

ALTERNATIVE REPORT

submitted to the

Committee on Economic, Social and Cultural Rights (CESCR)
for the consideration of the Republic of Moldova
report (E/C.12/MDA/3) during the 62nd Session,
18 September – 6 October 2017, Geneva, Switzerland

SEXUAL AND REPRODUCTIVE RIGHTS in MOLDOVA

Report prepared and submitted by:

Reproductive Health Training Center of Moldova*

* The **Reproductive Health Training Center** of the Republic of Moldova (RHTC) was created in 1998 with the aim to protect reproductive health and rights, especially for adolescents and women from socially marginalized groups. For already 20 years, RHTC has undertaken actions to ensure equal access to quality reproductive health information and services, provided education on sexual and reproductive health and rights, and promote the concept of “Safe Abortion” among medical professionals and community members in Moldova and the region.

Contacts:

Reproductive Health Training Center from Moldova (RHTC)
20 Melestiu str., Chisinau, MD 2001, Moldova
Tel: +37322355072 / +373060903782
e-mail: cidsr2012@gmail.com, web: www.sanatateafemeii.md

25 August 2017

CONTENTS

1. Report summary	3
2. Introduction	5
3. Access to sexual and reproductive health services, including family planning – legal framework and findings on right violation.....	6
4. Marriage, family founding and childbirth – legal framework and findings on right violation.....	9
5. Access to the information and education on sexual and reproductive health and rights – legal framework and findings on right violation.	11
6. Protection against sexual abuse – legal framework and findings on right violation.....	11
7. Recommendations.....	13

REPORT SUMMARY

The actual report is submitted to supplement the Government of Moldova report to the Committee on Economic, Social and Cultural Rights (CESCR) for the 62nd Session from 18 September – 6 October 2017. This report relates to the International Covenant on Economic, Social and Cultural Rights (ICESCR) Article 10 (1, 2) that explains that “1. The widest possible protection and assistance should be accorded to the family [...] while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses”, “2. Special protection should be accorded to mothers during a reasonable period before and after childbirth...” and Article 12 (1) that recognizes “...the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”.

CESCR clearly indicated in General Comment No. 14 that women’s right to health includes their sexual and reproductive health. It also explained that the provision of maternal health services is comparable to a core obligation, which cannot be derogated from under any circumstances, and the States have to the immediate obligation to take deliberate, concrete, and targeted steps towards fulfilling the right to health in the context of pregnancy and childbirth.

By ratifying and signing the ICESCR and other most of Conventions in the system of UN treaties on human rights the stipulations of which are relevant for the protection of sexual and reproductive rights, Moldova has demonstrated commitment to the development and promotion of relevant policies, as well as adjusting national legislation in accordance to the international covenants.

On its report to CESCR from 1 December 2016, the Government of Moldova did not reported specifically on achievements related to sexual and reproductive rights of the population, which it committed to ensure as described in ICESCR. By submitting this report, RHTC aims to inform the CESCR on how the sexual and reproductive rights are respected in Moldova sharing the updates on relevant policies, legal framework and practices.

Despite permissive laws and available reproductive health care facilities, the population of Moldova still encounters many problems in fulfilling their sexual and reproductive rights:

- There is still no mandatory sexuality education in schools;
- Women with disabilities, Roma women and women and girls from rural area are denied from the access to quality reproductive health services;
- Lack of access to affordable modern methods of contraception for girls and women, especially from vulnerable groups. Women with disabilities can not benefit of free contraceptives at all, because they are not included in the free contraceptive supplies categories;
- Because of the national legislation, women with disabilities are subjects of the forced sterilization and forced abortion, particularly the women with psychosocial and/or intellectual disabilities, especially those who are still in residential institutions;
- People with disabilities, especially those with mental disability from psycho-neurological institutions are denied of their right to marriage, family foundation and childbirth;
- Women with mental disability from psycho-neurological institutions are sexually abused by medical staff;
- Roma women can not benefit of sexual and reproductive health services covered by the Government, due to lack of medical insurance, as well as the 15% percent of uninsured population of the country;
- Marriage among children is still a problem faced by Roma community;

- There is no national disaggregated statistics of the data related to sexual and reproductive health for separate groups of population like people with disabilities, Roma people, etc.

The report presents in details recommendations that has to be implemented in order to ensure the sexual and reproductive health and rights of the population. Summarizing, the following actions has to be done:

- To introduce mandatory sexual health education, sexual and reproductive rights, including responsible sexual behavior, in the school curriculum;
- To ensure access to the qualitative sexual and reproductive health services to the population, especially for women with disabilities, Roma women, women and adolescents from rural area;
- To repeal and to amend laws and norms that allow forced or involuntary sterilization of persons with disabilities, to prevent and to stop non-consensual contraceptive measures, including when consent is given by a third party;
- To repeal and amend laws in order to ensure the people with mental disability right to marriage, family creation and childbirth;
- Training women with disabilities, including those from psycho-neurological institutions, their family members and victims of domestic sexual violence in types of sexual abuse and case reporting mechanisms;
- To undertake actions in order to end the marriage among children in Roma community.

RHTC hopes that the Committee will raise these issues with the official delegation from the Republic of Moldova and attract their attention on the changes that has to be undertaken.

The methodology used for this report included documentary research of legal framework, available documents (researches of UN agencies, situational analysis of UN special rapporteurs, WHO researchers, studies of NGOs from the field of human rights, etc.). The report is also based on the RHTC discussions with women with disabilities and medical staff about sexual and reproductive rights, as well as researches conducted by RHTC like “Assessing the Quality of Pregnancy Termination Services and Compliance with Safe Abortion Standards in Republic of Moldova”¹, “Situation analysis of the issues confronting women and girls with locomotors disability in Moldova in exercising their sexual and reproductive rights”², which also includes the analysis of the legal, normative and institutional framework on sexual and reproductive rights.

¹ <http://www.avort.md/wp-content/uploads/2015/06/CAC-assessment-eng05-1.pdf>

² Situation analysis of the issues confronting women and girls with locomotors disability in Moldova in exercising their sexual and reproductive rights, RHTC, 2016, https://www.sanatateafemeii.md/wp-content/uploads/2016/09/Report_Evaluation-SRR-persons-with-disabilities_EN.pdf

INTRODUCTION

Sexual and reproductive rights are fundamental human rights and include the right to autonomy and self-determination, the rights of everyone to make free, informed and responsible decisions and have full control over very basic aspects of one's private life—one's body, sexuality, health, relationships, and if, when and with whom to marry and have children—without any form of discrimination, stigma, coercion or violence.³ To maintain one's sexual and reproductive health, people need access to accurate information and the safe, effective, affordable and acceptable contraception method of their choice. They must be informed and empowered to protect themselves from sexually transmitted infections. And when they decide to have children, women must have access to services that can help them have a fit pregnancy, safe delivery and healthy baby.⁴

The Republic of Moldova has assumed the responsibility to ensure the sexual and reproductive rights of the population by ratifying and signing the most of Conventions in the system of UN treaties on human rights, the stipulations of which are relevant for the protection of sexual and reproductive rights. The International Covenant on Economic, Social and Cultural Rights (ICESCR) is one of them.

Republic of Moldova, like other Central and Eastern European countries, is in a demographic transition characterized by several challenges such as low fertility rates, demographic aging, low life expectancy and high mortality. These demographic challenges are also exacerbated by emigration.⁵

The national data related to sexual and reproductive health of the population shows that:

- in 2012, only 42% of married women or women in consensual union with ages between 15 and 49 were using a modern method of contraception⁶;
- the abortion rate was 15 in 1,000 women of fertile age in 2015 and 10.6% of abortions were performed on adolescent girls⁷;
- in 2013, 36% of the total number of adolescents aged between 15 and 19 responded that they had sexual intercourse, but only half of sexually active adolescents aged 10 to 19 used a condom, while 20% did not indicate using a method of contraception⁸;
- the low rate of modern contraceptive method use leads to increased incidence of sexually transmitted infections, including HIV, which rose from 10.38 in 2000 to 21.28 per 100,000 persons in 2012.⁹

Thus, the Republic of Moldova is showing the worst indicators in Europe.

In response to these challenges, the Government of the Republic of Moldova has implemented a number of health reforms, and reproductive health has been a constant concern of the Government and the Ministry of Health.

The quality of abortion services has been improved by using the methods recommended by the WHO, and 35% of obstetricians and gynecologists have received additional training. The standard of youth-friendly health services was increased (services being assessed in 2015). Several seminars and trainings on gender-

³ Policy Recommendations for the ICPD Beyond 2014: Sexual and Reproductive Health & Rights for All, pg. 3

<http://icpdtaskforce.org/resources/policy-recommendations-for-the-icpd-beyond-2014.pdf>

⁴ <http://www.unfpa.org/sexual-reproductive-health>

⁵ "Analysis of the Population Situation: Republic of Moldova on the Way to an Aging Society", Demographic Research Center, UN Population Fund, Chisinau 2016 https://incc.md/uploads/files/1480579171_analiza-situatiei-populatiei-in-republica-moldova.pdf

⁶ Monitoring the Situation of Children and Women, Multiple Indicator Cluster Survey (MICS), Republic of Moldova, 2012

⁷ National Center for Health Management in Republic of Moldova

⁸ Monitoring the Situation of Children and Women, Multiple Indicator Cluster Survey (MICS), Republic of Moldova, 2012

⁹ KAP study in adolescent health and development, Youth Health Association, 2012

based violence, family planning, cervical screening, development/adaptation and implementation of clinical guidelines and reproductive health protocols have been organized. In order to bring the reproductive health services closer to the population, since 2015 the primary level institutions are allowed to procure contraceptives from their budgets and to provide free of charge services and distribute the contraceptives to socially vulnerable groups of population. There are several specialized networks of reproductive health cabinets, youth-friendly health centers at municipal and district level, several centers for women health, set up to provide RH services.¹⁰

Despite undertaken actions, the population, especially vulnerable groups, still face problems in exercising their sexual and reproductive rights.

ACCESS TO SEXUAL AND REPRODUCTIVE HEALTH SERVICES, INCLUDING FAMILY PLANNING – LEGAL FRAMEWORK AND FINDINGS ON RIGHT VIOLATION

The State is required to provide access to sexual and reproductive health services tailored to the needs of the beneficiaries, including those with specific needs (teenagers, victims of sexual violence and trafficking, socio-economic vulnerable persons, people with disabilities, elderly people, etc.) without discrimination.

Access to safe and effective sexual and reproductive health care services as an integral part of the right to health protection is guaranteed first by the Constitution of Republic of Moldova (Art.36 “Right to health”)¹¹. The Law on Health Protection Nr. 411 of March 28, 1995¹² ensures the right of women and men to reproductive health medical services in accordance with the legislation in force (Art. 33), the right to medical assistance at birth and after birth (Art. 33.1). The Law also stipulates the right to voluntary sterilization (Art.31) and voluntary interruption of pregnancy (Art. 32). The field of sexual and reproductive health, also benefits from other important regulations. The National Health Policy¹³ by Article 48 says, “The population will be familiar with the positive impact of family planning. Family planning services will be accessible to everyone, regardless of social status, economic situation, religion, political views, ethnic origin, marital status, geographical residence or any other factor...”.

The Reproductive Health Law¹⁴ establishes the legal framework in the field of the protection of the reproductive health of the population. The law explicitly states that reproductive health services are provided with focus on the following family planning and contraception; maternity without risk; diagnosis, prevention and treatment of sexually transmitted infections and HIV/AIDS infection; safe abortion; sexual and reproductive health of adolescents; the sexual health of the elderly; early diagnosis and treatment of genito-mammary cancer; prevention and treatment of infertility; men's sexual and reproductive health.

In 2015, the Ministry of Health, with the support of UNFPA and WHO, initiated the process of developing a new framework to improve sexual and reproductive health, as result was developed the National Program on Health and Sexual Reproductive Rights 2018-2022. While, the previous Reproductive Health Strategy 2005-2015 has largely focused on developing the legal framework and service system, and less on meeting the specific needs of different population groups the new Program is mainly focused on the patient needs.

¹⁰ The safety of reproductive health products in Moldova, UNFPA situational analysis, 2016, http://moldova.unfpa.org/sites/default/files/pub-pdf/Report%20on%20RHCS%202017_Ro%20%281%29.pdf

¹¹ http://lex.justice.md/document_rom.php?id=44B9F30E:7AC17731

¹² <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=312823&lang=1>

¹³ <http://lex.justice.md/md/324940/>

¹⁴ <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=344838>

In the Republic of Moldova, access to reproductive health services is guaranteed through the Compulsory Health Insurance System. In 2015, 85.6% of the total population of the Republic of Moldova had the status of insured person.¹⁵ Oriented more to the population groups with special needs, since 2015 the State covers the costs of contraception through the National Health Insurance Company. The main beneficiaries are low-income people, adolescents, people living with HIV, victims of sexual violence, etc. It is a positive initiative to support the population groups with special needs, but due to budget constraints, the state can provide only 80% of the population needs.¹⁶

Sexual and reproductive health services are provided at healthcare levels - primary care, outpatient healthcare, and hospital care, both in the public and private sectors. Young people up to 24 years, benefits from sexual and reproductive health services covered by the State, even they are not insured through the Youth Friendly Health Centres that are located in each district of the country¹⁷.

Despite the fact that important steps have been taken to ensure the access to sexual and reproductive health services it is further influenced by the economic status of the population and the **following problems are still faced in accessing the sexual and reproductive health services:**

- Even being insured, the vulnerable groups very often can not afford additional costs for the use of free services. The very low budget of poor families does not allow them to pay the transportation costs needed to travel to medical institutions, located in a different locality than their home¹⁸. In the Republic of Moldova, 50% of all hospitals are located in Chisinau. Apparent, some primary care institutions in rural areas do not meet national standards in terms of infrastructure and equipment availability, essential medicines and specialists¹⁹.
- Even available, accessing the Youth Friendly Health Clinics is still a problem for most young people from rural areas, because they are located in districts only. They have to support additional transportation costs that they can not afford²⁰.
- Additionally many of the Youth Friendly Health Clinics are not providing the physical access for young people with disabilities (lack of ramp, lack of support bars, lack of elevator in case the facility is multistoried, locating the doctor's office at higher floors in the absence of an elevator, etc.)²¹.
- Same, women with disabilities may access the sexual and reproductive rights services with difficulties, because many medical institutions do not ensure physical access (no ramps, no adapted toilets, etc.)²².
- The women with disabilities, particularly those with locomotors disability, are also denied of their right to access sexual and reproductive health services due to the lack of adapted to their needs gynecologic examination chairs and equipment.²³

¹⁵ <http://cnam.md/>

¹⁶ Order of the Ministry of Health no. 658 of 18.08.2015 on contraceptive insurance <https://www.sanatateafemeii.md/wp-content/uploads/2015/04/ord-nr.-658-din-18.08.2015-Cu-privire-la-asigurarea-cu-contraceptive.pdf>

¹⁷ Order of the Ministry of Health no. 868 of July 31, 2013 "On organizing the activity of Youth Friendly Health Centers". http://sspt.md/media/files/files/868_cspt_7369788.pdf

¹⁸ The safety of reproductive health products in Moldova, UNFPA situational analysis, 2016, http://moldova.unfpa.org/sites/default/files/pub-pdf/Report%20on%20RHCS%202017_Ro%20%281%29.pdf

¹⁹ Barriers and facilitating factors in access to health services in the Republic of Moldova, World Health Organization (WHO), Regional Office for Europe, Health Policy Paper, no. 9, 2012. http://www.euro.who.int/_data/assets/pdf_file/0018/183510/e96775-final.pdf

²⁰ Assessing youth-friendly-health-services and supporting planning in the Republic of Moldova, 2015 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4627613/>

²¹ Ibid p.2

²² Ibid p.2

²³ Ibid p.2

- Women with disabilities can not benefit of free contraceptives because they are not included in the free contraceptive supplies categories within the Regulatory policy for ensuring free contraceptive supplies for social-vulnerable groups as part of primary healthcare, section 2, item 5, approved through Ministry of Health Order no.658 of 08.18.2015.
- Family physicians do not have the necessary knowledge in sexual and reproductive health and rights, particularly in counseling persons with disabilities in sexual and reproductive health. The lack of knowledge triggers avoidance of counseling of persons with disabilities or giving erroneous information, avoiding prescribing contraceptives and manifesting discriminatory behavior. Thus, the quality of sexual and reproductive services provided to this group of beneficiaries can be considered unsatisfactory²⁴.
- Family doctors refuse repeatedly to offer counseling for contraception and pregnancy planning for women with disabilities, arguing lack of time and postponed the discussion for a later time. The alleged reason was that "for the time being the woman has other, more important health issues, such as her disability", or saying from the very beginning that a pregnancy is not possible because of the disability and stating that a baby with disability would be born. Family doctors refuse to refer women with disabilities to a gynecologist, arguing that a woman with disability does not need such a visit²⁵;
- Medical staff recommend to women with disabilities to not plan a pregnancy or give birth because of their disability. In most cases, such "recommendations" are made by gynecologists or family physicians. Women are virtually obliged by the doctors to get an abortion, because they already have children or because of their disability, or arguing that who is going to raise this child²⁶.
- According to the national legislation²⁷ the consent for medical services of "the patient unable to discern is given by his legal representative, and in his absence the closest relative." This includes also abortion and sterilization. The national Legislation is also specifying "mental disability" as a criterion for sterilization. Thus, according to Report "Bad Treatments due to Discrimination in Moldova"²⁸ women with mental disabilities are forced to use contraception methods and IUD insertion is provided without any consent. They are also subjects of the forced sterilization and forced abortion, particularly the women with psychosocial and/or intellectual disabilities, especially those who are still in residential institutions.
- Roma women rarely go to a doctor for preventive care or treatment due to lack of medical insurance combined with lack of financial resources and, in some cases, lack of information.²⁹ Without being insured, they do not have access to the sexual and reproductive health services, especially contraceptives covered by the Government. Moreover, due to lack of money they can not afford purchase them.
- The lack of training of primary level of health care personnel on contraceptives logistics and management results in poor forecasting, purchasing and monitoring of product storage³⁰.
- Despite the efforts to bring the family planning services at primary level of care, family physicians (specialists available in the majority of villages) are rarely providing contraception advice to the patients. At the most, they can provide condoms in some localities. Family doctors do not have the courage to insert Intrauterine device (IUD). The women who want to use other modern contraceptive methods are referred to a gynecologist specialist at the district or municipal reproductive health center who can

²⁴ Ibid p.2

²⁵ Ibid p.2

²⁶ Ibid p.2

²⁷ Art. 23 al. 3 of the Health Protection Law no. 411 of March 28, 1995

²⁸ https://promolex.md/old/upload/publications/ro/doc_1332166962.pdf

²⁹ Study on situation of Roma women and girls in Moldova, UN Women, UNDP, OHCHR 2014

³⁰ Ibid p.10

prescribe hormonal contraception or insert IUD. This could explain the low use of modern contraception by women (the transport costs being too high for most of them to go to the district)³¹.

- Family planning methods can be provided free of charge to vulnerable groups. In the same time, non-vulnerable groups have to buy modern methods of contraception and other medicines from the private sector³². Considering that the middle income per capita in Moldova (2062,68 US\$), this is very problematic and for many people it's not affordable.
- There is no national disaggregated statistics, established system of collecting, monitoring, reporting and evaluation of the data related to contraception use, abortions, and sexually transmitted infections, number of births and other sexual and reproductive health components for separate group of population like people with disabilities, Roma people, etc.

During the situation analysis conducted by RHTC in 2016³³ the following concrete **cases of infringement of persons with disabilities' sexual and reproductive rights** were mentioned, including cases of sexual violence:

- Interviewed women received suggestions to not plan a pregnancy or give birth because of their disability. In most cases, such "recommendations" are made by gynecologists or family physicians;
- Medical personnel repeatedly refused to offer counseling for contraception and pregnancy planning, arguing lack of time and postponed the discussion for a later time. The alleged reason was that "for the time being the woman has other, more important health issues, such as her disability";
- The doctor refused offer pregnancy counseling, arguing from the start that it not possible because of the disability and stating that a baby with disability would be born. A quotation from the questionnaire: "As I was pregnant, I was referred to a gynecologist for a consultation. After he was the diagnosis, he insulted me and told me I could not give birth as I suffered from arthritis. He suggested I should give up the pregnancy. As I was encouraged by other doctors, I gave birth with no difficulty";
- The family physician refused to refer to a gynecologist, arguing that a woman with disability does not need such a visit;
- The doctor suggested to a woman with disabilities to terminate the pregnancy on grounds of disability, arguing that there would be no one to take care of the baby afterwards;
- During a visit to the gynecologist, he refused to perform a smear test on the woman, because he was not obligated to help her up the gynecologic chair, which was not adapted for women with locomotors disabilities;
- The person with disability was virtually obliged by the doctor to get an abortion, because she already had a child and "that was enough";
- Another interviewee told us her sister's story (person with disability): "As my 26-year-old sister lived in a boarding school, she was denied giving birth and her two-months pregnancy was terminated".

MARRIAGE, FAMILY FOUNDATION AND CHILDBIRTH – LEGAL FRAMEWORK AND FINDINGS ON RIGHT VIOLATION

The Family Code³⁴ is the main national document, which sets the principles on which marriage and family foundation relationships that are based (Article 2) on:

³¹ Ibid p.10

³³ Ibid p.2

³⁴ The Family Code of the Republic of Moldova No. 1316 of 26.10.2000, Published on 26.04.2001 in the Official Monitor No. 47-48, art. 210

- freely-consented marriage between a man and woman,
- equal rights of spouses in the family.

By this report, RHTC would like to pay the attention of CESCR specifically to the situations when the right of marriage, family foundation and childbirth is violated both in the legal framework and in practice.

Despite the fact that Republic of Moldova ratified the most international conventions, that ensures the right to marriage, family and childbirth (International Covenant on Economic, Social and Cultural Rights, article 10; Universal Declaration of Human Rights, article 16; International Covenant on Civil and Political Rights, article 23; Convention on the Elimination of All Forms of Discrimination Against Women, article 16; European Convention of Human Rights, article 12; Convention on the Rights of Persons with Disabilities, article 23), the national legislation is not updated in line with these.

The Family Code, unlike other special legislative acts, does not ensure the principle of equality of rights of persons in marriage relationships as follows:

- The principle of equality has a limitative interpretation, thus the Code sanctions only the spouses' equality of rights. However, the Family Code virtually contains no guarantees regarding equality, non-discrimination and tolerance. In this respect, only articles 5 and 16 sanction the equality of spouses in marriage relationships. Article 5 stipulates: "All married persons have equal rights and obligations in family relationships, irrespective of de sex, race, nationality, ethnic origin, language, religion, opinion, political affiliation, wealth and social origin."
- At the same time, Article 2 legislates that marriage can only be valid between a man and a woman, thus excluding same sex or transgender persons. Article 15 (h) legislates that marriage between same sex persons is not admissible.
- In addition, Article 62 decides that parents are obliged to exercise their rights by methods that shall rule out discrimination. Nevertheless, although the Code does not include special guaranties concerning equality and non-discrimination, their application is possible on the basis of Article 1, which stipulates that should there be divergences between the Code and the conventions and treaties that govern family relationships the Republic of Moldova is a signatory to, international regulations shall take precedence.
- Article 15 (1) of the Moldovan Family Code states: "It is not possible for two people to marry when at least one of them has been deprived of legal capacity" – by this specification, the people with mental disability in Moldova are deprived of the right to marry, thus to receive legal recognition as a family.
- Marriage among children is still a problem faced by Roma community. Roma girls marry at the age of 15 or, possibly, earlier.³⁵This situation is confronting the Article 11(1) of the Family Code states that: "For the conclusion of the marriage it is necessary the mutual consent, unqualified, expressed personally and unconditionally, of the married man and woman, as well as their reaching the matrimonial age.". Matrimonial age is 18 years accordingly to the national legislation.
- Couples with psychosocial and/or intellectual disabilities from residential institutions are not allowed to create couples and have love relationships and, by the internal regulations, it's forbidden to have sexual intercourse. If they deliver babies, they are taken from them and placed in orphanages. This is based on the Regulation of the residential institutions' activity, as explains the Manager of the psycho-neurological institute from Badiceni, Soroca³⁶.

³⁵ Ibid p.29

³⁶ TV reportage "The Right to Love", produced by Eugenia Pogor, Europa Libera, 2017, <https://www.europalibera.org/a/28424739.html>, <https://www.zdg.md/editia-print/investigatii/violuri-si-avorturi-in-internatul-psihoneurologic>

ACCESS TO THE INFORMATION AND EDUCATION ON SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS – LEGAL FRAMEWORK AND FINDINGS ON RIGHT VIOLATION

Sexual and reproductive health issues are mainly caused by the lack of accurate information and a favorable development environment for young people. Studies in recent years show that young people in the Republic of Moldova have little knowledge of protected sexual relations, sexually transmitted infections, but also about HIV/AIDS. Only 36% of girls and 28% of boys aged 15-24 know the ways of transmitting HIV infection. Less than half of the sexually active youngsters reported using the condom at the last sexual intercourse. At the same time, the incidence of sexually transmitted infections among young people aged 15-19 in the Republic of Moldova is one of the largest in the region.³⁷

The National Health Policy³⁸ Article 47 says that: “Health education will manifest itself multilaterally in the spiritual and cultural life of society through the media, literature, cinema, etc., which will form an appropriate and responsible behavior in maintaining adolescent health. Free access to information on sexual and reproductive health will be ensured and adolescents and young people will be encouraged to take decisions on their own health”.

The National Reproductive Health Law³⁹ Article 4(3) says: “Everyone has the right to the correct sexuality education...”, Article 6(2) highlight the right for sexuality education for adolescents: “Adolescents have the right to age-appropriate age-related education to ensure proper psychosexual development, prevention of sexually transmitted infections and HIV/AIDS, unwanted pregnancy, and the formation of responsible parenting skills.”.

- Despite the fact that the national legislation ensures the sexuality education of the population, and of the young people in special, there is still no systematic sexuality education in schools. The main sources of information still remains the internet and non-formal discussions among adolescents, which are not evidence based sources.
- In case of women and girls with disabilities, there is a need to highlight that they do not have the necessary knowledge about their sexual and reproductive health and rights. This is why some of them believe they cannot bear children because of their disability⁴⁰.
- Most women with disabilities look for sexual and reproductive health information on internet, due to reduced mobility and locomotors disability. However, most of them believe that medical specialist (family doctors and gynecologists) are the most trustworthy sources of information and would like to be able to access them more often⁴¹.

PROTECTION AGAINST SEXUAL ABUSE – LEGAL FRAMEWORK AND FINDINGS ON RIGHT VIOLATION

Sexual abuse is regulated in the Republic of Moldova by the Penal Code⁴², Chapter nr. 4. The article nr. 171 states that: “Rape, is sexual intercourse committed by the physical or psychological constraint of the person,

³⁷ Ibid p.9

³⁸ Ibid p.13

³⁹ Ibid p. 14

⁴⁰ Ibid p.2

⁴¹ Ibid p.2

⁴² Penal Code of RM Nr. 985 from 18.04.2002

or by taking advantage of its impossibility to defend itself or to express its will, shall be punished by imprisonment from 3 to 5 years.”.

There are separate stipulations for protection against sexual abuse in specific Laws for specific groups of people like women, children.

Violence against women and girls is one of the most common forms of violation of human rights in the Republic of Moldova. 63% of women in the Republic of Moldova experienced a certain type of violence (psychological, physical or sexual) throughout the life of their husband/partner. At the same time, only 8.4% of the abused women reported the case to the police.⁴³

RHTC would like to pay CESCR attention to the following situation:

- In Moldova, many cases of domestic sexual violence are less recognized and reported and thus do not come to the attention of the authorities. There are people who have suffered from sexual violence, but do not trust policemen and judges or people around, and society remains "in the prison of prejudices to usually blame the victim and treat the aggressor with tolerance." These are just a few of the findings in the study "Ensuring Victims of Sexual Violence to Proper Legal and Social Protection", conducted by the Sociopolis Investigation and Consultation Center at the command of the International Center "La Strada".
- There are several cases when women with mental disability from residential institutions are sexually abused by the medical staff.⁴⁴ A documented example is the one from Balti Psycho-Neurological Hospital, where the former chief physician is accused of violating at least 19 patients in 2013 and earlier. One of the women had two epileptic seizures in the meantime, another died, one pregnant, and the doctor took care to make a pregnancy discontinuation when she was 7 months old.⁴⁵
- During the situational analysis conducted by RHTC in 2016⁴⁶ few cases of sexual abuse were mentioned. Three of the interviewed women with physical disability said that they were subject to one form of sexual violence (touching of the body against one's will or forced sexual activity). Only one of the women lodged an official complaint with the police, the others preferred to ask for the help of a psychologist or the mother, invoking lack of courage. An 18-year-old woman stated: "I needed the help of a psychologist, who helped me overcome my state of depression and permanent fear triggered by this case. I didn't go to the police because I didn't have the courage to do so." Another 28-year-old woman mentioned that she was sexually abused and resorted to friends and the police for help. The police gave the aggressor a fine. One of the young women, aged 24, told her mother about the aggressions she had been submitted to by various: "There were several drunk people, including my classmates, who wanted to rape me, but God saved me. My mother chased my father and his drunk friends away".
- Women with locomotors disability are double vulnerable, and become victims of sexual abuse because of their reduced mobility. Under circumstances of sexual and reproductive rights infringements, including sexual abuse of persons with disabilities, they do not know where they can call for help⁴⁷.

⁴³ Report "Violence against women in the family in the Republic of Moldova", first ed. (Chisinau, UNDP, UN Women, UNFPA, 2011).

⁴⁴ UN CRPD Observations to Moldova, 2017 https://www.sanatateafemeii.md/wp-content/uploads/2016/09/CRPD_C_MDA_CO_1_27192_E.pdf

⁴⁵ <https://www.zdg.md/editia-print/investigatii/violuri-si-avorturi-in-internatul-psihoneurologic>

⁴⁶ Ibid p.2

⁴⁷ Ibid p.2

RECOMMENDATIONS

Based on the provided information, RHTC calls the CESCR to take into consideration the below proposed recommendations and raise them with the Republic of Moldova delegation during the 62nd session in Geneva:

Legal framework, policies and regulations:

- To repeal and to amend laws and norms that allow forced or involuntary sterilization of persons with disabilities, to prevent and to stop non-consensual contraceptive measures, including when consent is given by a third party (as recommended by the UN Committee on the Rights of Persons with Disabilities on April 12, 2017, paragraph 35). Modification of provisions in the Law on mental health, which stipulates that consent, is not necessary when coercive medical measures are applied, in keeping with the stipulations of the Penal Code and in case of hospitalization according to article 28; and Art. 28, which stipulates that a person may be hospitalized without consent in the absence of a court decision, if her state of health is serious and there is a direct social danger or a serious risk to her health, which would allow for arbitrary detention or inhuman treatment of that person;
- To repeal legislation in order to eliminate the discrimination against persons with disabilities, in special, women with psychosocial and/or intellectual disabilities, in all the legal aspects of marriage, family and maternity/paternity, on an equal footing with others (as recommended by the UN Committee on the Rights of Persons with Disabilities on April 12, 2017, paragraph 43);
- Modification of Law on social inclusion of persons with disabilities (Law no. 60 of 30 March 2012), so as to guarantee the observance of sexual and reproductive rights, the right to independent life and integration in the community of persons with disabilities;
- Inclusion of persons with disability in the group of beneficiaries of free contraceptive supplies categories within the Regulatory policy for ensuring free contraceptive supplies for social-vulnerable groups as part of primary healthcare, section 2, item 5, approved through Ministry of Health Order no.658 of 08.18.2015;
- To undertake actions in order to eliminate the marriage among Roma children;
- Forming multidisciplinary teams that should include the family physician and social worker tandem with a view to informing persons with disabilities, Roma people and other vulnerable groups about their sexual and reproductive health and rights, also during home visits;
- Inclusion of the module on sexual and reproductive health and rights of persons with disabilities, including counseling techniques, in curricula for medical personnel (the family physician, gynecologist, midwife team) and also in curricula for social workers;
- Inclusion as a compulsory criterion - in the accreditation system of establishments that provide sexual and reproductive health services – ensuring physical access of persons with locomotor disability in the institution and the physician's examining room, in keeping with national construction standards (entrance ramp, support bars, elevator in case the building is multi storied, locating the physician's examining room on the first floor in case there is no elevator, adequate width of doors, absence of thresholds, etc.);
- Public Local Government units should offer personal assistance social services for disabled mothers who cannot take care of their children because of health problems (particularly those of the musculoskeletal system) and for those who do not have assistance from other people (relatives, husband, etc.);
- To established system of collecting, monitoring, reporting and evaluation of the data related to contraception use, abortions, and sexually transmitted infections, number of births and other sexual

and reproductive health components for disaggregated by group of population like people with disabilities, Roma people, etc.

Access to family planning and reproductive health services:

- Ensure the availability and accessibility of modern methods of contraception especially for the most vulnerable groups, women and girls from rural area, women with disabilities, adolescents, Roma women. This is also the observation of the CEDAW, 2013, C/MDA/CO/4-5; and to include persons with disabilities as a category within the groups that can benefit from free contraceptives;
- To ensure access to facilities that deliver sexual and reproductive health services for women and adolescents from rural area by straightening the knowledge of family doctors in modern methods of contraception, including on IUD insertion, so they can provide the family planning services to the population in rural area and avoid referring them without indications to gynecologists based in districts/rayons;
- Ensure women and adolescents with disabilities with physical access to the facilities, providing reproductive services: supply them with equipment adapted to their necessities;
- Optimizing normative time for routine consultation by the family physician team for family planning and contraception counseling and services for vulnerable groups;
- Setting up and implementing the monitoring and evaluation system of vulnerable groups beneficiaries' opinions in establishments that provide family planning / reproductive health (FP/RH) services regarding the quality of services offered via a „suggestion box”, anonymous interviews, users' satisfaction questionnaires, „confidence” hotlines, and others, as well as including service users' opinions concerning the quality of the services they benefited from, according to the list of basic criteria for service/institution accreditation;
- To train medical staff providing sexual and reproductive health facilities, staff working in psycho-neurological institutions as well as social workers in the field of sexual and reproductive health and rights of the population with the focus on persons with disabilities, Roma people, adolescents. Special importance must be attached to criteria and contraindications for contraceptive methods and counseling specificity for people with disabilities;
- Awareness raising among family physicians regarding sexual and reproductive rights of persons with disabilities, Roma persons, as well as concerning relevant legislative stipulations.

Information, Education, Communication:

- To introduce mandatory health education, sexual and reproductive rights, including responsible sexual behavior, in the school curriculum. This is also the observation of the CESCRC, 2011, E/C.12/MDA/CO/2 and CEDAW, 2013, C/MDA/CO/4-5;
- Organizing training workshops concerning sexual and reproductive health and rights for vulnerable groups, especially for adolescents, persons with disabilities, Roma people and their family members.
- Streamlining the cooperation between the family physician and social worker team with other structures or actors in the field (Reproductive health centers, Local Government units, schools, Youth-friendly centers, nongovernmental organizations, international organizations, etc.), including for community mobilization with a view to disseminating positive messages regarding sexual and reproductive rights (SRR) of people with disabilities, adolescents, Roma people;
- Periodic organization of theme-based discussion clubs for persons with disabilities for peer-to-peer positive experience sharing;
- Involvement of persons with disabilities and Roma people, people living with HIV and other

vulnerable groups in community-based activities, TV shows, video clips in the company of stars, etc. in order to sensitize the society at large about their equal rights and share the successful stories related to marriage, family creation, childbirth.

Protection against sexual abuse and infringement of sexual and reproductive rights:

- Training women with disabilities, including those from psycho-neurological institutions, their family members and victims of domestic sexual violence in types of sexual abuse and case reporting mechanisms;
- Informing women with disabilities, including those from psycho-neurological institutions, their family members and victims of domestic sexual violence about the legal and institutional framework in the field of sexual and reproductive rights;
- Training medical staff providing sexual and reproductive health services and those from community mental health centers, as well as community social workers in giving support to women with disabilities and victims of domestic sexual violence in cases of sexual and reproductive rights infringement.

We hope that this information is useful for the CESCR review of the Moldovan Government's compliance with the ICESCR.

Sincerely,

Ludmila Sirbu,



RHTC Project Coordinator
tulus_ludmila@yahoo.com

Rodica Comendant



RHTC Director
comendantrodica73@gmail.com