Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 13110
24 January 2013

Failure to provide assistance to rape victim in Cologne, Germany, 15 December 2012

Written question No. 624 to the Committee of Ministers
by Ms Carina HÄGG, Sweden, Socialist Group

On 15 December 2012 in Cologne, Germany, two Catholic clinics rejected assisting a suspected rape victim in providing a gynaecological check-up for reasons claimed to be related to the ethics rules and procedures governing the hospitals which fall under the authority of the Catholic hierarchy in Germany. The 25 year old young woman woke up on a bench in a public park after having been drugged at a party she attended in Cologne with no memory of what happened in the intervening hours. With her mother, she went to a general practitioner who suspected that the young woman could have been the victim of rape/sexual assault. The general practitioner prescribed emergency contraception which is standard practice under German law in cases of rape/sexual assault, thus providing the young woman the ability to exercise her right to decide according to her own convictions whether to carry through or interrupt a possible pregnancy resulting from the sexual assault. After informing the police and in order to investigate possible criminal acts the general practitioner contacted two nearby hospitals for further medical testing, ie. conducting a 'rape-kit' – these were St.Vinzenz-Krankenhaus in Cologne-Nord and Heilig-Geist-Krankenhaus in Longerich (both happen to belong to the Foundation of Cellitinnen of Holy Maria).

However, both hospitals rejected the check-up of the suspected rape victim. Their Ethics Commissions had held consultations with Catholic Church authorities, after which the decision was taken to rule out such gynaecological check-ups in such cases since they are connected with a possible unwanted pregnancy as well as providing the victim with emergency contraception. The refusal to provide medical treatment based on Catholic ethics was maintained by the two hospitals even after the general practitioner clarified that he had already provided the suspected rape victim with the emergency contraception (which the Catholic hospitals would therefore not have had to provide).

In Germany, failure to provide assistance to a person in danger (unterlassene Hilfeleistung) is an offense according to paragraph 323c of the Penal Code (Strafgesetzbuch).

Ms Hägg,

To ask the Committee of Ministers:

– whether such actions by the Catholic hospitals in Cologne are in line with both the letter and the spirit of the laws in relation to the protection of victims of sexual assault/rape, specifically paragraph 323c of the German Code penal?

– whether it is known how many hospitals / health centres may be able to legally circumvent national laws in relation to the protection and assistance to victims of sexual assault based on so-called 'ethical' grounds in Council of Europe member States?

– whether the public at large as well as victims' associations and women's groups should be informed in advance of all such hospitals / health centres in Council of Europe member States which may legally be allowed to circumvent national laws in relation to the protection and assistance to victims of sexual assault based on so-called 'ethical' grounds so that they may be able to better guide victims of sexual assault/rape?