

Dear ladies and gentlemen,

thank you for inviting me to speak. My name is Jana Řepová and I am a lawyer in the League of Human Rights. We advocate for the right to freedom of choice in health care, we are attending expert committees, we represent cases in court that could become precedents and more. In my speech I will talk about compensation mechanism for victims of involuntary sterilizations and then about the current situation in obstetric care.

The government has not yet held a national consultation.

First of all, I would like to say that we consider it good news that the Czech Republic has decided to face up to the cruel practice of unlawful sterilization of women by adopting the law on compensation. The Czech Republic has listened to the recommendations of a number of states in the previous review. However, we regret to note that we have some serious concerns about the practical implementation.

Most compensation claim proceedings do not meet the statutory deadline for settlement and the proceedings drag on for more months (10 instead of 2 in some cases) than the statutory deadline.

Further, although the enacted law explicitly allows for other evidence than medical records, we are aware of only one case where other evidence has been admitted - a social benefit certificate. This means that claimants whose medical records have been shredded are not yet receiving compensation, even if the shredding was in violation of the law or the records were lost or destroyed. But the law has explicitly granted compensation for unlawful sterilizations since 1966 and all medical records are shredded from years before 1982.

The Ministry of Health did not provide a list of evidence which it is willing to accept. However, we know that it does not, for example, accept affidavits from family members or police reports. We recommend that Ministry of Health would:

Produce a methodology or list of other evidence that the Ministry of Health considers relevant.

The Ministry of Health has failed to respond to legal arguments in multiple cases. The claimants often argue for ECHR case law, discrimination, the form and nature of informed consent, the mandatory procedure established by the sterilisation decree or, for example, good morals. All of these arguments remain unheeded in the decisions of the Ministry of Health.

In one of the most recent decisions concerning one of our clients, the claim was rejected despite the fact that the reason for the sterilization is explicitly stated in the medical records as the applicant's Romani origin.

As of 30 September 2022, 421 applications have been submitted and 231 have been decided. However, for the reasons stated above, only 129 of these determined applications have been successful and not a single appeal has been successful.

We recommend to:

Set up an expert committee that would prepare the assessment of individual cases before the Ministry of Health decides a claim.

I would like to move to the problems in obstetric care.

In this area, not much has changed since the last review. In the past, this issue has been criticized by the WHO, by the CEDAW Committee, as well as by the European Court of Human Rights. We still have problems with provision of care without informed consent in this area as well as the use of routine procedures without medical indication, such as episiotomies, C-sections or separations of mothers and newborns. These interventions constitute obstetric violence. The Czech Republic lacks in quality standards that would reflect the newest scientific findings; the current standards are obsolete, offering only one solution while being formulated in a directive manner. This leads to the insecurity of health professionals and to a compulsion to treat the woman within these limited standards despite the harmful effect of the procedure. We recommend to:

Create professional standards for midwives and physicians in accordance with Evidence Based Medicine by means of recommendations and including alternatives.

The breached rights are not only of the mothers-to-be but also of the midwives who are prevented from performing their profession in full. In the Czech Republic, midwives are university graduates possessing independent competences by law, yet in practice they cannot provide care for physiology labour without supervision of the doctor. Separate birth centers outside of hospital with just midwives are still non-existent.

Medical staff are not sufficiently supported and this is reflected in the quality of care provided. It is a helping profession and as such should have mandatory supervision by law (in the Czech Republic, for example, such an obligation exists for social workers). These measures should be taken:

Adopt a clear and realisable legal regulation with respect to birth centres.

Legislative introduction of regular mandatory supervision for medical staff in maternity hospitals.