Situation analysis of the issues confronting women and girls with locomotor disability in Moldova in exercising their sexual and reproductive rights

REPORT

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RHTC

Authors :

Ludmila Sirbu
Rodica Comendant
Irina Sagaidac
Virginia Salaru
Vadim Vieru

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LIST OF ABBREVIATIONS AND ACRONYMS	
LPA	Local government
NBS	National Bureau of Statistics
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CRC	Convention on the Rights of the Child
CESCR	UN Committee on Economic, Social and Cultural rights
HRC	Human Rights Committee
CRPD	Convention on the Rights of Persons with Disabilities
ECHR	European Convention on Human Rights
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CPEDEE	Council on the Prevention and Elimination of Discrimination and Ensuring Equality
CPT	European Committee for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
RHTC	Reproductive Health Training Center
YFHC	Youth Friendly Health Center
DSAFP	Directorate for Social Assistance and Family Protection
SRR	Sexual and Reproductive Rights
SRHR	Sexual and Reproductive Health and Rights
UPR	Universal Periodic Review
STI	Sexually Transmitted Infections
MLSPF	Ministry of Labor, Social Protection and Family
NGO	Nongovernmental Organization
UN	United Nations Organization
WHO	World Health Organization
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
NHRAP	National Human Rights Action Plan
SISPD 2010	Strategy on social Inclusion of Persons with Disabilities 2010–2013
RH	Reproductive Health
SRH	Sexual and Reproductive Health
UNFPA	United Nations Population Fund
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
SUMP	State University of Medicine and Pharmacy

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1. Rodica Comendant – associate professor, Chair of Obstetrics and Gynecology, "Nicolae Testemitanu" State University of Medicine and Pharmacy; Director, Reproductive Health Training Center
2. Virginia Salaru – university assistant, Chair of Family Medicine, "Nicolae Testemitanu" State University of Medicine and Pharmacy
3. Irina Sagaidac – university assistant, Chair of Obstetrics and Gynecology, No.2, "Nicolae Testemitanu" State University of Medicine and Pharmacy
4. Ludmila Iachim – project manager, the Association „MOTIVATIE" of Moldova
5. Emma Matreniuc – director, Association of Young People with Disabilities "VIVERE"
6. Vadim Vieru – lawyer, Promo-LEX Association
7. Ludmila Sirbu – project coordinator, Reproductive Health Training Center

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INTRODUCTION

Sexual and reproductive rights are fundamental human rights already acknowledged both by international legal framework, standards and agreements, and by regional as well as national ones. They include the right to autonomy and self-determination. They are 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. [1]

International Planned Parenthood Federation (IPPF) explains sexual and reproductive rights in detail within its "Sexual rights" declaration [2] published in October 2008. In keeping with the declaration, sexual and reproductive rights are:

1. Right to equality, equal protection of the law and freedom from all forms of discrimination based on sex, sexuality or gender. *Without exception, sexuality is an integral part of the personhood of every human being. All persons are entitled to an environment that enables active, free and meaningful participation in and contribution to the civil, economic, social, cultural and political aspects of their society.*
2. The right to participation for all persons, regardless of sex, sexuality or gender. *All persons are entitled to influence the decisions regarding aspects directly affecting their health and wellbeing.*
3. The right to life, liberty, security of the person and bodily integrity. *Medical services for women should not be grounded on other circumstances than to ensure their wellbeing and no woman should be obliged to bear children.*
4. Right to privacy. *All persons have the right not to be subjected to arbitrary interference with their privacy, including within their access to reproductive health services.*
5. Right to personal autonomy and recognition before the law. *All persons have the right to be recognized before the law and decide freely on matters related to one's own life, within a framework of non discrimination, violence or abuse.*
6. Right to freedom of thought, opinion and expression; right to association. *All persons have the right to exercise freedom of thought, conscience and religion without arbitrary intrusions. Moreover, all persons have the right to have access to reproductive health services without arbitrary intrusions based on personal ideology and religious beliefs.*
7. Right to health and to the benefits of scientific progress. *All persons have a right to the highest attainable standard of medical services, including the entirety of sexual and reproductive health care and the enjoyment of benefits of scientific progress.*
8. Right to education and information. *All persons have a right to education and information presented in an objective, critical and pluralistic manner.*
9. Right to choose whether or not to marry and to found and plan a family, and to decide whether or not, how and when, to have children. *All persons have the right to choose whether or not to marry, whether or not to found and plan a family, when to have children and to decide the number and spacing of their children freely and responsibly.*
10. Right to accountability and redress. *All persons have the right to effective, adequate, accessible and appropriate educative, legislative, judicial and other measures to ensure and demand that those who are duty-bound to uphold sexual rights are fully accountable to them.*

The Preamble of The Convention on the Rights of Persons with Disabilities states (*letter e*) that **disability** is an evolving concept and that disability results from the interaction between persons

[1] 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
[2] Sexual Rights, an IPPF Declaration, http://www.sanatateafemeii.md/wp-content/uploads/2016/09/sexualrightsippfdeclaration_1.pdf

with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others[3].

Article 1 in the Republic of Moldova Law no. 60 of 30 March 2012, on social inclusion of persons with disabilities states that **disability** is a generic term for afflictions/impairments, limitations in activities and restrictions in participation, which stand for negative aspects of interaction between an individual (who has a health problem) and contextual factors (environmental and personal factors)[4]. The same law defines a **person with disabilities** a person with physical, mental, intellectual or sensory deficiencies, which, in the interaction with various barriers/obstacles, may limit the person's full and efficient participation in society on an equal basis with others. At present, the concept of disability may no longer be limited to the medical paradigm, the way it is currently approached in the Republic of Moldova and it is going to be adjusted to present reality, in keeping with the evolution of social values and international standards.

Persons with disabilities must be able to benefit from all sexual and reproductive rights guaranteed by international legal instruments and national legislation. By having ratified the UN Human Rights Conventions, particularly the Convention on the Rights of Persons with Disabilities, the Republic of Moldova has assumed the responsibility to ensure their implementation and guarantee the observance of the rights of persons with disabilities – inclusive of sexual and reproductive rights.

According to 2010 global estimates persons with disability represent circa 15% of the world population (10% being women)[5], and roughly two thirds of these persons are from developing and transition countries (women constituting 75% of the total persons with disabilities in these countries)[6]. At European level, the number of persons with disabilities represents about 80 million, which makes up for over 15% of the entire population. The total number of persons with disabilities in the Republic of Moldova for 2016 is 184,5 thousand people, according to the National Bureau of Statistics, which stands for 5.2% of the country's total population, all while 48% of the total number of persons with disabilities are women. 62 per cent of persons with disabilities are from rural areas, the rate of disability in rural areas being 547 persons with disabilities in 10 thousand inhabitants, compared to 472 persons with disabilities in 10 thousand inhabitants in urban areas. In the case of breaking down the percentage of persons according to degree of disability 15.0% are those with cu severe disability, 57.8 % with increased disability and 27.2% with average disability. Over the past decade there had been a 10% overall continuous increase of persons with disabilities and in the case of women the number has grown by 5 per cent. There is no desegregated data per type of disability (locomotor, somatic, impaired hearing, etc.).

International data show that girls and women with disabilities run into many obstacles when it comes to exercising their sexual and reproductive rights, as they are often stigmatized, discriminated against and coerced into making decisions pertaining to private life, sexuality, sexual and reproductive health, couple relationships and childbirth.[7] At national scale, sexual and reproductive rights of persons with disabilities are analyzed based on how they are reflected in the laws and policies subsequent to the ratification of the Convention on the Rights of Persons with Disabilities by the Republic of Moldova (e.g.: Initial Governmental Report on

[3] Preamble, letter (e) in UN Convention on the Rights of Persons with Disabilities
[4] Legea Republicii Moldova nr.60/2012 privind incluziunea socială a persoanelor cu dizabilități
[5] Raportul Mondial privind Dizabilitatea, OMS, http://apps.who.int/iris/bitstream/10665/44575/20/9789730135978_rum.pdf
[6] Human Rights Watch, https://www.hrw.org/legacy/women/disabled.html
[7] ICPD Beyond 2014, International Conference, Issues Paper The Sexual and Reproductive Rights of Women and Girls with Disabilities, pg. 2 http://wwda.org.au/wp-content/uploads/2013/12/issues_paper_srr_women_and_girls_with_disabilities_final.pdf

the Implementation of the UN Convention on the Rights of Persons with Disabilities, presented in keeping with art. 35, authors: Ministry of Labor, Social Protection and Family and UN Committee on the Rights of Persons with Disabilities).

At national level there are no statistics or systems in place to collect, monitor, report and assess data on access to family planning services, contraceptive method use, abortions, sexually transmitted infections, number of births among persons/women with disability. For reference we use the data reflecting the situation of women in the country, as follows:

- in 2012, only 42% of married women or women in consensual union with ages between 15 and 49 were using a modern method of contraception[8];
- the abortion rate was 15 in 1,000 women of fertile age in 2015 and 10.6% of abortions were performed on adolescent girls[9];
- 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 contraception [10];
- 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. Thus, the Republic of Moldova is showing the worst indicators in Europe[11].

The field of sexual and reproductive rights of persons with disabilities was less explored in Moldova. That is why we have made it our aim to identify the **issues confronting women and girls with disabilities in exercising their sexual and reproductive rights, which has allowed us to advance proposals regarding ways to solve them**. That was the **goal of the situational analysis**, organized by the Reproductive Health Training Center (CIDSR) as part of the project "All Equal, All Healthy: Empowering Women and Girls with Disabilities in Moldova to Exercise their Sexual and Reproductive Rights", funded by the Embassy of Finland in Bucharest. Due to limited resources, an analysis of all disability types was not possible, which is why we have first focused on the group of women with locomotor disabilities. Thus, several **objectives** were pursued**,** namely:

- Identify the sexual and reproductive health-related needs of women and girls with locomotor disabilities;
- Identify the needs for assistance of the main intermediaries (family members, family doctors, social workers) in offering support to women and girls with locomotor disabilities in accessing sexual and reproductive health information and services;
- Examine the legal, policy and institutional framework pertaining to sexual and reproductive rights of persons with disabilities;
- Formulate recommendations to address aspects of the issues identified.

The report presents the analysis outcome of the interviews, findings and recommendations from respondents and the working group. The analysis of the legal framework is presented in a separate chapter that examines the sexual and reproductive rights of women and girls with disabilities in the context of the international standards pertaining to disability and gender, which the Republic of Moldova is a signatory to and has committed to observe, and also within the current national legal framework (Laws, Government Decisions, Law-related Normative Acts).

The situational analysis, as well as the other project activities, are supported by the relevant ministries (Ministry of Labor, Social Protection and Family, as well as the Ministry of Health)

[8] Monitoring the Situation of Children and Women, Multiple Indicator Cluster Survey (MICS), Republic of Moldova, 2012
[9] National Center for Health Management in Republic of Moldova
[10] Monitoring the Situation of Children and Women, Multiple Indicator Cluster Survey (MICS), Republic of Moldova, 2012
[11] KAP study in adolescent health and development, Youth Health Association, 2012

and key human rights and disability-related organizations, such as UNFPA Moldova, UN Women Moldova, UN Human Rights Office in Moldova, "NEOVITA" Youth Friendly Health Center, "MOTIVATIE" Association in Moldova.

Due to decision makers' awareness of the need to approach sexual and reproductive rights of persons with disabilities, the Ministry of Labor, Social Protection and Family has included the RHTC project activities in the Plan of Action for the implementation of the 2016-2020 Strategy for equal opportunities between women and men in the Republic of Moldova.

In this context, we are hoping that the results obtained will be useful and utilized by government bodies to draw up and improve the policies pertaining to sexual and reproductive health and rights of persons with disabilities in the Republic of Moldova, will form the basis for developing relevant programs by civil society and other interested bodies, will serve as *advocacy* tools for persons with disabilities and their family members.

Chapter 1

SITUATION ANALYSIS METHODOLOGY

The planning stage was a participatory process. The first discussions about the assessment were carried out as part of a round table for the launch of the project attended by potential beneficiaries, implementation partners and civil society representatives active in legal and disability domains. Topics discussed at this stage were those that were to be addressed as part of further discussions and the need to interview both women and girls with locomotor disability, as well as their family members, family doctors and social workers.

It was also at that time that the potential experts to be included in the working group were identified. In putting the working group together attention was given to the need for its multidisciplinary representation. As a result, the working group included 7 members: 2 sexual and reproductive health experts, 1 family medicine expert, 1 legal expert (lawyer), 3 representatives of NGOs working in the field of disability, 1 being on the implementation team for the "All equal, all healthy…" project. The working group decided on the assessment methodology and interview organization and developed the questionnaire for each category of interviewees.

The questionnaires included questions grouped by categories pertaining to information, education and communication on sexual and reproductive health and rights; access to reproductive health services and family planning; protection against sexual violence and ensuring the observance of sexual and reproductive rights. In order to obtain more details, discussions were carried out in focus-group format, the questionnaires being filled out subsequently (semi-structured interviews).

Over August 11–October 15, 2016 the working group members conducted 93 interviews of which:

- 51 women with locomotor disabilities of various degrees and etiology with average age of 28.0±8.3 years (between 17 and 49 years of age);
- 13 family members with the mean age of 41.83±9.64 years (between 33 and 56 years). The length of time interviewed family members spend with the person with disabilities is 18.9±8.9 hours on an average, while 7 of them are present around women with locomotor disability for 24 hours;
- 11 social workers – persons directly involved in providing social support and care to girls and women with locomotor disability. Most of them are in charge of girls and women with locomotor disability who can move by themselves either with the help of crutches or wheelchair;
- 18 family physicians – the first contact specialists who provide primary health care, including aspects pertaining to reproductive health.

All in all, 9 focus groups were organized in Edinet, Cahul, Hincești and Chisinau.

The interviews with the family doctors were organized as part of the continuous medical education training by the Family Medicine Chair of the "Nicolae Testemitanu" State University of Medicine and Pharmacy and was attended by specialists from more than 10 localities in the country.

The focus-groups were staged with the assistance of the partner NGOs that work with persons with disabilities: ”MOTIVATIE” Association from the city of Chisinau,”Vivere” Association from the town of Edinet, the "PASAREA ALBASTRA" Services center for children with cu disabilities from Hincesti, ”ARTENA” Association from Cahul.

In many cases, organizing the participation in discussions of the women with locomotor disability was a challenge, due to the limited mobility of this category of interviewees. Some of the women with disabilities continue to be immobilized in bed, others do not have the possibility to move outside the house due to lack of wheelchairs, to public transport not adapted to them or other type of infrastructure adapted to their needs, as they usually must be accompanied by someone to help them move, etc. Some women simply refused to discuss. Their refusal was motivated by their embarrassment to broach the subject of SRHR, as this was taboo in their families, just as in many other families in our society.

Taking into account the mentioned difficulties, we are glad we have managed to conduct a sufficient number of interviews so as to be able to identify some regularities and draw coherent conclusions.

At the beginning of discussions, there was an overall presentation of the project, of the assessment goal and of the way its results were going to be used. Before the interview, the interviewees were given a consent form to sign, containing details about the purpose of the assessment, about their voluntary and anonymous participation. As the research objective was a sensitive one, the discussions were carried out separately with the four groups of interviewees.

At the same time, the legal expert worked on the legal framework analysis, which refers to the sexual and reproductive health and rights, in order to assess how it assists or, on the contrary, disfavors persons with disabilities. Part of the report is grounded on relevant testimonials, directly from the source, obtained through interviews and group discussions the author conducted in his capacity as a lawyer. Within this report, the information obtained directly from the source is presented while maintaining confidentiality of the names. The legal and policy framework is analyzed until October 1, 2016.

The working team members’ reports as well as the legal framework analysis report, were subsequently analyzed and systematized by the RHTC team and colleagues from other NGOs in the field. The pre-final version of the report was shared with all working team members for comments and expertise with cu Ministry of Labor, Social Protection and Family, after which the final report was developed.

Chapter 2

SITUATIONAL ANALYSIS FINDINGS AND RECOMMENDATIONS FROM RESPONDENTS TO REDRESS THE STATUS QUO

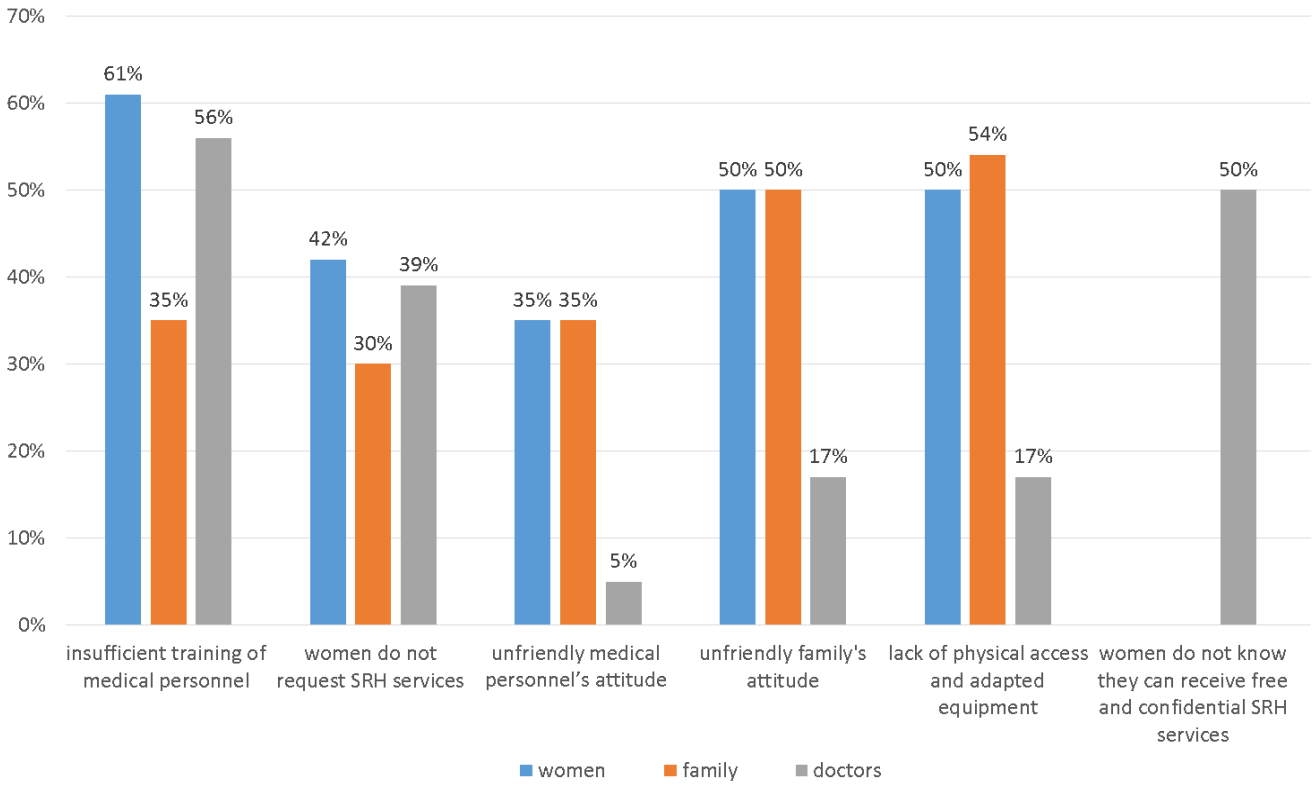
2.1. Access of persons with disabilities to sexual and reproductive health services, including family planning

Persons with disabilities have the right to have access to quality sexual and reproductive healthcare services adapted to their special needs. Although, according to interviewees' statements, the society holds the perception that women with disabilities do not have a sexual life, two thirds of interviewed women confessed they do have sexual intercourse, some are married, and some have children.

In order to assess if this right is ensured for women with disabilities in our country, interviewees were asked to assess their access to reproductive health services and talk about how services are delivered, specify if there is physical access to the facility, give their judgement on the factors limiting access and propose ways to improve access to services. Questions were also addressed regarding delivery/reception of the main sexual and reproductive health services, such as: counseling, contraception, planning and termination of pregnancy.

Access of persons with locomotor disability to sexual and reproductive health services is considered difficult by most interviewees. In the opinion of interviewed women, their family members and family doctors the causes that limit access are presented in figure no. 1.

Fig.1. Causes that limit access of persons with disabilities to reproductive health services



Thus, more than half of the women, but also the doctors believe that in most cases the insufficient training of medical personnel limits the access of women with disabilities to sexual

and reproductive health services. A third of the family members support this opinion. Medical staff believe that in many cases women are the ones who do not request sexual and reproductive health services or do not know they can benefit from free of charge and confidential sexual and reproductive health services from the family physician. The same opinion is also held by almost half of the women interviewed and a third of the family members.

Women explain the limited accessibility the following way:

- They are embarrassed to bring up sexual and reproductive health-related issues for fear they might be judged;
- They have never had a sexual and reproductive health-related issue and do not consider it necessary;
- They had to give up going to the specialist because the gynecological examination chair was not adapted to the needs of the persons with locomotor disabilities and its physical utilization was virtually impossible;
- They no longer wish to get sexual and reproductive health counseling from the doctor because they were treated in a discriminatory manner;
- They do not have sex and do not believe it is necessary to seek advice.

Difficult physical access in medical facilities for persons with locomotor disabilities, the lack of ramps installed in keeping with requirements, lack of elevator to the floor where the family physician's/gynecologist's examining room is located, etc., are access barriers, mentioned by more than half of the beneficiaries. "Proper attention and physical access are needed for persons with disabilities in medical facilities for my daughter to come to this doctor.", says the mother of a girl with disabilities.

A third of the women and family members believe that the medical personnel's attitude in interacting with persons with disabilities for sexual and reproductive health services is **unfriendly and accusatory** and this is the major access barrier in medical services.

In the opinion of most women interviewed, in order to increase access, medical service providers must be tolerant, trustworthy, understanding, competent in this domain, offer efficient counseling, find the most suitable solutions and/or refer the person to other physicians, if need be.

Family physicians explained that at this time reproductive health services are largely provided by gynecologists in health centers or within reproductive health center. The family physician's team offers these services only in some instances. Only some family doctors prescribe contraceptives for women with special needs after conferring with the gynecologist. In most cases family physicians refer women to the gynecologist, who decides on the most appropriate contraceptive method together with the woman/couple. Family doctors are reserved as to prescribing contraceptives to women with disabilities, because they are not very familiar with the contraindications of contraceptives for this group of users. According to the responses received, half of the doctors interviewed offered **free contraceptives** to persons with disabilities, more precisely pills, IUDs and condoms. The others do not know if women with disabilities can benefit from free contraception. Some of the doctors interviewed wrote that they do not offer free contraceptives to women with special needs because "They do not request them; most of them are not married".

Only half of the **women** experiencing sexual life stated they used contraceptive methods, especially condoms and coitus interruptus, as well as the calendar method. Only a few chose the IUD as a method of contraception, and more seldom – surgical sterilization. Most women resort to medical providers when they want to choose a method of contraception, a smaller number resort to advice from friends, family members and other information sources. An insignificant number of women benefitted from free contraception, received from family doctors, mainly condoms, IUDs, combined pills or emergency contraception.

During the assessment 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 pf 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 locomotor 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".

Two of the **physicians** interviewed had situations when **the sexual and reproductive rights** of women with disabilities **were infringed**. In one of the cases, the woman told the doctor that she was touched on her body by her father. The doctor let the social worker know and organized discussions and calls at the person's house. In another case, the patient with special needs complained to the doctor that her mother did not allow her to have sexual relationships and the doctor counseled the woman. Family physicians believe that if the sexual and reproductive rights of a woman with special needs are infringed, she should approach medical providers, a third of respondents believe that they should discuss with the social worker and family members de, while some – that they should call the police.

Interviewed **social workers** did not have complaints from women with disabilities regarding the infringement of their sexual and reproductive rights, but believe that women in such situations should first talk to social workers or medical providers and the family, while fewer think it is necessary to address the police.

Mention should be made that during the interviews a few **cases of sexual abuse** were mentioned. Three of the interviewed women 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".

Family members did not talk about cases of sexual abuse on women with disability in their family. However, when asked where they would go for help in case of sexual abuse, most of them responded they would go to the police, less so to healthcare providers, and some would solve the situation within the family.

2.2. Knowledge and perceptions of women with disabilities, family members and service providers regarding SRR and RH. Sources of information and education.

In order to assess the level of knowledge and perceptions of both women with disabilities and their family members, as well as those of service providers, regarding SRHR of persons with disabilities, the interviewees were asked to explain how they understand SRR, talk about sources of information and education, but also about subjects linked to SRR that they would like to learn more about.

Both interviewed women, their family members, family doctors and social workers have heard about sexual and reproductive rights. Although the notion was familiar, interviewees took some time to say what sexual and reproductive rights include, justifying this by the lack of information in this area.

Almost **all women** believe that SRR include the right to decide whether to have children or not, including when and with whom, the right to be informed about means of contraception and their use, the right to information about SRHR, as well as the right to SRH services. "All women have the right to family life, the right to be mothers and disability should not deprive us of this right.", says one of the 28-year-old women with special needs. One third of women believed that, in addition to the aforementioned rights, RHR include the right to decide about engaging in sexual life, the right to marry or not, including with whom and when, the right to terminate un unwanted pregnancy, as well as the right to be protected against sexual violence. "We are all equal and have the right to a family and be happy, to have a beautiful life like all people",

says a 21-year-old woman with special needs. All women's conviction is that they can form a family and can have children, and locomotor issues should not be a barrier in fulfilling these rights. "Family planning is a right and it would be fair for young people, whether healthy or even with disabilities to be informed about the importance of contraception, planning a pregnancy, including the necessary tests, excluding afflictions, treating diseases in order to have a healthy body and a healthy family.", believes a 42-year-old interviewed woman with special needs.

It is gratifying that the **family members** interviewed believed that girls/women with special needs have the same SRR as healthy ones. Most of them think the women can have babies, access SRH, have the right to be informed about SRHR and be protected against sexual violence.

However, although they unanimously state that women with special needs have the right to get married, one third of the family members consider they may not make the decision about marriage by themselves, with whom and when to do so. Despite the fact that they all state that women with special needs have the right to sexual life, still half of the family members think they cannot make the decision about engaging in sexual life by themselves. Similarly, even though all family members confirmed the right to contraception of persons with disabilities, nearly half believe women may not decide on their utilization by themselves, just as they may not decide to terminate an unwanted pregnancy on their own. Family members justify their convictions by their fear of complications for the health of women with disabilities if they make decisions related to their sexual and reproductive health by themselves. They think women must be consulted by the gynecologist when it comes to their engaging in sexual life, planning a pregnancy, when they need an abortion or contraception. In the family's opinion, in the case of marriage women with disabilities should confer with the family members – who can explain about the responsibility of building a family, give advice according to personal experience, etc.

Family doctors unanimously confirmed the right of women and girls with special needs to qualitative reproductive health services, but also the right to plan and bear children. The majority believes women with disabilities can get married or form couples, have the right to be informed about methods of contraception and utilize them, be informed about SRHR and protected against sexual abuse. Some family physicians think women with special needs must see the doctor before engaging in sexual life, in order to discuss potential complications considering the existing disability.

The family doctors interviewed believe they have a kind attitude toward persons with locomotor disabilities. But in most instances it is more of a feeling of pity and empathy and not support in making decisions about maternity, for example. Half of the physicians interviewed, however, agreed to the fact that women and girls with locomotor disabilities also have to cope with the unfriendly attitude of medical personnel whenever they request SRH services, as they are neglected or refused counseling because of other health issues that need more attention, such as their disability.

Social workers' convictions regarding RHR of persons with disabilities are just as valid:
"Persons with disabilities have the right to a normal way of life like the other citizens of the RM, to build a family and have beautiful and smart children to make their life enjoyable.", "Sexual and reproductive rights are the same for all people and require respect.". All those interviewed confirmed the right of women with special needs to SRH services, such as information about means of contraception and their usage, as well as information about SRHR. Nearly all of them believe that the right to marriage, protection against sexual abuse, as well as planning and giving birth to children are rights women with disabilities should benefit from. However, social workers are reticent as to the independent decision-making of women with disabilities regarding their engaging in sexual life, feeling that there is a need to see medical specialists

beforehand. They say that the health status of persons in their care causes pity in most cases…

In order to see if interviewees understand what reproductive health (RH) means, they were asked to name the RH components, namely: family planning (contraception), safe motherhood, sexually transmitted infections, abortion, infertility and cervical cancer. The knowledge level of reproductive health components seemed important to us, considering that if women have such information, they can ask questions and request relevant quality services. Intermediaries, in turn, if they have knowledge in this field, they can convey it to girls/women with disabilities, and thus help them access these services.

According to questionnaires, most women identify RH with family planning, safe motherhood and abortion. Only half of them know something about sexually transmitted infections, infertility and cervical cancer. Most of them know about condoms, fewer know about oral combined contraceptives, or injectables. Half of the women have heard about emergency contraception and the intrauterine device (IUD). Fewer know about the lactational amenorrhea method. Instead, most of them know the coitus interruptus and calendar methods. Some women have the perception that because of their disability they cannot use certain contraception methods, especially oral combined contraceptives. Most of them consider they need to talk to the doctor about the appropriate method of contraception.

On the question about subjects they would like to receive more information during their visit to the family doctor or gynecologist, interviewed women listed the following:

- How sexual intercourse occurs in the case of a person with locomotor disabilities;
- When the right moment is to engage in sexual relations;
- Can they obtain free contraceptives and how;
- Chances of becoming pregnant, particularities of pregnancy and birth giving;
- Risks they would run in a potential pregnancy;
- Preparation for pregnancy in the case of persons in wheelchairs;
- How to give birth more easily and where they can access a competent consultation with a physician experienced in RH of persons with disabilities.

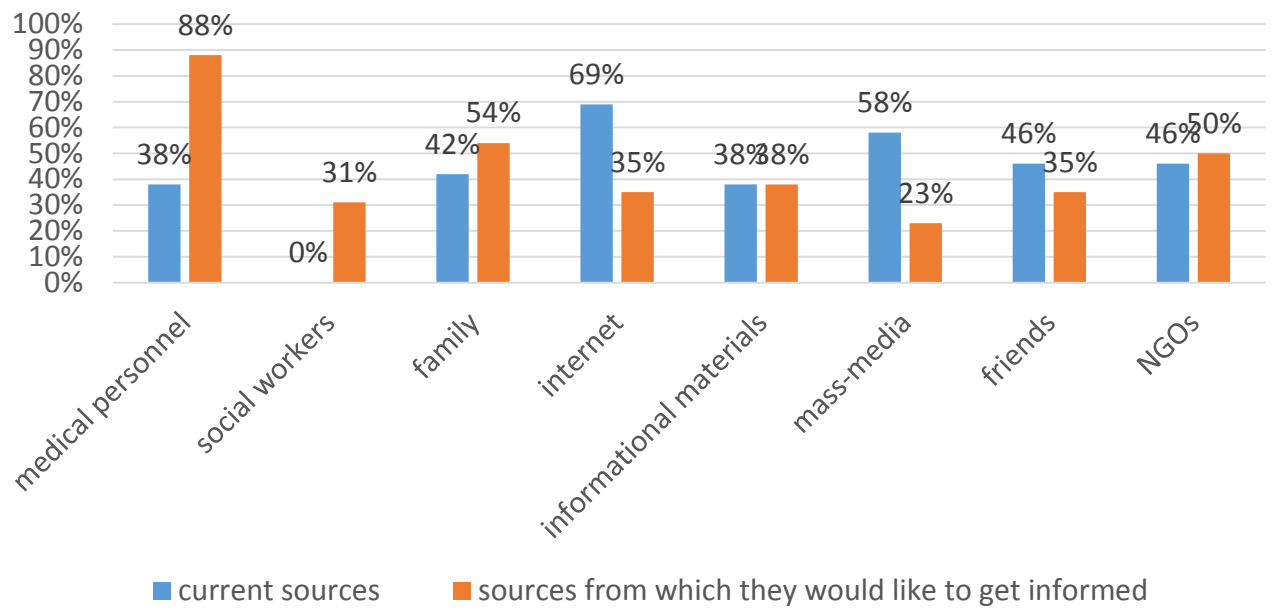
Social workers and family members, in turn, needed explanations about sexual and reproductive health components, as these are not the topics they usually discuss with girls and women with disabilities.

An important role in empowering women with special needs to exercise their SRR is played by their level of knowledge in the domain, which directly depends on the availability and access to sources of correct information.

More than half of the interviewed **women with disabilities** discussed about their sexual and reproductive health and rights with friends, family members, school mates, teachers or doctors. Even if family members are the closest persons, with whom they spend the most time, half of the interviewed women feel uncomfortable to discuss with their family about this subject. Their reasons are embarrassment, age difference and lack of tradition in discussing about SRH in the family, fear of being misunderstood or because they were criticized for being preoccupied by sex, instead of focusing on health issues.

In order to assess intervention needs with a view to strengthening the knowledge of women with special needs about SRH, they were asked to speak about current information sources, but also about the sources from which they would like to get informed. Answers are presented below, in figure no. 2.

Fig.2. Sources of information about SRH of women with special needs



This means that women with special needs are currently getting informed mainly from the internet and media, because of the difficulty in accessing information from other sources, considering the group's limited mobility. Mention should be made, though, that only a third trust these sources, because they believe that erroneous information is often at hand. Friends and NGOs are sources of information for almost half of respondents, followed by informational materials accessed by a third of women. Family represents a source of information for less than half of women with special needs because of family members' lack of knowledge in this field, embarrassment of approaching the subject with the family, etc. However, more than half of the women would like to be able to discuss with the family, considered one of the most important and accessible sources by women with special needs.

Although only a third of interviewed women are currently getting informed about SRH from healthcare providers (family doctors and gynecologists), most of them believe that these specialists are the most trustworthy sources of information and would like to be able to access them more often. None of the interviewed women discuss with social workers at this time, they even say it would be easily accessible, as they are present in every locality in the country, compared to family physicians who only visit according to a schedule in some places. Another mentioned reason is that social workers often meet persons with disabilities as part of scheduled visits. One third of respondents would like to be able to access social workers if they have questions related to SRH.

In order to be able to assess the support capacity of family doctors, social workers and family members, mentioned by all interviewees and the most important sources of information, they were asked to assess the level of knowledge in the field of SRH and SRR of persons with disabilities and talk about the training sources and methodologies in this domain.

In the opinion of **family physicians**, information of women and girls with locomotor disabilities in SRH is not sufficiently done at this time. Most family doctors think the information of girls/women with special needs is conducted during visits to the doctor, half of

them believe this knowledge is acquired in school and in very few cases within the family, or on various non-formal occasions, including in the street. Half of the interviewed family doctors discussed about SRH with women with special needs upon women's request during visits related to other health problems. The number of visits varies from 2-3 per month up to 1-2 visits per year. In general, according to their statements, family physicians have no problem in discussing about SRH with persons with disabilities and do not refuse to offer information on this subject. However, they have difficulty in counseling because of insufficient training on this topic and/or because of lack of time (confessed over half of the respondents). Family doctors believe healthcare providers are the most important source of information, namely family physicians, followed by nurses on the family doctor's team and gynecologists in health centers, followed by gynecologists and nurses in reproductive health centers. One third of interviewed family doctors believe that social workers are also an important source of information, on the same level as family members.

Family doctors believe they are not sufficiently trained in SRH of persons with disabilities, particularly counseling about contraception and sexual and reproductive rights of this group of beneficiaries. Half of the respondents studied the aspects linked to SRH during academic, college, or post-graduate studies. Only a few family doctors benefitted from training in this domain, and the rest did not have any training in SRH. Some doctors get individual RH training for women with special needs, mainly from the internet, their own reading of international or national guidelines and publications in this field.

Family physicians mentioned a series of factors that cause infrequent counseling of women with disabilities in SRH, namely:

- Lack of time for discussions, but also the belief that it is the gynecologist who should consult about SRH;
- The physicians are not sufficiently trained in SRH of persons with disabilities, especially in prescribing contraceptives;
- Some doctors do not know if they can offer contraceptives free of charge to women with special needs;
- Women with disabilities do not know they can be examined about SRH and they do not ask related questions;
- Infrequent visits to the doctor of persons with special needs, including because of limited physical access in the facility.

Some **social workers** admitted that during their meetings with women with disabilities they do not address subjects pertaining to the possibility of communicating with other people of the same sex or the opposite sex, the possibility of forming a family, motherhood, contraception, sexually transmitted infections: "Yes, in my practice, I see a girl with locomotor disabilities, but I've never talked to her [about this]". Others are experienced in discussions on this subject and they do it quite often: "Registered in my sector there is a 23-year-old woman, with degree of disability I, who often comes over to talk. Following our discussions, she became more self-confident, she wishes to have a family, wants to meet a young man." Social workers address the topic of SRH more often with the girls and women in the rest of social – vulnerable groups, because they ask questions related to planning a family, motherhood, etc. more often. With the boys we talk less often…

Although in social workers' opinion their role as information providers is an important one, they explain they do not discuss with women about SRH, or they do it very seldom for various reasons, which they continue to see as barriers, namely:

- Lack of time for discussions and information giving;
- The primary goal of the monthly visits of persons with disabilities is checking living conditions, assess the need for an evaluation, observe family composition; they do not have a role of counseling on certain subjects;
- Girls and women with disabilities are used to getting visits from social workers mostly on demand, the purpose of which is related to obtaining the monthly social aid; they are not used to asking personal questions pertaining to reproductive health;
- Parents block off adolescents from such subjects, telling them these are not for them, explaining that they have different health-related priorities;
- Girls with disabilities grow up in an environment in which they cannot speak openly with their parents about the possibility of communicating with persons of the opposite gender, the possibility of creating a family, thus they develop a series of complexes;
- Lack of interest or unease of persons with disabilities to ask social workers such questions;
- Insufficient training of social workers in the field of SRH, so as to be able to initiate the respective discussions.

From the point of view of all social workers, at present, girls and women with locomotor disabilities are informed about family planning and reproductive health in school and also during visits to doctors and meetings with social workers. Social workers believe that girls with disabilities can more easily access information on SRH thanks to their being included in schools, once special, boarding schools were closed down. Being enrolled in school, the communication and socialization of young people with disabilities have improved, in their opinion, the need to get closer to colleagues has surfaced, to imitate healthy children's behavior. "I believe sexuality education is very important, there are things that cannot be discussed at home or read about in literature." said an interviewed social worker.

Social workers assessed their own level of knowledge in the field of sexual health and rights during the focus group discussions, providing ratings ranging from „unsatisfactory" to „quite satisfactory". Most social workers confirmed they needed additional information and training in sexual and reproductive health and rights of persons with disabilities to be able to address those subjects with the beneficiaries. Only a few social workers had benefited from a seminar on reproductive health in 2015, „How to protect oneself against an unwanted pregnancy". The rest of the respondents had heard about the subject only in college or university, but had not participated in any type of training. At present, social workers sometimes get informed on their own, from international or national guidelines and publications, or search for answers on the internet.

Most **family members** stated that they discussed with girls or women with disabilities about SRH. The mother of a girl with disabilities said that "Persons with disabilities should not be excluded, but more often instructed at seminars on various life-related topics." Family members mentioned they address SRH from the angle of body development, personal hygiene, but less about sexual life, contraception, etc.

Discussions on these topics were difficult in family members' opinion for reasons such as:

- Family members do not have enough knowledge to share with girls/women with special needs;
- Women with disabilities living in the family avoid discussions about SRH also because of the critical attitude of family members;
- Family members do not feel comfortable discussing about SRH because they feel embarrassed or did not even think women need to be informed in this domain.

One of the interviewees even considered that a woman with disabilities living in the family does not need sexuality and reproductive education, as she suffers from cerebral palsy, is in serious condition and bedridden.

Family members unanimously believe that women with disabilities do need sexual and reproductive health education. In most family members' opinion the most important sources of information for women with special needs in their family on subjects pertaining to SRH are family members, followed by healthcare providers and social workers. The other sources (internet, media, friends, etc.) are considered complementary. Social workers share the same opinion, ranking family members as a fundamental source of information and education in all aspects of life, but especially as far as sexual and reproductive health is concerned.

2.3. Summary of findings

Women with locomotor disabilities in Moldova run into a series of problems in exercising their sexual and reproductive rights, which directly influence the quality of their lives. Following the analysis of the discussions and interviews, as well as the analysis of the questionnaires the following conclusions have been drawn:

- Girls and women with disabilities in the Republic of Moldova think they can form a family and can give birth to children, and locomotor issues should not be a barrier to fulfilling these rights;
- At present, women with disabilities get informed mainly from the internet and the media, or resort of friends and family. Still, most of them would like to be informed by medical personnel, followed by the family, social worker and NGOs in the field, considering these are the sources that give valid, evidence-based information;
- **Access to** sexual and reproductive health **services**, is considered difficult by women with disabilities for reasons such as:
  - ✓ facilities that provide SRH services do not ensure physical access (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.);
  - ✓ lack of gynecologic examining rooms and equipment adapted to the needs of women with disabilities, particularly those with locomotor disabilities;
  - ✓ medical staff are not aware of SRR of persons with disabilities and is not trained enough in providing SRH to this group of beneficiaries;
  - ✓ in many cases, when women with disabilities request SRH services, medical personnel behave in a discriminatory manner according to the women;
  - ✓ women with disabilities do not initiate discussions about SRH with the medical staff for fear of being ridiculed;
  - ✓ medical personnel's attitude is often unfriendly or accusatory toward women with special needs.
- Women with disabilities do not have the necessary knowledge about their sexual and reproductive health, for which reason some of them believe they cannot bear children because of their disability;
- Although family doctors acknowledge the SRR of persons with disabilities, they also

confirm that the rights are sometimes infringed by healthcare personnel;

- Family physicians do not have the necessary knowledge in SRHR, particularly in counseling persons with disabilities in SRH. The lack of knowledge triggers avoidance of counseling of persons with disabilities or giving erroneous information, avoiding prescribing contraceptives. Thus, the quality of SRH services provided to this group of beneficiaries can be considered unsatisfactory;
- Social workers do not have enough knowledge in the field of SRHR so as to be able to offer informational support to women with disabilities, although they are considered to be a very important source of information;
- Family members of women with disabilities share the conviction that they have the right to form couples/families and can give birth to children, but believe that in most cases they do not have the right to decide by themselves on engaging in sexual life, taking contraceptives and planning or terminating a pregnancy. These convictions are, in most cases, based on their wish to protect family members with special needs and believe that medical specialists should be seen first;
- The community often shows an unfriendly attitude whenever persons with disabilities manifest their interest toward SRR. The interviewees explain this behavior by the lack of knowledge within the society about the „disability" domain, who the persons with disabilities are, what their necessities and abilities are;
- Under circumstances of SRR infringements, including sexual abuse of persons with disabilities, the interviewees do not know where they can call for help.

2.4. Recommendations from respondents to improve observance of SRR

In order to strengthen the interviewees' capacity to help women with special needs to exercise their RHR, including their equitable access to SRH services, both women with special needs and their family members, family doctors and social workers were asked to advance concrete recommendations.

Each group stressed the necessity to conduct training about SRHR of persons with disabilities. Women believe that knowing subjects pertaining to their sexual and reproductive health will help them form couples, plan a pregnancy or decide on contraception, and being aware of their RH rights will help them be more confident whenever they access a specialist for certain medical services related to their sexual and reproductive health.

In order to supply quality SRH services, the physicians explained they needed to know the ins and outs of counseling a patient with disability. Particularly when it comes to prescribing contraceptives, indications and contraindications according to the type of disability, offering contraceptives free of charge or for a fee, etc. The course of a pregnancy in women with disabilities, as well as the risks of pregnancy depending on the type of disability represent another important subject in which medical specialists would like to be trained in. Just having the necessary knowledge, physicians will not feel secure offering counseling and providing relevant services, while observing the confidentiality and rights of persons with disabilities in the case of sexual and reproductive health services.

Family members and social workers also stressed the need to be trained in the SRHR of persons with disabilities, so as to learn elementary notions pertaining to hygiene, sexuality, but also to be able to refer them to specialists whenever necessary.

A very important factor, in respondents' opinion, which would help women with locomotor disabilities benefit from SRH services and counseling from physicians as well as social workers is ensuring physical access to medical facilities and those of social assistance. Interviewed women also highlighted the necessity to equip medical facilities with medical equipment

adapted to the needs of persons with disabilities, especially adapted gynecological chairs.

The nondiscriminatory attitude of the society toward persons with disabilities is an important factor of empowering women with special needs to exercise their SRR, interviewees believe. Therefore, the awareness raising of community members regarding SRR of persons with disabilities is indispensable and can be done by media coverage of success stories by persons with disabilities, who gave birth to and are raising children, form couples, etc., with their own agreement. In the opinion of family members, physicians and social workers, educating the community can also be done by strengthening cooperation between the team of family doctors and social workers, NGOs, local school, local public administration, Youth Friendly Health Centers.

The detailed recommendations from respondents for improving the observance of SRR of women with disabilities are systematized by categories of interviewees in the following table.

Table no. 1: Recommendations from respondents to improve the observance of SRR of women with disabilities, including access to RH services

Women with disabilities	Family physicians	Family members	Social workers
1. Training medical personnel			
Training personnel medical about SRHR of persons with disabilities	Training personnel medical about SRHR of persons with disabilities, including the ins and outs of counseling for contraception	Training medical personnel in addressing SRH subjects with persons with disabilities	Training social workers in SRHR
2. Facilitating access to SRH medical services			
Providing medical facilities with medical equipment adapted to the needs of persons with disabilities	Optimizing the family physician's consultation time, so as to be able to discuss about SRH with beneficiaries with disabilities		
Ensuring physical access in medical facilities, in social assistance establishments	Ensuring physical access in medical facilities	Ensuring physical access to physicians	Physical access to social workers
3. Training and informing women with special needs			
Training women with disabilities about SRR but also SRH. Referral to competent specialists	Awareness raising of persons with disabilities about SRHR and encouraging them to launch discussions with doctors. Home distribution of information materials	Organizing training activities for women with disabilities in SRHR	Training of persons with disabilities about SRHR
4. Training social workers			
Training social workers in SRHR of persons with		Training social workers in SRR, as they are in	Training social workers in the field

disabilities		the village every day and in some localities family doctors come over only according to a schedule	of SRHR
5. Training family members			
Training family members in SRHR of persons with disabilities		Periodic training of family members in SRHR and services in this domain	Training of parents in SRHR
6. Community education			
Education and awareness raising of society about SRR of persons with disabilities, by media coverage of their success stories			Strengthening the role of the school in educating young people in sexual and reproductive health
7. Multidisciplinary cooperation			
Strengthening cooperation of the family doctors' team with social workers, NGOs, local school, LPA, YFHC	Collaboration of doctors with mobile teams that offer home care services for persons with disabilities	Cooperation between doctors, social workers, education establishments and LPA	Strengthening cooperation of the family doctors' team with social workers, NGOs, local school, LPA, YFHC

The recommendations from interviewees served as the basis to formulate recommendations on behalf of the working group, presented in Chapter 4.

Chapter 3

LEGAL, REGULATORY AND INSTITUTIONAL FRAMEWORK REGARDING SEXUAL AND REPRODUCTIVE RIGHTS OF PERSONS WITH DISABILITIES IN RM

This chapter evinces the results of the legislative analysis focusing mainly on women and girls with disabilities, considering the high probability of their sexual and reproductive rights infringements and taking into consideration the national regulatory framework, as well as the social, legal and economic context. The chapter also analyzes a few of the major sexual and reproductive rights infringements women and girls with disabilities in the Republic of Moldova are confronted with. The analysis does not examine *in general* the infringements of the rights of persons with disabilities, but refers exclusively to the issue of sexual and reproductive rights observance, without advancing in the research of the situation in other specific domains. The research also studies sensitive aspects related to gender, which cannot be ignored, and have repeatedly been highlighted by international observers, including by the Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, Juan E. Méndez, who concluded that discrimination plays an important part in the analysis of reproductive rights violation, as forms of torture or mistreatment, since prejudice regarding sex and gender usually forms the basis of these violations, aspects that are valid also for the Republic of Moldova[12].

The aim of the research is to analyze the compatibility of the legislation in the Republic of Moldova in the field of the observance of sexual and reproductive rights of persons with disabilities, in keeping with international standards. The report focuses on highlighting the legislation and, implicitly, deficient practices that favor various forms of abuse of persons with disabilities' specific rights. The present report is to contribute to consolidating the capacity of competent authorities in monitoring, reporting, but also preventing and combating violations of sexual and reproductive rights infringed upon persons with disabilities.

3.1. General international standards

The Republic of Moldova has signed and ratified most Conventions in the system of UN treaties on human rights, the stipulations of which are relevant for the protection of sexual and reproductive rights of persons with disabilities.

Although Moldova has ratified 7 of the 9 UN core human rights instruments, the reports of the State parties are often submitted with delay, and a report to the Committee against Torture (CAT) is delayed at this very moment. The UN human rights instruments ratified by Moldova are:

- The International Covenant on Civil and Political Rights (ICCPR);
- The International Covenant on Economic, Social and Cultural Rights (ICESCR);
- The International Convention on the Elimination of All Forms of Racial Discrimination (CERD);
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
- Convention on the Rights of Persons with Disabilities (CRPD);
- Convention on the Rights of the Child (CRC).

The ratification of international treaties by the Republic of Moldova has resulted in an improved status in several human rights fields and created a series of obligations which the

[12] Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez / A/HRC/22/53/1 February 2013, p. 36

state has committed to, including positive commitments to ensure that all persons should be able to exercise their fundamental rights and freedoms in an equal and non-discriminatory manner.

For the first time in the case of a convention on human rights, which has a legally binding nature, the *Convention on the Rights of Persons with Disabilities* (CRPD)[13], which entered into force on May 3, 2008 and was ratified by the Republic of Moldova through Law no. 166 of 07.09.2010, stipulates that the fundamental human rights and freedoms are applicable for all persons with disabilities. In addition to other aspects, CRPD obliges State parties: to protect persons with disabilities from violence, exploitation and abuse (including gender-based aspects of these violations) (CRPD art. 16); to ensure that persons with disabilities enjoy legal capacity on an equal basis with others (CRPD art. 12), enjoy access to justice (CRPD art. 13), are not subjected to arbitrary or unlawful interference in their private life (CRPD art. 22) and family life (CRPD art. 23), including in all matters relating to marriage, family, parenthood and relationships; to guarantee to persons with disabilities, including children (CRPD art. 7), the right to retain their fertility; shall take all appropriate measures to ensure that women and girls fully enjoy all human rights (CRPD art.6); and ensure that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability, including in sexual and reproductive health and public health programs (CRPD art. 25).

Persons with disabilities may submit individual complaints to several bodies set up on the basis of international treaties, in connection with human rights violations in general, but also of other special rights, among which sexual and reproductive rights.

- The Human Rights Committee under the first Optional Protocol to the ICCPR;
- The Committee for the Elimination of Racial Discrimination under Art. 14 of CERD;
- The Committee on the Elimination of Discrimination against Women under the Optional Protocol to CEDAW and Committee against Torture under the Optional Protocol to CAT.

3.2. Right to equality and nondiscrimination

Equality and nondiscrimination represent fundamental principles established by the Universal Declaration of Human Rights and other international treaties, binding for the Republic of Moldova, so that incorporating these principles into the national legislation has become a priority for the authorities in recent years. The Republic of Moldova, signatory to several international treaties listed above, has committed to implement, as part of the national legal system, a legal framework apt to ban all acts of discrimination and offer efficient protection to all persons in this respect. The principles of equality and nondiscrimination in the Republic of Moldova are ensured, first and foremost, by the Constitution of the Republic of Moldova, but also by a series of special laws that regulate various social spheres.

[13] Convention on the Rights of Persons with Disabilities
http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf

The Constitution of the Republic of Moldova

The Constitution of the Republic of Moldova is the supreme legislative act. It was adopted on July 27, 1994 and came into force on August 27, 1994. The Constitution dedicates article 1 to the supreme value of human dignity, but also to the fundamental human rights and freedoms. However, the Constitution does not include expressly a few positive measures specific to persons with disabilities, but it does contain provisons that favor the inclusion of such measures in special laws. For example, Article 51 is a norm which favors the establishment of some positive obligations: "*Handicapped persons benefit from* ***special protection*** *on behalf of the entire society. The State ensures for them normal conditions of treatment, readaptation, education, training and social integration*." Nevertheless, article 51 of the Constitution uses language (*handicapped or handicapped persons*) that does not correspond to the Convention on the Rights of Persons with Disabilities and the phrase *normal conditions* is not specific enough and leaves room for various interpretations.

Law no. 121 of 25.05.2012 on Ensuring Equality

The basic legal act in the field of nondiscrimination in the Republic of Moldova is the Law no.121/2012 on Ensuring Equality[14]. The spheres of application of the Law on Ensuring Equality are *political, economic, social, cultural and other spheres of life* and are contained in article 1. The phrase *and other spheres of life* is very important due to the fact that it allows for expanding the sphere of application of the law over other domains, and is very useful for the practical enactment of the Law. Addionally, article 1 of the Law also establishes the list of protected characteristics, which are: "*race, color, nationality, ethnic origin, lanuage, religion or beliefs, sex, age,* ***disability,*** *opinion, political affiliation or any other similar criterion.*"

Law no. 5/2006 on ensuring equal opportunities for women and men[15].

The scope of the Law, set in Article 1, pertains to ensuring the exercise by women and men of their equal rights in the political, economic, social, cultural, and other spheres of life, with a view to preventing and eliminating all forms of discrimination based on the criterion of sex. Thus, from the text of the first article of the Law it is clear that its basic objective is to balance the status of women and men in all spheres of life. Also, the Law sets only one protected characteristic, that of sex. For the first time, the Law on equal opportunities defines the notion of sexual harassment, which represents *all forms of physical behaviour, verbal or nonverbal, of a sexual nature that harms a person's dignity or creates an unpleasant, hostile, degrading, humiliating or insulting atmosphere*. The Law does not include expressly any provisions specific to persons with disabilities.

Law No. 60 of 30.03.2012 on Social Inclusion of People with Disabilities

After ratification by the Republic of Moldova of the Convention on the Rights of Persons with Disabilities[16] (hereinafter the Convention) there appeared the necessity of adopting legislative measures to transpose the provisions and safeguards of the Convention. Thus, on 30 March 2012 Law No. 60 of 30.03.2012 on Social Inclusion of People with Disabilities was adopted (hereinafter the Law). The Law defined several notions which, up until that moment, either did not exist in national legislation, or were wrongly addressed. Law nr.60/2012 on Social Inclusion of People with Disabilities represents a powerful legislative instrument with a view to safeguarding the observance of fundamental rights and freedoms of persons with disabilities.

At the same time, the illusive and incomplete regulation of some norms, and also the lack of a mechanism for implementation and penalties of violations results in the limited applicability of the law and inefficiency of covenants. The Law does not expressly include any provisions specific for the sexual and reproductive rights of persons with disabilities.

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[14] Law no.121 of 25.05.2012 on ensuring equality, published on 29.05.2012 in the Official Monitor No. 103, art. 355. Date of coming into force: 01.01.2013

[15] Law no. 5 of 09.02.2006 on ensuring equal opportunities for women and men, Published on 24.03.2006 in the Official Monitor No. 47-50, art.200

[16] Convention on the rights of persons with disabilities, of 13 December 2006 in New York, ratified through Law no. 166-XVIII of 09.07.2010

Law on Mental Health No. 1402, of 16.12.1997[17] is the basic normative act which regulates the rights of persons with mental disabilities, how to manage the medical treatment, psychiatric assistance and hospitalization and, at the same time, establishes several significant restrictions of these rights. Although *de jure* it offers additional covenants, among which the right to medical secret, informed consent and non-admissibility of arbitrary forced hospitalization, the same law contains provisions that severely limit these covenants. Thus, the Law, at article 11, (1) establishes the possibility of administering the treatment to persons with mental disorders only with their free written consent. However, the article also stipulates certain exceptions, set at article 11, (4) which refers to two situations, a) application of coercive medical measures, in keeping with the Penal Code stipulations and b) in the case of hospitalization without free consent, in keeping with Article 28. This runs counter the Convention on the Rights of Persons with Disabilities (*article 14 and 15*) and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (article 1).

Non-discrimination provisions in other legislative acts

Besides specific normative acts in the field of non-discrimination, various legislative acts in the Republic of Moldova contain provisions that directly or indirectly refer to the principles of non-discrimination and equality. These provisions are regulated both in the codified legislation (*Penal Code, Penal Processual, Civil, Civil Processual, Contravention Code, Labor Code, Education a.o.*) as well as in organic and ordinary laws of the Republic of Moldova. The present subchapter represents a succinct analysis of the respective provisions and of their compatibility with international standards.

3.3. The right to marriage and forging a family

International standards

- .. Universal Declaration of Human Rights, article 16;
- International Covenant on Civil and Political Rights, article 23;
- International Covenant on Economic, Social and Cultural Rights, article 10;
- 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:

State Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:

- The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;
- The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided.
- Persons with disabilities, including children, retain their fertility on an equal basis with others.

States Parties shall ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, wardship, trusteeship, adoption of children or similar institutions, where these concepts exist in national legislation; in all cases the best interests of the child shall be paramount. States Parties shall render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities. States Parties shall ensure that children with disabilities have equal rights with respect to family life. With a view to realizing these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, States Parties shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families. States Parties

[17] Law on Mental Health No. 1402, of 16.12.1997 Published on 21.05.1998 in the Official Monitor No. 44-46, art.310

shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents. States Parties shall, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.

National Standards

Family Code of RM

The Family Code[18] sets, similarly to other legislative acts previously examined, the principles on which marriage relationships are based (Article 2); they are:

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

The Family Code, unlike other special legislative acts, does not ensure the principle of equality of rights of persons in marriage relationships. The principle of equality has a limitative interpretation, thus the Code sanctions only the spouses' equality of rights. 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. 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.*"

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.

3.4. The right to reproductive health, family planning, maternal health services, information and education

International standards

- Universal Declaration of Human Rights, adopted in 1948, articles 2 and 25;
- International Covenant on Economic, Social and Cultural Rights interpreted in the General Comment no. 14 of the
- UN Committee for Economic, Social and Cultural Rights;
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), article 2, article 12 para. (1) and article 16 para. (1), general recommendations no. 21 (1994) and no. 24 (1999);
- Convention on the Rights of the Child, adopted in 1989, articles, 2, 12 and 24;
- Declaration and Programme of Action of the United Nations International Conference for Population and Development (Cairo, 13 September, 1994), final documents of the review conferences and the Resolution adopted as part of United Nations General Assembly special session (ICPD+5) in June 1999, as well as the United Nations General Assembly Resolution

[18] 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

65/234 on the measures adopted as a follow-up to the International Conference for Population and Development after 2014 (December 2010);

- Beijing Declaration and the Platform for Action adopted at the Fourth World Conference on Women on 15 September 1995, as well as the resolutions of the Parliament of 18 May 2000, on the measures adopted as a follow-up to the Beijing Platform for Action, on 10 March 2005, on the measures adopted as a follow-up to the Fourth World Conference on Women – Platform for Action (Beijing + 10) and the one on 25 February 2010 on Beijing +15 – UN Platform for Action for gender equality;
- Parliamentary declarations of implementation commitments of the ICPD Programme of Action in Ottawa (2002), Strasbourg (2004), Bangkok (2006), Addis Ababa (2009) and Istanbul (2012);
- Report of the United Nations Special Rapporteur on the right to education (A/65/162 (2010));
- World Health Organization Global Strategy for Women's and Children's Health, launched in 2010;
- Item 16 of the Interim Report of the United Nations Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (A/66/254 (2011));
- Report of the United Nations Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (A/HRC/17/25 (2011));
- 17 November 2011 Report of the United Nations High Commissioner for Human Rights on Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity (A/HR/C/19/41);
- Resolution of the United Nations Human Rights Council no. 21/6 of 21 September 2012 on preventable maternal mortality and morbidity and human rights;
- UNFPA State of the World Population 2012 Report „By Choice, Not By Chance", of 14 November 2012;
- Council of Europe Parliamentary Assembly Resolution 1399 of 2004 on the European strategy for the promotion of sexual and reproductive health and rights;
- Council of Europe Parliamentary Assembly Resolution 1607 of 2008 on the access to safe and legal abortion in Europe;
- Articles 2, 5 and 152 of the Treaty CoE;
- Report of the United Nations High Commissioner for Human Rights on Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity (A/HR/C/19/41).

National Standards

Law No. 138 of 15.06.2012 on reproductive health[19]

The law sets the legal framework in the field of reproductive health care with a view to ensuring the human rights to healthcare and medical assistance. The law defines the following main notions:

- Reproductive health – a state of complete physical, mental and social well-being in all matters relating to the reproductive system at all stages of life. As a result, reproductive health implies that people are able to have a satisfying and safe sex life, the capability to reproduce, and the freedom to decide if, when, and how often to do so; reproductive health includes women's and men's right to be informed of and to have access to safe, effective, affordable and acceptable methods of family planning, which they should be able to choose by themselves, as well as the right to access adequate health services that allow women to go safely through pregnancy and childbirth;

[19] Law No. 138 of 15.06.2012 on reproductive health http://www.avort.md/wp-content/uploads/2014/07/Legea-SR-2012.pdf

- Sexual and reproductive rights – rights grounded on the observance of all heterosexual couples' and individuals' right to decide freely and responsibly on the number of children they would like to have, on the spacing between births and on the moment they want to have children, as well as the right to contraceptive method use, access to quality reproductive health services, education and information in this domain;
- Sexual health – a state of physical, mental and social well-being in relation to sexuality, not merely the absence of disease, dysfunction or infirmity. Sexual health requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination and violence;
- Reproductive healthcare – methods, technologies and services that contribute to establishing, maintaining and improving reproductive health by preventing and removing reproductive function disorders at all stages of life;
- Family planning – actions that determine the conscious choice of the number of children, spacing between pregnancies and the timing of childbirth in the family;
- Contraception - methods and means to prevent unwanted pregnancies.

Article 3 of the Law lists the reproductive health services organized and coordinated by the Ministry of Health, among which: family planning and contraception; safe motherhood; diagnosis, prevention and treatment of sexually transmitted infections and HIV/AIDS; safe abortion; adolescent sexual and reproductive health; sexual health in the elderly; early diagnosis and treatment of cervical and breast cancer; prevention and treatment of infertility; men's sexual-reproductive health. Articles 4, 5 and 6 of the Law list the reproductive health rights guaranteed by the national legislation, including the Principles for achieving the rights to reproduction. Article 12 establishes that (1) State policy in the field of reproductive healthcare is geared towards: a) shaping an aware and responsible attitude of the population as to sexual and reproductive health; b) preventing unwanted pregnancies and reducing the number of abortions; c) prophylaxis of sexually transmitted infections and HIV/AIDS; d) correct and extended use of contraceptive methods and protection of the reproductive function; e) ensuring the birth of healthy and wanted babies; f) supporting families who bear children and couples who plan their pregnancies; g) development of quality reproductive healthcare services; h) effectively engaging governmental, non-governmental and private organizations, as well as the media in defending and fulfilling reproductive rights; i) promoting knowledge in the field sexual and reproductive education with the population; j) supporting scientific research in reproductive health; k) graduate and post-graduate training of specialists in reproductive health and reproductive rights in keeping with international standards.

The Law does not refer to any rights or special guarantees in connection with the protection of sexual and reproductive rights of persons with disabilities.

Law No. 185 of 24.05.2001 on reproductive health and family planning[20]

The Law regulates and guarantees people's reproductive rights, which are an integral part of human rights. The stipulations of the present law result from the constitutional rights to the observance and protection of intimate, family and private life and also ensures the noninvolvement of the state in issues related to family planning.

The Law defines the following key notions, such as:

- reproductive health - physical and psychological health, as well as social prosperity of a person in all aspects related to the reproductive system, which determines one's procreation capacity;
- voluntary informed consent - voluntary consent of a person upon undergoing a surgical contraceptive method or sexual gland sampling, expressed in writing, on the basis of

[20] Law No. 185 of 24.05.2001 on reproductive health and family planning
http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=312794

multilateral and complete information offered by the treating physician or the physician who performed the examination, signed by both the patient and the physician;

The law guarantees special rights, such as:

- The right to free decision-making regarding reproduction (Article 5) – All people have the right to decide freely on the number of children and the time of childbirth inside or outside of marriage. The State guarantees its noninvolvement in citizens' free decision-making in matters of reproduction.
- The right to information on one's reproductive health and family planning (Article 6) - All people have the right to complete and accurate information on one's reproductive health and family planning, offered by governmental and nongovernmental facilities that are licensed for this type of activity, within the boundaries of their competence.
- The right to benefit from reproductive health and family planning services (Article 7) - All people have the right to benefit from reproductive health and family planning services. Reproductive health and family planning services are provided by governmental and nongovernmental healthcare, education and social assistance facilities, in keeping with legislation in force.
- The right of minors to reproductive health and sexuality education (Article 8) - Minors have the right to reproductive health and sexuality education. The sexuality education of minors and their training for family life is conducted by persons with special studies, jointly with the family and education institutions, according to specially designed curricula, taking into account the age, sex, psychological characteristics of minors and parents' wishes. The design of sexuality education, reproductive health and training of minors for family life curricula is secured by the Ministry of Education in collaboration with the Ministry of Health.

The Law does not make any reference to any special rights or guarantees in connection with protecting sexual and reproductive rights of persons with disabilities.

3.5. The right to physical and psychological integrity

International standards

- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, article 1;
- European Convention of Human Rights, articles 2, 3, 5.

National standards

Law No. 263 of 27.10.2005 on patients' rights and freedoms[21]

Article 5 of the Law expressly stipulates the right to personal life safety, physical, psychological and moral integrity, while ensuring discretion during health service provision. *Article 2* establishes that human life and health are of supreme value.

Law No. 1402 of 16.12.1997 on mental health[22]

No article in the Law refers to preventing or combating torture in psychiatric institutions. Article 5 establishes general guarantees regarding the rights of persons suffering from mental disorders, as follows: *It is not allowed to limit the rights and freedoms of persons suffering from mental disorders only on the basis of the psychiatric diagnosis, cases of supervision through dispensarization, of the fact that they are or were in a psychiatric station or a psycho-neurological institution (psycho-neurological internat, specialized school, residential institution or a temporary placement institution etc.). Decision makers found guilty of such violations bear the responsibility in keeping with the legislation.*

[21] Law No. 263 of 27.10.2005 on patients' rights and freedoms http://lex.justice.md/viewdoc.php?id=313060
[22] Law No. 1402 of 16.12.1997 on mintal health
http://lex.justice.md/viewdoc.php?action=view&view=doc&id=312970&lang=1

Article 37 regulates the possibility of lodging complaints regarding ensuring the observance of human rights and human dignity as part of medical assistance service provision that are examined by the Ombudsman's Office.

Law No. 264 of 27.10.2005 on performing the medical profession[23]
Article 3 sets the general principles of performing the medical profession, such as: observance of patients' rights and best interest, observance of the primacy of life and the inherent right to life. *Article 7* institutes physicians' obligation to observe patients' lawful rights and interests, to keep the secrecy of personal information learned while exercising their profession, to request patients' consent for any medical service provision in keeping with legislation.

Penal Code of the Republic of Moldova[24]
Article 166/1 Penal Code, torture and inhumane or degrading treatment: *Deliberately causing pain or physical or psychical suffering, which represents inhumane or degrading treatment, by a public figure or a person who, de facto, exercises the powers of a public authority, or by any other person who acts in an official capacity or with such a person's express or tacit consent.*

The Penal Code also regulates other offences that are relevant in the context of the sexual and reproductive rights analysis, which can lead to acts of torture and inhumane or degrading treatment in relation with persons with disabilities. **They are:** article 159 – illegal self-induced abortion; article 160 - illegal surgical sterilization; article 166 - illegal deprivation of liberty; article 171 – rape; article 172 - sexually violent actions; article 173 – sexual harassment: article 174 - sexual intercourse with a person under 16; article 175 - perverse actions; article 309 - constraint to make statements; article 327 - abuse of power or official position; article 328 - excess of power or overstepping position-related duties; article 370 - abuse of power, excess of power or inaction in exercising power; article 169 - illegal hospitalization in a psychiatric institution.

3.6. Institutional framework

Ministry of Labor, Social Protection and Family
Ministry of Labor, Social Protection and Family is the central specialty body of the public administration authorized to develop, promote and implement governmental policies in the field of social protection of persons with disabilities, as well as ensure the coordination and assessment of the operation system of social inclusion of these persons.

The other central public administration authorities are responsible for social inclusion of persons with disabilities within their functional competencies, in keeping with legal provisions in force.

In developing the social protection policy for persons with disabilities, the Ministry of Labor, Social Protection and Family, along with the other central public administration authorities, consult with the National Council for the Rights of Persons with Disabilities and with civil society representatives. In developing and approving sectorial policies, the other authorities of the central public administration consult with the Ministry of Labor, Social Protection and Family, the National Council for the Rights of Persons with Disabilities and with civil society representatives with a view to assessing the impact of these policies on the social inclusion system for persons with disabilities.

In assessing the operation of the social inclusion system of persons with disabilities, the Ministry of Labor, Social Protection and Family requests support, information, reports from

[23] Law No. 264 of 27.10.2005 on performing the medical profession http://lex.justice.md/viewdoc.php?action=view&view=doc&id=313062&lang=1
[24] Penal Code of the Republic of Moldova http://lex.justice.md/md/331268/

central and local public authorities, from the National Council for the Rights of Persons with Disabilities, civil society and other actors involved in the process.

The National Council for the Rights of Persons with Disabilities
Under Law no. 60 of 30.03.2012 on social inclusion of persons with disabilities, the National Council for the Rights of Persons with Disabilities monitors implementation and promotes national policies regarding social inclusion of persons with disabilities.

In keeping with the provisions of art. 54 of Law no. 60, the National Council for the Rights of Persons with Disabilities is a collegial and consultative body, instituted to monitor implementation and promote related state policies (normative acts, strategies, programs, action plans, etc.) and the UN Convention on the Rights of Persons with Disabilities, to ensure, for this category of population, equal opportunities of fulfilling the fundamental rights and freedoms upon equal footing with the other members of society.

The National Council for the Rights of Persons with Disabilities includes representatives of central and local public authorities, of nongovernmental organizations, as well as of civic organizations, the sphere of activities of which includes problems specific to persons with disabilities. The President of the National Council for the Rights of Persons with Disabilities is a vice prime-minister responsible for the social field, and the vice president is the minister of labor, social protection and family. The Secretariat of the National Council for the Rights of Persons with Disabilities is appointed by the Government to fulfil the objectives specified at para. (2) in various sectors and at different administrative levels. The nominal membership and activity regulation of the National Council for the Rights of Persons with Disabilities is approved by the Government.

The Council on the Prevention and Elimination of Discrimination and Ensuring Equality
Article 11 of Law on ensuring equality and the Activity Regulation of the Council on the Prevention and Elimination of Discrimination and Ensuring Equality[25] establish the organization and operation of the Council. The Council is a collegial body which is comprised of 5 members who do not have political affiliation, being appointed by the Parliament for a 5-year term. Three of the members must be civil society representatives and, at the same time, at least three of the Council members must be specialists licensed in law. The basic prerogatives of the Council are set in article 12 of the Law.

The manner of filing complaints and their examination by the Council is established in articles 13, 14 and 15 of the Law.

Local Public Administration
Local public administration authorities, in collaboration with civil society representatives, develop the social assistance policy for persons with disabilities and ensure the implementation of the legislation at local level. The social assistance of persons with disabilities is secured by local public administration authorities by means of their structures (departments/ offices of social assistance and family protection, education, culture, sports) and other state bodies, in keeping with provisions of the legislation in force.

Local public administration authorities:
- analyze and assess social issues of persons with disabilities on the allocated territory and, on the basis of the results obtained, approve and develop local social assistance programs for this category of persons, as well as exercise the control of implementing them;

[25] Law no. 298 of 21.12.2012 on the activity of the Council on the Prevention and Elimination of Discrimination and Ensuring Equality

- set up, independently or in partnership with civil society representatives, primary social services and specialized social services for persons with disabilities, securing the human, material and financial resources necessary for their adequate operation;
- can establish supplementary facilities for persons with disabilities regarding their access to medical, social, commercial, transportation, telecommunication services and other types of social services.

In developing and approving local social inclusion programs, local public administration authorities consult with the Ministry of Labor, Social Protection and Family, the National Council for the Rights of Persons with Disabilities and with civil society representatives with a view to assessing the impact of these programs on the social inclusion system of persons with disabilities.

Service for the defense of patients' rights in psychiatric stations

The regulation regarding the organization and operation of the Independent Service for the defense of patients' rights in psychiatric stations has been approved through Order 100 of February 12, 2014 of the Ministry of Health[26]. According to the Regulation, 2. the Independent Service for the defense of patients' rights in psychiatric stations (hereinafter - the Service) is located in the headquarters of the National Center for Health Management and enjoys legal freedom and autonomy. The Service carries out its activity in keeping with art. 37 of Law on mental health no. 1402 of 16.12.1997, item 32 of the Regulation on the organization and operation of the National Center for Health Management, approved through Order 100 of February 12, 2014, the present Regulation and international human rights standards.

The purpose of the Service is to ensure an independent mechanism of monitoring psychiatric institutions and examining patients' complaints aimed at identifying and removing deficiencies in observing patients' fundamental rights jointly with hospital administration.

Ombudsman's Office

Under Law no. 52[27], the Ombudsman's Office ensures the observance of human rights and freedoms by public authorities, organizations and businesses, irrespective of the type of propriety and legal form of organization, by non-commercial organizations and decision makers at all levels. The Ombudsman's Office contributes to defending human rights and freedoms by preventing their violation, monitoring and reporting the manner of observing fundamental human rights and freedoms at national level, by improving legislation pertaining to human rights and freedoms, by international collaboration in this domain, promoting human rights and freedoms and their defense mechanisms, by applying procedures regulated by law.

3.7. Recommendations of international bodies relevant for sexual and reproductive rights

Recommendations of the UN Special Rapporteur on the protection of rights of persons with disabilities:[28]

- To ensure adequate monitoring of the situation of persons with disabilities, by consolidating the capacity to collect and analyze institutional data. The state should, for example, take into consideration the increasing expertise and capacity of the National Bureau of Statistics in the field of collecting segregated data. As part of its commitment to consolidate the supervision of the situation of persons with disabilities, the relevant information collected during the 2014 census should be processed and analyzed promptly;

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[26] http://www.cnms.md/sites/default/files/Ordinul%20MS%20nr.1185%20din%2029.10.2014%20privind%20organizarea%20si%20fnctionarea%20Serviciului%20Independent%20de%20aparare%20a%20drepturilor%20pacientilor%20din%20stationarele%20de%20psihiatrie.pdf

[27] http://lex.justice.md/md/352794/

[28] A/HRC/31/62/Add.2

- To ensure that all collected data referring to the situation of persons with disabilities are desegregated at a minimum level, according to sex, age and ethnic origin;
- To revise all normative standards and methodologies utilized at present to determine disability, with a view to abolishing the current system of disability classification;
- To undertake a comprehensive legislative review, so as to ensure full harmonization of the national legislative framework with the provisions of the Convention;
- To ensure the ratification of the Optional Protocol to the Convention on the Rights of Persons with Disabilities;
- To include the rights of persons with disabilities in all national strategies and plans;
- To ensure that the next national action plan in the field of human rights, to be adopted after the universal periodic review in 2016, takes into consideration persons with disabilities and is grounded on the recommendations made by the international human rights mechanisms;
- To ensure the efficient operation of a national mechanism of torture prevention, in keeping with article 18 in the Optional Protocol to the Convention against torture and other cruel, inhuman treatments, and grant priority to monitoring psychiatric hospitals and residential institutions;
- To guarantee that women with disabilities are able to enjoy their right to sexual and reproductive health, including by repealing the legislation that allows involuntary pregnancy termination.
- To ensure that all cases of abuse, particularly in institutions that house persons with disabilities, are prosecuted and that victims are granted remedies effective.

CEDAW Recommendations:

- Expand the availability of modern medical abortion methods, including in the Transnistria region and rural areas[29];
- To ensure the availability and accessibility of modern methods of contraception for girls and women;
- To raise awareness about the importance of using contraceptives for family planning and to include abortion and contraceptives in the basic health insurance package;
- To modify and develop the regulatory framework, so as to ensure that sterilization can only be performed according to international law, particularly with the free, informed consent of the women in question;
- To introduce health education, sexual and reproductive rights, including responsible sexual behavior, in the school curriculum.

Other recommendations:

- To offer adequate medical assistance in jails for women who have suffered abortions[30];
- The state-party must conduct a careful assessment of the issue of abortion and maternal mortality and take necessary measures to reduce the high rate of maternal mortality [31];
- Consolidate the efforts of reproductive health education in order to reduce the number of adolescent pregnancies and develop child-friendly programs, so as to help adolescent mothers and their children[32];
- Women and girls with disabilities should not be discriminated against for reasons of disability regarding access to diagnosis, treatment or rehabilitation[33];

[29] Concluding observations (2013) CEDAW/C/MDA/CO/4-5
[30] "Concluding observations of the Human Rights Committee to Republic of Moldova - Ninety-seventh session 12-30 October 2009"
[31] "Concluding observations of the Human Rights Committee to Republic of Moldova - Ninety-seventh session 5 August 2002"
[32] "Concluding observations: Republic of Moldova, Committee on the rights of the child, Fiftieth session 20 February 2009"
[33] "Council of Europe, Recommendation CM/Rec(2012)6 of the Committee of Ministers to member States

- Equipment and installations, such as gynecological examining tables and mammography installation, fitted to meet the needs of women and girls with disabilities, should be available[34];
- Women and girls with disabilities must not be submitted to forced medical treatment or obliged to take part in experiments;
- The right of women and girls with disabilities to sexuality must be guaranteed;
- Parents should be informed and educated concerning questions regarding sexual identity of daughters with disabilities;
- Sexuality education classes should include aspects linked to the sexuality of women and girls, where appropriate;
- Decisions made by women and girls with disabilities on their own sexual or reproductive rights must be valued;
- As far as maternity is concerned, the choice of women with disabilities must be respected.

3.8. Summary of findings

Persons with disabilities are confronted with significant problems related to the observance and guaranteeing of sexual and reproductive rights at national level. This triggers consequences both by direct discrimination, and by the lack of capacity to adjust to the needs of persons with disabilities. The normative and policy framework is not sufficiently adjusted to guarantee and ensure the observance of sexual and reproductive rights of persons with disabilities. Accessibility is a major obstacle in connection with the observance of sexual and reproductive rights and participation of persons with disabilities in all domains of social life. The issues of access, worsened by prejudice and direct discrimination, limit access to quality medical services.

Despite progress in certain domains, sexual-reproductive rights, as rights specific of persons with disabilities, are not expressly regulated in national legislation considering that sexual and reproductive rights are part of the category of fundamental human rights. These fall within the general concept of human rights, acknowledged and already included in international, regional and national standards of some states.

The Republic of Moldova is yet to adhere to and ratify important international instruments in the field of observance of rights of persons with disabilities, including related tools.

The government should ensure a more efficient segregated data collection regarding the observance of the rights of persons with disabilities and make efforts to promote sexual and reproductive health education, particularly for persons with disabilities. The Government has not fulfilled most of the relevant international recommendations and appears to not take into account the relevant jurisprudence of the European Court of Human Rights regarding the observance of sexual and reproductive rights of persons with disabilities.

on the protection and promotion of the rights of women and girls with disabilities (Adopted by the Committee of Ministers on 13 June 2012 at the 1145th meeting of the Ministers' Deputies) "

[34] "Council of Europe, Recommendation CM/Rec(2012)6 of the Committee of Ministers to member States on the protection and promotion of the rights of women and girls with disabilities (Adopted by the Committee of Ministers on 13 June 2012 at the 1145th meeting of the Ministers' Deputies) "

Chapter 4
RECOMMENDATIONS OF THE WORKING GROUP

On the basis of the opinions collected from respondents, but also on the legal framework analysis, the working group has advanced a series of recommendations, which we trust will be further analyzed by the Ministry of Labor, Social Protection and Family as well as by the Ministry of Health and taken into consideration in decision-making regarding persons with locomotor disability in the Republic of Moldova. The overall purpose is to improve the quality of life of persons with disability in the Republic of Moldova and create a favorable environment for them to better exercise their sexual and reproductive rights. The recommendations are targeted towards relevant governmental institutions, but also towards nongovernmental and international organizations that develop related programs.

Policies and regulations

- 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;
- Designing and implementing the data collection system pertaining to the reproductive health of women with disability disaggregated by components;
- Forming multidisciplinary teams that should include the family physician and social worker tandem with a view to informing persons with disability about their sexual and reproductive health and rights, also during home visits. To this end, there should be cooperation between the relevant ministries, namely the Ministry of Health and the Ministry of Labor, Social Protection and Family in the Republic of Moldova;
- Inclusion of the module on sexual and reproductive health and rights of persons with disability, 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.);
- Strengthening the role of the school in training young people with disability about sexual and reproductive health and rights by introducing sexuality education as a subject. The indispensable role of the school is even more important in the context of implementing the 2011-2020 inclusive education development program in the Republic of Moldova through Government Decision No. 523 of 07.11.2011;
- State authorities should collect and publish information, including relevant statistical data, with a view to identifying inequalities, discriminatory practices and forms of disadvantage. When data on main indicators is collected, statistical data should be disaggregated.

Access to family planning and reproductive health services

- Ensuring physical access of persons with locomotor disability in healthcare establishments that provide sexual and reproductive health services 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.);

- Supplying medical facilities providing reproductive health services with equipment adjusted to the physical needs of persons with disability (modified gynecological chair, adapted ward, accessible washroom etc.);
- Optimizing normative time for routine consultation by the family physician team for family planning and contraception counseling and services for persons with disability;
- Setting up and implementing the monitoring and evaluation system of disabled 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;
- Training medical personnel in sexual and reproductive health of persons with disabilities. Special importance must be attached to criteria and contraindications for contraceptive methods and counseling specificity;
- Awareness raising among family physicians regarding sexual and reproductive rights of persons with disabilities, as well as concerning relevant legislative stipulations;
- Encouraging both medical staff and women with disability to initiate discussions about beneficiaries' sexual and reproductive health.

Information, Education, Communication

- Organizing training workshops concerning sexual and reproductive health and rights of persons with disability both for women with disability and for family members and social workers, with a view to empowering the latter to offer information support to persons with special needs. The information will also be provided at home, due to beneficiaries' reduced mobility;
- 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 disability;
- Periodic organization of theme-based discussion clubs for persons with disabilities for peer-to-peer positive experience sharing;
- Media coverage of success stories of persons with disabilities who are couples, have given birth and are raising children, so as to raise awareness of SRR among community members and people with disability;
- Involvement of persons with disabilities in community-based activities, TV shows, video clips in the company of stars, etc. in order to sensitize the society at large about the equal rights of disabled people.

Protection against sexual abuse and infringement of RHR

- Training women with disabilities, and also family members, in types of sexual abuse and case reporting mechanisms;
- Informing women with disabilities and their family members about the legal and institutional framework in the field of RHR;
- Training family physicians, family members and social workers in giving support to women with disabilities in cases of RHR infringement.

Legal Framework

<u>Strengthening international commitments:</u>

The Republic of Moldova must ratify the following UN and European human rights instruments, which are relevant for the observance of sexual and reproductive rights.

UN human rights instruments:

- Optional Protocol to the International Covenant on Economic, Social and Cultural rights (2008);
- Optional Protocol to the Convention on the Rights of Persons with Disabilities (2006);
- Optional Protocol III to the Convention on the Rights of the Child (2011) (communications procedure);

European human rights instruments:

- Protocol No. 12 to the European Convention on Human Rights;
- Convention on preventing and combating violence against women and domestic violence (2011);

Legal Reform:

- Modification of Art. 50 and art. 51 in the Constitution of the Republic of Moldova par. (3), which uses the term „handicapped" in reference to persons with disabilities;
- 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;
- The Government of the Republic of Moldova should modify the Law on social inclusion of persons with disabilities, so that the ban on discrimination in article 8 should apply to non-state entities in general, and not only under certain circumstances, such as employment;
- Modification of art. 24 of Civil Code of the Republic of Moldova, which allows courts to deprive persons with intellectual disabilities of legal capacity, without reference to other factual circumstances;
- 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;
- Modification of Law no. 121, by creating adequate mechanisms to guarantee appeal and sanctions in cases of discrimination, by empowering the Council on the Prevention and Elimination of Discrimination and Ensuring Equality (CPPEDAE);
- The Government should propose and the Parliament should repeal all normative acts that prejudice sexual and reproductive rights of persons with disabilities.

Implementation of national policies:

- The Government should implement recommendations of organizations and special rapporteurs made in connection with guaranteeing the observance of sexual and reproductive rights of persons with disabilities;
- In developing policies, the Government should take into account the findings of the European Court of Human Rights, ascertained in its relevant decisions;
- The Government should include specific actions in the New Human Rights Plan of Action, in order to guarantee the observance of sexual and reproductive rights of persons with disabilities;
- The Government should develop specific policies to guarantee the observance of sexual and reproductive rights of persons with disabilities;
- Competent authorities should avoid promoting policies or approve actions that are not compatible with the concept of gender equality, in keeping with art. 5 par. (2) of Law on ensuring equal opportunities for women and men;

- The Ministry of Labor, Social Protection and Family should take immediate measures to resolve the problem of violence against women in the family, including by adequate training of police staff, social workers, prosecutors and judges;
- The Government should review all the relevant national legislation with a view to finalizing the transition to the medical model of disability to the social model stipulated by the Law on social inclusion of persons with disabilities and Convention on the Rights of Persons with Disabilities, with a focus on eliminating barriers for persons with disabilities;
- The Government should apply the legal provisions that require ensuring reasonable accommodation for persons with disabilities, such as article 8 of the Law on social inclusion of persons with disabilities, particularly concerning the access to infrastructure and medical information;
- The Government should reform all education establishments, including higher education ones and boarding schools, in order to ensure the participation of school and university students with disabilities on an equal basis with the others;
- The Government should reform the legal framework whereby persons with disabilities are deprived of legal capacity, so as to harmonize it with international law, including article 24 of the Civil Cod and article 305 of the Code of civil procedure;
- In keeping with the Concluding Observations of the UN Committee on the Elimination of All Forms of Discrimination against Women in reference to the fourth and fifth periodic reports, the Government should efficiently investigate all cases of sexual aggression against women with disabilities in residential institutions, facilitate these women's access to assistance for reproductive health and make sure that all medical interventions are grounded on informed consent.

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- Law on Patient's Rights and Responsibility (Law No. 263 of 27 October 2005);
- Law on Preventing and Combating Family Violence (Law No. 45 of 1 March 2007);
- Special laws on sexual and reproductive rights.

Annex 1

Activities of the RHTC project
"All Equal, All Healthy: Empowering Women and Girls with Disabilities in Moldova to Exercise their Sexual and Reproductive Rights", July 2016 – June 2017

Following is information on RHTC's activities within the project "All Equal, All Healthy: Empowering Women and Girls with Disabilities in Moldova to Exercise their Sexual and Reproductive Rights", implemented with financial support from the Embassy of Finland in Bucharest as part of the Fund for Local Cooperation (FLC).

The proposed activities are implemented with the **aim** to increase the degree of awareness raising regarding sexual and reproductive rights of women and girls with disabilities in Moldova and to empower them to exercise these rights and make informed decisions about their own sexuality.

Up to the moment of finalizing this Report, the following activities have been conducted:

Project launch round table (7 July 2016)
The event was attended by 22 key actors: women with disabilities, the representative of the Embassy of Finland to Bucharest, representatives of the Ministry of Health and the Ministry of Labor, Social Protection and Family, UN agencies, representatives of nongovernmental organizations active in the fields of disability and law. Participants talked about their working experience in the domain of sexual and reproductive rights of persons with disability and possibilities of getting involved in the project activities, analyzed existing gaps, highlighted the need for support in the area of sexual and reproductive health and rights for the women and girls with disabilities in Moldova.

Situation analysis of the issues confronting women and girls with locomotor disability in Moldova in exercising their sexual and reproductive rights (July – October 2016)
Details about this activity are contained in the present Report.

Development and maintainance of sections dedicated to sexual and reproductive rights on the RHTC website and Facebook page (active since August 2016)
In order to raise awareness regarding sexual and reproductive rights and inform women and girls with disabilities, as well as SRH service providers, the RHTC has developed a Facebook page exclusively dedicated to sexual and reproductive rights (https://www.facebook.com/drepturiSR/) and a section on the organization website under the same heading (http://www.sanatateafemeii.md/drepturi-sexuale-si-reproductive/). These sources explain what sexual and reproductive rights mean, with supplementary explanations pertaining to persons with disabilities, describe the international and national legal framework in reference to SRR, and also the reporting procedure of SRR violation cases.

Extended operation of the RHTC "confidence" hotline (as of October 2016)
The "confidence" hotline is meant to provide immediate assistance to women and girls with disabilities, their family members, SRH service providers by supplying truthful information about SRHR.

Organization of training workshop "Strengthening the capacity of intermediaries who work with women with locomotor disabilities to implement programs and training sessions in sexual and reproductive rights" (15 – 18 November 2016)

Trained at the workshop have been 20 NGO representatives working with and in the interest of

persons with disabilities, representatives of Youth Friendly Health Centers and also representatives of primary healthcare, as well as social assistance and family protection. Participants learned how to conduct sexual and reproductive rights counseling for persons with disabilities, how to organize sexuality education sessions, as well as how to develop and implement programs on sexual and reproductive rights of women with locomotor disabilities. After the training workshop, the participants will organize SRHR training/information activities for beneficiaries of their organizations.

The following activities will be organized until the end of the project:

Round table to present the results of the situational analysis regarding the issues confronting women and girls with locomotor disabilities in Moldova in exercising their sexual and reproductive rights (February 2017)
The purpose of the event is to inform the MLSPF, MH, organizations working in fields of rights and disability, but also the media about the problems identified and recommendations of the working group, as well as to set a joint working agenda so as to solve the problems.

Media contest of articles/other materials on the topic of sexual and reproductive rights of women and girls with disabilities (February –May 2017)
The purpose of this activity is to raise awareness within the society and reduce discriminatory attitudes toward women and girls with disabilities by increasing the degree of media awareness regarding this topic and their contribution to changing the quality of their messages (of the accusatory trait in favor of an educational one).

Training of trainers in the field of SRHR (March 2017)
15 young women with locomotor disabilities from various localities in the country are to be trained as trainers in the field of SRHR for their peers.

National Conference on SRHR of women with cu disabilities (May 2017)
The purpose of the conference is to discuss, at country level, the issues confronting women and girls with disabilities in exercising their sexual and reproductive rights and raise awareness among key actors about the necessity to improve the situation.

Supplementary details about the situation analysis and all other project activities may be requested from the RHTC:

Ludmila Sîrbu, Project Coordinator, tulus_ludmila@yahoo.com
Rodica Comendant, Director RHTC, comendantrodica73@gmail.com
Adress: MD 2001, Republica Moldova,
Chişinău, str. Melestiu 20,
Tel: +373 22 35 50 72,
Web: http://sanatateafemeii.md