

# BARRIERS, REMEDIES AND GOOD PRACTICES FOR WOMEN'S ACCESS TO JUSTICE IN THE REPUBLIC OF MOLDOVA



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AND GOOD PRACTICES  
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This national study, “Barriers, remedies and good practices for women’s access to justice in the Republic of Moldova,” was first prepared in 2017 and updated in 2022 by Doina Ioana Străisteanu in the context of the EU/Council of Europe joint programme, the Partnership for Good Governance.

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# ACRONYMS AND ABBREVIATIONS

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<b>ART</b>	Antiretroviral Treatment
<b>CEDAW Committee</b>	Committee on the Elimination of Discrimination against Women
<b>CPS</b>	Child Protection Services
<b>EU</b>	European Union
<b>LGBTQ+</b>	Lesbian, gay, bisexual, transgender, queer/ questioning and others
<b>MDL</b>	Moldovan leu
<b>NGO</b>	Non-governmental organization
<b>STI</b>	Sexually transmitted infection
<b>UNICEF</b>	United Nations Children's Fund

# GENERAL INTRODUCTION TO THE NATIONAL STUDIES

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The regional project on improving women's access to justice in five Eastern Partnership countries (Armenia, Azerbaijan, Georgia, the Republic of Moldova and Ukraine), which is part of the Partnership for Good governance, co-funded by the European Union and the Council of Europe and implemented by the latter aims to identify and support the removal of obstacles to women's access to justice and to strengthen the capacity of national partners in each country to ensure that the justice chain is gender-responsive. Key results of the project, which is presently at the conclusion of its third phase, include national studies that map the obstacles to women's access to justice; a training manual and guidance materials addressed to judges and prosecutors as well as other legal practitioners; an open-access online course on Access to Justice for Women<sup>1</sup> and an interactive checklist for gender mainstreaming of law school curricula; and a pioneering mentoring programme for legal professionals in order to build capacity and increase gender-sensitivity through peer-to-peer learning.<sup>2</sup>

From its inception, the project has placed emphasis on increasing awareness of and identifying the critical barriers that stand in the way of women accessing justice. Thus, in 2017, the Gender Equality Division of the Council of Europe commissioned national studies to map the barriers, remedies and good practices for women's access to justice in the five partnership countries.<sup>3</sup> The objectives of each of these studies were to provide:

- ▶ an analysis of the main obstacles to women's access to justice, both legal and procedural, as well as socio-economic and cultural;
- ▶ a set of recommendations for measures to improve women's access to justice in the respective countries, including examples of good practices, where they exist;
- ▶ background information for the subsequent organisation of training for legal professionals (judges, prosecutors, lawyers, and when relevant law enforcement).

Since the time that these analyses were conducted, the world, the region and each country have experienced a number of positive changes but also the negative consequences of unforeseen events, namely the global Covid-19 pandemic, armed hostilities around the Armenian-Azerbaijani border and the military invasion, and subsequent war, against Ukraine. In many complex ways, these recent events have challenged the functioning of justice systems and raised new impediments to justice users. In order to assess how the balance has tipped for women as users of justice systems, the Gender Equality Division saw the value in revisiting the original national studies and updating them to reflect the situation in 2022. The process of revising the studies, for Azerbaijan, Georgia, the Republic of Moldova and Ukraine, also contributed to a stand-alone publication on how Covid-19 has impacted women's access to justice throughout the member states.<sup>4</sup>

Women's right to access to justice is fundamental to the realisation of gender equality as well as all other human rights. Foremost, the Council of Europe core gender equality standards are articulated in its foundational treaties: the European Convention on Human Rights and the European Social Charter (revised), and the two "new

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1. Prepared in the framework of the Council of Europe Human Rights Education for Legal Professionals (HELP) Programme and available at <https://help.elearning.ext.coe.int>.

2. Project materials and publications can be accessed at <https://www.coe.int/en/web/genderequality/strengthening-access-to-justice-for-women-victims-of-violence-2019-2021>.

3. The five country studies of 2017 are available in English and each national language at [https://www.coe.int/en/web/genderequality/equal-access-of-women-to-justice#%2214965347%22:\[0\]](https://www.coe.int/en/web/genderequality/equal-access-of-women-to-justice#%2214965347%22:[0]).

4. *Impact of Covid-19 on Women's Access to Justice*. 2022, <https://rm.coe.int/pgg-waj-research-final-covid-2022/1680a9cb8f>



generation” treaties, the Convention on Action against Trafficking in Human Beings<sup>5</sup> and the Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention).<sup>6</sup> In addition to recommendations of the Committee of Ministers on gender equality, adopted during the last four decades, recent recommendations have drawn attention to persistent manifestations of inequality, in the form of sexism and sexist norms,<sup>7</sup> and to women and girls that are in situations that render them especially vulnerable to human rights violations, namely as migrants, refugees and asylum-seekers.<sup>8</sup>

The Council of Europe Gender Equality Strategy 2018–2023<sup>9</sup> builds upon the achievements of the first such strategy (for 2014–2017) and aims to address both long-standing and new challenges. The current Gender Equality Strategy serves as the framework for member states to implement gender equality standards, and it is significant that one of the six strategic objectives is ensuring the equal access of women to justice. In fact, this strategic objective is mutually reinforcing with others on preventing and combating gender stereotypes (in this case, gender bias in the legal system), preventing and combating violence against women and domestic violence and gender mainstreaming (here, implicating methods to increase the gender-sensitivity of the justice sector). The strategy establishes specific actions, including the identification and dissemination of good practices among the member states to facilitate women’s access to justice and supporting research and standardised data collection to tackle gaps.

The 2019–2022 regional project “Women’s access to justice: delivering on the Istanbul Convention and other European gender equality standards,” a joint EU–Council of Europe programme, Partnership for Good Governance II, contributes to the overall implementation of the Gender Equality Strategy and in particular the realisation of Strategic Objective 3 on ensuring the equal access of women to justice by strengthening access to justice for women, especially women victims of violence in line with the Council of Europe gender equality standards and contributing towards the Eastern Partnership countries’ ratification of the Istanbul Convention.

Four independent national experts updated the research, focusing on where developments have occurred related to the following core issues of the first studies: (i) the most critical gender gaps in access to justice in the particular country; (ii) the extent to which the justice system responds to women’s needs, in other words, how gender-responsive it is; and (iii) recommendations for areas of improvement. All studies retained their original structure, with new findings and analysis added where relevant. Thus, the studies begin with an assessment of gender gaps and obstacles to women’s access to justice, considering legislative and policy frameworks, implementation of laws and socio-economic and cultural barriers that affect women as justice users. Here, the impacts of Covid-19 on women’s access to justice and gender equality are addressed. The studies include a discussion of the gender responsiveness of the justice systems of each country, covering such issues as the influence of gender stereotyping, availability of specialised training and education for justice sector professionals and public perceptions of and trust in the justice system. The final part of each study presents the available remedies, highlights emerging promising practices and formulates a set of recommendations that are relevant to each national context.

On the whole, the studies reveal that significant gaps in women’s access to justice remain and are common for the Eastern Partnership countries. Yet, despite the unprecedented challenges to health, well-being and security brought about by the Covid-19 pandemic and conflict, that have “turned back the clock” on gender equality, there have also been moments of brightness and important progress in the region.

Each country adopted specific legislation on gender equality more than a decade ago, but efforts to strengthen the laws and the institutions responsible for their implementation are ongoing. In Georgia, 2018 and 2020 amendments to the national gender equality law established the Standing Parliamentary Council on Gender Equality as a permanent body, as well as municipal Gender Equality Councils, to improve coordination around gender policy between the central and regional levels. In Ukraine, the State Strategy for Equal Rights and Equal Opportunities for Women and Men until 2030 was approved in 2022, with a corresponding operational plan for 2022–2024. A government Commissioner for Gender Policy position was created in 2017. Since it was established in 2013, the Council on Preventing and Eliminating Discrimination and Ensuring Equality of the Republic of Moldova has proven to be an effective mechanism for combatting discrimination. In 2021, for example, the Equality Council reported that based on a review of its cases in which discrimination was identified, discrimination on the basis of sex or gender is the second most common form; this appears to be an increase from the decisions of

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5. Entered into force on 1 February 2008.

6. Entered into force on 1 August 2014.

7. Recommendation CM/Rec(2019)1 of the Committee of Ministers to member States on preventing and combating sexism.

8. Recommendation CM/Rec(2022)17 of the Committee of Ministers to member States on protecting the rights of migrant, refugee and asylum-seeking women and girls.

9. Council of Europe Gender Equality Strategy 2018–2023, available at <https://www.coe.int/en/web/genderequality/gender-equality-strategy>

five years ago. On the other hand, experts in Azerbaijan call for amendments to the Law on Gender Equality in order to bring the definition of “discrimination against women” into compliance with international law (specifically, to recognize both direct and indirect discrimination).

Despite the existence of anti-discrimination laws, women still very seldom invoke them when their rights have been violated, due to factors such as the high burden of proof and legal professional’s lack of familiarity with the norms of indirect discrimination.<sup>10</sup> Thus, legal precedent on either sex- or gender-based discrimination remains limited. Furthermore, progress has been slow in repealing discriminatory provisions in the law, most specifically concerning restrictions on women’s employment. At the same time, in both the Republic of Moldova and Georgia, the understanding of hate crimes, motivated by either sex or gender, has improved and led to an increase in the number of cases concerning women victims.

One of the areas in which progress has been the most apparent is the amendment of national law and adoption of policy that have increased the protection of women who have experienced gender-based violence. For instance, the adoption of the Law of Ukraine on Prevention and Counteraction of Domestic Violence, as well as amendments to the Criminal Code, have expanded the legal understanding of victims of varied forms of domestic violence as well as sexual violence. Likewise, in Georgia, the Law on Violence against Women and Elimination of Domestic Violence, Protection and Support of Victims of Violence now covers all forms of gender-based violence against women in compliance with the Istanbul Convention, and sanctions for failure to comply with a protective or restraining order have been increased. In the Republic of Moldova, legal amendments have improved access to legal aid and to emergency protection for victims of gender-based violence.

Ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) has undoubtedly been a catalyst for legal reform in this area. Since the first national studies were published, three of the beneficiary countries have ratified the Istanbul Convention: Georgia (2017), the Republic of Moldova (2022), and Ukraine (2022). Georgia and the Republic of Moldova submitted their first (baseline) evaluations to the Council of Europe Expert Group on Action against Violence against Women and Domestic Violence (GREVIO) in 2020 and 2022, respectively. Azerbaijan has not yet signed the Istanbul Convention, but the government adopted a National Action Plan on Combating Domestic Violence for 2020–2023.

The institutions that respond to cases of violence against women have taken steps to becoming more gender-responsive. Amendments to the Republic of Moldova law on preventing and combating family violence called for updating regulations and instructions that would guide the police, social services and medical institutions in coordinated interventions. In 2022, the Instruction on the Mechanism for Intersectoral Cooperation on intervention in cases of domestic violence was approved by the Ministry of Labour and Social Protection, the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Health, and the National Council for State Guaranteed Legal Aid of the Republic of Moldova. In both Georgia and Ukraine, law enforcement has introduced tools for standardized risk assessments in cases of domestic violence. The Prosecutor’s Office of Georgia created a unit of investigators and prosecutors, specializing in domestic violence and domestic offences, in 2018. In all of the countries that were reviewed a general trend in an increase in the number of protection orders issued for women victims of domestic violence has been observed. This finding does not necessarily indicate an increase in the occurrence of domestic violence incidents but, rather, improved confidence in and use of protection measures. Still, it should be noted that this measure is more often used by the police than prosecutors or judges, and such orders are not always used effectively (for instance, not issued in a timely manner).

Among society at large, attitudes appear to be changing, gender norms are becoming less rigid and stereotypes are starting to dissipate, as seen in a Georgian population survey that suggests a growing receptivity to the idea of a more equitable future. However, the legal systems seem slower to adapt. The studies also reveal that gender stereotypes persist in the justice system, especially concerning victims of violence against women.

The studies find that when the Covid-19 pandemic reached the Eastern Partnership countries, its impacts on women’s access to justice were significant. First, when emergency measures were implemented to stop the spread of the virus, legal processes were impacted. In each country, courts closed their doors for months at a time, and legal proceedings were transferred to online systems or postponed. Each country determined the priority for cases to be heard under quarantine conditions, but by in large, this process itself was not gender-sensitive. As a result, civil cases, concerning divorce, child custody, alimony and protective orders in domestic violence cases, for example, were frequently deprioritised or were even suspended. Yet these are also the cases in which women are the majority of those who are seeking assistance through the legal system.

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10. For example, the national study for Azerbaijan recommends that legislation be amended to include a definition of indirect discrimination; the national study for Ukraine notes that while indirect discrimination is defined in the law, courts very rarely refer to this concept.

Second, lockdown measures had direct and negative consequences for women who were experiencing domestic violence, essentially isolating them in the home with an abuser. Each study identifies some of the most serious impacts on women. In the Republic of Moldova, for example, a significant reduction in calls to specialised telephone hotlines was observed during quarantine periods at the same time as an increase in texting for assistance, which is an indication of the level of control that perpetrators were exercising over victims. In Georgia, law enforcement classified gender-based violence as a less important police matter, and no mechanism for remote legal procedures was introduced. Social services for women who were experiencing violence were greatly reduced or inaccessible. In the Republic of Moldova, shelters were required to change how they operated and could not accept new clients; some had to suspend their activities. The study for Ukraine points out that public sector funds were diverted from social services to address the Covid-19 pandemic. In Azerbaijan, state-funded social services were not suspended generally, but restrictions on travel made women's access to shelters, which are only located in large cities, *de facto*, impossible.

Third, the pre-existing socio-economic and cultural barriers that had previously complicated women's access to justice, were exacerbated by the pandemic and measures introduced to contain it. Before the pandemic, women's economic dependence and economic inequality meant that they had more limited access to the resources needed for legal proceedings. The studies show that women's economic situation deteriorated further, as in each country they are the majority of healthcare workers and over-represented in sectors in which economic declines have been the most significant. In both Azerbaijan and Ukraine, for instance, women represent a large share of individual entrepreneurs and small business owners, but due to difficulties operating under Covid-19 restrictions and lack of support measures, many were forced to stop working. In the Republic of Moldova, women employed in service provision and small trade lost their livelihoods when their activities were suspended. In addition, the pandemic highlighted the disproportionate role that women play in unpaid domestic work. Stay-at-home measures had a discriminatory impact on women in increasing this burden, and yet this effect seems neither to have been considered in planning nor in subsequent assistance measures. In many ways, the Covid-19 pandemic highlighted the structural sex and gender discrimination that persists in the studied countries.

Access to justice is central to the rule of law and integral to the enjoyment of human rights. It is also an essential precondition to social inclusion and a critical element of a well-functioning democracy. The requirement of equality, including gender equality, is at the centre of the scope, exercise and fulfilment of the right to justice. The national studies confirm that progress toward gender equality had generally been moving at a steady yet slow pace. However, recent events such as the global health crisis and war in Ukraine have halted, if not reversed, this progress, in key ways. It is ever more critical that gender equality not be further undermined, which also requires dedicated efforts to strengthening women's access to justice.

# REPUBLIC OF MOLDOVA

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*Initial 2017 report and 2022 update prepared by Doina Ioana Străisteanu*

## 1. INTRODUCTION

The year 2020 offered humanity a unique and enormous challenge of a geographical, social and economic nature- the Covid-19 pandemic, which disrupted the smooth running of the lives of people in Moldova.<sup>11</sup> Restriction measures imposed by the Moldovan Government to reduce the spread of Covid-19<sup>12</sup> severely impacted the safety and rights of victims of domestic violence, for whom the domestic environment was not friendly before, but during the pandemic became even more dangerous, full of fear, insecurity and uncertainty.<sup>13</sup> The measures imposed to protect people from the coronavirus, the re-directing of national and international financial resources to support the health system and slow the pace of the pandemic, and traffic restrictions, gave aggressors additional power and control in their families.<sup>14</sup>

This study is updated with information about how the Covid-19 pandemic impacted access to justice for women in the Republic of Moldova.

Access to justice “refers to the various elements leading to appropriate redress against the violation of a right”.<sup>15</sup> In General Recommendation 33 (2015) on women’s access to justice, the Committee on the Elimination of Discrimination against Women (CEDAW Committee) identifies “six interrelated and essential components” necessary to ensure women’s access to justice:

- ▶ justiciability, which refers to the “ability and empowerment of women to claim their rights as legal entitlements”;
- ▶ availability of courts;
- ▶ accessibility of all justice systems to women, “including those who face intersectional or compounded forms of discrimination”;
- ▶ good quality of justice, which includes the requirement that justice systems be gender-sensitive;
- ▶ provision of remedies;
- ▶ accountability.

Access to justice implies the right to an effective remedy, the right to equal access to courts, the right to a fair trial, the right to legal aid measures that improve access to courts, access to legal representation, as well as access

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11. The Parliament of the Republic of Moldova’s Decision No. 55 of 17 March 2020 instituting the state of emergency for two months (17 March – 15 May 2020).  
12. The National Extraordinary Public Health Commission, instituted by the Moldovan Government, Decision No.11 of 15 May 2020; The Commission regularly issued decisions imposing new restrictions and reviewing those already imposed.  
13. La Strada, UN WOMEN, Rapid Assessment “The needs of women affected by domestic violence and gender-based violence and the system’s response to domestic violence cases during the COVID-19 pandemic” August 2020 Chisinau.  
14. Ibid.  
15. Parliamentary Assembly of the Council of Europe Resolution 2054 (2015) “Equality and non-discrimination in the access to justice”: <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=21753&lang=en>, accessed 28 November 2016.

to equality bodies and ombudsman institutions aimed at bridging the gap between the law and *de facto* enjoyment of rights by individuals.

The spread of the coronavirus posed a threat to public health worldwide, leading the adoption the Moldovan Parliament to declare a state of emergency,<sup>16</sup> aiming to reduce the risks of mass contamination. The decision imposed the following measures: a) online education for all schools and all levels (preschool, compulsory education, vocational and university education); b) a special regime of entry into and exit from the country; c) a special working regime for all entities; d) prohibitions on holding assemblies, public demonstrations and other mass actions and e) confinement in one's own home (quarantine). Subsequently, between 16 May and 30 June 2020, a state of emergency in public health was established.<sup>17</sup> Although some measures have been relaxed, it has continued to be mandatory to maintain social distance, to wear face mask in closed spaces, in commercial areas, on public transport or where it is impossible to maintain physical distance. The recommendations to avoid congestion, gatherings in groups of more than three people, to comply with sanitary and disinfection regulations have also remained in force. Subsequently, according to the epidemiological situation in the republic, the state of emergency in public health service was extended. However, from 15 May 2020, the activity of all medical institutions and most of the economic activities were gradually resumed. All the restrictive measures applied during the state of emergency and during the state of emergency in public health, but also the specific rules of individual protection that were to be observed, fell hard on people who even before the pandemic were vulnerable or in risk groups, such as women suffering from domestic abuse.

It is for this category that self-isolation in the home, together with the aggressive partner, involved the greatest risks for their health and well-being. The probability of escalated violence greatly increased due to limited possibilities for victims to report abuse to the police or to contact support services.<sup>18</sup> The system of assistance and protection for the victims of domestic violence was doubly-challenged- to continue to meet the needs of people affected by violence while also to comply with measures to prevent the spread of Covid-19.<sup>19</sup> Shelters and organizations had to revise their work plans, adjust their services, and some even suspended their activity in order to prevent the outbreaks of infection.

According to the Ministry of Health,<sup>20</sup> from the beginning of the Covid-19 pandemic, from 1 March 2020 until 1 March 2022, 519 234 cases of infection with the new type of coronavirus and 11 554 cases of death were confirmed. Of the total number of people, who became infected, 59.0% were women and of the total number of deaths, 52.7% were women. Most affected were people in the age group 50–59 years. In this age group, 19.7% of people who were infected were women and 18.2% were men. At the same time, among those who died of Covid-19, in the age group 60–69 years, 32.4% were women and 34.3% were men.

The justice system has faced its own challenges. Some courts instituted and developed a video conference call system to be able to continue the examination of cases which required a response from the parties, such as civil proceedings on examination of requests for protection orders or criminal proceedings on examination of the prosecutor's request for deprivation of liberty (arrest) or special investigative measures.<sup>21</sup> During 2020, many courts closed their doors due to the quarantine and Covid-19 prevention measures imposed after outbreaks of coronavirus.<sup>22</sup> The Chisinau municipality court (consisting of five district courts) went into quarantine four times during 2020–2021.<sup>23</sup> This situation significantly prolonged the examination time in most cases pending before the courts.

As a candidate for European Union (EU) integration, the Republic of Moldova is also bound to continue reforms of the judicial system and its legislation in line with EU standards relevant to the access to justice for women, such as EU Directive 2012/29/EU, establishing minimum standards on the rights, support and protection of victims of crime; EU Regulation No 606/2013 on mutual recognition of protection of victims in civil matters (which complements EU Directive 2012/29/EU); the Directive on the European protection order 2011/99/EU; and EU Directive 2004/80/EC relating to compensation for crime victims.

16. The Moldovan Parliament, Decision No. 55 of 17 March 2020 instituting the state of emergency for two months (17 March – 15 May 2020).

17. The National Extraordinary Public Health Commission instituted by the Moldovan Government, Decision No. 11 of 15 May 2020.

18. National Coalition "Life without violence" Annual Report 2020, available at <https://stopviolenta.md/biblioteca/publicatii/315-raport-annual-coaliia-naional-viaa-fr-violen-in-familie-anul-2020.html>.

19. Ibid.

20. Available at <https://statistica.gov.md/libview.php?l=ro&idc=168&id=7319>, accessed 15 June 2022.

21. The National Extraordinary Public Health Commission instituted by the Moldovan Government, Decision No. 4 of 24 March 2020 and Decision No.6 of 26 March 2020.

22. Courts published press releases to announce to the public on having instituted quarantines, <https://instante.justice.md>.

23. Ibid.

Despite significant challenges arising from the Covid-19 pandemic, the Republic of Moldova ratified<sup>24</sup> the Istanbul Convention in 2021.<sup>25</sup>

This study highlights the extent to which the Republic of Moldova upheld its obligations to implement the standards of access to justice and the barriers that still exist, in particular for women, due to challenges posed by Covid-19. The research contained herein updates a study that was conducted under in the framework of a project “Improving Women’s Access to Justice in the Eastern Partnership Countries” (2015–2017).<sup>26</sup> Similar updates have also been developed for Azerbaijan, Georgia and Ukraine.

## 2. GENDER GAPS IN ACCESS TO JUSTICE

### 2.1. Analysis of the national legal and policy frameworks to identify the obstacles women encounter in gaining access to the justice system

#### 2.1.1. Possible discriminatory laws or policies

The Council on Preventing and Eliminating Discrimination and Ensuring Equality (Equality Council) is an autonomous, unbiased and independent public authority, tasked with preventing and protecting against discrimination, ensuring equality and promoting equal opportunities and diversity. Since it was established,<sup>27</sup> the Equality Council has examined several current pieces of legislation from the perspective of gender equality. However, the recommendations formulated by the council have still not been implemented by the public authorities concerned. The delay is explained by the fact that the recommendations are not mandatory and therefore not enforceable.

#### 2.1.2. Parental leave benefits

The most significant analysis was done on the modifications to Law No. 289/2004 regarding payments of temporary leave from work and other social security payments<sup>28</sup> changed by Law No. 332/2013.<sup>29</sup> It has been found that Article 6 paragraph 7 discriminates against women and men on the basis of their marital status and gender. A woman may benefit from maternity leave payment and parental leave payment for childcare, above a minimum of €20, only if she is married to the child’s father and can prove that she depends on his income. Such payments are not available to married men dependent on their wives’ income or to unmarried women and men who have a child in common. The law uses the terms “wife” and “husband” to indicate one’s status as a condition to benefit from these payments, in addition to their income and previous social payments. The dependent partner in the couple has to be the woman (the wife). The man (the husband) may not benefit from the same right as his wife, should the child’s parents decide that the woman’s income is greater and therefore the child’s father could benefit from parental leave payments calculated from the mother’s income, upon which the father would then be dependent. Therefore, two impediments arise- the civil status (the woman must be married to the child’s father) and gender (the wife must be dependent upon her husband’s income; the reverse situation is not regulated). The Equality Council found the provision discriminatory to expectant mothers who are not married to the child’s father but are dependent upon his income.<sup>30</sup> The Ministry of Labour, Social Protection and Family finds it insufficient that on the child’s birth certificate, with the statements of both parents (as the Family Law dictates), the child’s paternity and maternity is recognised by both parents. An unmarried woman who is also a mother-to-be is thus disadvantaged and indirectly forced into changing her marital status.

The Ministry of Labour, Social Protection and Family argues that these provisions are meant to protect women and motherhood as a whole. However, considering the breadth of current roles played by women in Moldovan society (assuming leadership roles, founding businesses, securing their own income, occupying decision-making

24. Law No. 144 of 14 October 2021 regarding the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210).

25. For the Republic of Moldova, the Convention entered into force on 1 May 2022.

26. The project is implemented under the Council of Europe and European Union Programmatic Cooperation Framework for the Eastern Partnership countries 2015–2017, and in part responds to the Council of Europe Gender Equality Strategy 2014–2017, in particular the strategy’s objective of “Guaranteeing equal access of women to justice”.

27. After its official registration on 31 July 2013, the Equality Council received the first complaint on 20 September 2013 from a police officer alleging harassment at work.

28. Original title: “Legea privind indemnizațiile pentru incapacitatea temporară de muncă și alte prestații de asigurări sociale”.

29. The analysis has been provided in the Decision of 26 May 2015 in Case No. 071/14, available at [www.egalitate.md](http://www.egalitate.md).

30. Ibid.

positions, assuming leadership in the family), such provisions fail to respond to the individual situation of modern families. After all, parental leave payments and social security payments, as the law itself explains, are meant to cover the loss of income in the family due to the occurrence of particular events, such as childbirth and parenthood (not only motherhood). The only reason provided by the Ministry of Labour, Social Protection and Family, during the official hearing in the case before the Equality Council,<sup>31</sup> for attaching parental leave payments to a married woman, appears to be to secure the legal ownership of the child to the man whose income will serve as the basis for the calculation of the payment. This provision works to protect men from wrongful claims of paternity when he is not married to the child's mother, and as such, from wrongful claims on parental leave payments. There was no explanation given for the fact that a married man cannot benefit from a parental leave payment calculated based on his wife's income, as a dependent spouse.

### 2.1.3. Occupations

The List of National Occupations No. CORM 006–14, updated and approved by the Ministry of Labour, Social Protection and Family in 2014,<sup>32</sup> has been reviewed by the Moldovan Government to accommodate the recommendations of the Moldovan Equality Council<sup>33</sup> and of international human rights institutions. Prior to this review, the titles of the occupations were masculinised and feminised by the nature of the labour to which they refer. For example, decision-making positions, leadership positions and heads of divisions, institutions and others were masculinised. Childcare and cleaning occupations were feminised. Romanian is a gendered language that allows for specification of gender in job titles. Yet, the government changed the law making it mandatory to use titles that reflects one's gender in job classifications as of 1 October 2021. Occupation names were classified into 10 major groups, 40 major subgroups, 127 minor groups and 433 core groups. The classification of occupations in the Republic of Moldova applies in all fields of economic and social activity. It became mandatory for all central and local public administration authorities, enterprises, organizations and institutions, regardless of type of ownership, form of legal organization or other legal and natural persons which carry out activities in the Republic of Moldova, to use these classifications when completing official documents, in which an occupation must be indicated.

### 2.1.4. Access to employment for women with disabilities

Women with disabilities continue to face barriers in accessing jobs and courses for professional requalification,<sup>34</sup> which would further facilitate their employment. A number of legal regulations,<sup>35</sup> found to be discriminatory by the Equality Council for requiring persons with disabilities to present a medical certificate stating their ability to work, remain unchanged. According to the National Bureau of Statistics, the employment rate for people with disabilities is two times less than it is for people with no forms of impairment. The employment rate of people with disabilities was 26.2% in 2018 (27.8% for women and 24.8% for men). The employment rate of people with disabilities in rural areas was 32.5% and 15.5% in urban areas. Since 2017, new provisions were added to the Misdemeanour Code,<sup>36</sup> sanctioning employers for refusing to employ people with disabilities or for not reserving jobs for them. These changes were made to enforce the provisions of Law No. 60 on the social inclusion of persons with disabilities that require employers with more than 20 employees to reserve 5% for people with disabilities.

A 2019 study<sup>37</sup> identifies two major barriers to employment for people with disabilities; architectural (lack of reasonable accommodation to allow independent movement) and attitudes (stereotypes and prejudices about one's ability to work efficiently).

31. Ibid, annex to the case file No. 071/14 with the verbatim minutes of the hearing.

32. Order No. 22 of 3 March 2014 adopted by the Ministry of Labour, Social Protection and Family by which the List of National Occupations CORM 006–14 is updated and approved; published in "Monitorul oficial" No. 120–126 of 23 May 2014.

33. The Moldovan Equality Council Decision of 9 September 2015 formulated recommendations regarding the review of the list of occupations and professions, including those banned for women, as were enlisted in the Government's Decision No. 264 of 6 October 1993, original title "Hotărîrea de Guvern nr. 264 din 6 October 1993 privind aprobarea Nomenclatorului industriilor, profesiilor și lucrărilor cu condiții de muncă grele și nocive, proscrie femeilor și Normelor de solicitare maximă, admise pentru femeii la ridicarea și transportarea manuală a greutăților".

34. Decision of 9 September 2014 in Case No. 110/14 regarding the refusal of the National Agency for Employment to accept a woman with a psycho-social disability into a course for a manicurist, available at [www.egalitate.md](http://www.egalitate.md).

35. The Ministry of Labour, Social Protection and Family's Order No. 42/1 of 13 March 2012 Referring to the approved methodological standards regarding the organisation and continuous education of the unemployed and the Ministry of Education' Order No. 135 of 13 March 2012.

36. Law No. 208 of 17 November 2016 (in force from 16.03.2017), Article 56' modified to impose a fine, up to 15 000 Moldovan leu (MDL) (approximately €750), on the employer refusing to reserve 5% of jobs to people with disabilities.

37. Center for the Rights of People with Disabilities, Study released in 2019, [https://webcache.googleusercontent.com/search?q=cache:\\_Xph6-XRDJwJ:https://cdpd.md/wp-content/uploads/2020/02/Bariere-%25C8%2599i-oportunit%25C4%2583%25C8%259Bi-%25C3%25AEen-angajarea-%25C3%25AEen-c%25C3%25AEmpul-muncii-a-persoanelor-cu-dizabilit%25C4%2583%25C8%259Bi-din-raioanele-Cahul-%25C8%2599i-Cantemir.docx+&cd=2&hl=ro&ct=clnk&gl=md&client=safari](https://webcache.googleusercontent.com/search?q=cache:_Xph6-XRDJwJ:https://cdpd.md/wp-content/uploads/2020/02/Bariere-%25C8%2599i-oportunit%25C4%2583%25C8%259Bi-%25C3%25AEen-angajarea-%25C3%25AEen-c%25C3%25AEmpul-muncii-a-persoanelor-cu-dizabilit%25C4%2583%25C8%259Bi-din-raioanele-Cahul-%25C8%2599i-Cantemir.docx+&cd=2&hl=ro&ct=clnk&gl=md&client=safari)

### 2.1.5. Access to justice for LGBTQ+ people

The situation of people who are lesbian, gay, bisexual, transgender, queer/ questioning or others (LGBTQ+) is precarious.<sup>38</sup> Recent cases reveal an increase in transphobia and homophobia that negatively impacts their lives. Transgender people face significant barriers in changing their identity papers, without which they are prevented from obtaining employment.<sup>39</sup> Changing identity papers is a particular challenge for transgender persons who have been “diagnosed” with “transsexualism” and who have started hormone therapy to transform their bodies to their desired gender. Law No. 100/2001 on civil status acts prescribes that a change of name and sex on a birth certificate be accepted only upon the presentation of an official document confirming the change of sex.<sup>40</sup> The only medical document, or official document a transgender person can obtain, is the one stating the diagnosis and (if possible and accessible in the Republic of Moldova) a medical document about the surgical intervention. These documents however are unacceptable to the Public Services Agency that insists upon an “official document on sex change” which is not issued by any public or private authority in the country.<sup>41</sup> Previous cases litigated for transgender persons against the Civil Registration Office,<sup>42</sup> the Supreme Court of Justice Recommendation No. 16 of 2 November 2012<sup>43</sup> and the Ministry of Health’s Order No. 1268 of 17 December 2012,<sup>44</sup> brought no relief or change to the domestic law. Every transgender person seeking to change their identity documents is obliged to go through court proceedings to prove his/her identity and the right to respect for private life guaranteed to him/her by the state.<sup>45</sup> It is worth mentioning that identity documents that contradict one’s current state (name, sex, civil status, residence address, etc.) are considered void. As a result, without a proper identity card, the person cannot open or manage a bank account, seek social welfare, lodge complaints or access other state services.

A recent case of suicide by a transgender teenager<sup>46</sup> revealed the failure of the authorities to respect the dignity of a person or their right to an identity,<sup>47</sup> along with widespread hatred in society.<sup>48</sup> Even after her death, in public statements issued by the police, the Ministry of Education and the school, and in social media, the teenager was referred to by her sex at birth (male).<sup>49</sup>

Violence and abuse occur within gay couples too. Although national legislation does not recognise same sex marriage or families, these forms of cohabitation fall within the ambit of family life as stated in Article 8 of the European Convention on Human Rights in the interpretation of the European Court of Human Rights. Legal counselling and advice was given to gay people, and children aged 16–17 years old, about the protections against abuse and violence within the family (from parents, siblings or other relatives) that are provided in domestic law.<sup>50</sup> Children are more reluctant to complain to the police and ask for protection measures because of their dependent status (financial dependence and reliance on others for housing, food, clothing) and psychological dependency (love for the abusive parent, fear of a sibling or another relative).

One case has been litigated in court. A lesbian couple complained to the police of one partner’s ex-husband’s violent behaviour. He apparently found it difficult to accept her divorcing him for another woman. The court was asked to issue a protection order against the divorcee ex-husband but only in favour of the woman that used to be married to him, considering that her partner was no longer living with the aggressor and therefore falling outside the scope of the law.

38. Situation as described by the LGBT organisation GENDERDOC-M, see <http://gdm.md/ro/litigations>; see also the Amnesty International letter [www.amnesty.org/download/Documents/24000/eur590042012en.pdf](http://www.amnesty.org/download/Documents/24000/eur590042012en.pdf).

39. Nadine’s story, available at <http://attitude-analyst.blogspot.com/2011/08/nadine-chilianu-moldovas-voice-for.html>, accessed 28 November 2016.

40. Article 66(2c), Law No. 100.

41. The case of O. and S. examined by the Buiucani court, and the case of A. and S. examined by the Centre Court, available at [www.gdm.md](http://www.gdm.md).

42. Information available at <http://ilga.org/groundbreaking-strategic-legal-victory-for-transgender-people-in-moldova>, accessed 28 November 2016.

43. Available at [http://jurisprudenta.csj.md/db\\_rec\\_csj.php](http://jurisprudenta.csj.md/db_rec_csj.php), accessed 28 November 2016.

44. Available at [www.ms.gov.md/?q=legislatie](http://www.ms.gov.md/?q=legislatie), accessed 28 November 2016.

45. Available at <https://gdm.md/ro/litigations#>, accessed 15 June 2022.

46. Available at <https://www.jurnal.md/ro/news/2fa1ba42899aa820/o-adolescenta-de-16-ani-umilita-de-colegii-de-liceu-pentru-ca-e-transgender-igp-ne-am-autosesizat-in-regim-de-urgenta.html>, accessed 15 June 2022.

47. Available at <https://unimedia.info/ro/news/ec8d577af29f997c/odihne-te-in-pace-draga-f-adolescenta-batjocorita-de-colegi-pentru-ca-ar-fi-transgender-a-luat-ieri-decizia-de-a-pleca-din-viata.html>, accessed 15 June 2022.

48. Available at <https://moldova.europalibera.org/a/măcar-pe-cruce-i-a-fost-scris-numele-de-fată-cazul-unei-adolescente-transgender-care-s-a-sinucis/31804497.html>, accessed 15 June 2022.

49. Ibid.

50. Data published by “GENDERDOC-M” available at <https://gdm.md/ro/litigations#>, accessed 15 June 2022.



### 2.1.6. The negative impact of gender-neutral legislation

Gender-neutral legislation is rarely considered to be the cause of discriminatory practices. The absence of a prohibited ground mentioned directly in the text of a specific law raises doubts about possible discriminatory effects on a particular social group until statistics are presented to support this assumption. This becomes evident after closer scrutiny of the situations described below.

#### Indirect discrimination against women in the provision of a “personal assistant” to severely disabled persons

The Moldovan Government’s Decision No. 314 of 23 May 2012 adopted the Framework Regulation regarding the organisation and functioning of the Social Service “Personal Assistant.” The service aims to provide persons with severe disabilities (the beneficiary) a caregiver employed by the Social Protection Services, under the Ministry of Labour, Social Protection and Family. The caregiver can be a member of the family or someone close to the beneficiary of this social service but should not have reached the age of retirement, which is 57 for women and 62 for men. Besides the age limit, the Framework Regulation contains a list of professional requirements that a caregiver should meet before being officially employed by the Social Protection Services: They must be over the age of 18; with full legal capacity; without a criminal record; possessing good health that corresponds to the position’s requirements; and acceptance by the beneficiary. The Social Protection Services and the Ministry of Labour, Social Protection and Family argued that the age limit was an essential requirement for caregivers because the beneficiaries are persons with severe disabilities. However, they failed to explain how age reflects one’s ability to perform the tasks of a caregiver. The Equality Council received a complaint from three mothers who care for their severely disabled children at home, in the family, and were denied the opportunity to be a caregiver for their children because they had reached the age of retirement – 57 years old.<sup>51</sup> In its decision of 13 February 2014, the Equality Council found that the age limit constitutes discrimination against women because women retire earlier than men and therefore in this particular situation they were deprived of five years of potential employment as caregivers for their severely disabled children. The disadvantage resided also in the fact that from 1 January 1999, national legislation excluded the years spent by parents caring for their severely disabled children at home in calculations for their pension. Women, who may also be the primary caregivers for their own children, may have chosen to offer care and love within the family rather than transfer their children and duties of care to state-run institutions for disabled children. However, in doing so, they were deprived of the opportunity to secure an income for themselves and their disabled children, becoming dependent on disability payments or social alimony.<sup>52</sup>

#### Parenthood

Parenthood is a field of frequent and commonly-accepted discriminatory practices based on gender.<sup>53</sup> Upon a court’s pronouncement of divorce, one of the parents leaves the common dwelling to live separately from the ex-partner and, usually, from their common child. Child Protection Services (CPS) frequently examine requests from parents living separately to establish a schedule of visiting hours to allow the parents, after separation, to maintain a relationship with their child and be informed about the child’s life, needs and health. Such requests lead to a full examination of both parents’ situations and commonly become a ground for disputes between separated parents, and sometimes a reason for conflicts or even domestic violence incidents. There were six complaints<sup>54</sup> to the Equality Council in which women and men, parents in dispute, have been discriminated against by the CPS in the process of setting out a schedule for visiting hours. A common element of each of these complaints was the fact that the separated parent received a schedule that diminished significantly his/her presence in the child’s life, despite remaining a parent with rights. In all cases, an additional factor for the justification of differential access to the child provided by the CPS referred exclusively to the gender roles assumed by both parents discriminating against both sexes. For example, references such as the girl child is too young and she needs her mother; the mother is breast-feeding the child and she knows better when the child sleeps and when s/he is awake; it was the woman’s decision to leave their common house and leave her child behind, thereby making her less deserving of custody rights.

In two of the cases,<sup>55</sup> both applicants were victims of domestic violence who escaped by leaving their common dwelling but were prevented from taking the child into their care by their abusive partners. They addressed

51. Decision of 13 February 2014 in Case No. 030/13, available at [www.egalitate.md](http://www.egalitate.md), accessed 28 November 2016.

52. Equality Council conclusions, *ibid.*

53. According to an analysis developed and published by the organisation Centre “Partnership for the Development”, available at [www.progen.md/index.php?pag=n&opa=view&id=286&tip=publicatii&start=0&l=](http://www.progen.md/index.php?pag=n&opa=view&id=286&tip=publicatii&start=0&l=), accessed 28 November 2016.

54. Case law of the Equality Council: Decision of 13 February 2014 in Case No. 034/13; Decision of 21 February 2013 in Case No. 028/13 and others, available at [www.egalitate.md](http://www.egalitate.md), accessed 28 November 2016.

55. Cases No. 028/13 and 034/13, brought to the Equality Council.

requests to the CPS denouncing the violent behaviour of the second parent and sought support to maintain their relationships with the children. Instead, they received hourly visiting rights exclusively because they left their children when they fled the violence. The Equality Council took note of the fact that the CPS would use gender prejudices about women victims of domestic violence to justify the limited schedule of visiting hours given to the women and to ignore the fact that domestic violence negatively affects children as well.<sup>56</sup>

Women with disabilities face greater challenges in parenthood. Those living in psycho-neurological institutions are not allowed to become pregnant and have a child.<sup>57</sup> A gynaecologist and medical personnel closely monitor the women's health and menstrual cycle. Instances have been identified in which women with disabilities found to be pregnant have been sent to the local hospital accompanied by medical assistants to have an abortion. Women who have escaped such scrutiny and given birth<sup>58</sup> faced the risk of being separated from their child on the assumption that women with disabilities cannot care properly for their children since they need assistance themselves.

Lesbian women face prejudice in court as unfit parents due to their sexual orientation. For example, D. had decided to divorce her husband when he found out she was lesbian and became violent. She obtained a protection order as a victim of domestic violence but the court decided to give custody of the child to the father. No reasons were given by the first instance court. The Chisinau Court of Appeal rejected the woman's appeal and reflected numerous prejudices against lesbians: she provoked him to be violent; she was unfit to educate a child; and she had no permanent income and place of her own. It was a Supreme Court decision that established the facts and granted her custody of the child.<sup>59</sup>

### **2.1.7. Shortcomings of special laws aimed at equality between women and men or the protection of women**

#### **Regarding civil, labour and family law**

##### *Sexism in advertising*

Sexism in advertising and mainstream media has been a matter of public debate since 2009. There have been cases litigated in domestic courts against some of the biggest commercial companies that have advertised their products by exploiting the female body (Financiarul 2011). As a result, an initiative emerged to raise awareness of the meaning of sexism and its influence on the perception of beauty, femininity and the relevance of certain products that were being advertised alongside the female body (Everyday Sexism Project 2016). A female member of the Moldovan Parliament, assisted by a feminist lawyer, first registered a draft law, to introduce the definition of sexism in the Law on Advertising No. 1227/1997, and thereby ban it.<sup>60</sup> In 2016, amendments were made to the Law on Advertising, including a definition of sexist advertising. From 2022, when a new Law on Advertising was adopted, the following definition of "sexist advertising" has been introduced: "advertising that has as its object (a) presenting the woman or man as a sexual object in humiliating/degrading/violent situations and offending the dignity of the person; and/or (b) the promotion of sexist stereotypes for discriminatory purposes, with the maintenance of the traditional perception of women as a weak, vulnerable and dependent being, having a lower social position."

Some experts contend that the original proposal to introduce the definition of sexism in Law No. 1227/1997 on advertisement is redundant. The existence of Law No. 121/2012 on ensuring equality and the practice of the Equality Council on cases of sexism indicate that such a definition would be better placed in the special law on equality. This would allow for the extension of the application of the definition to all fields of human activity, not only to advertising, and leave the determination of the occurrence of sexism to the competence of the Equality Council. On the other hand, Law No. 1227/1997 on advertisement entrusted the task of prohibiting unlawful advertisement to the Antimonopoly Council.

##### *The discriminatory pressure of caregiving roles for women*

The mass media periodically reports on cases of discrimination against women for being at a reproductive age or for being mothers. Parenthood can become a barrier for a woman to find or keep employment. Termination of women's employment due to pregnancy or childcare duties is not uncommon (Radio Europa Libera 2012).

56. Equality Council conclusions in Cases No. 028/13 and 034/13.

57. Decision of 4 July 2014 in Case No. 087/14 regarding the rights of women with disabilities from Balti psycho-neurological institution, available at [www.egalitate.md](http://www.egalitate.md), accessed 28 November 2016.

58. A., a beneficiary of a psycho-neurological institution in Soroca, gave birth to a son and was separated from him at birth; T. S., the beneficiary of a psycho-neurological institution in Balti, gave birth to a son in June 2015.

59. The decision of the Supreme Court is available at [http://jurisprudenta.csj.md/search\\_col\\_civil.php?id=3861](http://jurisprudenta.csj.md/search_col_civil.php?id=3861), accessed 28 November 2016.

60. Draft law No. 180 approved by the Moldovan Government Decision No. 322 of 8 May 2014.

Women report being asked about their civil status and children at job interviews. Companies explain that they seek dedicated employees and expect them to be at work, not on sick leave or childcare leave. It is a common practice for private companies to employ women for a determined period of time (only one year, for example) with the possibility to continue the employment for another year. Such an approach allows the employer to terminate the agreement once the woman employee becomes pregnant. In such cases she may lose her maternity and parental leave payments (Centrul de Investigatii Jurnalistice).

Women continue to be primary caregivers for their family members, children and the elderly. They juggle childcare duties and employment, and some state institutions consider this a situation to be both characteristic for and expected of women.<sup>61</sup>

In 2020, new research was published<sup>62</sup> arguing that discrimination against mothers in the labour market in the Republic of Moldova occurs in the context of strong patriarchal attitudes and stereotypes that are widespread in society. The study points out that gender discrimination is evident from the comparison of the presence of women who are mothers and men who are fathers, in the performance of family responsibilities and on the labour market. Indeed, the national regulatory framework has undergone changes in recent years, the purpose of which was to ensure parental equality in access to the labour market. Mainly, in 2018, the formula for offering the child raising allowance was modified (currently parents have the choice from two options), and the Education Code was amended. The age of enrolment of children in nurseries was indicated (0–2 years) and in kindergartens (2–6/7 years). At the same time, it was decided that the government shall develop and approve the Nursery Services Extension Program by 2020. However, these changes did not achieve their stated purpose. Although there are two options for selecting the period for childcare leave, the total amount of the allowance is in no way influenced by the period chosen. The small number of institutions that offer pre-school education services (of children in nurseries, 0–2 years) in accordance with the standards of health and education of children, makes it difficult to select the option that provides a shorter period of leave. The National Bureau of Statistics provided the following data in 2018: a) one-fifth of children up to two years of age benefited from preschool education; b) the degree of inclusion in preschool education (1–2 years) was only 21.9% of the total number of children of this age; c) in 2016–2018 about 80 000 families could not benefit from these services, for which re-employment has become a real challenge. According to several national studies, access to pre-school education services is conditioned on the limited number of places in nurseries or kindergartens; the conditions of activity of these institutions; and the distribution in the country. In Chisinau, for example, the enrolment rate of children up to three years in early education, in the reference period, was below the Republic average (8.9%, the national average being 11.6%).<sup>63</sup>

#### ***Discriminatory effects of unequal retirement ages***

As part of reform of the pension system, a method of slowly raising the retirement age is being applied. Gradually, by six months per year for women and four months per year for men, the age of retirement shall reach 62 years for women and 65 years for men, respectively, in 2026.<sup>64</sup> At the same time, the contribution period will be adjusted accordingly over a period of six years. Annually, starting from 1 January 2017, the age of retirement has been increasing by six months until both groups reach the same age. The gradual increase in the retirement age and the increase in the required contribution period from 30 years to 35 years will cause a significant increase in their contribution to the financing of the pension system.<sup>65</sup>

Currently, the average contribution period for women is 25% lower than for men, as a result of which women have smaller pensions than men, on average. The government's hope is that the gradual revision of the total contribution period will remove this discrimination, keeping in mind that women constitute 70% of the number of beneficiaries of the pension system.<sup>66</sup>

On the other hand, having scrutinised Law No. 156 of 14 October 1998 regarding the public pension system, another issue has been pointed out. Specifically, the survivor's pension is granted only if the deceased person

61. On 16 June 2015, the General Police Inspectorate of the Republic of Moldova announced a contest among women police officers to choose the best candidate to be the hero of a journalistic report reflecting on "women in police," see [www.igp.gov.md/ro/content/inspectoratul-general-al-politiei-lanseaza-concursul-politista-anului-2015](http://www.igp.gov.md/ro/content/inspectoratul-general-al-politiei-lanseaza-concursul-politista-anului-2015), accessed 28 November 2016. One of the criteria for selection, as indicated in the announcement, was an ability to show how one balances professional and family duties. Such criteria are never considered applicable to a policeman, nor are they reflected in the media.

62. In 2020 a Study was released – "How do We Contribute to the Creation of Parent-Friendly Jobs?" – by the Partnership Center for Development and UN Women, [https://progen.md/wp-content/uploads/2020/12/6760\\_8075\\_cpd\\_servicii\\_alternative\\_crese\\_la\\_intre-prinderi\\_ajustat.pdf](https://progen.md/wp-content/uploads/2020/12/6760_8075_cpd_servicii_alternative_crese_la_intre-prinderi_ajustat.pdf).

63. Ibid.

64. Available at <https://gov.md/ro/content/reforma-sistemului-de-pensie-aprobata-de-guvern>, accessed 15 June 2022.

65. Ibid.

66. Available at <https://old.msmps.gov.md/ro/content/despre-reforma-sistemului-de-pensii>, accessed on 15 June 2022.

benefited from an old-age pension or a disability pension or had met the criteria for obtaining a disability pension before death. Children up to the age of 18, or up to the age of 23 if enrolled in a higher education institution, would receive 75% of the amount of the pension for each survivor. The surviving spouse will receive 50% of the pension amount only if she/he additionally meets the following conditions: at the time of the maintenance of the supporter or during five years after the death, she/he has reached retirement age or has been severely disabled and has at least 15 years of marriage with the deceased and did not remarry. Applied to the realities of the population of the Republic of Moldova, today this survivor's pension cannot benefit children who lost their breadwinner before she/he reached retirement age and as a consequence the surviving spouse, left with two or more children for maintenance but not having 15 years of marriage and no suitable retirement age (which increases from year to year), is left without any help or social protection. This social assistance measure, designed to assist the population in difficult life situations, can have a negative consequence of putting women and children into poverty.<sup>67</sup> The latter conclusion is also confirmed by Law No. 156 of 05 December 2019 regarding the granting of indemnity in case of the death of one of the spouses. This allowance is accessible only if at the date of death, the deceased spouse received a pension for an established age limit that did not exceed 1.5 times the subsistence minimum for pensioners, according to the National Statistics Office available at the time of claiming the allowance, and the surviving spouse, regardless of age, had at least 15 years of marriage with the deceased. Because women live longer than men in the Republic of Moldova on average, according to official data,<sup>68</sup> this measure of social assistance tends to exclude rather than support the social group. The requirement to be married to the deceased for at least 15 years in order to access the survivor's pension, as well as the indemnity in the event of the death of one of the spouses, is arbitrary and unjustified.

### ***The situation of Roma women***

Roma women and girls are one of the most disadvantaged social groups in the Republic of Moldova. Their vulnerable position in terms of social exclusion is based on the interaction of several discriminatory factors such as gender, social class, ethnicity, race, as well as existing practices in the community, based on patriarchal traditions, culture and attitudes.<sup>69</sup> All of these factors together determine the status and role of Roma women and girls in the communities to which they belong (including in households and family relationships), but also in society at large. These factors lead to unequal access of the respective group of women to the services available to the public and to other forms of social welfare. They also contribute to Roma women's reduced participation in decision-making at different levels and their limited contributions to community, family and even personal development. Broadly speaking, Roma women and girls, as a distinct social sub-group within the majority group of women, may be characterized by low education, early marriages, poor health, lack of skills and qualifications for employment and ensuring one's own financial independence, increased risk of poverty, increased risk of being subjected to violence both in the family and in society, as well as other human rights violations.

The National Centre of Roma in the Republic of Moldova has stated that due to poor educational opportunities and low competitiveness of Roma in the labour market, their employment rate is low.<sup>70</sup> Those who succeed in school and university and find employment are subjected to further discrimination. The National Centre of Roma reported on a case of a Roma woman being denied employment because "she is a gypsy and gypsies steal."<sup>71</sup> In another case, a Roma woman was harassed when it was demanded that she leave her position as a kindergarten teacher because "she is a gypsy and can put a spell on the children."<sup>72</sup> There is no information about whether these women sued for discrimination.

Some national analyses<sup>73</sup> show that marriages of girls aged 15 or younger are still common in Roma communities in the Republic of Moldova.<sup>74</sup> Such marriages are done in accordance with long-standing and still existing "traditions" (the parents' agreement). They are not registered with state officials, but occur under the public eye, and the young girl is sent to her "husband's" household when the marriage is sexually consummated. State authorities, while aware of this practice, rarely intervene. Once Roma girls are married, their educational

67. Coaliția pentru Incluziune și Nediscriminare, Alternative Report to Social Charter Committee, available at <https://eucoopnews.md/membrii-coalitieii-pentru-incluziune-si-nediscriminare-indeamna-autoritatile-republicii-moldovei-sa-imbunatateasca-legislatia-privind-egalitatea-si-nediscriminarea/>.

68. Data published by National Bureau of Statistics of the Republic of Moldova for 2014–2019, available at <https://statistica.gov.md/newsview.php?l=ro&idc=168&id=6703>.

69. Available at <https://childhub.org/ro/stiri-protectia-copilului/moldova-fetele-rome-intre-scoala-si-casatoriile-timpurii>, accessed 13 May 2022.

70. Report of the National Centre for Roma, available at <http://roma.md/ro/rapoarte/87-rapoarte-anuale-2010>, accessed 28 November 2016.

71. Case of D.M. in Zirnesti, Cahul, available at <http://roma.md/ro/rapoarte/87-rapoarte-anuale-2010>, accessed 28 November 2016.

72. Case of E.S. in Tohatin District, available at <http://roma.md/ro/rapoarte/87-rapoarte-anuale-2010>, accessed 28 November 2016.

73. The profile of Roma girls and women in Moldova, available at [https://statistica.gov.md/public/files/Cooperare\\_internationala/PNUD/10\\_tablouri\\_femei\\_RM/prof\\_6\\_rome.pdf](https://statistica.gov.md/public/files/Cooperare_internationala/PNUD/10_tablouri_femei_RM/prof_6_rome.pdf), accessed 15 June 2022.

74. data published by the National Bureau of Statistics available at [https://statistica.gov.md/public/files/Cooperare\\_internationala/PNUD/10\\_tablouri\\_femei\\_RM/prof\\_6\\_rome.pdf](https://statistica.gov.md/public/files/Cooperare_internationala/PNUD/10_tablouri_femei_RM/prof_6_rome.pdf).

development is not realized further. They often drop out of school and lack further educational opportunities, and consequently are more often exposed to poverty and social exclusion. In this context, they are fully dependent on their husbands' will, and when the husband is a minor too, they are both dependent on his parents.<sup>75</sup> Roma girls and women not being aware of their sexual and reproductive rights and entitlements to access sexual and reproductive health services, are not able to decide freely and responsibly the timing, spacing and number of children they want. They often give birth to children as adolescents themselves. Virginity proof at marriage is another human rights violation with no scientific basis that occurs in Roma communities. If the Roma girl is not a virgin when married, she can be subjected to violence and returned to her father's home. Her virginity is tied to her husband's honour, which is also used to "justify" men's control over the sexual autonomy of woman.<sup>76</sup>

This situation is in clear contradiction of the government's policy, which since June 2016, has approved a new Action Plan to support the Roma population for 2016–2020, including, among others, measures in the fields of education, employment, housing, health, social protection, culture, community development and participation in decision-making.<sup>77</sup>

Regarding the social exclusion of persons belonging to national minorities, of foreign citizens, such as migrants and refugees, in December 2016, the national Strategy for strengthening interethnic relations for 2017–2027 was adopted, aimed at promoting the integration of persons belonging to national minorities. The strategy includes measures to prevent and eliminate discrimination, xenophobia and ethnic stereotypes through capacity-building programs for civil society and public institutions. Under the National Strategy on Migration and Asylum for 2011–2020, the Government of the Republic of Moldova approved an Action Plan for 2017–2020 on the possibility for foreign citizens, such as migrants and refugees, to have access to employment without discrimination, housing and basic services. However, cases of racial discrimination and xenophobia in the education system (harassment and hate speech), employment (refusal to hire people of colour and Roma), excessive prices for renting housing to foreigners are systematically reported. The social exclusion of these groups isolates them in their own communities, often creating tense or conflicting situations with majority population, including hate-motivated acts against foreigners, migrants and Roma people.<sup>78</sup>

#### ***Measures to redress the underrepresentation of women in decision-making positions***

A separate concern continues to be the low representation of women in decision-making positions in the public and private sector. On this issue, the UN Committee on Economic, Social and Cultural Rights recommended that temporary special measures be introduced to promote the representation of women in decision-making positions (UN Committee on Economic, Social and Cultural Rights 2011: 9). In 2016, new provisions were introduced to the Electoral Code stating that lists of candidates for parliamentary and local elections will be drawn up respecting the minimum representation quota of 40% for both sexes. In 2019, bylaw No. 113, this provision was adjusted further, requiring not only that candidate lists include a minimum representation quota of 40% for both sexes but also that candidates shall be positioned on the lists according to the following formula: a minimum of four candidates for every ten seats. A new provision was introduced to Article 49 of the Electoral Code, stating that if an electoral party presents a list of nominated candidates that does not meet the requirements described above, the Central Electoral Commission or the constituency electoral council will refuse its registration.

### **Regarding access to sexual and reproductive health services**

#### ***Women***

Women, young people (women and men) and women with disabilities remain the most disadvantaged social groups in the realization of this right. Although the Government of the Republic of Moldova is constantly working to combat the causes of serious diseases, such as cancer and diabetes, it is clear that in some are not comprehensive and as a consequence, women are excluded, which is discriminatory. For example, the pap smear test is free for all women of reproductive age and is performed once every three years, regardless of whether the woman has a compulsory health insurance policy (status of insured person in the medical system) or not. If the test is positive, precancerous medical treatment to prevent the development of cancer is available only to insured women. Other women are required to pay for this medical treatment themselves. Only the treatment of uterine cancer is free for all woman, regardless of the status of insured person in the medical system.<sup>79</sup>

75. UNICEF Moldova Study available at <https://www.unicef.org/moldova/copiii-de-etnie-romã>, accessed 10 May 2022.

76. MR Rita Izsák-Ndiay UN Special Rapporteur on Minority rights, Report on Moldova available at <https://www.ohchr.org/en/press-releases/2016/06/promotion-linguistic-rights-and-strengthening-unity-are-key-moldova-un>, accessed on 15 June 2022.

77. Investigations available at <https://www.investigatii.md/ro/investigatii/drepturile-copilului/fetele-rome-intre-scoala-si-casatoriile-timpuri>, accessed 10 May 2022.

78. ECRI Report on the Republic of Moldova (fifth monitoring cycle) published on 02.10.2018, available at <https://rm.coe.int/fifth-report-on-the-republic-of-moldova-translation-in-official-langua/16808de7d9>.

79. Available at <https://cidsr.md/ro/?s=COVID>, accessed 15 June 2022.

To date, not all modern contraceptives for women are available on the pharmaceutical market in the Republic of Moldova. There is a lack of hormone patches, implants and condoms for women, as well as progesterone-based contraceptives, that are necessary for women in the postpartum period. The lack of these modern methods of contraception deprives women of the right to choose the most appropriate method to protect their reproductive health and, as a consequence, places women in a socially-disadvantaged position when they have to resort to traditional forms of contraception, and even to abortion as a method of contraception, as occurs in rural areas.<sup>80</sup>

### ***Young people***

A significant effort was undertaken by the Republic of Moldova to ensure that young people can access comprehensive sexual and reproductive health services. The 41 Youth Friendly Health Centres established at the district/rayon and municipal level are staffed with multidisciplinary teams of specialists, such as gynaecologists, urologists/andrologists, dermato-venereologists, midwives, nurses, psychologists and social workers, offering a broad range of free services to young people aged 10–24 years, covering among other free sexual and reproductive health services, including contraceptives and testing for sexually transmitted infections (STIs) and HIV. However, a particular and persistent challenge is the current legislation related to the age of consent to access health services that only allow teenagers under the age of 16 to access sexual and reproductive health services with the consent of their legal representative – a parent or guardian. Medical professionals are obliged to obtain this consent before offering access to sexual and reproductive health services to a teenager under the age of 16.<sup>81</sup> In the context of the today's globalisation and high rates of migration, many teenagers are living with family members who are not their legal representatives in the eyes of the law, and this impedes their access to sexual and reproductive health services, particularly in case of STI treatment, safe abortion services, HIV testing, emergency contraception etc. Not all health providers know how to apply the legal provision related to the age of consent to access sexual and reproductive health services in young people's best interests, and furthermore, many young people do not know their rights and entitlements to access sexual and reproductive health services. Lockdowns imposed during the Covid-19 pandemic presented an additional challenge as the access to online sexual and reproductive health information and counselling, provided by the Network of Youth Friendly Health Centres, was required internet access which in rural areas is still insufficient, particularly for young people from vulnerable groups. Sexual and reproductive health services provided by public health care providers (family doctors and medical assistants) in villages also were only partially physically accessible during lockdowns. In addition, adolescents and youth living in rural areas generally do not consider the sexual and reproductive health services provided by public health care providers to be psychologically acceptable due to the close acquaintance of public health care providers with their own family members (acceptable sexual and reproductive health services are those that offer some degree of comfort that one's visit will remain confidential). Mobile teams of the Youth Friendly Health Centres offering sexual and reproductive health services to youth and teenagers from villages in the territory they serve, could be an alternative solution. However, this would require the state to allocate additional resources, needed to finance the outreach sexual and reproductive health services to be provided by Youth Friendly Health Centres that are tailored to the needs of the target groups, and which would be considered acceptable to them.<sup>82</sup>

### ***Women with disabilities***

Women with intellectual, locomotor, sensory and mental disabilities are the most discriminated social group in terms of access to reproductive health services due to multiple stereotypes in society and in the medical field about their sexuality and due to non-respect for the right to family. Furthermore, disability in the Republic of Moldova is widely regarded as a disease.<sup>83</sup> This approach prevents women with locomotor disabilities from accessing gynaecological services, which are often located on higher floors, in architecturally unsuitable buildings for wheelchair access. Furthermore, many medical centres in the country lack gynaecological chairs adapted to the needs of women with locomotor disabilities (some have been procured with the financial support of international and/or private institutions) and lack accessible information for women with intellectual (easy to read and understand) or sensory disabilities (in Braille and sign language). The disability of a pregnant woman continues to often be an indicator for abortion, which perpetuates existing stereotypes in society about the inability of a woman with a disability to give birth and care for her own child. The most severe examples, from the point

80. Rodica Comendant, expert in reproductive health, lecture on sexual reproductive health services, contraceptives and challenges during COVID-19 pandemic for girls and women, available at <https://youtu.be/Q7OPn6TkLal>, accessed 15 June 2022.

81. Available at <https://yk.md>, accessed 15 June 2022.

82. UNFPA Moldova data available at <https://moldova.unfpa.org/en/publications>, accessed 10 May 2022.

83. IDOM Report on sexual and reproductive health care for women and girls with intellectual and mental disabilities, available at <https://idom.md/category/publications>, accessed 15 June 2022.

of view of human rights, are the cases of separation of newborn children from their mothers, women with intellectual disabilities residents in state institutions.<sup>84</sup>

Access to contraceptives and sexual-reproductive services of women with disabilities residing in state institutions is conditioned on the consent of employees of these institutions (for example, a psychiatrist, director, nurse) but also on the physical accessibility of these services because for the woman to go to a medical centre she needs the institution's consent and transport (or money for transport). Lacking her own financial resources and without the consent of the employees of the residential institution, the disabled woman cannot receive a consultation from a gynaecologist of her choice and when she needs it. She cannot decide on the method of contraception and is not free to decide to start a family. Information on sexual and reproductive health for women is not accessible. Generally, the institution keeps track of the women's menstrual cycle without informing or educating the women about their health. The situation is even worse in state institutions for minors with disabilities, especially girls, where they reach adulthood and continue to live in isolation from society.<sup>85</sup>

The most severe examples, from the point of view of human rights, are cases of separation of newborn children from their mothers, women with disabilities in residential institutions (temporary placement centres for people with disabilities located in Balti municipality, Edinet district, Soroca district and the town of Cocieri). In at least three cases known to civil society, women with disabilities have been pregnant in residential institutions, without receiving social assistance services in preparation for pregnancy and maternity. After the birth of their children, they were separated from their newborns and returned to the institutions, depriving them of the right to family life with their child and possibly with the child's father. After birth, women were allowed to visit their newborns for a time, but the Covid-19 pandemic and subsequent lockdown and quarantines prevented any further visits. The women were not provided with alternative means of communication.

Although the Government of the Republic of Moldova undertook the obligation to carry out actions to deinstitutionalize persons with disabilities, no priority was given to providing these women with the necessary social assistance for the reintegration with their children into the society, to keep the family together. The woman's disability is the justification used by the authorities to separate the mother from the child and transmitting the child for adoption, depriving the woman of her parental rights. This approach has proved to be the cheapest and easiest for the authorities. Deinstitutionalization mainly benefits young men with disabilities with a higher degree of autonomy that have passed a selection procedure. Even in such cases, the houses purchased to place the deinstitutionalized persons are dependent on the budget of the residential institution and their employees who serve them.<sup>86</sup> Autonomy is not guaranteed either and men living in such conditions also have the same dependence on financial and human resources is the same (a mini boarding institution). This raises the question of why women with disabilities could not be placed in these homes with their children, rather than opting for their separation.<sup>87</sup>

### ***Adoption and assisted reproduction***

Same-sex couples face multiple challenges when they decide to form their own families. First, they are not recognised under Moldovan law as a family. This contradicts the jurisprudence of the European Court of Human Rights, which has found that same-sex couples<sup>88</sup> and single parents with their/her/his child to be families,<sup>89</sup> thereby benefiting from the protection of Article 8 of the European Convention on Human Rights. There is no alternative to marriage for same-sex couples to seek recognition and protection under the Moldovan Family Law. Similarly, it is impossible to obtain the recognition of same-sex marriages or civil partnerships registered outside of the Republic of Moldova. Nevertheless, it appears that the Family Law protects some relationships, for example that of a gay parent and her/his child. A second parent, not biologically related to the child, but who has lived with the child and cared for her/him, may be appointed the child's guardian in the case of death of the biological parent or if she/he is deprived of her/his parental rights or legal capacity. Once the child has reached the age of ten, the CPS is bound by family law to take into account the opinion of the child when it decides upon guardianship. Before the age of ten, however, no such obligation exists and the second parent risks being excluded from the child's life by members of the extended family or by the CPS.

Lesbian couples can use *in vitro* or artificial insemination medical services to give birth to a child that would be biologically linked to both of them if one of the women uses donor sperm from a close relative. Such an opportunity is not open to homosexual male couples because the birth act and then the birth certificate of the child

84. UNFPA Moldova data available at <https://moldova.unfpa.org/en/publications>, accessed 15 June 2022.

85. IDOM National Report 2020/2021 available at <https://idom.md/reports/>.

86. Ibid.

87. Ibid.

88. European Court of Human Rights case of *Schalk and Kopf v. Austria*, Application No. 30141/04, judgment of 24 January 2010.

89. European Court of Human Rights case of *Marckx v. Belgium*, Application No. 6833/74, judgment of 13 June 1979.

will only indicate the woman who gave birth as the mother and not the woman who donated the eggs which can be biologically linked. Surrogate birth is not allowed by law. Therefore, the only way for a homosexual male couple to become parents is for one of them to have the child with a woman who then becomes the child's biological mother. There are no known cases where maternity has been challenged between the woman who has given birth and the one who donated the eggs. There are same-sex couples where one is officially in a registered marriage to someone else. If a child is born to such a parent, paternity will be presumed to belong to the mother's husband until he successfully challenges this in court. Once a child is born to a same-sex couple, affiliation and kinship will be determined with regard to her/his biological parent only, to the mother.

Law No. 99/2010 on adoption<sup>90</sup> is explicit only about heterosexual couples and single adults regardless of sexual orientation, as eligible for adoption. Adoption is open for a single homosexual or heterosexual person, provided that other eligibility criteria are met.

Law No.138/2012 on reproductive health<sup>91</sup> guarantees the right to treatment for infertility and the right to medically assisted reproduction using new scientific technologies. It clearly states that single women can receive and use donor sperm, upon their written request, for artificial or *in vitro* insemination. Single men, however, may not use donor eggs due to the fact that surrogacy is not regulated by legislation. The law does not explicitly deny medically assisted reproduction to same-sex couples.<sup>92</sup>

### ***Discriminatory criminalisation of women who have abortions***

The right to terminate one's pregnancy<sup>93</sup> is guaranteed by legislation.<sup>94</sup> Any woman who has reached the age of 16 may have an abortion before prior to becoming 12 weeks pregnant. Below 16 years of age, teenage girls need to have the consent of their parent or guardian.<sup>95</sup> If the woman wishes to have an abortion between 12 and 21 weeks of pregnancy, she needs to demonstrate that her situation falls into one of the permissible situations under the Ministry of Health Order No. 647 of 21 September 2010 on voluntary termination of pregnancy.<sup>96</sup>

The Equality Council's decision of 4 July 2014, in Case No. 087/14, recognised the use of abortion as contraception in the absence of the woman's free and informed consent as gender-based discrimination against women with disabilities who were residents of the Balti psycho-neurological institution.<sup>97</sup> Due to their disability and placement in a residential state institution, and a lack of information on reproductive health and law, none of these women known to have had such an experience complained to the law enforcement authorities. The complaint to the Equality Council, and later to the prosecutor's office, became possible after a lawyer learned of this practice and assumed the role of victims' public defender.<sup>98</sup> Another case has been made public as gender-based discrimination when a young woman, Z.,<sup>99</sup> was convicted and sentenced to 20 years' imprisonment for having conducted an abortion at home late in her pregnancy. The act was qualified as premeditated murder, the woman was then denied access to post-abortion medical care and humiliated by guards while being detained awaiting trial (Centre for Reproductive Rights 2012a). An application to the European Court of Human Rights was lodged (and is still pending), arguing that in addition to the shortcomings of the investigation, conviction and punishment of Z. for the abortion, that the actions of the judicial system against her were due, in large part, to discriminatory attitudes towards unwed pregnant women and the stigmatisation of abortion in the Republic of Moldova (Centre for Reproductive Rights 2012b).

90. The full text of the law is available at <http://lex.justice.md/md/335424>, accessed 28 November 2016.

91. The full text of the law is available at <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=344838>, accessed 28 November 2016.

92. Law No. 138 of 15 June 2012 on reproductive health, Article 9, pp. 6, 7, 9.

93. Abortion has been allowed since 1955 through the legislation of the Soviet Union, and has been performed upon the woman's request until she is 12 weeks pregnant. This right has suffered minor changes over time, mostly as regards the list of situations allowing for abortion at a later stage in pregnancy, available at [www.avort.md](http://www.avort.md), accessed 28 November 2016.

94. Articles 3 and 5 of Law No. 138 of 15 June 2012 on reproductive health guarantee and secure access to safe abortion for every woman, as well as to the new technologies for prenatal diagnosis of any foetus' malformation, in which case the woman may have a free and safe abortion.

95. Article 12 of Law No. 138 of 15 June 2012 on reproductive health.

96. Published in the "Monitorul Oficial" no. 241–246 of 10 December 2010, as Article 948, available at <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=336941&lang=1>, accessed 28 November 2016. Also applicable is the Ministry of Health Order No. 482 of 14 June 2011 regarding approved standards for safe termination of pregnancy.

97. The full text of the decision is available at [www.egalitate.md/index.php?pag=news&id=836&rid=503&l=ro](http://www.egalitate.md/index.php?pag=news&id=836&rid=503&l=ro), accessed 28 November 2016.

98. Case No. 087/14 had at its basis the pleadings of the female lawyer who took on the representation of the women with disabilities.

99. As reported by IDOM (the Moldovan Institute for Human Rights), available at [www.idom.md](http://www.idom.md), accessed 28 November 2016.; in May 2006, Z., an unmarried, pregnant and poor young woman from rural Moldova, induced an abortion at a late stage of her pregnancy at her home. When she was taken to the hospital for haemorrhagic shock, doctors reported her to the police. She was then charged with intentional murder, even though medical records show that she had an abortion and there is no criminal penalty for women who illegally terminate their pregnancy. In December 2006, Z. was found guilty of murder and sentenced to 20 years in prison. On 31 January 2012, the Moldovan Pardoning Commission granted a pardon to Z. after she had spent five years in prison.



### **Other gaps related to the reproductive health of women**

Other issues in reproductive health law that present particular challenges for women are a lack of regular data collection on indicators of sexual and reproductive health, including disaggregated data on vulnerable groups; the absence of mandatory, non-judgmental, evidence-based sex education in public schools;<sup>100</sup> the absence of affordable contraceptives<sup>101</sup> and reproductive health services; the parental consent requirement on abortion, which may prevent an adolescent girl from accessing safe abortion; the requirement on doctors to report illegal abortions, which may lead to women being blamed, stigmatised and marginalised, impeding them from accessing post-abortion medical care; continued gender stereotypes in the health system and other areas, including the media; and stigmatisation of women who have had an abortion.<sup>102</sup>

#### **Regarding access to social and health care services**

There is no emergency centre or referral system for cases of sexual violence where victims could receive medical and social assistance in the Republic of Moldova. Services for victims of sexual violence are offered only by non-governmental organizations specialized in providing assistance to victims of domestic violence from resources accumulated through grants/projects with external funding.<sup>103</sup> Most of these service providers do not specialize in responding to sexual assault cases and do not have special training or access to such training. The action plan for 2018–2020 to implement the National Strategy on Combating Violence against Women and Domestic Violence for 2018–2023 includes several actions for the creation of response teams to cases of sexual violence. In particular, provision has been made for the development and adoption of standard operating procedures for sexual violence response teams by 2019. Unfortunately, such procedures do not exist today and no violence response teams or sexual abuse crisis centres have been established.

A working group was formed to develop standard operating procedures for responding to cases of sexual violence, but there is no clear prognosis on when such standards will be approved or implemented. The situation mainly disadvantages girls and women, who according to national statistics are predominantly victims of sexual violence and domestic violence.<sup>104</sup> Experts expect that with the ratification of the Istanbul Convention on 14 October 2021, the Government of the Republic of Moldova will prioritize both the creation of response teams to cases of sexual violence and the adoption of standard operating procedures for them to stop discrimination of this social group (girls and women victims of sexual violence) in access to social and health care services necessary for the treatment and rehabilitation, arising from the specifics of these offenses.<sup>105</sup>

Regarding medical care during the Covid-19 pandemic, it should be mentioned that people who tested positive for Covid-19 in mild and moderate forms were treated at home by family doctors and obliged to procure medicine at their own expense, including for post-Covid-19 treatment, even though they were medically insured (holders of the compulsory medical insurance policy).<sup>106</sup> The National Medical Insurance Company stated that it would not reimburse these expenses, due to the fact that they were not hospitalized. The treatment, although expensive, was not covered by compulsory health insurance until changes were made to the regulations.<sup>107</sup> There were also reports of an acute shortage of medicines in pharmacies needed for home treatment, and also the fact that prices were artificially increased.<sup>108</sup> The lack of a clinical protocol on home treatment of patients in moderate or moderate-severe conditions, the lack of unified recommendations, led to the development of different treatment schemes proposed by family physicians, which contradicted each other, causing mistrust and anxiety among

100. Ms Tamara Plamadeala, the Child's Ombudsperson, and the Moldovan Orthodox Church protested against sex education in schools, see [www.publika.md/juristii-ortodocsi-avocatul-copilului-si-mitropolia-moldovei-impotriva-vietii-sexuale-in-scoli-cerem-tractarea-cartii\\_1321531.html](http://www.publika.md/juristii-ortodocsi-avocatul-copilului-si-mitropolia-moldovei-impotriva-vietii-sexuale-in-scoli-cerem-tractarea-cartii_1321531.html), accessed 28 November 2016.

101. Contraceptives are not covered by the medical insurance policy.

102. Human rights NGOs submitted a letter of protest to the Minister of Health against the intention of an Orthodox group to place a "commemorative stone for unborn, aborted children" near a maternity Centre for the Mother and Child, see [www.avort.md/wp-content/uploads/2015/06/SCRISOARE-DE-SESIZARE-ON-PRIVIN-A-INTIMID-RII-FEMEILOR-ON-EXERCITAREA-DREPTULUI-LA-ALEGERE-I-DISPUNERII-DE-PROPRIUL-CORP1.pdf](http://www.avort.md/wp-content/uploads/2015/06/SCRISOARE-DE-SESIZARE-ON-PRIVIN-A-INTIMID-RII-FEMEILOR-ON-EXERCITAREA-DREPTULUI-LA-ALEGERE-I-DISPUNERII-DE-PROPRIUL-CORP1.pdf), accessed 28 November 2016.

103. Available at <https://stopviolenta.md>, accessed 15 June 2022.

104. Women's Law Center, Report on the Compatibility of the legislation of the Republic of Moldova with the provisions of the Istanbul Convention, available at <http://cdf.md/rom/news/centrul-de-drept-al-femeilor-re>, accessed 15 June 2022.

105. Ibid.

106. Ombudsperson's Statement on COVID-19 treatment costs not being covered by the state, available at <http://ombudsman.md/news/avocatul-poporului-bate-alarma-persoanelor-care-se-trateaza-la-domiciliu-de-sars-cov-2-li-se-incalca-dreptul-la-viata-si-sanatate-mihail-cotorobai-a-recomandat-ministerului-sanatatii-muncii-si-prot/>, accessed 15 June 2022.

107. The National Medical Insurance Company (CNAM) published latest data indicating that the amount of expenses incurred during the period mentioned above from the compulsory health insurance funds for reimbursed drugs intended for people diagnosed with COVID-19 was over 7 million 607 thousand lei, of which around 1 million 444 thousand lei is the money for the preparations included in the COVID-19 treatment scheme, available at <http://www.cnam.md/?&page=46&news=1268>, accessed 15 June 2022.

108. Ministry of Health, Social Protection and Family Report on measures taken to stop the spread of COVID-19 infection, available at [http://msmps.gov.md/wp-content/uploads/2020/06/raport\\_msmps\\_privind\\_masurile\\_de\\_raspuns\\_la\\_infecția\\_covid-19\\_.pdf](http://msmps.gov.md/wp-content/uploads/2020/06/raport_msmps_privind_masurile_de_raspuns_la_infecția_covid-19_.pdf), accessed on 15 June 2022.

patients. This situation has hit significantly the poorest social groups and those in rural areas, where the drug shortage has been felt the most and their price has left many Covid-19 patients without treatment.<sup>109</sup>

The measures taken to address the pandemic also disproportionately impacted the distribution of caring and domestic obligations in families, with women being given the largest share. By in large it was women took on the care burden for family members who were infected with the coronavirus at home, in addition to their other responsibilities, work and assisting with children's education. This then led to serious consequences for women's physical and mental health.<sup>110</sup>

During lockdowns and other restrictions in the context of the Covid-19 public health emergency, health information and counselling was offered by family doctors via mobile applications and where the internet connection was an issue, by phone. At the same time not all primary health care facilities use put accessible and quick sources of information for the population on issues of interest on their internet sites.<sup>111</sup> In the respective period, the staff of Youth Friendly Health Centres provided on-line multi-disciplinary counselling services, including on sexual and reproductive health care, to a targeted audience (adolescents and youth), using free available mobile applications and also offered information on sexual and reproductive health resources to young people via their web and social media pages. The tele-medicine medical abortion service delivery model was also piloted in Moldova in the context of Covid-19.<sup>112</sup> However there is still lack of an enabling environment for developing and sustaining a well-organized and functioning telemedicine service at the national level, that would be able to ensure the continuous delivery of essential healthcare services, including sexual and reproductive health services, in the context of any public health emergencies. This is due to such factors as the absence of a legal framework and regulations needed for telemedicine healthcare organising, functioning, financing, quality assurance and personal data protection.<sup>113</sup>

Several national reports have noted discrimination against public associations carrying out economic activities (non-profit organizations) as they could not access state subsidies for bank and non-bank loans contracted to pay salaries and taxes during the Covid-19 pandemic.<sup>114</sup> The Government of the Republic of Moldova adopted Law no. 60 of 23 April 2020 establishing the Interest Subsidy Program and the Value Added Tax Reimbursement Program to support employees and employers in the economic effects of the epidemiological situation (Covid-19) in the country. When implementing the normative framework, the non-commercial organizations were confronted with the fact that the Fiscal Inspectorate and the Ministry of Economy excluded them from the list of beneficiaries of the Interest Subsidy Program. This exclusion was based on the legal status of the petitioner – a public association with the right to carry out economic activity (non-commercial organization) and was achieved by refusing to provide the subsidy. The responsible authorities confirm that this exclusion did not result directly from the provisions of Law no. 60/2020 nor from the Regulation on the way of subsidizing the interest on bank and/or non-bank loans contracted between 1 May 2020–31 December 2020. The exclusion was based on the fact that Law no. 60/2020 did not indicate directly that the beneficiaries are also non-commercial organizations, being only written the phrase "... in order to support employees and employers in the conditions of economic effects of the epidemiological situation (Covid-19) in the country ...". The interpretation of this phrase by the authorities resulted in a discriminatory practice against employees and employers of non-profit organizations that contracted bank and/or non-bank loans between 1 May 2020 and 31 December 2020 for the payment of taxes, salaries and other taxes, paying interest from the amounts borrowed.<sup>115</sup>

## **Regarding criminal and misdemeanour laws**

### ***Sexual harassment***

Recent development in the law have increased protection against stalking and harassment, either as gender-based violence action or as discrimination or sexual harassment. Law No. 121/2012 recognises harassment

109. Ministry of Health, Labour, Social Protection and Family information on the costs of the COVID-19 treatment <http://mmpsf.gov.md/ro/content/detalii-cu-privire-la-tratamentu-la-domiciliu-pacientilor-covid-19>, accessed 15 June 2022.

110. National Coalition "Life without violence" Annual Report 2020, <https://stopviolenta.md/biblioteca/publicatii/315-raport-anual-coalitia-naional-viaa-fr-violen-in-familie-anul-2020.html>.

111. Ibidem.

112. Mass media investigations and patients interviews, available at <https://newsmaker.md/ro/cum-sunt-tratati-la-domiciliu-bolnavii-de-covid-din-moldova-cat-costa-tratamentu-si-de-ce>, <https://www.moldova.org/cat-costa-sa-te-tratezi-de-covid-19-la-domiciliu/>, accessed on 15 June 2022.

113. UNFPA Moldova reports, available at <https://eeca.unfpa.org/en/covid19>, accessed 15 June 2022.

114. The Equality Council, Decision no. 296/20 of 23.03.2021, available at [https://egalitate.md/wp-content/uploads/2016/04/Decizie\\_constatare\\_296\\_2020.pdf](https://egalitate.md/wp-content/uploads/2016/04/Decizie_constatare_296_2020.pdf).

115. The Equality Council recommended that the Government review the policy and ensure that there is no unjustified discriminatory treatment applied in accessing the Interest Subsidy Program and the VAT Reimbursement Program aimed to support employees and employers in the economic effects of the epidemiological situation (COVID-19).

as a form of discrimination.<sup>116</sup> Harassment, in particular, is banned in employment, providing that one can prove that a hostile working environment is based on a protected ground, for example sex, age, disability or religion.<sup>117</sup> If there is sufficient evidence, the Equality Council, upon the victim's request, may decide to recommend that the court apply a penalty with a fine.<sup>118</sup> Sexual harassment<sup>119</sup> has been recognised as a criminal offence<sup>120</sup> in the Moldovan Criminal Code since 2010. The burden of proof in criminal cases rests with the Prosecutor's Office and since sexual harassment frequently occurs in private settings in the absence of an eyewitness or direct evidence, successful investigation and conviction is challenging. There is no data about the number of complaints lodged or cases brought successfully to court that have ended with a conviction.<sup>121</sup> Several years ago, the media reported on a criminal case known to have had reached the domestic courts. It concerned two female state employees who had complained about being sexually harassed by their boss. They filmed the ordeal and reported him to law enforcement. Once the criminal case reached the court, the defendant and the victims came to an agreement for a pardon. The court accepted the agreement and closed the case.<sup>122</sup> Another criminal case, recently reported to the public, concerned a judge accused of sexual harassing a female intern. The Supreme Council of Magistrate refused to grant the General Prosecutor's request to indict the judge but decided to suspend him.<sup>123</sup> There are also a number of cases lodged in the civil courts that have examined allegations of harassment. In one case a woman sued her ex-husband for harassing her because of her sexual orientation. In another case, one individual alleged sexual harassment when another forced him to undress and filmed him without his consent. A single case has been lodged with the Equality Council alleging sexual harassment in the workplace.<sup>124</sup>

### **Domestic violence**

Law No. 45/2007 on prevention and combating family violence recognises several forms of domestic violence: physical, psychological, sexual, economic and spiritual. In the past, law enforcement and prosecutor's offices open criminal investigations only when victims can show the presence of bodily injuries, however light or insignificant. This approach has left those women who suffer forms of domestic violence other than physical abuse unprotected.<sup>125</sup>

There are still cases, reported by the media, showing that the prosecutor's office tends to open a criminal case on a domestic violence crime only if the victim provides evidence of bodily injuries (light, medium or grave). Economic violence or psychological violence are rarely considered serious enough for a criminal conviction but some convictions can already be reported.<sup>126</sup>

In July 2016, the Parliament of the Republic of Moldova adopted amendments to improve and harmonise national legislation on domestic violence and violence against women with the standards of the Istanbul Convention. Importantly, the amendments introduced emergency restraining orders, free legal aid to victims, and extended the definition of violence to include stalking.

A child facing violence in the home for their sexual orientation or gender identity may benefit from the protection of Law No. 45/2007 and yet, children's fears of violence and hatred towards them for their sexual orientation or gender identity may also prevent them from seeking protection. As a result, they may become runaways and homeless.<sup>127</sup>

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116. Defined as unwanted conduct that creates a degrading, hostile working environment based on a protected ground aimed at, or resulting in, humiliation of one's dignity, Article 2 of Law No. 121 of 25 May 2012.

117. Article 7 Law No. 121 of 25 May 2012.

118. Article 54 (2) of the Misdemeanour Code imposes a penalty with fines from 2 600 MDL to 8 000 MDL.

119. Law No. 5 of 9 February 2006 on the equal chances of men and women defines sexual harassment as any behaviour – physical, verbal or non-verbal – of a sexual nature that denigrates the dignity of the person or creates an unpleasant, hostile, degrading, humiliating or offensive environment. This definition will be changed by draft law No. 180 approved by Moldovan Government Decision No. 322 of 8 May 2014, once it is voted on by the Moldovan Parliament. The new definition will be same as that in the Criminal Code.

120. It has been defined differently by Article 173 of the Criminal Code and by Article 2 of Law No. 5 on equal chances for men and women.

121. La Strada Report on system's response to sexual abuse cases, available at <https://lastrada.md/pic/uploaded/Raport%20de%20compatibilitate%20norme%20penale%20VS.pdf>.

122. A news article on this case is available at <http://unimedia.info/stiri/dosar-penal-pe-numele-sefului-hidrometeo-pentru-hartuire-sexuala-50791.html>, accessed 28 November 2016.

123. Mass media investigation available at <https://lastrada.md/pic/uploaded/Raport%20de%20compatibilitate%20norme%20penale%20VS.pdf>.

124. Decision of 12 June 2014 in the Case No. 074/14 lodged by N.G.-J against her boss A.R. and colleagues I.C., V.C., V.G., employees of S.A. "Apa-Canal." The Equality Council did not find sexual harassment but made a statement about discriminatory practices against women in promotion decisions.

125. European Court of Human Rights case of *T.M. and C.M. v. Moldova*, Application No. 26608/11, judgment of 7 January 2014, para. 47.

126. Fact-based survey of the OSCE and La Strada, "Existing practices on access to justice for victims of domestic violence and the realisation of their right to legal assistance in the Republic of Moldova."

127. *Ibid.*

Gender was not among the grounds recognised by the Criminal Code as an aggravating circumstance until recently when the Criminal law was reformed<sup>128</sup> to recognise hate crimes as a separate grave human rights violation. Gender, sex, gender identity and sexual orientation are among the prohibited grounds considered to be a motive for the perpetrator driven by prejudice against the victim.<sup>129</sup> Besides introducing the concept, the reform changes a wide list of criminal offences to add as an aggravating circumstance the “prejudice” motive of the perpetrator.<sup>130</sup>

In this period, women remained disproportionately<sup>131</sup> the of victims of domestic violence.<sup>132</sup> In the cases of *Eremia and Others v. the Republic of Moldova*<sup>133</sup> and *Mudric v. the Republic of Moldova*,<sup>134</sup> the European Court of Human Rights found the Republic of Moldova responsible for discriminatory ill-treatment, meaning failure to fulfil its positive obligations to protect women from gender-based violence, such as domestic violence.

Law No. 45 with subsequent amendments and additions in recent years, provides an important basis for extending access to justice and security for victims of domestic violence, to access effective protection for themselves and their children. These amendments pushed for updated Regulations and Instructions (for police, social assistance structures and medical institutions) which would provide for clear intervention actions. However, cases in practice show a lack of a coordinated holistic response, which would include prompt and effective action by all actors. To address this situation, the Ministry of Labour, Social Protection and Family in partnership with UN Women and the Center for Women’s Rights, in the context of strengthening the national response to cases of domestic violence and violence against women, drafted an Instruction on the Mechanism for Intersectoral Cooperation on intervention in cases of domestic violence.<sup>135</sup> In June 2022 the instruction was approved by a joint order of the Ministry of Labour and Social Protection, the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Health, and the National Council for State Guaranteed Legal Aid.<sup>136</sup>

In a national emergency (such as during lockdowns due to Covid-19), victims seldom requested assistance due to fear of contagion, restricted transport, and the suspension of provision of specialized services, because they were unsure and unfamiliar with how to manage the risk of infection. Furthermore, the economic consequences of the pandemic, such as job and income loss, have also severely affected women by creating or even exacerbating their financial dependence on their violent life partners, thus reducing their capacity to leave the aggressors.

Reports of specialized telephone services<sup>137</sup> for victim assistance documented a fourfold reduction in calls, while texting on social media pages increased, leading to the conclusion that the control power of the perpetrators significantly reduced the chances of victims to ask for help over the phone. At the same time, in some cities, the demand for placement in specialized services increased.<sup>138</sup>

### **Rape**

Rape remains an egregious crime against women.<sup>139</sup> Evidence of physical resistance and of lack of consent for sexual intercourse is required of victims, no matter what their age.<sup>140</sup>

128. Law no. 111 of 21 April 2022, which entered into force on 3 July 2022, uses the term “crime of prejudice.”

129. *Ibid*; An expansive list of protected grounds is introduced, namely “Prejudice means preconceived ideas of the perpetrator based on considerations of race, colour, ethnicity, national or social origin, nationality, sex, gender, language, religion or belief, political opinion, disability, sexual orientation, gender identity, state of health, age, marital status, whether the act is committed in relation to the person possessing such protected characteristics, in respect of his property or associated with it or in respect of the person providing support to persons possessing such protected characteristics or is associated with however, this association being real or perceived as real.”

130. *Ibid*.

131. Fact-based survey of the OSCE and La Strada, “Existing practices on access to justice for victims of domestic violence and the realisation of their right to legal assistance in the Republic of Moldova,” Table 2 “Statistical information.”

132. European Court of Human Rights communicated cases of domestic violence against Republic of Moldova, press releases available at [https://hudoc.echr.coe.int/eng#{"docname":\["Moldova"\],"documentcollectionid2":\["COMMUNICATEDCASES"\]}](https://hudoc.echr.coe.int/eng#{), accessed 16 June 2022.

133. European Court of Human Rights, Application No. 3564/11, judgment of 28 May 2013.

134. European Court of Human Rights, Application No. 74839/10, judgment of 25 June 2013.

135. Ministry of Labour, Social Protection and Family press release available at <https://ms.gov.md/?s=violenta+in+familie>, accessed 15 June 2022.

136. UN Women Moldova. 2022. Signing ceremony of the intersectoral cooperation mechanism for domestic violence. 21 June 2022, available at <https://moldova.unwomen.org/en/stories/comunicat-de-presa/2022/07/semnarea-ordinului-cu-privire-la-aprobarea-instructiunii-privind-mecanismul-de-cooperare-intersectoriala-in-cazurile-de-violenta-in-familie>, accessed 20 December 2022.

137. The activity Report of the Hotline 0 8008 8008 for victims of domestic violence and gender-based violence for 2020.

138. National Coalition “Life without violence” Annual Report 2020, <https://stopviolenta.md/biblioteca/publicatii/315-raport-anual-coalitia-naional-viaa-fr-violen-in-familie-anul-2020.html>;

139. Article 171 of the Moldovan Criminal Code states that rape, meaning sexual intercourse committed by use of the physical or psychological constraints of a person or by abusing a person’s inability to defend herself/himself or to consent, is punishable with imprisonment from three to five years, and Article 174 of the Moldovan Criminal Code states that sexual intercourse, homosexual acts or lesbian acts with a person who is known to be under the age of 16, are punishable with imprisonment for up to five years.

140. European Court of Human Rights, *I.G. v. the Republic of Moldova*, Application No. 53519/07, judgment of 15 May 2012.

Women with disabilities, who are residents of psycho-neurological institutions, are extremely vulnerable to sexual violence, as has been proven by law enforcement during criminal investigations between January and May 2013, when 20 women were identified as having been sexually abused by their doctor.<sup>141</sup> Some of them were left pregnant and underwent abortions at late stages of pregnancy.<sup>142</sup>

There are still no official disaggregated statistical data at the national level regarding sexual violence and marital rape. These crimes are still underreported due to persisting gender stereotypes on rape and intimate partner violence among general population and lack of law enforcement response. There is still no national protocol in force on clinical management of rape to specify the pathway for care in case of rape and intimate partner violence. Consequently, there is no clear guidance available for medical professionals on how to assist survivors of sexual violence, including in case of humanitarian crises/emergency situations. Today, the victim/survivor of rape must visit the Centre for Forensic Medicine to preserve the forensic evidence for further legal action, but these services are unavailable on weekends and after official working hours (Monday – Friday from 08.00 – 16.00). These centres do not provide information on services available for victims/survivors of sexual abuse. In some cities there are no forensic medical experts, leaving victims/survivors of sexual violence having to travel miles to another institution for forensic evidence collection/documentation for legal action. Another challenge that rape survivors face is the lack of an integrated approach in providing all necessary health services needed (first-line support, treatment of injuries, post-exposure HIV prophylaxis, emergency contraception for preventing unwanted pregnancy, prevention of STIs, tetanus prevention, Hepatitis B prevention, mental health support etc) in one healthcare institution. For example, emergency contraceptive pills are available free of charge for survivors of sexual violence at the primary healthcare level, while post-exposure HIV prophylaxis (PEP) is only available at the level of Territorial Cabinets for Outpatient Antiretroviral Treatment (ART). Other services required to address the specific needs of victims/survivors of rape or intimate partner violence, such as shelters/social support, psychological support and legal counselling, are mostly provided by non-governmental organizations (NGOs) based on financial support from donors that covers more than 60% of all costs related to the respective services.

The country has an insufficient number of shelter places. Currently, there are seven public institutions providing shelter to victims of domestic violence, twelve non-governmental organisations providing support services to victims of domestic violence at the local, regional and national levels, and four centres for perpetrators. There is one round-the-clock helpline accessible seven days per week providing counselling services to victims. It is the only service provided by an NGO which is subcontracted by the state. It is important to mention that establishment of a Family Justice Center is envisaged in the Republic of Moldova, aiming to protect and assist victims/survivors and their children who are affected by all forms of domestic and sexual violence by ensuring access to all necessary support services. Additionally, three Regional Centers, in the Barnahus- model, are planned to be established, aiming to provide integrated assistance to children victims/survivors of, or witnesses of domestic violence, as well as sexual violence and child trafficking. However, no specialised support centres ensuring access to all necessary services for victims of sexual violence are available and fully functioning in the Republic of Moldova to date.<sup>143</sup>

### 2.1.8. Access to legal aid

There are numerous factors impeding a woman's effective access to justice,<sup>144</sup> including not being guaranteed free and qualified legal aid. Law No. 1260/2002 on lawyers<sup>145</sup> provides that the state guarantees access to qualified legal assistance to everyone.<sup>146</sup> Once a lawyer is appointed by the Territorial Office of the National Council for Qualified Legal Assistance, the plaintiff must secure an effective right to protection and representation.<sup>147</sup> In addition, Law No. 198/2007 regarding state qualified legal assistance<sup>148</sup> declares that non-discrimination of beneficiaries of legal aid is one of the core principles of the free legal aid system.<sup>149</sup> Women subjected to discrimination because of their gender, sex or gender identity benefit from free legal aid. For many, the actual procedure for accessing state guaranteed legal aid is cumbersome and time-consuming, which then impedes

141. Criminal case against Doctor V. F., pending before the Balti court, on numerous counts of rape and sexual abuse.

142. The Equality Council concluded this to be the case when it had examined the complaints and issued the Decision of 4 July 2014 in Case No. 087/14.

143. La Strada Report on system response to sexual abuse cases, available at [www.lastrada.md/reports](http://www.lastrada.md/reports), accessed 15 June 2022.

144. Conclusion made also in the fact-based survey of the OSCE and La Strada, "Existing practices on access to justice for victims of domestic violence and the realisation of their right to legal assistance in the Republic of Moldova".

145. Original title "Legea cu privire la avocatura".

146. Articles 3 and 5(2) of Law No. 1260.

147. Article 46(1) of Law No. 1260.

148. This law establishes the National Council for Qualified Legal Assistance, with territorial offices in Balti, Chisinau, Comrat and Cahul, as the main authority to select lawyers that will provide free legal aid and to monitor the quality of the legal aid, available at [www.cnajgs.md/ro/structura/page/cnajgs](http://www.cnajgs.md/ro/structura/page/cnajgs), accessed 28 November 2016.

149. Article 4 of Law No. 198.

immediate access to free legal aid.<sup>150</sup> According to the NGO La Strada Moldova,<sup>151</sup> nine of ten victims who benefited from legal aid had been informed by local authorities of available services only after they found themselves in life-threatening situations. Women who did not benefit from legal aid knew nothing about the legislation, their rights or the existing legal aid resources. In half of such cases, local authorities knew about domestic violence cases but did not provide the victims with information on their rights and the relevant legal procedures.

### **Additional barriers for women from national and linguistic minority groups**

Women from national and linguistic minority groups and Russian speakers face additional barriers when accessing the courts. Over a dozen complaints submitted and examined by the Equality Council show that judges refuse to accept complaints and lawsuits if they are written in Russian.<sup>152</sup> In six decisions,<sup>153</sup> the Equality Council found such a practice to be discriminatory against national and linguistic minorities, to whom the domestic law guarantees the right to use Russian for inter-ethnic communication. On 25 May 2015, a representative of the Supreme Council of Magistrates assured members of the Equality Council that the practice would end.<sup>154</sup>

Women with disabilities, who are residents of psycho-neurological institutions, do not have access to free legal aid. One reason is the fact that they are unable to write and lodge a request for legal aid.

In 2018, amendments were made to several laws,<sup>155</sup> the Civil Code No. 1107/2002, Code of Civil Procedure No. 225/2003, Family Code no. 1316/2000, Law on mental health No. 1402/1997 and other 12 laws, that reformed the institution of the legal capacity of the natural person, the legal status of adults and minors with disabilities, and the institution of protection measures.

According to the new regulations, an adult and an emancipated natural person can obtain protection in case of diminution of personal, physical or mental faculties, through two forms: contractual (extrajudicial) measures and judicial measures. Contractual measures are a novelty for the national legal system and include, the assistance contract (Articles 74–75 of the Civil Code in the new wording) and the future protection mandate (Articles 76–86). The measures of judicial protection differ according to the intensity of the intervention in the person's life.

If the previous legislation provided for the only protection measure– depriving the person of legal capacity and mandatory institution of guardianship- the new provisions diversify these measures to respond to the need to adapt to the specific situation of the natural person concerned, including: a) temporary protection – which is short-lived (a maximum of 12 months) or may even be linked to one specific legal act (Articles 97–101 of the Civil Code); b) guardianship – lasts a maximum of five years and is instituted in respect of the person who, without being completely deprived of consent, needs to be assisted continuously. Curatorship is established only if temporary protection will not be able to ensure sufficient protection of the person; c) guardianship – lasts a maximum of five years, although the court may exceptionally set it at ten years.

## **2.2. Analysis of practices and mechanisms for the implementation of laws**

The Equality Council is currently the most effective mechanism for combating discrimination in the Republic of Moldova. Established by Law No. 121/2012, it applies the relevant national legislation and international standards when it examines a complaint alleging discrimination. Between October 2013 and June 2015, the Equality Council received 265 complaints, of which 17 were *ex officio* investigations. Of these, 102 complaints were declared inadmissible because they were either anonymous or failed to demonstrate *prima facie* discrimination. At the time, there had been 126 decisions, and only in 68 has the Equality Council found discrimination. Statistics also showed that the larger number of decisions, 30, found discrimination in access to public goods and services, and that 16 decisions referred to sex and gender-based discrimination.<sup>156</sup>

In its 2021 report on discrimination, the Equality Council noted that it registered 310 complaints (45% of which were from women) and two self-referrals. In this year, the council resolved 282 cases; in 255 cases decisions were

150. Fact-based survey of the OSCE and La Strada, "Existing practices on access to justice for victims of domestic violence and the realisation of their right to legal assistance in the Republic of Moldova".

151. Conclusion made by the organisation in its above-mentioned study, presented at a press conference held on 10 December 2014 at "Infotag" Press Agency.

152. Council report for 2014, available at [www.egalitate.md](http://www.egalitate.md).

153. Example Case No. 007/13 Decision of 30 November 2013, Case No. 009/13 decision of 2 December 2013, available at [www.egalitate.md/media/files/files/decizia\\_009\\_4237096.pdf](http://www.egalitate.md/media/files/files/decizia_009_4237096.pdf).

154. The Equality Council's Round Table on "Dignity at work".

155. Law No. 66/2017 of 13 April 2017, introduced amendments to 16 laws and regulations regarding legal capacity of natural persons, available at [https://www.legis.md/cautare/getResults?doc\\_id=99281&lang=ro](https://www.legis.md/cautare/getResults?doc_id=99281&lang=ro), accessed 15 June 2022.

156. Statistics indicated in the reports for 2013 and 2014, available at [www.egalitate.md](http://www.egalitate.md).

issued and in 49 discrimination was found.<sup>157</sup> Compared to 2020, there was a 33% decrease in decisions establishing discrimination. The Equality Council concluded that acts of discrimination occur with a higher frequency based on the following criteria: language (cited in 19.6% of decisions); sex/gender (15.7%); ethnic origin (11.8%); and disability (7.8%). Less frequent are cases of discrimination based on political affiliation (cited in 5.9% of decisions); religious beliefs (5.9%); sexual orientation and age (both, 3.9% of decisions); and pensioner status, social status or procedural status (2% of decisions). In 15.7% of the decisions, criteria other than those mentioned above were invoked.<sup>158</sup>

The Equality Council has gained the trust and confidence of the public and lawyers. Recent interviews with lawyers actively litigating discrimination cases outlined the numerous difficulties they face in court: prejudice, insufficient knowledge of Law No. 121/2012, misunderstanding about *prima facie* claims and the burden of proof, among others.

### 2.3. Socio-economic and cultural barriers to women's access to justice

National research on the impact of Covid-19 on the population has shown that the pandemic has greatly influenced the quality of life of the general population, significantly reducing its access to educational services, health and infrastructure.<sup>159</sup> At the same time, people infected with Covid-19 have been subjected to considerable stigma at the community level. According to research conducted at the end of April 2020 by the Institute for Legal, Political and Sociological Research,<sup>160</sup> about 47% of respondents considered that the Covid-19 pandemic was the biggest challenge for the country and their families in the last 15 years while a third indicated that they were afraid of people who have been infected with Covid-19 and prefer to stay away from them, even if they have recovered.<sup>161</sup>

Research conducted by the National Bureau of Statistics in April 2020 also confirms that the pandemic crisis and the state of emergency could have had a very negative impact on families' incomes, leading to the impoverishment of many of them.<sup>162</sup> According to the Ministry of Health report, during the two-month emergency situation, the efforts of the medical system were focused on providing basic essential health services, including medical emergencies, obstetric and neonatological services, critical services (medical dialysis, radio and chemotherapy among others) as it has been challenged by the need to organize the health sector's response to the Covid-19 infection.<sup>163</sup>

The negative impact of the pandemic is still felt mainly by the vulnerable groups: women, including women with disabilities, with chronic illnesses, the elderly, especially in rural areas and those on low incomes. These findings are reflected in studies, research and press communications made available by civil society organizations working with and for the above-mentioned groups.<sup>164</sup> Keystone Moldova conducted a sociological study on the "Impact of Covid-19 on people with disabilities in the Republic of Moldova" between March and April 2020,<sup>165</sup> with a group of 257 people. It shows that the pandemic and the state of emergency have contributed to limiting the access of people with disabilities to health services. Thus, 68% faced reduced access to health services, the reasons being varied, but including the cessation of appointments with the family doctor and specialists, inability to travel to medical services due to cessation of transport, fear of using public transport (where it was functional) and desire to avoid Covid-19 infection, fear/refusal to go to doctors due to increased incidence of illness among the medical staff and lack/insufficiency of protection products (gloves, masks, disinfectants, etc.). At the same time, people with disabilities said they had reduced access to medicines due to difficulties in obtaining medical prescriptions, had difficulty accessing emergency dental services, and medical staff was unprepared to provide them with assistance.

157. Equality Council. 2022. Discriminare în Republica Moldova, 2021, available at <http://egalitate.md/wp-content/uploads/2016/04/infografice-sumar-2021-final.pdf>.

158. Ibid.

159. The population's perceptions of the coronavirus pandemic (conducted in May 2020), available at [http://imas.md/pic/archives/27/\[imas\]%20perceptii%20cu%20privire%20la%20epidemia%20de%20Coronavirus%20II.pdf](http://imas.md/pic/archives/27/[imas]%20perceptii%20cu%20privire%20la%20epidemia%20de%20Coronavirus%20II.pdf);

160. Expert Group's policy paper "COVID-19: How to save the national economy and prepare the ground for a post-crisis recovery" conducted by the National Bureau of Statistics in the Household Budget Survey, 2020;

161. Ibid.

162. National Bureau of Statistics data available at <https://statistica.gov.md/newsview.php?l=ro&idc=168&id=6773&parent=0>.

163. Ministry of Health, Labour and Social Security Report on measures taken in response to COVID-19 infection, period January-December 2020, available at <https://msmps.gov.md/wp-content/uploads/2020/12/Raport-COVID.pdf>.

164. Ombudsperson Report for 2020 and 2021, available at [www.ombudusman.md/reports](http://www.ombudusman.md/reports).

165. Keystone Moldova Report available at <https://www.keystonemoldova.md/wp-content/uploads/sites/4/2021/12/Acces-la-servicii-de-sanatate-in-perioada-pandemica.pdf>.

The report on monitoring the observance of human rights in the Republic of Moldova in the context of the Covid-19 pandemic, conducted by the Moldovan Institute for Human Rights in 2020,<sup>166</sup> indicates that access to health services and drug supply for people with disabilities in psycho-neurological centres and psychiatric hospitals, was very poor during the state of emergency. Health specialists stopped their visits to the institutions. Psychiatrists had prescribed treatment for mild and moderate Covid-19 infected patients. Covid-19 treatment was carried out in residential institutions, and if there was a need for hospitalization (in cases where the beneficiaries were in serious or critical condition), they were referred, mainly, to psychiatric hospitals in the country, only in rare cases – to district hospitals. In several institutions, patients with chronic exacerbating diseases infected with Covid-19 received no treatment, being left in acute suffering and pain.

As an immediate offer of support to the Republic of Moldova, the United Nations developed a Response and Recovery Plan, with an 18-month horizon (June 2020 to December 2021) based upon ongoing assessments and the United Nations framework for the immediate socioeconomic response to Covid-19.<sup>167</sup> This updated Plan has been peer-reviewed by a cross-section of development partners and government officials to ensure properly sequenced priorities and overall policy coherence. This document included an analysis of the impact of the pandemic on vulnerable groups, including people with disabilities and people living with HIV.

According to the analysis, children with disabilities were particularly affected by limited access to regular medical services. For people with limited mobility or locomotor disabilities, the main challenge during the Covid-19 pandemic was limited access to basic goods and services (including health) due to poor infrastructure and lack of services during this period. For people with sensory and intellectual disabilities, the main challenge was the accessibility of information provided to the general public, including health services. About 3 500 people with hearing impairments who use sign language do not have access to masks tailored to their communication needs. In the first half of 2020, there was a 40% reduction in HIV testing and enrolment in ART, including among pregnant women, and a 30% increase in ART discontinuation compared to the first half of 2019. This indicates a sharp reduction in the availability and accessibility of vital services for people living with HIV.

The report on the monitoring of measures taken by public authorities during the Covid-19 pandemic from the perspective of the impact on the elderly, prepared by HelpAge International and the Platform for Active Ageing in the Republic of Moldova, stated that the increased risk of serious infection led authorities to impose isolation measures. This resulted in much more pronounced negative effects on the elderly related to their social isolation, material and mental well-being, position in the labour market, abuse and neglect, as well as access to health services.<sup>168</sup>

### 2.3.1. Women's level of awareness of their rights

The Covid-19 pandemic pushed for the greater use of internet resources in both urban and rural areas. Work, education and service providers adapted to this online mode.<sup>169</sup> During this period, there was also an increase in the number of women affected by domestic violence, who originated from the Republic of Moldova, but were living abroad. Although the increase is not significant, up to 1%, this fact was established by three different women rights organizations. The contacts were registered on online platforms, which confirm that, during the restrictive measures applied by various states, women affected by domestic violence have made more use of the internet as a source of information and access to services.<sup>170</sup> Being at home for a long time, they had the opportunity to access several sources and ask for advice on social networks. It has been also noted that 80% of women and girls asking for advice were from urban areas where they have found themselves isolated in closed settings with their aggressive partners or family member.<sup>171</sup>

Women seeking information on social networks, during the state of emergency, were those suffering from domestic abuse long before the pandemic. Most often, complaints referred to combined forms of abuse, in particular psychological, physical and economic violence. The specialists/scientists interviewed by women rights organisations<sup>172</sup> confirmed that women in need of help (especially psychological and legal assistance) during this

166. Moldovan Institute for Human Rights (IDOM) report available at [https://idom.md/wp-content/uploads/2021/01/Raport\\_Final\\_IDOM-1.pdf](https://idom.md/wp-content/uploads/2021/01/Raport_Final_IDOM-1.pdf).

167. Available at <https://moldova.un.org/en/93768-United-Nations-Moldova-Covid-19-socio-economic-response-and-recovery-plan-updated-version>, accessed 10 May 2022.

168. Available at <https://realitatealive.md/live-lansarea-raportului-de-monitorizare-a-masurilor-intreprinse-de-autorita-ile-publice-in-timpul-pandemiei-de-covid-19-din-perspectiva-impactului-asupra-persoanelor-varstnice-115112.html>, accessed 10 May 2022.

169. La Strada, UN WOMEN Rapid Assessment "The needs of women affected by domestic violence and gender-based violence and the system's response to domestic violence cases during the COVID-19 pandemic" August 2020 Chisinau.

170. Ibid.

171. Ibid.

172. Ibid.



period had been experiencing chronic domestic violence. Only one specialist referred to a case, reported by neighbours on a social network, in which the parents were arguing very loudly, and before the pandemic they had not heard any quarrels in that family. For most of these women, the “last straw” for seeking help was being in self-isolation at home where violence escalated significantly and children were also present to witness scenes of violence that they had never seen happening previously. It was this situation that made women understand that the aggressor would never change.<sup>173</sup>

### **2.3.2. Discussion of possible specific socio-economic and cultural barriers affecting women’s access to justice**

The Covid-19 pandemic has caused problems in the system of preventing and combating domestic violence, such as: providing assistance in cases of domestic violence and ensuring the placement of victims and their children in specialized services, the application of protection orders and emergency restricting orders during quarantine and travel bans, and protection of specialized service staff and professionals who come in direct contact with beneficiaries. Thanks to partnerships with development partners and civil society, solutions have been found for the placement of victims and the simultaneous security of crisis center staff and other beneficiaries of specialized services, by supporting temporary emergency placement in rented apartments from donor sources. At the same time, specialized service providers, local emergency medical technicians and other anti-violence professionals, including victims, benefited from hygiene and protection products during this period. Thanks to the support provided by donors, needed training was provided for professionals on how to protect and act during the pandemic and crisis.<sup>174</sup>

In order to comply with the pandemic situation and ensure the access of victims of domestic violence to specialized services, the social services providers developed a platform for legal and psychological consultations and advice in an online format.<sup>175</sup>

During the state of emergency, many families migrated from their city homes to their parental homes in villages, to take advantage of more space, fresh air and products. It was typical for several families to gather in one big home and become a small community of people who lived, cooked and drunk alcohol, which may have resulted in violence. Women reported an escalation of violence that had been less common in the pre-pandemic period.<sup>176</sup>

Some of the women affected by domestic violence, who sought the help of the organizations, were either in the process of divorce, or already divorced or separated (the rate ranges from 10% to 15%, depending on the organizations) but they nevertheless experienced increased psychological problems. The aggressors returned during this period with various psychological or economic manipulations (threats to take the children or not to contribute financially to their maintenance). At the same time, many of the spouses, although divorced, continued to live together due to the lack of a separate living space.

During the conditions imposed by the Covid-19 pandemic, married women (the rates range from 42% to 52%) or cohabitating women (22% to 34%) sought information on divorce proceedings or protection measures to stop domestic violence, as well as the assistance of the police or other services. In most cases, they were women with one, two or even three children. In some cases, women who had more than three children, who were married or cohabitating at the time of the application, sought assistance. Many women, with small children, were on childcare leave at the time.

The age of women affected by domestic violence, who asked for help from specialized organizations, varies, but most are between 25–34 years (33–37%) or from 35–44 years (19–34%). Women over 45 years old constituted about 23%, and those over 60 years old – about 15%, of those who sought help during the pandemic.<sup>177</sup>

In the case of women who agreed to talk about the experience of violence and the difficulties they faced during the pandemic, 70% had higher education. In discussions with specialists, most mentioned that a good part of

173. National Coalition “Life without violence” Annual Report 2020, available at <https://stopviolenta.md/biblioteca/publicatii/315-raport-annual-coaliia-naional-viaa-fr-violen-in-familie-anul-2020.html>.

174. Ibid.

175. Ministry of Labour, Social Protection and Family recommendations to specialized public authorities available at <https://social.gov.md/comunicare/buletin-informativ/femeile-afectate-de-violenta-in-familie-sunt-mai-vulnerabile-in-contextul-crizei-covid-19/>, accessed 15 June 2022.

176. La Strada, UN WOMEN Rapid Assessment “The needs of women affected by domestic violence and gender-based violence and the system’s response to domestic violence cases during the COVID-19 pandemic,” August 2020, Chisinau.

177. Ibid.

the beneficiaries had secondary education (about 80%) or specialized education (7–13%); fewer women had higher education (7%).<sup>178</sup>

Both the women victims, who agreed to share their experiences, and the interviewed specialists all spoke about the negative economic impacts they felt. The fact that the vast majority of women suffering from domestic violence have been economically affected by the Covid-19 pandemic is certain. Thus, generally women with higher education, who, as a rule, were able to keep their jobs while working from at home (remotely), and their incomes remained the same. In contrast, for women in the other categories, the reality was harsher.<sup>179</sup>

Most middle-income women have indicated a change in their economic situation. Some of them reported that with the revision of the work regime, both their workloads and income were reduced. Others went into technical unemployment, were asked to take voluntary leave or were even fired by their employer. Many women had to give up their jobs because there was no one in whose care they could leave their preschool children, and others had to help their school-age children who were in distance education.

At the same time, the women who lived from the sale of “handmade” products, those who worked the service sector, in barbershops, shops and markets for example, and those in hotels, restaurants and catering lost their livelihoods during the period of emergency. But there were also cases in which the victims continued to work, providing financial support for the family.<sup>180</sup>

### **2.3.3. Impacts of the Covid-19 pandemic on women’s access to goods and services**

Most women confirmed that their incomes significantly were reduced during the Covid-19 pandemic. Some lost their jobs, and others left jobs to care for their children who were confined at home for online education. Women living with their aggressors admitted that fear of financial instability made them more dependent on their aggressors’ income, choosing to preserve peace for the sake of the children.<sup>181</sup>

Many women who had left violent relationships before the pandemic found themselves in difficult financial situations. Along with the Covid-19 restrictions, they were unable to pay rent, access micro credits or minimum services, and were, therefore, forced to return to their violent partners. Some women reported that they stopped receiving child alimony.

Access to shelters for women affected by domestic violence became a separate challenge. Most shelters received no newcomers while the other three conditioned access on negative Covid-19 tests. If in similar situations, women would have taken refuge in their parents’ homes, during the pandemic with travel restrictions and villages under quarantine, women found it impossible to escape violence. Recognizing the serious situation, women rights organisations took it upon themselves to identify alternatives for accommodation of victims of domestic violence, in particular women with small children, as quickly as possible.<sup>182</sup> Having successfully sourced the necessary funds, organisations were able to offer small apartments taken on lease for short periods of time. For these women, they had to secure food and hygiene products as well. If some survivors of violence continued to work to secure an income, however small, others were completely unable to provide for themselves. It had been identified that some victims of domestic violence lacked skills to live on their own, being in a need of constant monitoring and support. This was especially the case for young women with newborns and women with mental health issues.

Specialists continued to provide assistance but online. Women were advised and guided via phone and social networks. Some testified that they were constantly on the phone with some of their clients who were suffering from increased fear and anxiety. Although online counselling was seen as an advantage, meaning that many victims from rural areas could access psychological assistance that had been inaccessible before, there were issues of security as well. Often victims would end calls abruptly when the aggressor would enter the room or find themselves without access to a phone or internet for long periods of time, leaving the specialist unaware of events happening within the home.<sup>183</sup>

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178. Ministry of Labour, Social Protection and Family Report for 2020 available here <https://social.gov.md/comunicare/comunicate/conferinta-internationala-dedicata-finalizarii-proiectului-proiectul-tati-constienti-si-responsabili-pentru-o-generatie-non-violenta/>, accessed 15 June 2022.

179. La Strada, UN WOMEN, Rapid Assessment “The needs of women affected by domestic violence and gender-based violence and the system’s response to domestic violence cases during the COVID-19 pandemic” August 2020 Chisinau.

180. Ibid.

181. Ibid.

182. Women Law Centre Reports available at [www.cdf.md/publications](http://www.cdf.md/publications), accessed 15 June 2022.

183. Ibid.

Lawyers and paralegals reported a decrease in the number of requests for protection orders although the General Police Inspectorate reported an increase in the number of emergency protective orders. Women rights groups explain that the uncertainty related to the Covid-19 pandemic and victims' financial dependency led them to shift their priorities. Women testified that once the aggressor returned home from abroad and was put in quarantine for a mandatory 14 days, they believed that a 112 call may only have exacerbated the violence rather than resolve it, because the police would not order him to leave the home. Therefore, victims of violence in this period sought legal information on divorce, custody and alimony more often than on protection orders, although this fact does not mean that protection order requests were not made through the courts.<sup>184</sup>

### 3. GENDER RESPONSIVENESS OF THE JUSTICE SYSTEM

During the state of emergency, domestic violence became a concern for about half of the population. With the spread of the Covid-19 virus and isolation at home, the risk of domestic violence increased. Women were the most impacted; about half of surveyed women had this fear (46%). At the same time, the risk of being subjected to violence is more pronounced among older people, who are also the target of the most restrictive measures of social isolation.<sup>185</sup> According to official data for 2019, there were a total of 3 900 family aggressors in the police records, out of which 3 700 were men and 200 were women; the comparable data for 2020 was 3 897 family aggressors- 3 721 men and 168 women.<sup>186</sup>

Comparing data from before and during the pandemic, the rate of domestic violence increased (up by 2.4%). Thus, in the first five months of 2020, 5 157 notifications/self-notifications were registered regarding cases of domestic violence compared to 5 032 notifications registered in the similar period of 2019. At the same time, the number of opened criminal cases decreased. In 2020 355 crimes were registered compared to 391 in 2019. The number of misdemeanour fines applied on charges based on Article 78<sup>1</sup> of the Misdemeanour Code increased from 541 in 2019 to 599 in 2020. A very large majority (90.4%) of victims of domestic violence are women.<sup>187</sup>

#### 3.1. Overview of the number of cases women bring before national courts, in comparison to men

No official data are available on the number of cases brought to court by women or men because court records are not disaggregated in this way. La Strada Moldova,<sup>188</sup> a women's rights NGO, reports 18 000 calls were from women and girls to the national hotline, out of which 7 100 women who called about domestic violence and sexual abuse were counselled free of charge. The Women's Law Centre<sup>189</sup> reports 3 613 documented cases on various forms of violence against women and girls; 1 951 women of all ages benefitted from legal aid counselling, 1 306 from psychological counselling and 783 of economic empowerment and social assistance.

Counselling and assistance services are also available for perpetrators of domestic violence. Government Decision No. 496 of 30 June 2014<sup>190</sup> approved the Framework Regulation for the organization and operation of the Center for Assistance and Counselling for Family Aggressors and the minimum quality standards. According to the decision, the Center for Assistance and Counselling for Domestic Aggressors is a social institution that provides integrated assistance and specialized counselling services to persons who commit acts of domestic violence, adolescents with violent behaviour, manifested both within and outside of the family. Currently, there are four active centres providing services to aggressors: the "Ariadna" centre in Drochia, a public institution that is financed from the state budget, centres that operate on an NGO platform in Causeni and the Chisinau municipality and the "Stimul" Public Association in Ocnita, which is funded from donor sources.<sup>191</sup>

184. Ibid.

185. Centre Partnership for Development and UN Women Moldova Report on COVID-19 impact on social and economic lives from gender perspective" available at <https://moldova.un.org/ro/49552-rezultatele-cercetarii-privind-impactul-covid-19-asupra-vietii-sociale-si-economice-din>.

186. Data from the rapid survey "on women victims' of gender-based violence and family violence needs during COVID-19 pandemic."

187. Available at <http://lastrada.md/rom/violenta-in-familie-si-violenta-sexuala>, accessed 10 May 2022.

188. Ibid.

189. Data available at [www.cdf.md/publications](http://www.cdf.md/publications), accessed 10 May 2022.

190. Available at [http://old.mmpsf.gov.md/file/documente%20interne/Ordin\\_Concept\\_%20agresori.docx](http://old.mmpsf.gov.md/file/documente%20interne/Ordin_Concept_%20agresori.docx);

191. Ibid.

### 3.2. Cases of violence against women and girls registered with the justice system

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Analysis of the data provided by representatives of the law enforcement bodies from different districts, shows that the number of domestic violence cases reported to the police decreased by 10% as did the total number of prosecuted cases.<sup>192</sup> This could be explained by the fact that restriction measures imposed to stop the spread of the Covid-19 infection, such as limitations of travel and quarantines, prevented victims of abuse from documenting their injuries and gathering the evidence which would normally be presented immediately to the police. This view is supported by the fact that subsequently, when some of the Covid-19 restrictions were lifted, the number of requests complaints began to increase.

Some maintain that there was only a slight increase in requests for help in domestic violence cases, while others argue the opposite- that the pandemic did not affect this phenomenon in any way. Specifically, it has been stated that there was an insignificant increase in domestic violence cases during the state of emergency (69 cases in 2020 versus 64 in 2019) and an almost equal number of requests for protection orders were sent to the courts on behalf of the victims. However, the police issued a twice as many emergency restrictive orders during the same period of time.<sup>193</sup>

Forensic Medical Centres report a decrease by 35.5% in the number of persons it has examined in 2020 as compared to 2019. The decrease is explained by both restrictions on travel and quarantine measures imposed during the state of emergency. The number of victims of domestic violence examined in 2020 (183 in total) represented 27% of all the cases examined, as compared to 221 cases examined in 2019 which were only 21% of overall share. There are no data on the number of sexual abuse victims examined during the state of emergency. However, considering the restrictions imposed on travel and the fact that institutions were placed in quarantine, women rights group believe that sexual abuse generally went underreported.<sup>194</sup>

The United Nations Children's Fund (UNICEF) reported that during the pandemic, from April to September 2020, the Child Helpline counsellors answered more than 1 700 calls. Every fourth call was made by a child (1 300 calls). School and kindergarten teachers identified more than 3 500 suspected cases of physical and emotional abuse, neglect, labour exploitation, sexual harassment and bullying in the first half of the year alone.<sup>195</sup> According to the data of the Ministry of Health, Labour and Social Protection, 32 children lost their lives as a result of household accidents in the first half of this year.<sup>196</sup>

Child protection authorities and social services were ineffective during the state of emergency and later during the state of emergency in public health. Institutions were forced to close, and during these periods, public servants worked online. This arrangement prevented victims of violence from obtaining the necessary evaluation and support in their cases pending before courts.

In accordance with the Annex to Decision No. 1 dated 18 March 2020 of the Commission on Exceptional Situations, during the state of emergency all cases pending before domestic courts were suspended. Exceptions were made for only a few types of cases, among them, the procedure for examining requests for protection orders. According to the information published by the courts, such requests were examined as usual, with all parties involved being present at the hearing, but proceedings were expedited and resolved in 80% less time. Practices in issuing protection orders also varied. Whereas the Chisinau municipality court issued protection orders requiring the aggressor to leave the common dwelling, district courts tended to refuse to impose such an obligation and evidenced more concern for the aggressor's well-being.

### 3.3. Covid-19-related challenges for the judicial system

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The majority (80%) of frontline public sector employees working with victims of abuse and aggressors feared becoming infected with Covid-19 while offering assistance or services. The most at risk were police officers who had to deal with drunk aggressors and handle them physically in ways that precluded social distancing, such as when handcuffing.

At the beginning of the state of emergency, protection equipment was insufficient and even absent. The insufficient number of staff within social assistance, primary medical assistance, forensic medicine and the police force

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192. La Strada, UN WOMEN, Rapid Assessment "The needs of women affected by domestic violence and gender-based violence and the system's response to domestic violence cases during the COVID-19 pandemic" August 2020 Chisinau.

193. Ibid.

194. Data available at [www.cdf.md/publications](http://www.cdf.md/publications), accessed 10 May 2022.

195. UNICEF Report "When "home" doesn't necessarily mean safe" available at <https://www.unicef.org/moldova/en/stories/when-home-doesnt-necessarily-mean-safe-eva>, accessed 10 May 2022.

196. Available at <https://statistica.gov.md/newsview.php?l=ro&idc=168&id=6662>, accessed 10 May 2022.

was immediately felt by those in need. Telephone hotlines and helplines were not functioning, public services were suspended, shelters were closed to new clients, and protection equipment was largely unavailable. For obvious reasons, medical personnel at all levels were concentrated in medical units dealing with testing, first response and treatment the increasing number of Covid-19 cases. Police stations lost employees to quarantine, as did social welfare and child protection services. This resulted in delays in documenting cases of abuse, identifying witnesses and gathering evidence, including forensic reports on injuries and bodily harm caused to victims, and not separating victims from their abusers.<sup>197</sup>

## 4. REMEDIES, GOOD PRACTICES AND RECOMMENDATIONS

### 4.1. Existing remedies to facilitate women's access to justice

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There are several existing remedies to facilitate women's access to justice:

- ▶ under amendments adopted in last five years, free legal aid and access to emergency forms of protection is guaranteed to women victims of domestic violence, sexual abuse or other forms of violence against women;
- ▶ the Equality Council examines complaints against police officers and prosecutors who exhibit prejudices that undermine effective access to protection from the law;
- ▶ the National Institute of Justice organises trainings on domestic violence in particular and also on access to justice for women.

### 4.2. National good practices to promote equal access of women to justice

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National practices to promote equal access of women to justice include:

- ▶ execution of the Equality Council's decision in finding police officers responsible for discrimination against women victims of violence in accessing legal remedies;
- ▶ training and capacity-building on gender equality for police officers throughout the country and conducted and supported by non-governmental and international organizations;
- ▶ awareness-raising campaigns on women's rights and domestic violence.

### 4.3. Proposed measures to address obstacles that prevent equal access to justice for women

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Measures to address obstacles to equal access to justice for women include:

- ▶ making information available in rural areas in all public places for women to access and learn about their rights;
- ▶ issuing injunctions against journalistic/media publications that perpetuate prejudices and stereotypes about women and men;
- ▶ ensuring higher scrutiny of police officers so they can provide proper support to women in need;
- ▶ rigorous supervision of the execution of protection orders;
- ▶ conducting continuous campaigns targeting women and men on prohibition of violence and discrimination;
- ▶ introducing mandatory courses on women's human rights for police, prosecutors, judges and lawyers, social assistants and child service personnel.

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<sup>197</sup>. Findings reflected by the Ombudsperson in their Report for 2020 and 2021 available at [www.ombudsman.md/reports](http://www.ombudsman.md/reports), accessed 10 May and 15 June 2022.

#### **4.4. Proposed measures to address research and data needs in the field of women’s equal access to justice**

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State institutions should disaggregate data on women’s access to the legal system by the number of requests for legal aid as well as the number of cases brought to the courts, the police or prosecutor’s offices or to other public authorities. These are currently unavailable. The only sex-disaggregated data that have been produced, and which are referred to in this study, are those from the National Bureau of Statistics in regular publications on “Statistical portraits of women and men in the Republic of Moldova,”<sup>198</sup> the most recent of which is for 2022.<sup>199</sup>

#### **4.5. Mapping of relevant actors in the field of women’s access to justice (official institutions, civil society organisations, and academia)**

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- ▶ Moldovan Equality Council;
- ▶ NGOs with activities focused on women’s human rights (for example, domestic violence, discrimination, abuse);
- ▶ Ministry of Labour, Social Protection and Family;
- ▶ Ministry of Internal Affairs;
- ▶ Ministry of Justice and National Council for State Guaranteed Legal Aid;
- ▶ National Institute for Justice;
- ▶ Moldovan State University.

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198. See [www.statistica.md/public/files/publicatii\\_electronice/femei\\_si\\_barbati/Portret\\_statistic\\_femei.pdf](http://www.statistica.md/public/files/publicatii_electronice/femei_si_barbati/Portret_statistic_femei.pdf), accessed 28 November 2016.

199. See <https://statistica.gov.md/libview.php?!=ro&idc=168&id=7319>, accessed 15 June 2022.

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In 2017, the Gender Equality Division of the Council of Europe commissioned national studies to map the barriers, remedies and good practices for women's access to justice in the five Eastern Partnership countries (Armenia, Azerbaijan, Georgia, the Republic of Moldova and Ukraine). Since that time, events such as the Covid-19 pandemic and conflict in the region have raised new challenges for justice systems on the whole and for women as justice users. Yet, in the last five years, there are also examples of progress in each country in terms of removing some of the most critical barriers, in the legislation and in legal practice, that prevent women from accessing justice. These updated national studies revisit core questions of the previous research and present new information about both promising practices and areas of regression as a result of health, economic and security crises. These studies contribute to the EU-Council of Europe joint programme, Partnership for Good Governance II regional project on "Women's access to justice: delivering on the Istanbul Convention and other European gender equality standards", which supports the strategic objective of the Council of Europe Gender Equality Strategy 2018–2023 on ensuring the equal access of women to justice across the member states.

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