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Social, Health and Family Affairs Committee

Minutes

Hearing on "Putting an end to coercive sterilisations and castrations" held in Paris on Friday, 16 September 2011

The Chairperson of the Social, Health and Family Affairs Committee and Rapporteur on the subject, **Ms Maury Pasquier**, opened the hearing by welcoming the invited experts and saluting the courage of Ms Gächter who had come to testify on her experience of coercive abortion and sterilisation. The Chairperson explained that in the late 19th century, the practice of coercive sterilisation and castration had been directed against people who were sick, the disabled, offenders, minorities, those on the fringes of society. It had culminated in the Nazis' mass forced sterilisation and castration of persons deemed to be "inferior". As stereotypes and prejudices against all that is different persisted, as well as a desire to control these differences, or at least to control their propagation and reproduction, coercive sterilisations and castrations continued to this day in the Council of Europe's member states: now the practice was directed mainly against Roma women, convicted sex offenders and transgender persons. The Chairperson condemned the practice as a serious violation of human rights and human dignity, and expressed her wish to see it abolished once and for all. Even those countries which had abolished the practice sometimes found it difficult to acknowledge that they had committed these serious violations of human rights in the past. Large numbers of victims were thus still awaiting compensation or apologies from the authorities, a situation which had to change.

Ms Albert, NGO activist, Czech Republic, made a presentation on coercive sterilisations of Romani Women in Council of Europe member states (see Appendix, point 1).

Mr Krakowski, member of the Council of Europe Anti-Torture Committee (CPT), Sweden, made a presentation on coercive castrations of convicted sex offenders (see Appendix, point 2).

Dr David Gerber, Consultant Psychiatrist, National Health Service (NHS) Greater Glasgow and Clyde, United Kingdom, gave a PowerPoint presentation on coercive sterilisations of transgender persons (available on PACE Extranet and from the Secretariat of the Social, Health and Family Affairs Committee), focusing on the relevant legal context in the United Kingdom. On the subject of gender identity, he pointed out that there were more than two forms (male and female): "intersex" between male and female as far as the physical body is concerned and "androgynous" between masculine and feminine as far as gender expression is concerned. In some countries, such as Australia, people even had the possibility of leaving the gender open (being considered neither male nor female) if they did not clearly belong to the one or the other main gender.

In most European countries, in order to legally change one's gender, persons concerned were not only required to undergo a medically supervised process of gender reassignment but also to become surgically and irreversibly infertile (through sterilisation). Amongst the countries which did not impose the second pre-condition of sterilisation, was the United Kingdom, where transgender persons were protected by the Gender

* Declassified by the Committee on 4 October 2011.

Recognition Act of 2004, which could serve as model legislation in this field. There had been several court cases leading up to the introduction of this law, in particular a ruling of the European Court of Human Rights in 2002 (*Christine Goodwin v. the United Kingdom*) which had held unanimously that several articles of the European Convention on Human Rights, such as Article 8 (right to respect for private and family life) and Article 12 (right to marry) had been violated, and which had found that the UK Government had a positive obligation under international law to rectify these ongoing breaches.

Since 2004, the new Gender Recognition Act allowed the application for a formal Gender Recognition Certificate (GRC), providing the person concerned with a full set of rights linked to his or her new gender, including the right to marry, parenthood, social security benefits and pensions, the protection against gender specific offences or the recognition of a foreign gender change and marriage. Such a GRC is issued after consideration of the application by a special Gender Recognition Panel on the basis of objective criteria. Persons wishing to obtain the GRC needed to have been diagnosed with gender "dysphoria" by a medical professional, to have lived in their acquired gender for at least two years and to have the intention to live permanently in their acquired gender. They furthermore needed to be at least 18 years of age and, in the case of foreigners, have lived or have been recognised as having changed gender in their country of origin. Although the United Kingdom provided this formal recognition, it was estimated that only about half of the people concerned had applied for a GRC, and the number of GRCs issued in the country had reached approximately 2 600 certificates overall. Dr Gerber concluded his presentation by stating that, in the United Kingdom, gender identity was not contingent on the physical modification of one's physical characteristics, and that the Gender Recognition Act provided transgender individuals with legal and social acceptance of their new identity.

Ms Gächter, survivor of a forced sterilisation (Switzerland) testified on her personal experience (see Appendix, point 3).

The Chairperson thanked all experts for their comprehensive presentations, and Ms Gächter for her moving personal account, and opened the floor for the discussion.

Ms Konečná commented on the treatment of surgical castration of sex offenders, which was possible in a number of Council of Europe member states and which was also mentioned in the Guidelines for Treatment of Paraphilias issued by the World Federation of Societies of Biological Psychiatry in 2010. There was evidence that post-castration recidivism rates were amongst the lowest. Many countries, including the Czech Republic which she represented, applied so-called "chemical castrations" instead (only one Council of Europe member states had made chemical castration, as opposed to surgical castration, mandatory). However, sometimes chemical castration was not possible for medical reasons, in which case surgical castration became the only alternative to long-term or even life-long detention. Some of the side effects could be countered; for example surgically castrated men who wished to maintain their ability to reproduce could have their sperm stored in a sperm bank for later use before the operation. It was possible to give freely consent to surgical castration in such circumstances.

Ms Konečná referred to the claim of the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment (CPT) that voluntary surgical castration of detained sex offenders was degrading treatment. The case law of the European Court on Human Rights did not consider this practice degrading treatment; in fact, no such post-surgery complaint had ever been lodged. However, the existing guarantees of informed and free consent provided by the law could be strengthened in a number of countries, including her own. For this reason, stricter criteria and procedures for surgical castration were to be introduced in the Czech Republic through new legislation. This legislation, which was currently being examined by Parliament and due to be adopted before the end of the year, would ensure that surgical castration could only be applied in cases where other forms of treatment had been exhausted and where strict procedures, involving the approval of applications by a national expert committee and by a court, had been respected. Likewise, the Czech Republic was currently investigating past cases of coercive sterilisations performed on Romani women, and revising its relevant laws with a view to developing stronger and more transparent procedures, guaranteeing that all patients needed to give full and informed consent before a sterilisation. **Ms Konečná** was therefore convinced that, with its new legislation, the Czech Republic would soon fulfil all international requirements.

Ms Rupprecht insisted on the fact that both topics debated, castration and sterilisation, were personal ones as they concerned coercive intrusions into the human body and its integrity. However, they needed to be clearly defined and distinguished, as did the intentions possibly motivating them: by imposing sterilisation, a state was trying to avoid a person reproducing, whilst by imposing castration on convicted sex offenders, the states was trying to prevent future sexual offences (while affecting the sexual life of the person concerned). But were these measures really leading to the results expected? Did the results justify the destruction of a person's bodily integrity? Germany unfortunately had known the category of "worthless life" in its history and although a painful confrontation with the Nazi past had been going on since the 1950s, more harm had been done afterwards, for example through stereotactic interventions in the brains of sexual offenders in the 1970s. It had to be made clear that no-one had to accept violations of their bodily integrity against their will, for whatever reason – and that parents/guardians could not express consent on children's behalf when it came to sterilisation or castration. Nowadays, Germany was overcautious as far as interfering with fundamental rights was concerned, including for criminal offenders. It was important to develop mechanisms to stop criminal acts without violating human rights and dignity.

The Chairperson asked if there was evidence of recent coercive sterilisations and/or castrations for reasons other than those already mentioned – for instance, as regards people with disabilities, in particular those with mental impairments.

Ms Albert explained that, to he knowledge, coercive sterilisations had mainly concerned Romani women in the last decade. The last case which had come to her attention was in 2007 – a Romani women with four children had been coerced into sterilisation by a social worker who had threatened to have two of her children taken away if she did not agree to sterilisation. However, it was striking that, everywhere in the world, there seemed to be the same desire to sterilise or castrate people who fall outside the norm. The practice could thus also concern people with disabilities or people living in institutions, as there were still incidences of doctors "labelling" patients in a way that could then lead to sterilisations or castrations.

Mr Krakowski confirmed that Romani women had been forcibly sterilised in Sweden in the 1930-70s, and had redressed the wrongs in the 1990s. It was the policy of the CPT he represented to have a dialogue with member states and co-operate with them: the new draft Czech law thus seemed a welcome development. However, he stressed that surgically castrated sex offenders also needed to be monitored post-surgery, and that, in the CPT's view, surgical castration had been made obsolete by pharmacological alternatives and thus constituted a human rights' breach.

Dr Gerber specified that the Mental Health Act of the United Kingdom also allowed for the sterilisation of people with mental health problems and/or learning difficulties, but that he had never seen this provision used.

Ms Gächter insisted that the fact that victims did not feel able to speak out about what had happened to them was particularly tragic. Only with external help, for example through the media, were victims like her able to access their administrative files. She invited members to see her story as more than a personal one as so many people were concerned by such violations of their human rights, but had difficulties to speak about them – some victims had developed mental health problems or had become suicidal. She still hoped that justice would be done one day, that past violations would be properly studied, and that, at the very least, victims were given the power over their own files.

The Chairperson concluded the debate by emphasizing the risk of not feeling concerned or of establishing a hierarchy of victims – which should both be avoided at all costs. There was no hierarchy amongst human beings, and the human rights of all had to be defended. It was important to be attentive to the definition of what is "normal": in a climate of increasing intolerance, the "norm" had to be prevented from dominating the discourse, thus making human rights violations possible even in situation where all the safeguards (e.g. appropriate laws, special committees) were in place.

Appendix

1. Coercive Sterilizations of Romani Women in Council of Europe Member States

Presentation by Gwendolyn Albert, NGO activist, Czech Republic

Tubal ligation, a surgical technique first proposed in early 19th century England, has been developed and promoted as a permanent birth control method ever since[1]. As has been most recently documented by author and historian Matthew Connolly[2], such surgery has been forcibly performed upon women in marginalized populations worldwide, motivated all too often by frankly eugenic considerations[3].

This presentation reviews recent incidents of coercive sterilization of Romani women in the Czech Republic, Hungary, and Slovakia,[4] reviews new ethical guidelines from the International Federation of Gynaecology and Obstetrics regarding female contraceptive sterilization, and proposes promoting those new guidelines in an effort to eradicate the ongoing practice of permanently depriving people of their reproductive capacity against their will.[5]

Former Czechoslovakia/Czech Republic

In communist Czechoslovakia, Romani women were forcibly sterilized starting in the 1970s, and the practice continued after the 1989 transition to democracy and the 1993 breakup of the country into the Czech Republic and Slovakia.[6] The Czech ombudsman has been quoted in the Czech press as estimating that, since the 1980s, as many as 90 000 women may have been affected by this practice throughout the entire territory of the former Czechoslovakia.[7]

During communism, tubal ligation was disproportionately promoted to Romani women by social workers, to address what was officially termed their "high, unhealthy" reproduction rate compared to the non-Romani population, using either the promise of financial incentives or the threat of various sanctions to coerce or force compliance.[8] After the Czechoslovak Prosecutor-General reviewed these incidents post-1989, incentive payments for sterilizations were discontinued.[9] Subsequent instances of forced sterilizations did not

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[1] For a history of the development of the procedure, see Medscape Reference, "Tubal Sterilization", by Robert K Zurawin, MD, (22 April 2011), http://emedicine.medscape.com/article/266799-overview#a0101. The International Federation of Gynecology and Obstetrics, FIGO, says in its 2011 guidelines on female contraceptive sterilization that, "It must be explained that sterilization must be considered a permanent, irreversible procedure that prevents future pregnancy." Minutes of the FIGO Executive Board Meeting, June 2011, Goa, India, pg 193 at 11, available at http://www.figo.org/files/figo-corp/FIGO%20-%20Female%20contraceptive%20sterilization.pdf.

[2] Matthew Connelly, Fatal Misconception, (Cambridge, MA/London, England: Belknap Press of Harvard University, 2008)

[3] Men have also been targeted for vasectomy in some Asian countries, most notably India, where incentive programs promoting tubal ligations and vasectomies still continue; see The Times of India, "Get sterilized in Rajasthan, drive home a Nano", Ali, Syed Intishab, June 30, 2011, available at http://timesofindia.indiatimes.com/india/Get-sterilized-in-Rajasthan-drive-home-a-Nano/articleshow/9045645.cms, Accessed 30 June 2011.

[4] Forced sterilization also occurred during the 1930-1970 period in Denmark, Finland, Germany, Norway, Sweden and Switzerland. The incidence of forced sterilization in the Central European countries under discussion here is a much more recent phenomenon, starting from about 1960 in the case of the former Czechoslovakia and continuing through until as recently as 2010.

[5] For more on the global nature of this abuse, see www.stoptortureinhealthcare.org.

[6] "Final Statement of the Public Defender of Rights in the Matter of Sterilisations Performed in Contravention of the Law and Proposed Remedial Measures", Office of the Public Defender of Rights of the Czech Republic (ombudsman), 2005, available at http://www2.ohchr.org/english/bodies/cerd/docs/ngos/Public-defender-rights.pdf.

[7] Lidovky.cz, "Ministr Kocáb: Politování sterilizovaných žen je první fáze" (24.11.2009), http://www.lidovky.cz/ministr-kocab-politovani-sterilizovanych-zen-je-prvni-faze-pld-/ln_domov.asp?c=A091124_184921_ln_domov_tai . The exact quote from this article is: "Podle odhadu ombudsmana od 80. let do dneška mohlo být na území bývalého Československa sterilizováno na 90 tisíc žen." ("According to the ombudsman's estimate, from the 1980s until today, as many as 90,000 women may have been sterilized throughout the territory of the former Czechoslovakia." – my translation).

[8] Sokolova, Vera, Cultural Politics of Ethnicity: Discourses on Roma in Communist Czechoslovakia, ibidem-Verlag, Stuttgart, 2008.

[9] "Final Statement of the Public Defender of Rights in the Matter of Sterilisations Performed in Contravention of the Law and Proposed Remedial Measures", Office of the Public Defender of Rights of the Czech Republic (ombudsman), 2005, available at http://www2.ohchr.org/english/bodies/cerd/docs/ngos/Public-defender-rights.pdf.

involve social workers; instead, doctors sterilized Romani women during C-section deliveries, often telling them that not only the C-section but the sterilization itself had been "emergency, life-saving" measures.[10]

In November 2009, the Czech Government expressed regret for "individual failures" in the performance of sterilizations by tubal ligation.[11] The practice had been described as genocidal by dissidents with the Charter 77 organization in communist Czechoslovakia, and following 1989, complaints about the program were filed with the ombudsman in 2004. After ordering a Czech Health Ministry investigation, the ombudsman then critiqued the ministry in 2005 for failing to conclude that the documented procedures violated not only human rights, but the law.

The ombudsman's report became the basis for international human rights bodies[12] to recommend the Czech state take urgent action to redress the victims of these practices. Criminal investigations into these incidents were shelved and none of the perpetrators have been subjected to civil, criminal or professional sanction. Civil lawsuits brought by individuals have only rarely resulted in compensation awards due to statutes of limitations.

Former Czechoslovakia/Slovakia

Romani women were also forcibly sterilized in the Slovak part of Czechoslovakia starting in the 1970s. Dissidents monitoring these incidents reported that in the region of East Slovakia, more than 1 000 Romani women and girls were sterilized during a single year in the 1980s. [13] By 2002, Romani women were still being sterilized without their informed consent, according to human rights activists.[14] The government investigated for "genocide" and found no evidence of it. International observers, including the U.S. Commission on Security and Cooperation in Europe, called the investigation flawed because human rights activists and potential victims were threatened with criminal charges for speaking out. In that same year, the Council of Europe's Commissioner for Human Rights said he found the allegations credible, recommending that the government "offer a speedy, fair, efficient, and just redress" to the victims.[15] The Slovak Government has yet to act upon these recommendations, though they have revised the conditions under which sterilization may be performed and instituted high fees for tubal ligations – meaning this birth control method is now effectively out of reach for low-income women who might desire it in Slovakia.

In 2006, the Slovak Constitutional Court ruled that the government's report had not adequately clarified the facts and ordered the investigation into forced sterilization re-opened, but in 2007, after interrogating the alleged perpetrators and victims, the Slovak Prosecutor announced no crime had been committed or rights violated, and discontinued the proceedings. Various international human rights bodies are still calling on the government to investigate the allegations, compensate the victims, and punish the perpetrators. A case *(V.C. v Slovakia)* is also currently pending before the European Court for Human Rights in Strasbourg.

[10] Ibid.
[11] "Czech Prime Minister Apologizes to Victims of Coercive Sterilization", 24 November 2009, Decade of Roma Inclusion press release, available at :
http://www.romadecade.org/czech_prime_minister_apologizes_to_victims_of_coercive_sterilization.
[12] For the Czech Republic at CEDAW, see UN Committee on the Elimination of Discrimination against Women, Forty-seventh session, 4-22 October 2010, "Concluding observations of the Committee on the Elimination of Discrimination against Women", available at http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-CZE-CO-5.pdf.
[13] "Final Statement of the Public Defender of Rights in the Matter of Sterilisations Performed in Contravention of the Law and Proposed Remedial Measures", Office of the Public Defender of Rights of the Czech Republic (ombudsman), 2005, pg. 27-28, http://www.ochrance.cz/fileadmin/user_upload/ENGLISH/Sterilisation.pdf.
[14] Center for Reproductive Rights, Poradna pre obcianske a l'udské práva in consultation with Ina Zoon, "Body and Soul: Forced Sterilization and Other Assaults on Roma Reproductive Freedom in Slovakia", 2003, available at http://reproductiverights.org/sites/crr.civicactions.net/files/documents/bo_slov_part1.pdf.
[15] Recommendation of the commissioner for human rights concerning certain aspects of law and practice relating to sterilization of women in the slovak republic", 17 October 2003, CommDH(2003)12, available at https://wcd.coe.int/ViewDoc.jsp?id=979625&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679.

Hungary

Compared to the Czech and Slovak examples, far fewer forced sterilizations of Romani women have been reported in Hungary. The apparently anomalous, isolated nature of these incidents may be why demands for redress were eventually met in the case of A.S., a Romani woman who was sterilized by tubal ligation in 2001 in a public hospital without her consent during emergency obstetrical services. The Hungarian courts acknowledged that the surgery had been performed without her informed consent, but claimed that her reproductive capacity had not been harmed, as the sterilization was purportedly "reversible." In 2004, A.S. filed a complaint with the Committee for the Elimination of Discrimination against Women (CEDAW), which two years later found Hungary in breach of the Convention. In 2009, the state compensated A.S. after extensive civil society pressure.[16]

Hungary's Public Health Act requires that patients receive information about tubal ligation's "chances of reversibility" – phrasing that suggests doctors in Hungary view sterilization as potentially reversible. The European Roma Rights Centre is currently litigating another case of a Romani woman sterilized in Hungary without her consent, which came to light in 2008.

Romani women's resistance

Romani survivors of forced sterilization have played a key role in bringing it to light and building a movement for justice. In the Czech Republic, Elena Gorolová, spokesperson for the Group of Women Harmed by Forced Sterilization, has been an outspoken advocate for Romani victims.[17] Sterilized during the C-section delivery of her second child in 1990, Gorolová cannot bring a civil suit because the statute of limitations has expired, as it has for many other women. This has not stopped her and other survivors from pursuing justice locally, nationally and internationally. Survivors of forced sterilization in the Czech city Ostrava demonstrated outside the hospital most known for having sterilized Romani women in their community. They have also raised these violations in face-to-face meetings with maternity ward staff, confronting some of the very doctors who sterilized them against their will.

Such public activism by the survivors of these human rights violations is an exception, and local tabloid publications have attempted to smear many of the women who have come forward. Some Romani members of Gorolová's community have warned her that her cause is in vain, but she has not given up hope that one day the government will compensate the survivors of forced sterilization.

In Hungary and Slovakia, while survivors have taken legal action, they have been very careful to keep their identities private for a number of reasons. In the A.S. case, there were fears that publishing the amount of any eventual compensation could expose her to violent extortion attempts. In Slovakia, women who were pregnant and sterilized before reaching majority were threatened that they or their partners would be criminally prosecuted for statutory rape if they came forward.

New FIGO guidelines on sterilization

In 2011, the International Federation of Gynaecology and Obstetrics (FIGO) adopted new ethical guidelines on female contraceptive sterilization as a result of these cases, and numerous others around the world involving imprisoned women, Indigenous women, women of color, and transgender people throughout the Americas; women with disabilities in Australia; HIV positive women in Chile and Namibia; and lower-caste men and women in India.[18]

[16] Reproductive Health Reality Check, "Coercively Sterilized Romani Woman Will Receive Compensation", Wilkowska-Landowska, Anna, June 12, 2009, available at http://www.rhrealitycheck.org/blog/2009/06/11/coercively-sterilized-romani-woman-will-receive-compensation.

[17] "The story of Elena Gorolová", April 2009, http://www.ohchr.org/EN/NEWSEVENTS/Pages/ElenaGorolova.aspx.

[18] "Female Contraceptive Sterilization", available at: http://www.figo.org/files/figo-corp/FIGO%20-%20Female%20contraceptive%20sterilization.pdf.

The guidelines are innovative because they emphasize that:

1) Sterilization should be considered irreversible and patients must be so informed.
2) Consent to sterilization should never be a condition for access to medical care, HIV/AIDS treatment, natural or caesarean delivery, abortion, or to benefits such as medical insurance, social assistance, employment or release from an institution.
3) Sterilization for prevention of future pregnancy cannot be ethically justified on grounds of medical emergency and is not an emergency procedure.
4) Article 23(1) of the UN Convention on the Rights of Persons with Disabilities imposes the duty upon states to ensure that "persons with disabilities, including children, retain their fertility on an equal basis with others."

The Committee would be doing the women of Europe an enormous service if it could assist FIGO in its efforts to bring these newly revised, higher ethical standards to the attention of gynaecologists, hospital administrators, nurses and obstetricians around Europe, in particular to practitioners in countries and regions serving marginalized populations such as Romani women. An ideal opportunity to perform this outreach will be next year, when FIGO holds its 20th World Congress in Rome, Italy in October 2012, and I would personally be very interested in assisting with this effort.

Forced sterilization is a serious human rights abuse that has gone unacknowledged and underreported for decades worldwide. It represents the ultimate violation of a woman's right to determine her own reproductive destiny. The women of Europe and the world deserve doctors who will protect their rights as well as their health. Thank you for taking the time to review this important human rights issue.

2. Coercive castrations of convicted sex offenders

Presentation by Stefan Krakowski, member of the Council of Europe Anti-Torture Committee (CPT), Sweden

There seems to be a growing trend from political quarters in at least some member States, demanding castration and I, as a member of the CPT, had an opportunity to have a closer look at this question during a recent mission to Germany.
There has also been a communication between the CPT and the Czech Republic concerning surgical castration.
I will come back to the German and Czech case a little later. One should also mention the fact that Polish MPs passed legislation in 2009 making it obligatory to chemically castrate certain sex offenders. Under this law, anyone found guilty of rape of children under 15, will be subjected to chemical castration.
Surgical castration on other than somatic indications is still legal in many countries but is either no longer carried out or has become extremely rare. One reason is alternative options in the combining of psychotherapy, anti-androgen treatment and intensive monitoring. It is very likely that the Czech Republic is the only State Party to the Convention which uses surgical castration extensively. The data is not complete but at least 47 men appear to have been surgically castrated during 2001-2007, (other data mention 94 men being castrated during the last decade). Also, data provided by the Ministry of Health indicated that in 2008 and 2009 at least six sex-offenders had undergone surgical castration in the course of their deprivation of liberty.
In the case of Germany, resort to surgical castration appears to be quite rare, not only in Berlin but throughout Germany. According to unofficial statistics available to the Committee, during the last ten years, the total number of surgical castrations of sexual offenders in Germany has been fewer than five per year. Moreover, in Berlin, more than half of the applications which had been submitted since 2001 (five out of nine) had been rejected by an expert commission, composed of two doctors (including one psychiatrist) and a lawyer with the qualification of a judge; and no application had been submitted to the expert commission during the past two years.
Notwithstanding this, the CPT has expressed its fundamental objections to the use of surgical castration as a means of treatment of sexual offenders.

Firstly, such an intervention has irreversible physical effects; it removes a person's ability to procreate and may have serious physical and mental consequences.

Secondly, surgical castration is not in conformity with recognized international standards, and more specifically, is not mentioned in the authoritative "Standards of Care for the Treatment of Adult Sexual Offenders" drawn up by the International Association for the Treatment of Sexual Offenders (IATSO). As a matter of fact, new methods of treatment have been developed since the adoption of the Law on Voluntary Castration (in particular, anti-androgens with reversible effects as well as various methods of psychotherapy).

Thirdly, there is no guarantee that the result sought (i.e. lowering of the testosterone level) is lasting. As regards re-offending rates, the presumed positive effects are not based on sound scientific evaluation. In any event, the legitimate goal of lowering re-offending rates must be counterbalanced by ethical considerations linked to the fundamental rights of an individual.

Fourthly, given the context in which the intervention is offered, it is questionable whether consent to the option of surgical castration will always be truly free and informed. A situation can easily arise whereby patients or prisoners comply rather than consent, believing that it is the only available option to them to avoid indefinite confinement. To sum up, surgical castration is a mutilating, irreversible intervention and cannot be considered as a medical necessity in the context of the treatment of sexual offenders. In the CPT's view, surgical castration of detained sexual offenders could easily be considered as amounting to *degrading treatment.*
There doesn't seem to be any scientifically valid empirical evidence that castration lowers re-offending and even less evidence that it lowers serious violent sex-offender recidivism. Moreover, persons with bilateral orchidectomy[19] do re-offend and by consequence, re-offending cannot be regarded as solely dependent on the testosterone levels. Furthermore, surgical castration can easily be circumvented by administering testosterone supplements. So;

a. The only certain consequence of surgical castration is the definite loss of the reproductive function and
b. The intervention as such is irreversible

And; testosterone levels can be reduced by other that surgical means.

In our Czech report from 2009, the CPT reiterated its view that surgical castration of detained sex offenders amounts to degrading treatment and in order to facilitate the abolition of surgical castration, the Czech authorities should examine the manner and conditions, including conditions of a legal nature, under which testicular pulpectomy[20] can be replaced by other forms of treatment for sex-offenders. And the conclusion of the report was; "in the light of the above, the CPT once again calls upon the Czech authorities to bring an immediate end to the application of surgical castration in the context of the treatment of sex-offenders. Pending the abolition, a moratorium on its application should be imposed without delay".
I think that this sums up the position of the CPT.

[19] Orchidectomy is a surgical procedure to remove the Testicle and the spermatic cord through an incision in the abdomen.
[20] The Czech Republic is the only country in Europe that uses the procedure, known technically as a testicular pulpectomy - a one-hour surgery that involves removal of the tissue that produces testosterone from the patient's testicle. It is the same surgery performed on men who suffer from prostrate cancer.

3. Other coercive sterilisations and castrations

Address by Bernadette Gächter, survivor of a forced sterilisation, Switzerland

Ladies and Gentlemen,

Thank you for your invitation. It is a pleasure for me to address you.

In 1972, in Switzerland, I was forced to undergo an abortion and sterilisation at the age of 18.
Let me describe to you the events that led to this outcome:

At my birth, my mother, who was unable to look after me, got in touch with a Catholic institution, the *Seraphische Liebeswerk*, which placed me in a foster family. When they were no longer able to look after me I was entrusted to another family with a view to adoption.

That is how I found myself in living with a childless couple who were devout and very pious Catholics. They made sure I was always clean and well dressed. When I was four years old my foster parents had a child of their own with the result that, under the law in force at the time, they could no longer adopt me.

In 1961, when I was seven years old, my foster parents began to have doubts about me. As I was an impulsive and stubborn child and they thought that I was masturbating in secret, on their GP's advice they took me to the children's hospital in Zurich. The hospital's paediatrician delivered his diagnosis: "infantile organic psychosyndrome". This is what we now call "attention deficit disorder". Some 10 % of children suffer from this pathology but, to date, there is nothing in my childhood to prove that I suffered from the disorder.

This diagnosis was the bane of my life for many years. Even the experts who were subsequently consulted did not question it, despite the fact that they never found any symptoms. From that time onwards, every night after my bedtime prayer, my foster mother tied my legs together right up to the hips with an elastic bandage. She even washed me herself. Every Saturday she gave me a bath. She soaped me, rubbed me and rinsed me with water like a little baby. Nothing I could say would change anything. If I disobeyed, I was immediately punished: she would beat me and lock me up in the cellar or the toilets. Throughout my schooldays I was regularly taken to psychiatric clinics where electric wires were attached to me so that my brain could be examined. Electrodes were even put up my nose, which was extremely painful.

After spending a year in French-speaking Switzerland, I began an apprenticeship as an office clerk. At 18 I learned by chance that I was not biologically related to my family. My world fell to pieces and I felt as if I was falling into a bottomless pit. No other explanation was given to me concerning my origins. I felt that I had been abandoned, that nobody was interested in me and I was convinced that no-one had ever loved me.

I started staying out at night later than I was allowed to. I thought that by going out with men I would find the love I didn't have in my foster family. When I came home in the middle of the night my foster mother would shout at me. She said I was a whore just like my mother, but she had never met my mother. It was awful. I felt as if I had lost my identity.

Finally I got pregnant and I tried to hide the fact because I was afraid of the verbal and physical abuse that would follow. However, the doctor in whom I had confided informed my foster family.

My foster father suddenly burst into my room and asked me "Bernadette, what have you done?!". Nobody wanted to help me. They said I had to go to the mayor and tell him I was pregnant. I had no idea why. My foster mother sent me to the priest to confess. I also had to go to the family GP with her to clarify the situation. How long this all took and how often I had to go to the doctor's I can't remember. I can only remember one thing very clearly: the sudden declaration that I had brain damage and that they considered me to be mad. However I had gone through primary and secondary school without great difficulty. My foster mother said to me, word for word "You know, Bernadette, it would be better if you got rid of the child because you are suffering from brain damage and as it is hereditary your child will have the same problem as you. You don't want your child to be mad too, do you?".
The doctor and my foster mother put so much pressure on me that I finally gave in and signed the piece of paper they kept on pushing at me. I had just agreed to have an abortion and to be sterilised without realising the exact consequences. I did not want any of that to happen to me but I was unable to defend myself. I had no one to help me stand up to the "respectable" figures of my childhood.

My foster family, the family GP, the priest, and the psychiatrists were all in league with one another. Accompanied by my foster parents, I was forced to go to the county psychiatric clinic in Wil to explain the situation. I can still see myself sitting at the huge oval table, surrounded by psychiatrists asking me stupid, meaningless questions that had nothing to do with my pregnancy or my alleged brain damage. They had decided on my abortion and sterilisation before I even met them.

Later when I was married I was operated on twice to see if the sterilisation could not be reversed. My then husband and I had to explain everything to a psychiatrist before permission was given for the operations, both of which proved to be in vain.

Years later, when I gained access to my medical files, I became fully aware of the extent of the injustice I had suffered: I spent two years studying my files and doing research until, in 1991, I discovered an article several pages long in a weekly newspaper. From the documents I had studied I had discovered that my biological mother had also been sterilised and labelled as unstable and ruled by sexual desire, and locked away because her behaviour was non-conformist. When he recommended my abortion and sterilisation for eugenic reasons, the expert at the Wil psychiatric clinic based his diagnosis on knowledge of my mother's case. It was terrible to discover all this. In 1972, someone wrote the following about my mother in her medical file: "and to think that, somewhere, this woman has a seriously handicapped not to say mad daughter".

More then ten years later, Jolanda Spirig wrote a biography of my life entitled "Widerspenstig. Zur Sterilisation gedrängt" (Forced to undergo sterilisation because she was rebellious), which was published in 2006 by Zürcher Chronos.

I now know that I was only one of thousands of victims.
I know how difficult it is to 'bear' such a burden, if it can be borne at all.
I know how much energy is required to survive.
I have not been able to found a family, to have a child, whereas there was nothing in the world I wanted more than to become a mother. The sight of mothers with their children was painful to me. And now it is just as painful to see grandmothers with their grandchildren. Nobody can give me back what was taken from me. The operation was irreversible!

I had to learn to live with all that and to make a new life for myself. I had to accept the idea that I was the victim of an incredible injustice that had caused me serious physical damage. If I did not accept it, my life would be unbearable. Since the age of 34, I have been working as an administrative assistant in a business company. I have often been asked how I manage to lead a normal life. And when I look at my past I ask myself the same question. I have always refused help as I look on psychiatrists as my enemies.

I have not fully recovered from the injustice I have suffered and it will follow me for the rest of my days. There is only one solution: one has learn to live with the past and to make oneself a new life. I have accepted my lot in life and I have faced up to it for the past 25 years. Sometimes it is extremely painful and sometimes it is hardly bearable. But I have resigned myself to what happened and learned to live with it.

The perpetrators of these acts have never apologised for what they did. And yet there are piles of files in the archives containing incredible lies. And that really bothers me, for everyone knows the ease with which such documents can resurface!

If I were to have problems in the future, nobody would be interested in the fact that I have been working for the same company for 34 years to everyone's entire satisfaction or the fact that I earn my living without any outside help or assistance. All that will count is what is written in these documents and again I will be judged according to what they say about me. That is why I ask that all of these documents be handed over to me. I want to decide myself what should and should not be done with them.

Thank you for your attention.

List of presence/ *Liste de présence*

The names of the members and alternates present at the meeting appear in bold
Les noms des membres et de leurs suppléants présents à la réunion sont indiqués en gras

Chairperson/ *Présidente* :		
Mme Liliane MAURY PASQUIER	Switzerland */ Suisse*	M. Arthur LOEPFE
Vice-Chairpersons/ *Vice-Président(e)s*		
Ms Pernille FRAHM	Denmark / *Danemark*	Ms Pia CHRISTMAS-MØLLER
M. Bernard MARQUET	Monaco	Mme Sophie LAVAGNA
Mr Pieter OMTZIGT	Netherlands / *Pays-Bas*	Mrs Wassila HACHCHI
Members / *Membres*		**Alternates / *Remplaçants***
Mme Lajla PERNASKA	Albania / *Albanie*	ZZ …
Ms Sílvia Eloïsa BONET PEROT	Andorra / *Andorre*	M. Gerard BARCIA DUEDRA
Mr Armen MELIKYAN	Armenia / *Arménie*	Mr Gagik BAGHDASARYAN
Mr Karl DONABAUER	Austria / *Autriche*	Mr Edgar MAYER
Mr Stefan SCHENNACH	Austria / *Autriche*	Ms Sonja ABLINGER
Mrs Sevinj FATALIYEVA	Azerbaijan / *Azerbaïdjan*	Ms Ganira PASHAYEVA
Mr Fazil MUSTAFA	Azerbaijan / *Azerbaïdjan*	Mr Aydin ABBASOV
Mme Cindy FRANSSEN	Belgium / *Belgique*	M. Philippe MAHOUX
M. Stefaan VERCAMER	Belgium / *Belgique*	M. Dirk Van der MAELEN
Mme Milica MARKOVIĆ	Bosnia and Herzegovina / *Bosnie-Herzégovine*	ZZ…
Mr Desislav CHUKOLOV	Bulgaria / *Bulgarie*	ZZ...
Ms Dzhema GROZDANOVA	Bulgaria / *Bulgarie*	Mr Yanaki STOILOV
Ms Karmela CAPARIN	Croatia / *Croatie*	Mr Mirando MRSIĆ
M. Fidias SARIKAS	Cyprus / *Chypre*	Ms Athina KYRIAKIDOU
Mme Daniela FILIPIOVÁ	Czech Republic / *République tchèque*	Mr Rom KOSTŘICA
Ms Kateřina KONEČNÁ	Czech Republic / *République tchèque*	Mr Pavel LEBEDA
Mr Margus HANSON	Estonia / *Estonie*	ZZ…
Ms Pirkko MATTILA	Finland / *Finlande*	Ms Pia KAUMA
M. Roland BLUM	France	M. Laurent BÉTEILLE
Mme Claude GREFF	France	Mme Muriel MARLAND-MILITELLO
M. Denis JACQUAT	France	**Mme Françoise HOSTALIER**
Mme Marietta KARAMANLI	France	M. Jean-Paul LECOQ
Ms Magdalina ANIKASHVILI	Georgia / *Géorgie*	Mr Rati SAMKURASHVILI
Ms Viola von CRAMON-TAUBADEL	Germany / *Allemagne*	Mr Manuel SARRAZIN
Mr Andrej HUNKO	Germany / *Allemagne*	Mr Thomas NORD
Ms Marlene RUPPRECHT	Germany / *Allemagne*	Ms Doris BARNETT
Mr Bernd SIEBERT	Germany / *Allemagne*	Ms Gitta CONNEMANN
Mr Konstantinos AIVALIOTIS	Greece / *Grèce*	Ms Charoula KEFALIDOU
Mr Michail KATRINIS	Greece / *Grèce*	Ms Sophia GIANNAKA
Mr Péter HOPPÁL	Hungary / *Hongrie*	Mrs Melinda SZÉKYNÉ SZTRÉMI
Ms Virág KAUFER	Hungary / *Hongrie*	Mr Gábor HARANGOZÓ
Mr Birkir Jón JÓNSSON	Iceland / *Islande*	Ms Eygló HARÐARDÓTTIR
Mr Peter KELLY	Ireland / *Irlande*	Ms Maureen O'SULLIVAN
Mr Mario BARBI	Italy / *Italie*	Mr Paolo GIARETTA
Mr Roberto Mario Sergio COMMERCIO	Italy / *Italie*	**M. Giacomo STUCCHI**

Mr Oreste TOFANI	Italy / *Italie*	Mr Giuseppe CIARRAPICO
Mr Luca VOLONTÈ	Italy / *Italie*	Mr Vannino CHITI
Ms Ingrida CIRCENE	Latvia / *Lettonie*	M. Andris BĒRZIŅŠ
Ms Doris FROMMELT	Liechtenstein	Mr Leander SCHÄDLER
Ms Arūnė STIRBLYTĖ	Lithuania / *Lituanie*	Ms Birutė VĖSAITĖ
M. Marc SPAUTZ	Luxembourg	ZZ…
Mr Francis AGIUS	Malta / *Malte*	Ms Marie-Louise COLEIRO PRECA
Ms Liliana PALIHOVICI	Moldova	Mr Valeriu GHILETCHI
Mr Obrad GOJKOVIĆ	Montenegro/ *Monténégro*	Ms Snežana JONICA
Mrs Khadija ARIB	Netherlands / *Pays-Bas*	Mrs Tineke STRIK
Ms Karin ANDERSEN	Norway / *Norvège*	Ms Ingjerd SCHOU
Ms Bożenna BUKIEWICZ	Poland / *Pologne*	M. Zbigniew GIRZYŃSKI
Mr Mariusz KAMIŃSKI	Poland / *Pologne*	Mr Maciej ORZECHOWSKI
Ms Anna SOBECKA	Poland / *Pologne*	Mr Ryszard BENDER
Mme Cecília HONÓRIO	Portugal	ZZ …
ZZ...	Portugal	ZZ...
Mr Cristian DAVID	Romania / *Roumanie*	Ms Ana Adriana SĂFTOIU
M. Cezar Florin PREDA	Romania / *Roumanie*	M. Iosif Veniamin BLAGA
Mr Mihai TUDOSE	Romania / *Roumanie*	Mr Florin IORDACHE
Mr Igor CHERNYSHENKO	Russian Federation / *Fédération de Russie*	**Mr Valery PARFENOV**
Mr Oleg LEBEDEV	Russian Federation / *Fédération de Russie*	Mr Nikolay FEDOROV
Mr Valery SELEZNEV	Russian Federation / *Fédération de Russie*	Ms Svetlana GORYACHEVA
Mr Vladimir ZHIDKIKH	Russian Federation / *Fédération de Russie*	Ms Tatiana VOLOZHINSKAYA
M. Marco GATTI	San Marino / *Saint-Marin*	Ms Assunta MELONI
Mr Miloš ALIGRUDIĆ	Serbia / *Serbie*	Ms Nataša VUČKOVIĆ
Ms Vjerica RADETA	Serbia / *Serbie*	Mr Mladen GRUJIĆ
Mr Stanislav FOŘT	Slovak Republic	Mr Štefan ZELNÍK
Mr Ljubo GERMIČ	Slovenia / *Slovénie*	ZZ...
Ms Meritxell BATET LAMAÑA	Spain / *Espagne*	**Mr Jordi XUCLÀ I COSTA**
Mme Rosa Delia BLANCO TERÁN	Spain / *Espagne*	Ms Concepción GUTIÉRREZ DEL CASTILLO
Mr Agustín CONDE BAJÉN	Spain / *Espagne*	Mme Blanca FERNÁNDEZ-CAPEL BAÑOS
Ms Carina OHLSSON	Sweden / *Suède*	Mr Morgan JOHANSSON
Mr Mikael OSCARSSON	Sweden / *Suède*	Ms Marietta de POURBAIX-LUNDIN
M. Felix MÜRI	Switzerland /*Suisse*	Ms Doris STUMP
Mr Zoran PETRESKI	« The former Yugoslav Republic of Macedonia »	Ms Flora KADRIU
Mr Lokman AYVA	Turkey / *Turquie*	Mr Yüksel ÖZDEN
Mr Haluk KOÇ	Turkey / *Turquie*	Ms Birgen KELEŞ
Mr Mustafa ÜNAL	Turkey / *Turquie*	Mr Ali Riza ALABOYUN
Ms Olena BONDARENKO	Ukraine	Mr Yevgeniy SUSLOV
Ms Olha HERASYM'YUK	Ukraine	Ms Oksana BILOZIR
Mr Victor YANUKOVYCH	Ukraine	**M. Ivan POPESCU**
Ms Ann COFFEY	United Kingdom / *Royaume-Uni*	Lord Tim BOSWELL
Mr Jeffrey DONALDSON	United Kingdom / *Royaume-Uni*	Mr Michael CONNARTY
Mr Paul FLYNN	United Kingdom / *Royaume-Uni*	**Mr Michael HANCOCK**
Mr Sam GYIMAH	United Kingdom / *Royaume-Uni*	Ms Yasmin QURESHI

Special Guests */ **Invités spéciaux***

Ms / *Mme* Gwendolyn ALBERT, NGO activist, Czech Republic / *Activiste au sein d'une ONG, République tchèque*
Ms Bernadette / *Mme* GÄCHTER, survivor of a forced sterilisation, Switzerland /*Survivante d'une stérilisation forcée, Suisse*
Dr / *Dr* David GERBER, Consultant Psychiatrist, National Health Service (NHS) Greater Glasgow and Clyde, United Kingdom / *Psychiatre consultant, National Health Service (NHS) Greater Glasgow and Clyde, Royaume-Uni*
Mr / *M.* Stefan KRAKOWSKI, member of the Council of Europe Anti-Torture Committee (CPT), Sweden / *Membre du Comité anti-torture du Conseil de l'Europe (CPT), Suède*

Also present / ***Egalement présents***

Mr / *M.* KRADOLF
Mr / *M.* Etienne LAURENT, Photographer / *Photographe,* "Der Beobachter"
Mr / *M.* Dominique STREBEL, Journalist (Switzerland) / *Journaliste (Suisse),* "Der Beobachter"

Non Governmental Organisations (NGO) / ***Organisations non-gouvernementales (ONG)***

Ms / *Mme* ADAMS, Flying Bridges
Ms / *Mme* BEISLER, Flying Bridges

Permanent representation / ***Représentations permanente***

Mr / *M.* Martin BOUČEK, Czech Republic / *République tchèque*

Delegation Secretaries / ***Secrétaires de délégation***

Ms / *Mme* Adria na KULCHYTSHE, Ukraine
Ms / *Mme* Sonja LANGENHAECK, Belgium / *Belgique*
Ms / *Mme* Oleksandr SHNISKYI, Ukraine

Secretariat of the Assembly */ ***Secrétariat de l'Assemblée***

Mr / *M.* Mario MARTINS, Director General – Secretariat of the Assembly / *Directeur général - secrétariat de l'Assemblée*
Ms / Mme Micaela CATALANO, PACE communication / Communication de l'APCE

Social, Health and Family Affairs Committee */ ***Commission des questions sociales, de la santé et de la famille***

Ms / *Mme* KLEINSORGE, Head of the Secretariat / *Chef du Secrétariat*
Ms / *Mme* LAMBRECHT-FEIGL, Secretary to the Committee / *Secrétaire de la commission*
Ms / *Mme* GARABAGIU, Secretary to the Committee / *Secrétaire de la commission*
Ms / *Mme* STEMP, Assistant / *Assistante*