

Thursday 11 June 2015

P8_TA(2015)0230

Paraguay: the legal aspects related to the child pregnancy

European Parliament resolution of 11 June 2015 on Paraguay: legal aspects related to child pregnancy (2015/2733 (RSP))

(2016/C 407/09)

The European Parliament,

- having regard to the Interregional Framework Cooperation Agreement between the EU and Mercosur concluded in 1999,
 - having regard to its resolution of 12 March 2015 on the Annual Report on Human Rights and Democracy in the World 2013 and the European Union's policy on the matter ⁽¹⁾,
 - having regard to Regulation (EC) No 1567/2003 of the European Parliament and of the Council of 15 July 2003 on aid for policies and actions on reproductive and sexual health and rights in developing countries ⁽²⁾,
 - having regard to the Paraguayan Penal Code (Law No 1160/97) of 26 November 1997, in particular Article 109(4) thereof,
 - having regard to the fifth Millennium Development Goal (improving maternal health),
 - having regard to the UN Convention on the Rights of the Child, in particular Article 3 thereof,
 - having regard to the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),
 - having regard to the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention),
 - having regard to the statement of 11 May 2015 by the UN Working Group on the issue of discrimination against women in law and in practice,
 - having regard to the UN Convention against Torture, which entered into force on 26 June 1987,
 - having regard to the request of March 2015 by the Committee on Economic, Social and Cultural Rights that Paraguay revise and amend its abortion legislation to ensure its compatibility with other rights such as those to health and life,
 - having regard to Rules 135(5) and 123(4) of its Rules of Procedure,
- A. whereas according to recent UN data, 19 % of pregnant girls in Paraguay are minors, two births a day are to girls under the age of 14, and girls aged 10-14 make up 2,13 % of maternal deaths; whereas about 600 girls aged 14 or under become pregnant each year in Paraguay, a country of 6,8 million people, and whereas the child pregnancy rate is as much as 10 times higher than in other countries in the region;
- B. whereas in Latin America the risk of maternal death is four times higher among adolescents under the age of 16, and whereas 65 % of cases of obstetric fistula occur in the pregnancies of adolescents, with serious consequences for their lives, including severe health problems and social exclusion; whereas early pregnancies are also dangerous for the baby, with a mortality rate 50 % higher than average; whereas up to 40 % of women in the region have been victims of sexual violence, and whereas 95 % of abortions carried out in Latin America are unsafe;

⁽¹⁾ Texts adopted, P8_TA(2015)0076.

⁽²⁾ OJ L 224, 6.9.2003, p. 1.

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- C. whereas on 21 April 2015 a 10-year-old girl went to the Trinidad Maternity and Children's Hospital in Asunción and a 21-week pregnancy was detected; whereas after the girl was examined the director of the hospital publicly acknowledged that her pregnancy was high-risk; whereas the girl's fugitive stepfather was arrested on 9 May 2015 and is accused of raping her; whereas the girl had gone to various medical centres since January 2015 complaining of a stomach ache, but whereas the pregnancy was not confirmed until 21 April;
- D. whereas on 28 April 2015 the girl's mother requested a voluntary termination of her daughter's pregnancy on account of her young age and the high level of risk to her health and life; whereas the girl's mother is being detained for failing to protect her from the sexual abuse that resulted in the pregnancy; whereas according to the latest reports the 10-year-old girl has been sent to a centre for young mothers and separated from her own mother;
- E. whereas back in January 2014 the girl's mother had made a complaint about the sexual abuse of her daughter by the girl's stepfather, but whereas prosecutors took no action, did not investigate and did not provide protection measures as they did not consider her to be at risk;
- F. whereas this case is only one of many in Paraguay and other Latin American countries; whereas Paraguay continues, on grounds of religion, to deny the girl access to a safe and legal abortion, thereby violating her rights to health, life and physical and psychological integrity; whereas the girl will face psychological and health risks if the baby is born, on account of her young age and the circumstances that resulted in the pregnancy; whereas on 7 May 2015 an interdisciplinary panel of experts, comprising three professionals proposed by local organisations, three members of the Health Ministry and three members of the Supreme Court, was set up to monitor her condition;
- G. whereas, according to Article 109(4) of Paraguay's Health Code, abortion is banned in all cases except where the pregnancy has life-threatening complications for the woman or girl, and without any other exceptions, including in cases of rape, incest or an unviable foetus; whereas the authorities have argued that the girl's health is not at risk; whereas the 10-year-old rape survivor is therefore being forced to continue her unwanted pregnancy and to give birth;
- H. whereas UN experts have warned that the Paraguayan authorities' decision is resulting in grave violations of the girl's rights to life, health and physical and mental integrity, and of her right to education, thereby jeopardising her economic and social opportunities;
- I. whereas according to Article 3 of the UN Convention on the Rights of the Child, the best interests of the child must always be a primary consideration in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, and whereas states have an obligation to ensure access to safe and legal abortion when a pregnant woman's life is at risk;
- J. whereas in March 2015 the UN Committee on Economic, Social and Cultural Rights asked Paraguay to revise and amend its abortion legislation to ensure its compatibility with other rights such as those to health and life; whereas physical, sexual and psychological violence against women is an extensive human rights violation;
- K. whereas Paraguay participated actively in the 59th session of the UN Commission on the Status of Women, and whereas all parties should continue to promote the UN Beijing Platform for Action as regards, among other elements, access to education and health as basic human rights, and sexual and reproductive rights;
- L. whereas UN treaty monitoring bodies, including the Human Rights Committee (HRC) and the Committee on the Elimination of Discrimination against Women (CEDAW), have called on various Latin American states to establish exceptions to restrictive abortion laws in instances where a pregnancy poses a risk to a woman's life or health, where there is severe foetal impairment, and where pregnancy is the result of rape or incest;

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- M. whereas this inhuman act has left the body of the aforementioned 10-year-old girl, who weighed only 34 kg before the pregnancy, in grave danger; whereas the World Health Organisation (WHO) has identified the dangers of pregnancy to young girls, whose bodies are not fully developed; whereas the WHO defines health as a state of complete physical, mental and social well-being and not merely as the absence of disease or infirmity;
- N. whereas the Committee against Torture has found that several restrictions on access to reproductive health services, together with the abuses that occur when women seek these services, may constitute violations of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment — which has been ratified by Paraguay and all the EU Member States — on the grounds that they put women's health and lives at risk or may otherwise cause them severe physical or mental pain or suffering;
- O. whereas violence against women and girls, whether physical, sexual or psychological, remains the most widespread human rights violation, affecting all levels of society, but is one of the least-reported crimes;
1. Reaffirms its condemnation of all forms of abuse and violence against women and girls, especially the use of sexual violence as a weapon of war, and domestic violence; calls on Paraguay to ensure that women and girls have access to safe and legal abortion, at a minimum, when their health and life are in danger, where there is severe foetal impairment and in cases of rape and incest;
 2. Expresses its strong concern about the high number of child pregnancies in Paraguay; urges the Paraguayan authorities to meet their international obligations and to protect human rights by ensuring that all girls have access to all possible information and medical services for the management of high-risk pregnancies resulting from rape;
 3. Urges the Paraguayan authorities to conduct an independent and impartial investigation into the aforementioned rape and to bring the perpetrator to justice; calls on the Paraguayan authorities to release the girl's mother immediately; welcomes the proposal by members of the Paraguayan congress to raise the maximum prison sentence for the rape of a minor from 10 years to 30 years;
 4. Notes the creation of an interdisciplinary panel of experts and expects it to carry out a comprehensive evaluation of the girl's condition and to ensure respect for all her human rights, particularly the rights to life, health and physical and psychological integrity;
 5. Finds it regrettable that women's and girls' bodies, specifically with respect to their sexual health and reproductive rights, still remain an ideological battleground, and calls on Paraguay to recognise the inalienable rights of women and girls to bodily integrity and autonomous decision-making as regards, inter alia, the right to access voluntary family planning and safe and legal abortion; believes that the general prohibition on therapeutic abortion and abortion of pregnancies resulting from rape and incest, and the refusal to provide free health cover in cases of rape, amounts to torture;
 6. Recognises that obstetric violence is an intersection between institutional violence and violence against women, constituting a grave violation of human rights such as the rights to equality, freedom from discrimination, information, integrity, health and reproductive autonomy, the consequences of which are degrading and inhumane childbirth, health complications, severe psychological distress, trauma and even death;
 7. Expresses its deep concern about governments turning a blind eye to inhumane cases of child pregnancy and sexual abuse of women, at a time when one in three women worldwide will experience violence in their lives;
 8. Stresses that no 10-year-old girl is ready to become a mother, and stresses that the girls concerned are constantly reminded of the violation committed against them, which causes serious traumatic stress and carries a risk of long-lasting psychological problems;
 9. Urges the Commission to speed up its work on a proposal to Parliament and the Council with a view to making it possible for the EU to ratify and implement the Istanbul Convention, so as to ensure coherence between EU internal and external action on violence against children, women and girls;

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10. Calls on the Council to include the issue of safe and legal abortion in the EU Guidelines on rape and violence against women and girls; asks the Commission to ensure that European development cooperation follows an approach that is based on human rights, with a particular emphasis on gender equality and combating all forms of sexual violence against women and girls; underscores the fact that universal access to health, in particular sexual and reproductive health and the associated rights, is a fundamental human right, and emphasises the right to voluntarily access family planning services, including safe and legal abortion-related care, and the need for information and education aimed at reducing maternal and infant mortality and eliminating all forms of gender-based violence, including female genital mutilation, child, early and forced marriage, gendercide, forced sterilisation and marital rape;
 11. Encourages the Commission and the Council to develop data-gathering methods and indicators in respect of this phenomenon, and encourages the European External Action Service (EEAS) to include the issue in the development and implementation of the human rights country strategies; further urges the EEAS to establish good practices for combating rape and sexual violence against women and girls in third countries, with a view to tackling the root causes of the problem; urges that the provision of humanitarian aid by the EU and its Member States should not be subject to restrictions imposed by other partner donors regarding necessary medical treatment, including access to safe abortion for women and girls who are victims of rape or incest;
 12. Asks the EU-CELAC (Community of Latin American and Caribbean States) Heads of State or Government, at their second summit, to augment the chapter on gender-based violence in the EU-CELAC Action Plan 2013-2015, adopted at their first summit in Santiago de Chile in January 2013, with a view to establishing a clear calendar of action and implementing measures intended to guarantee due diligence as regards the prevention and investigation of, and sanctions for, all acts of violence against women and to offer adequate compensation to victims;
 13. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, the Government and Congress of the Republic of Paraguay, the Office of the UN High Commissioner for Human Rights, Parlasur, the Euro-Latin American Parliamentary Assembly and the Secretary-General of the Organisation of American States.
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