviewed women did not feel confident sharing their ordeal with anyone except for their mothers, and in some cases their sisters. It is important to note in this regard that many of the affected women found out about the sterilisation only retrospectively, sometimes months and years later, and the surgeries could not have been preceded by any consultation in the local community. Therefore, it was only gradually that the local community found out that the sterilisations of Romani women were not accidental and isolated events, but a practice that affected many women in the community. Štěpánka described:

> We didn't know of each other, only after they did it to us, we found out [...] We didn't talk about it with anyone, only when we went for example to some events, dinners, weddings or something like that and when they asked: "How many children do you have?" "I have so and so..." "You'll have more, don't worry..." And I said, "I won't, because they did this to me." "They did that to you, too?" Only accidentally, by the way, we found out about it. [Štěpánka, 55, II]

Interviewed women did not report any significant changes in their position within their communities, because the circumstances of the sterilisation were acknowledged and no blame was put on them. On the other hand, some women have reported that their family-in-laws' attitudes changed:

> When this happened to you, you were a poor woman in our family, my husband was a Hungarian and Hungarians want many children, for me four were enough, but he wanted eight. And his family didn't understand what has happened and told him to divorce me, if I can't have any more children. [Filoména, 48, II]

As Filoména shared, sometimes it was the partner's family who took on the most critical stance towards the sterilised women. Women from Most reported that nobody from the

local community ridiculed or blamed them as women from almost all Romani families were coerced to undergo a sterilisation.

As for the closest family members, the reactions of the women's mothers showed great variety. Some mothers had their own experience with involuntary sterilisation, often manipulated and coerced by social workers. In these cases anger mixed with powerlessness:

> I've told my mother what had happened and she reacted very badly, because she had it, too. She was really upset. She told me I was too young, I was only 24 at that time. After some time she told me that in some ways it was good that I wouldn't have any more children, for my health, but in the beginning she was very upset. [Jana, 48, II]

Finding out that the generation of her mother was also harmed by sterilisations, Jana and other women have since worried every time their own daughters were going to the hospitals for rudimentary medical checks or for giving birth. They described the feeling of helplessness that the power of medical personnel over their bodies seemed to be everywhere. The reason for the mostly negative reaction of mothers and sisters of the affected women was often a shared feeling of powerlessness in the face of the decisions of medical and social authorities:

> My sister was very miserable, when she had heard what happened to me, because we knew that it destroys health, that it destroys a person. That you don't feel good after the sterilisation, that it influences your health condition and sex life. [Petra, 64, II]

Romani women from Vsetín also shared that they have found out that many women from two or more generations in the community were harmed by sterilisation. Romana pointed out that her mother was saddened not only by the fact that she will not have more children but also because she expected that Romana will have health and sexual complications:

> Here in Vsetín almost everyone [among Romani women] had it done, so when my mom heard what happened, she cried and cried, because she knew that I won't have any more sexual appetite and I will be in pain, for example when the weather changes, I will be dizzy and so on. [Romana, 37, II]

Even if the women did not feel any visible change in the attitude of their broader family and community some of them felt distanced and isolated:

> I've always felt somehow distanced from them, for example when my sister gave birth and brought home a baby, I held him in my arms and started to cry. I also wanted to have another one and I couldn't, so I cried, I always felt so sorry [...] and angry about the doctor who did that to me. [Filoména, 48, II]

Although Filoména did not receive any explicit marks of being pushed away from her family, she nevertheless felt like a stranger who could not fully share important moments with them.

In some Romani communities the sterilisations were not common and in these cases even the mothers or sisters tended to blame the interviewed women as if it was their own choice to undergo sterilisation. Hearing about such reactions, the affected women shied away from sharing their misfortune even with their closest family members. Such are Ivana's (58) and Eva's (54) cases. Although they are sisters and they both were sterilised, they would not share it with each other until this research. Until that time Ivana thought that sterilisation was done only to single mothers and since her sister was married she had never asked, but when Eva was interviewed in her home, her sister called, and they spoke about the sterilisation for the first time.

Three sisters in Krnov - Marie (51), Simona (49) and Věra (48) - who were sterilised in a short time one after another, did not find a reason to talk about sterilisation for a long time. For a while, they believed that they would have more children after the sterilisation "expires" as they were told by social and medical authorities. It was only later when they discovered the truth that they shared it openly:

> Only when we got older, when we went through menopause and became active members of the Group [Group of Women Harmed by Involuntary Sterilisation], we realised that we share similar problems also with other women and that these may be caused by the sterilisation. [Marie, 51, II]

Even if the social position of the sterilised women in the community did not change substantially, their private lives, marriages and relations with family-in-law were largely affected. Some of the women did not get support from the close family relatives they turned to - their mothers and sisters - and were left to deal with their new situation alone and thus deliberately chosen to retreat into social isolation.

6 In Place of a Conclusion

One of the objectives of the research was to develop paths and provide tools for affected women for their advocacy for compensation. The report is aimed to support Roma women in their awareness-raising and compensation advocacy activities. Many of the interviewed women from Ostrava have been already intensely involved in campaigning as members of the Group of Women Harmed by Involuntary Sterilisation. The research created a platform for involuntarily sterilised women all around the Czech Republic to meet and support each other in their activities. During the meetings the women came up with many ideas on what they can do in order to change the public opinion on the sterilisations of Romani women. The women from Ostrava-based Group managed to grip the attention of other women to advocacy, while they shared with them their achievements in this area. The most important achievements, according to the Group, are the fact that Romani women are not systematically targeted anymore with involuntary sterilisation and that the Prime Minister issued a partial apology in 2009:

> We were in the Parliament and they said that we were sterilised unjustly and now we are just waiting what will be next. We fought out this apology and that it has been stopped - an informed consent is needed in order to sterilise a woman today. [Filoména, 48, II]

The research team used the collective meetings with women also to inform women about the current state of the development of a compensation scheme and safeguards effectively blocking attempts to perform sterilisation involuntarily.

The women expressed wishes not only to advocate for the compensation and safeguards, but also engage in awareness-raising activities re-shaping the opinion of the general public. Participation in the research, public gatherings and demonstrations, a theatre performance and the press conferences were seen as the most viable options. Nevertheless, some of the women voiced that professional civil society should continue supporting them in gaining the compensation and official apology. They understand that the compensation law enactment is a long and complicated process which would need their self-advocacy in changing the public opinion.

The research managed to establish a united platform where affected Romani women have started to develop a common understanding of the injustice suffered and considered way of engaging with the general public and policy-makers in order to develop awareness on involuntary sterilisation practices designed and supported by the state. They have also started with a coordinated advocacy work in order to secure reliable safeguards for the future and the compensation mechanism for the previous generations of Romani women (and women with disabilities). Many of the interviewed women expressed a calling to fight for the justice. As they were sterilised unknowingly or forced to undergo the procedure, they need to stand for themselves, but also for other women not to be exposed to the same maltreatment.

The last focus group held in Prague in December 2014 finished with a press conference and most of the participating women stood up as self-advocates in front of the journalists for the first time. In November 2015, an alliance of Czech and Slovak women harmed by coercive sterilisation was formed during the event in Ostravice. In June 2016, four affected women had rehearsed an original social theatre play based on the facts from their sterilisation. The ERRC and LHR continue supporting them.

In line with the objectives of the method of the social theatre and theatre of the oppressed, the report was used in June 2016 as the material for developing a social theatre play. Under the supervision of social theatre experts, the participating women took on dramatising and acting their stories in order to raise awareness but also as a therapeutic path for coping with the trauma they had to face.[152] As Tofteng and Husted reminded: "Theatre-based action research opens up a new way to communicate and make visible knowledge and experiences from below that have difficulties reaching the public agenda or influencing structures of power."[153]

152 Marek Szilvasi, "When words fall on stony soil and hearts harden in the face of injustice", in: *ERRC blog*, 15 June, 2016, available at: **http://www.errc.org/blog/when-words-fall-on-stony-soil-and-hearts-harden-in-the-face-of-injustice-on-coercive-sterilisation-and-social-theatre/110**.

153 D. Tofteng, M. Husted. 2011, "Theatre and action research: How drama can empower action research processes in the field of unemployment.", in: *Action Research* 9(1), p. 27

Recommendations for Government Action

The ERRC and LHR recommend to the government of the Czech Republic without further due to undertake the following:

Access to Justice

1. Grant compensation to all victims of coercive sterilisation in the Czech Republic irrespective of the date of sterilisation, ethnicity, nationality or age;
2. Ensure that the three-year statute of limitation, dating from the moment of sterilisation, will not prevent victims from bringing civil claims for damages;
3. Ensure that all victims of involuntary sterilisation are provided with free legal aid and all potential litigation costs are covered;
4. Amend/abolish problematic provisions of the Specific Medical Services Act concerning informed consent to sterilisation.

Transparency

1. Make sure that any Commission for compensation will contain independent expert representatives along with representatives of ministries and health services;
2. Appoint an independent committee to conduct research into the full extent of harm caused by the practice of involuntary sterilisation, and support ongoing outreach to all potential applicants for compensation;
3. Establish clear procedural guidelines for following up on complaints of rights violations and strengthen administrative accountability mechanisms at hospitals.

Compensation

1. Secure access to non-monetary forms of compensation such as artificial fertilisation, rehabilitation, etc.;

Accountability

1. Assign the Czech Foreign Ministry to undertake negotiations with the Slovak Government to provide redress for women sterilised in Slovakia prior to 1991;

Discrimination and Access to Information

1. Collect disaggregated data based on ethnicity and gender in health care;
2. Consider the cumulative effects of multiple discrimination (ethnicity/gender) suffered by Romani women in accessing health care, education and other areas;

3. Recognize and react to intersectionality between vulnerability factors including gender, ethnicity and other status of women such as "rural" or "migrant";
4. Acknowledge that ethnic discrimination can prevent Romani children, including Romani girls, from accessing equal education and health care;
5. Adopt comprehensive policies that address the situation of Romani women in general and in terms of access to health care, education, and other services
6. Allocate budgets specifically to improve the situation of Romani girls and women in access to health care and education.

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Appendix 1

Notes on the Methodology

The research has employed qualitative interview methods for examining the life trajectories of the affected women.[154]

Individual in-depth interviews: The researcher conducted 17 semi-structured interview sessions with 22 women. Out of these 22 women, 12 also took part in the focus group sessions. Besides women individually interviewed, two other women joined the focus groups. Concerning the regions covered, seven women were from Most and seven from Ostrava, three were from Krnov and three from Vsetín, two were from Prague, and one from Louny and Frýdek-Místek, the regions with large Roma population. The idea was to cover various experiences of the affected women. The substantial factors included: coercion to undergo sterilisation by social workers, without monetary or other compensation (eight cases); financial incentives for sterilisation offered by social workers (three cases); sterilisations after second or third Caesarean section against the will of the women (two cases); sterilisations decided by doctors for health reasons (three cases with or shortly after the first Caesarean section, two cases immediately after giving birth, two cases while the doctors were dealing with their miscarriage, and finally two cases during operations of alleged tumours).

The original idea to discuss the matter with the social workers and doctors who were involved in these sterilisations was not realised due to several obstacles. A social worker in Ostrava initially agreed to the interview, but then decided to cancel at the very last moment. She eventually agreed to a brief interview on the phone. Concerning doctors, those still practicing who had practiced sterilisation did not feel safe to talk about what was happening and why as the community of medical professionals continues denying that involuntary sterilisations had occurred systematically and were still occurring, if rarely, as late as 2007. On several occasions the researcher was told even by young doctors who could not possibly have been involved that no-one will be willing to talk about it, despite that the fact a long time has passed since then. Three informal interviews were conducted with gynaecologists, but they restricted the theme to discussing the potential consequences of sterilisation on the female body and disregarded attempts to discuss the legality of sterilisation practice supported by the state.

Focus groups: Two focus groups took place in Prague in December 2014. Each focus group consisted of seven[155] women from different parts of the Czech Republic. The choice of this

154 The original research design has foreseen to include sterilisation accounts from both Romani women and women with mental disabilities which were equally targeted by respective governmental policies. However, even though we consulted the research with the Czech representative of the Mental Disability Advocacy Centre (MDAC), we eventually did not manage to find cases.

155 Mansell et al. (2004) suggest that the size of the group is crucial and he suggested groups of 8-12 members. This number was perceived by the research team too large when we took into consideration the nature of the subject matter and the potential trauma it could evoke and therefore we decided to limit the size of the groups to 6-7 women.

technique was made with the intention of providing safe environment for the women to meet and talk about their experience collectively. For many women it was the first time that they could share their experience with somebody who went through something similar; for most of them it was the first time discussing it collectively in the group.

The research evidence has been treated as confidential – and names of women have been changed in order to protect their privacy. Each of the interviewed women signed an informed consent form, in which they were told about the aim of the research and possibility to withdraw, whenever they would like to. None of the women used this possibility though.

The individual and group interviews with affected women focused on the circumstances of the sterilisation and its consequences for the personal health and physical integrity of the women, but also for their general well-being and family life. In all cases described below, the women were not given a real opportunity to understand the nature and the consequences of the intervention that had been or would be performed on them. In the most extreme cases, Romani women were not told by medical professionals that they would undergo sterilisation. This is the situation with all interviewed Romani women from Ostrava, except Filoména. Filoména, as well as the women from Krnov and Most were purposefully misinformed that the procedure had a temporary character. The other women were consulted about what the sterilisation procedure entails, but they were either coerced to undergo it by social workers under the threat of institutionalising children or cutting their family welfare benefits, or persuaded that was necessary for their health or for saving their life.[156] Finding out what had happened to them, changed their lives forever. These women's lives and bodies have been irrevocably changed without their consent; this research has attempted to shed light on what has happened to them, and to call for compensation, solidarity and justice.

156 The idea of the law is to compensate those women who were sterilised involuntarily, however, many of the affected women signed the consent form uninformed or under various pressure. This should not be forgotten.

Appendix 2

List of the interviewed women with basic description

Names	City	Age	No. of kids	Year of sterilisation	Age when sterilised	Research participation
Anna	Most	51	2	1987	23	II, FG2
Beáta	Most	62	3	1988	36	II, FG1
Cecilie	Most	59	5	1988	33	II, FG2
Darina	Most	50	4	1988	24	II, FG1
Eva	Praha	54	4	1982	22	II, FG2
Filoména	Ostrava	48	4	1991	25	II, FG2
Gita	Vsetín	44	4	2001	31	II
Henrieta	Ostrava	48	2	2001	35	II, FG1
Ivana	Praha	58	3	1984	28	II
Jana	Ostrava	48	4	1992	26	II, FG2
Kristýna	Vsetín	76	8	1969	31	II
Lucie	Frýdek-Místek	49	4	1989	23	II, FG2
Marie	Krnov	51	3	1987	24	II, FG1
Nora	Most	53	0	1977	16	II
Olga	Most	55	2	1987	28	II
Petra	Ostrava	64	5	1986	36	II
Romana	Vsetín	37	4	2001	24	II
Simona	Krnov	49	3	1988	23	II
Štěpánka	Ostrava	55	3	1982	23	II, FG1
Tatiána	Ostrava	52	3	1992	30	II, FG1
Věra	Krnov	50	4	1987	23	II
Zuzana	Louny	72	2	1974	32	II
Hana	Most	54	4	1987	27	FG2
Hedvika	Ostrava	50	4	1997	34	FG1

The European Roma Rights Centre (ERRC) is a Roma-led international public interest law organisation working to combat anti-Romani racism and human rights abuse of Roma. The approach of the ERRC involves strategic litigation, international advocacy, research and policy development and training of Romani activists. The ERRC has consultative status with the Council of Europe, as well as with the Economic and Social Council of the United Nations.

This report examines the practice of coercive sterilisations in the Czech Republic as experienced by Romani women against their will or without free and informed consent. Along with a review of the institutional, legal and policy context within which these sterilisations took place, the main focus of the report is on the personal experiences of sterilised Romani women.

It presents accounts of Romani women of their treatment by medical personnel and social workers. The report reveals how Romani women were subjected to sterilisation without prior information that such an operation would be performed on them; in some instances the women claim that their consent forms and other medical documentation were manipulated and their signatures forged. The procedure was often performed at the same time as caesarean sections or women were presented with consent forms when in great pain or distress during labour or delivery. In other instances Romani women were coerced into accepting sterilisation by misinformation about the nature of this procedure as well as through threats of the institutionalisation of their children and withdrawal of their social benefits. For some Romani women, sterilisation was falsely justified by their doctors as a life-saving intervention.

CHALLENGING DISCRIMINATION PROMOTING EQUALITY

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