

Office of the High Commissioner for Human Rights

10 December 2016

Call for Inputs on the preparation of a report on the impact of multiple and intersecting forms of discrimination and violence in the context of racism, racial discrimination, xenophobia and related intolerance on the full enjoyment of all human rights by women and girls

Written contribution by Dr. Ivona Truscan

1. This submission provides insights on the question referring to the existence of measures to ensure redress and promote recovery, rehabilitation and social reintegration of women and girls who have suffered discrimination and violence, particularly women and girls belonging to national or ethnic, religious and linguistic minorities. It focuses on the challenges to adopt and implement measures that respond adequately and effectively to instances of intersectional and multiple discrimination. This submission draws attention to the fact that the measures of redress of intersectional discrimination need to take into account and respond to the assemble of factors generating exclusion. It is not sufficient to adopt measures that only partially respond to the instances of discrimination suffered by victims. The submission illustrates the case of Romani women who struggle to obtain redress for the human rights violations and intersectional discrimination they suffer in the context of the practice of coercive sterilization in the Czech Republic.*
2. The practice of coercive sterilization of Romani women and women with disabilities was sanctioned by the former Czechoslovak authorities from 1971 until 1993, but evidence indicates that it continued both in Czech Republic and Slovakia until the late 2000s. The Czech Public Defender of Rights received between September 2004 and May 2005 more than 50 complaints from Romani women alleging being submitted to medical interventions of sterilization without their consent or where their consent was not free and informed. This practice targeted specifically Romani women discriminating against them on the grounds of sex and ethnicity.
3. In response to the allegations of coercive sterilization, a number of policy and judicial remedies were set in motion. In 2005, the Czech Minister of Health set up an advisory

* The analysis on the case of coercive sterilizations of Romani women is part of a research project conducted by the Interdisciplinary Institute of Ethics and Human Rights at the University of Fribourg in collaboration with the Geneva Academy of International Humanitarian Law and Human Rights. Further information about the project is available here: < <http://www.unifr.ch/iiedh/fr/recherche/ethique-politique-dh/intersectionalite>>.

board which recommended a number of measures concerning the practice of sterilizations, but not the discrimination affecting the Romani women. In 2007, the Czech authorities advised the Government to recognize the practice of illegal sterilizations, express regret over the practice, initiate investigations into all the alleged cases and compensate victims. In 2009, the Czech Government issued an apology and considered sterilizations as individual instances of error, and not as manifestations of structural discrimination of Romani women. Legislation proposed in 2014 to establish a mechanism for compensation was rejected by the Government the following year.

4. The Romani women also searched redress before national courts. Claims before Czech criminal and civil courts were unsuccessful due to the application of the statute of limitations, while complaints before the Constitutional Court reinforced the decisions of lower courts. A number of petitions were submitted before the UN Committee on the Elimination of Discrimination against Women and the European Court of Human Rights against the Czech Republic, but ended in friendly settlements. Therefore, the assemble of remedies available to victims proved to be inefficient to recognize and address intersectional discrimination. Even in those cases where mechanisms pronounced on the merits of allegations of coerced sterilizations, such as the case *A.S. v. Hungary* decided by the Committee on the Elimination of Discrimination against Women or the *V.C. v. Slovakia* decided by the European Court of Human Rights, the decisions either dissociate sex-based discrimination from racial discrimination, or, respectively, dissociate the aspect of intersectional discrimination from the violations related to coercive sterilizations. Thus, both national and international mechanisms of redress failed to recognize how the Romani women's particular circumstances as belonging to the Roma community and as women shaped their experience of discrimination at the intersection of race/ ethnicity and sex.
5. The Romani women's struggle for justice highlights the difficulties that ethnic minority women face when intersectional discrimination is not expressly recognized and when judicial, quasi-judicial and administrative redress mechanisms operate on the basis of a single axis approach to discrimination, thus causing artificial separations of sex-based and racial discrimination.
6. This submission invites the High Commissioner for Human Rights to give due regard to the standards developed by the UN human rights mechanisms in relation to the means to address intersectional discrimination. Under the Convention on the Elimination of Discrimination against Women, one of States' core obligations is to adopt measures that legally recognize intersectional discrimination and its compounded negative impact (General Recommendation No. 28, para. 18).
7. Addressing intersectional and multiple discrimination also requires measures that place individual experiences at the starting point and which take into account victims' multiple experiences. In this sense, the approach recommended by the Committee on the Rights

of Persons with Disabilities is key in recognizing that responding to intersectional and multiple discrimination requires targeted measures with respect to disaggregated data collection, consultation, policymaking, enforceability of non-discrimination and provision of effective remedies (General Comment No. 3, para. 16). In other words, cases of intersectional discrimination require reading policy and legislative provisions with an intersectional lens in order to uncover experiences that otherwise would remain invisible.

8. In order to adopt measures to effectively tackle intersectional discrimination in the context of racism, racial discrimination, xenophobia and related intolerance, General Recommendation No. 25 of the Committee on the Elimination of Racial Discrimination indicates a number of steps that serve to identify the gender-related dimensions of racial discrimination. Particularly, these steps involve paying attention to the gender dimension of (a) the form and manifestation of racial discrimination; (b) the circumstances in which racial discrimination occurs; (c) the consequences of racial discrimination; and (d) the availability and accessibility of remedies and complaint mechanisms for racial discrimination (para. 5).
9. Measures addressing intersectional discrimination should create and develop opportunities to ensure the inclusion of women and girls belonging to ethnic or racial minorities, their participation in policy-making processes and public life as well as their access to effective remedies. Furthermore, measures to address intersectional discrimination must refrain from creating further exclusions and endangering the universal respect of all human rights for all.
10. The author of this submission would like to ask the High Commissioner for Human Rights to make these standards explicit in the report and to provide additional guidance to States concerning measures to address intersectional and multiple discrimination that affects women and girls in the context of racism, racial discrimination, xenophobia and related intolerance.

Thank you for taking the time to consider this submission.

Yours faithfully,



Dr. Ivona Truscan