



S.V.P. v. Bulgaria

Communication No. 31/2011; UN Doc. CEDAW/C/53/D/31/2011

Country: Bulgaria

Region: Europe

Year: 2012

Court: Committee for the Elimination of All Forms of Discrimination against Women Committee for the Elimination of All Forms of Discrimination against Women

Health Topics: Violence

Human Rights: Freedom from discrimination, Right to bodily integrity

Facts

A mother brought a case on behalf of her daughter who was suffering affective disorder for having been a victim of an act of sexual violence in 2004, when she was seven years old. In 2006, the indictment against the perpetrator was issued. After two years, and in less than two months, the court approved a plea-bargain agreement providing for a three-year suspended sentence. This was allowed by the fact that the crime was not considered serious, given that it did not meet the serious crime threshold (6 years of maximum penalty). The request of the claimant to participate as civil claimant was rejected, since there was no obligation to compensate for moral damages in a case settled with a plea bargain.

As a consequence of a separate proceeding started by the complainant, in 2008, the Regional Court in Pleven issued a ruling against the perpetrator, sentencing him to pay 30,000 leva for moral damages. The sentence could not be enforced since there were no assets under the perpetrator's name apart from 1,000 leva received from his employer. The perpetrator continued to live close to the victim's home.

The complainant referred the case to the Committee, claiming that her daughter was a victim of violation of her rights under article 1, article 2 paragraphs (a), (b), (c), (e), (f) and (g) of the Convention on the Elimination All Forms of Discrimination Against Women (CEDAW), read in conjunction with articles 3, 5, 12, and 15.

Decision and Reasoning

The Committee firstly recalled that states have an obligation to eliminate discrimination against women, and that any measure should be taken in order to avoid gender-based violence, by abolishing or amending laws that are discriminatory.

The Committee held that the State did not explain why the act of violence was prosecuted as an act of molestation (not considered at the time a serious crime) and not as an attempted rape. The Committee requested the State party to repeal article 158 of the Criminal Code, making sure that the acts of violence against women are defined in line with international standards.

The Committee also held that no mechanism was in place to protect victims of sexual violence from re-victimization based on the fact that no restriction order was issued when the perpetrator was released. The Committee ordered the State party to amend the legislation in order to ensure the protection of victims of sexual crimes.

The Committee further held that the State party did not provide information on the measures adopted to combat sexual violence, despite the observations filed where the State party informed the Committee that numerous programmes were implemented to promote the equality of genders. As a consequence, the Committee ordered the State party to put in place policies and procedures, including healthcare protocols, to address sexual violence against women.

The Committee also held that the right of the victim for effective compensation was violated because no special proceedings were in place to support the victims of sexual crimes in pre-trial proceeding, and in the process for claiming moral damages. The Committee required the State party to provide adequate mechanisms for victims of sexual crimes to obtain compensation for moral damages and to amend the 2006 Legal Aid Act to provide legal aid for victims of sexual violence.

Decision Excerpts

“The Committee further takes note of the State party’s submission that it implements numerous programmes to promote the equality of women and men in society, but it observes that it does not provide any information as to how these programmes relate to the situation of girl victims of sexual violence and to the case of the author’s daughter in particular. No information is provided in particular on measures adopted to combat sexual violence against women and girls and to address the consequences of such violence on the enjoyment of their Convention rights. Accordingly the Committee finds that the State party has violated the rights of the author’s daughter under article 2, paragraph (c), and article 15 of the Convention.” Para. 9.8.

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