**QUESTIONNAIRE**

**“Violence and its impact on the right to health”**

I have the honour to address you in my capacity as Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, pursuant to Human Rights Council resolution 42/16.

I would like to invite you to respond to the questionnaire below. Submissions received will inform my next thematic report on “Violence and its impact on the right to health”, which will be presented to the Human Rights Council in June 2022.

The questionnaire on the report is available at OHCHR website in English (original language) as well as in French, and Spanish: (<https://www.ohchr.org/EN/Issues/health/pages/srrighthealthindex.aspx>).

All submissions received will be published in the aforementioned website, unless it is indicated that the submission should be kept confidential.

There is a word limit of 750 words per question. Please submit the completed questionnaire to ohchr-srhealth@un.org. The deadline for submissions is: **18 January 2022.**

Tlaleng Mofokeng

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

**Contact Details**

Please provide your contact details in case we need to contact you in connection with this survey. Note that this is optional.

|  |  |
| --- | --- |
| Type of Stakeholder (please select one) | [ ]  Member State [ ]  Observer State[x]  Other (please specify): INGO |
| Name of StateName of Survey Respondent | Validity Foundation (former Mental Disability Advocacy Centre) |
| Email | Validity@validity.ngo |
| Can we attribute responses to this questionnaire to your Institution publicly\*? \*On OHCHR website, under the section of SR health |   **Yes**  NoComments (if any): |

# Background

Within the framework of Human Rights Council resolution 42/16, the Special Rapporteur on the highest attainable standard of physical and mental health has identified sexuality, gender based violence and femicide as one of her priorities during her tenure (See [A/HRC/47/28](https://undocs.org/A/HRC/47/28) paras 50-64). In compliance with her mandate and in line with this priority she has decided to devote her next thematic report to the 50th session of the Human Rights Council in June 2022 to the theme of “Violence and its impact on the right to health.”

# Objectives of the report

The Special Rapporteur intends to shed light on who is seen as victims of violence, and who is affected by what type of violence, with emphasis on the violence experienced by women, children, LGBTI persons and conflict related gender based violence. She will also explore the role of men as perpetrators and their experience as victims of violence. Her analysis will look into the responses that survivors of violence receive with a focus on good practices, as well as the obligations, responsibilities, and protections that arise under the right to health framework and other relevant human rights in this connection. She will also report on emerging trends related to the impact of COVID-19 on all forms of violence and related responses.

In her report, the Special Rapporteur will address, inter alia, issues related to gender based violence, (including inter-personal and intimate violence), as well as structural violence. She will also assess the impact of the criminalization of sex work, same sex relations, transgender persons, abortion, drug use etc. on the enjoyment of the right to health. The Special Rapporteur would like to identify good practices and examples of comprehensive health responses to survivors of violence, and to identify lessons learned at the community, national, regional and international levels.

# Key questions

*You can choose to answer all or some of the questions below. (750 words limit per question).*

When responding to the questions below, please use the glossary with definitions at the end of the questionnaire, and refer to all or some of the forms of violence in focus for this study as applicable in your country, countries, or region in focus:

1. Please describe, share data and information on the characteristics, number of cases, and the profile of victims and perpetrators in your country/ies or region(s) regarding:
	1. gender based violence against women
	2. gender based violence and other forms of violence against children:
	3. gender based violence against LGBTI or other persons based on real or imputed sexual orientation, sex characteristics, and gender identity:
	4. **violence against persons with disabilities, including GBV.**

Validity currently supports victims of violence with disabilities predominantly in Central and Eastern Europe and in East Africa. Cases of structural and institutional, state-condoned violence are common across jurisdictions. We represent numerous cases of victims of coercive psychiatric treatment, including torture and ill-treatment caused by restraints and isolation in psychiatry. In some of our cases from Moldova and Slovakia, violence and coercive treatment in a psychiatric hospital culminated in the death of the victim.[[1]](#footnote-1) In Moldova and Slovenia, victims of such violence were children. In our experience, children are sometimes subject to coercive psychiatric treatment in the same wards as adults. [[2]](#footnote-2) Some countries, including Czechia and Slovakia, continue to use cage beds as a form of restraint in psychiatric hospitals, although their use has been recognized as a form of disability-specific torture or ill-treatment.[[3]](#footnote-3) The use of cage beds has, moreover, a gender dimension. According to information presented to us during a monitoring visit to a Czech psychiatric facility, cage beds are typically used against women, not men.[[4]](#footnote-4)

Persons with disabilities residing in psychiatric or social care institutions also experience physical violence from the staff members or from other residents. Validity represents 10 cases from Moldova and Bulgaria in which the residents of medical or social-care institutions were beaten up, humiliated, or tortured in various ways by the institution’s staff members.[[5]](#footnote-5) In Bulgaria, victims of such violence were children. In other cases, the violence was inflicted by other patients with an inexistent or insufficient response from the hospital.[[6]](#footnote-6) Alongside other persons with disabilities, Validity views institutionalisation on the basis of disability itself as a form of violence.[[7]](#footnote-7)

Women with disabilities living in institutions often experienced severe sexual and gender-based violence. In Moldova, Validity supported 18 women as victims in criminal proceedings against the doctor of the psychiatric hospital they lived in.[[8]](#footnote-8) The doctor raped all of them on a regular basis. His case is clearly not isolated. Public sources suggest that sexual violence is a pressing problem in Czech[[9]](#footnote-9) and Slovak[[10]](#footnote-10) medical and social care institutions.

In the cited Moldovan case, some of the doctor’s victims became pregnant. The doctor, as a member of the responsible medical commission, forced them to undergo abortions and sterilisations without their consent.[[11]](#footnote-11) While he was eventually criminally charged and punished for the rape,[[12]](#footnote-12) the involuntary abortions and sterilisations remained unpunished. In Moldova, just as in many other jurisdictions in which Validity operates, this form of gender-based and disability-specific violence remains legalized.[[13]](#footnote-13) Forced abortions and sterilisations are permitted on a person with legal capacity restricted in healthcare matters. In such case, sterilisation or abortion can typically be carried out subject to a guardian’s decision and approval of a medical commission. States typically do not publish data on the number of forced abortions and sterilisations, and it is thus difficult to map the scale of the problem.

Validity also monitors widespread violence of law enforcement against persons with intellectual and psychosocial disabilities or autism. In two of our cases, the police killed a person with a psychosocial disability in a situation of crisis. Assuming that a taser was a “safe” weapon, police officers applied it in a disproportionate manner prior to using any kind of de-escalation measures. In two other cases, victims represented by Validity allege having been beaten by officers in police custody.[[14]](#footnote-14)

Violence against persons with disabilities may also sometimes occur due to the state’s failure to uphold its positive obligations. The lack of sufficient support services in Moldova, for example, creates space for various forms of violence. Validity represents a child who had been living on the street in dire conditions after having been released from a psychiatric hospital because the state does not have any appropriate child-protection services which would accommodate the needs of children manifesting challenging behaviour. To compensate for this lack of services, Moldovan authorities sometimes facilitate placement into “adult foster care”. Women with intellectual disabilities particularly may be moved from institutions into private farms where they work for free in exchange for food and shelter. In our experience, such an arrangement may imply that the women cannot dispose of their own money and cannot terminate the arrangement and leave. In such case, it amounts to human trafficking and slavery. In one of Validity’s cases, this form of exploitation was coupled with long-term rape and other forms of sexual and physical abuse.[[15]](#footnote-15)

* 1. gender based violence against men
	2. conflict gender based violence, including sexual violence
	3. **Please share analysis and available evidence on the impact of COVID on the above**

The Covid-19 pandemic exacerbated and intensified the violence inflicted on persons with disabilities. The *Covid-19 Disability Rights Monitor*, a global survey on the impact of the current pandemic on people with disabilities,[[16]](#footnote-16) exposed an increasing alarming global phenomenon of police harassment, torture, and murder of persons with disabilities and their family members.[[17]](#footnote-17) In some reported cases, the violence was of sexualized nature.[[18]](#footnote-18) In many cases, violence occurred under the pretext of enforcement of pandemic measures. Persons with disabilities were often insufficiently informed of the measures and were taken aback by the brutal response of the police without prior warning. In other cases, people with disabilities we unable to respect the pandemic measures if they were to secure their very basic human needs.

The testimonies detailed in a public statement of the Covid-19 Disability Rights Monitor from April 2020 are self-explanatory: *“…a retired soldier with post-traumatic disorder was*[*shot and killed in the Philippines*](https://www.cnnphilippines.com/news/2020/4/22/Retired-soldier-shot-dead-by-police-.html)*. In Kenya in June police forces*[*killed a man with a physical disability for not wearing a face mask*](https://www.youtube.com/watch?v=B7S6uIkn3KY)*. A deaf-blind man who was out after curfew*[*was shot by Ugandan local defence units*](https://globalvoices.org/2020/06/23/people-with-disabilities-left-stranded-during-national-lockdown-in-uganda/)*.*[*A video emerged online*](https://clubofmozambique.com/news/young-man-dies-in-beira-after-being-beaten-by-police-in-quelimane-policeman-assaults-disabled-person-shows-video-footage-watch-158344/)*of a policeman beating a disabled man who allegedly broke curfew rules in Mozambique. In Serbia,*[*a young man with autism was beaten by police*](https://www.facebook.com/watch/?v=296969181680416)*on the evening of a protest* (…)[[19]](#footnote-19)

Usually, no exceptions to the strict curfew or lockdown rules were introduced for persons with disabilities, and they and their families often had no other chance than to break the rules: *“A mother of a child with Cerebral Palsy was harassed by policemen on her way to collect food relief at one of the distribution centers in Nigeria. In South Africa some parents of children with disabilities have been fined or arrested for going to buy diapers or medication. (…). A person with disabilities from the United Kingdom noted, “in my city [a friend with physical disabilities] was aggressively accosted and made to move on by the police for sitting down on a public bench… Stories such as this… make me concerned about going out due to potential aggression from the police.”[[20]](#footnote-20)*

As a result, the Covid-19 Disability Rights Monitor compiled and captured increased levels of fear and mistrust of law enforcement reported by persons with disabilities during the pandemic.[[21]](#footnote-21) Violence against persons with disabilities has been reported to have also increased at home settings or in institutions.[[22]](#footnote-22) In light of these issues, Validity led a series of specialist workshops for lawyers and others representing persons with disabilities who had experienced acts that amount to torture and other forms of ill-treatment in the context of the pandemic.[[23]](#footnote-23) The subsequent report document expert analysis of disability-specific forms of violence, including police brutality, discrimination in healthcare triage decision-making, denial of access to essential services, etc.[[24]](#footnote-24)

The measures associated with the pandemic also compromise the protection of victims of violence and their access to justice. The closure of many health care and social institutions made it impossible to get in touch with victims of human rights violations in these facilities often for prolonged periods of time. It also complicated protection against reprisals from the institution’s staff by changing a place of residence. In Czechia, Slovakia, or in Moldova, Validity’s lawyers were sometimes blocked from visiting their clients for months. The pandemic also caused a blockade of a justice system, prolonging the police investigations and justice proceedings excruciatingly. In some Czech, Slovak, or Moldovan cases, the courts did not conduct a hearing since the beginning of the pandemic.

1. **Please describe whether the legal framework prohibits and sanctions these forms of violence and the definitions and forms of violence included in the legal system. Please explain redress options for survivors of violence, (the pathway they go through if they decide to file a complaint), levels of impunity and if access to comprehensive physical and mental care for GBV-survivors is recognized as a form of reparation.**

Legal frameworks typically criminalize intentional physical violence committed by law enforcement officials, social or health care workers, or other individuals. Nevertheless, our experience suggests that instances of such violence often remain uninvestigated and unpunished.[[25]](#footnote-25) Administration of evidence is a recurring problem in these cases. Testimonies of persons with intellectual or psychosocial disabilities are often discounted and considered untrustworthy. With evidentiary lacunes, it is often difficult to identify a concrete individual and attribute criminal responsibility for the crime.[[26]](#footnote-26)

In the cases of structural or institutional violence, the victims struggle with a lack of recognition of the criminal responsibility of institutions. Even if violence in an institutional setting is committed by private individuals, it would likely not have happened if it had not been for the conditions in the institution: the abusive disbalance of power, the deprivation of autonomy and choice of the residents, the deprivation of basic material or emotional needs, the overcrowding, and others. Finding an individual perpetrator, therefore, does not reflect the nature of the crime and cannot lead to a remedy that would guarantee non-repetition. Nevertheless, the courts rarely attribute at least a partial responsibility for the abuse to the institution. This often means that the crime remains unpunished.[[27]](#footnote-27)

Legal frameworks of protection are further weakened by the fact that victims of violence in institutional settings often do not report the crime as they are not efficiently protected against potential reprisals from employees of the institution and no housing alternatives. Czechia, Slovakia, nor Moldova do not have in place strategies of protection of victims of violence in social care or healthcare institutions, allowing them rapid removal from the institution and offering community-based alternatives.[[28]](#footnote-28)

Access to justice for victims of violence is a further overarching problem compromising the efficiency of legal frameworks of protection. Despite the efforts being made in Europe following the coming into effect of the Victims Rights Directive,[[29]](#footnote-29) not much has changed for persons with disabilities who are often treated as passive objects in the proceedings.[[30]](#footnote-30) Information about justice proceedings and victims’ rights, including rights of participation and engagement, is almost never made available in an accessible format.[[31]](#footnote-31) Legal assistance is not available, and many European legal systems do not contain effective procedural or reasonable accommodations enabling participation in the process.[[32]](#footnote-32) Criminal proceedings are often marked with stigma and prejudice particularly against persons with intellectual or psychosocial disabilities.[[33]](#footnote-33) Validity represents several cases in which the victims’ testimonies were explicitly discounted by the law enforcement only with reference to their disability.[[34]](#footnote-34) In other cases, persons with restricted legal capacity are completely denied standing in their own cases, and their complaints or appeals are ignored.[[35]](#footnote-35)

The remedies available in the proceedings for victims who are successful are also limited. The European jurisdictions in which Validity works usually recognize an apology and/or a financial compensation. No rehabilitation, physical or mental therapy are available as a form of redress.[[36]](#footnote-36) Certain victim support services should be made available, as per the Victims’ Rights Directive. However, according to the findings of our recent research on access to justice for victims of crime with disabilities, those are often inaccessible for persons with disabilities.[[37]](#footnote-37)

Other mentioned forms of violence against persons with disabilities are commonly legalized. Slovakia still allows the use of cage beds in medical establishments, notably in psychiatric hospitals. Following long-standing international criticism[[38]](#footnote-38), Czechia moved to abolish the use of netted cage beds in psychiatry since 1st January 2022.[[39]](#footnote-39) The relevant amendment also reformulated the conditions for using chemical restraints to make them stricter, but it still allows to use the chemical restraints if necessary “to control the patient’s behaviour”. Coercive psychiatric treatment, forced sterilisations and abortions, despite constituting grave human rights violations, are legal in many jurisdictions which allow restriction of legal capacity in healthcare matters, including Czechia, Slovakia, Slovenia, Bulgaria, or Moldova. Some of these human rights violations have significant gendered aspect. For instance, in Czechia, forced sterilisation of women with restricted legal capacity is legal following a medical committee’s decision even against her express disagreement (§ 13 of Act on Specific Health Services, no. 373/2011 Coll.) On the contrary, castration of a man with restricted legal capacity is not allowed (§ 20 of ibid).

In Czechia and Slovakia, moreover, the criminal code does not properly reflect the definition of torture and ill-treatment according to the United Nations Convention against Torture, creating further possible gaps in the protection against violence.[[40]](#footnote-40) For instance, the use of cage-beds legalized by the Slovak laws would not trigger the obligation of the law enforcement to investigate.

1. **Please share examples of the types of structural and institutional violence with origins within the State, (perpetrated or condoned by the State) or perpetrated by those not representing or affiliated to the state in your country/ies of region, and who is affected. In particular, describe structural/institutional violence in medical settings against women and girls, LGBTI persons and persons with disabilities or any other individuals or groups relevant in your country/ies or regions.**

All the above-described types of violence are of structural and institutional nature, perpetrated or condoned by the state.

1. Please also share information on the impact of criminalization of sex work, same sex relations, transgender persons, abortion, drug abuse, harmful practices in obstetric care, female genital mutilation on the violence experienced by the affected individuals and their enjoyment of the right to health.

1. **Please share information on the health and other type of responses provided by the State and/or other actors in your country/ies or regions in focus to survivors of each/some of the aforementioned forms of violence. Please assess what works well and not so well and whether COVID-19 impacted the response and how.**

In response to the violence against persons with disabilities, which is criminalized (see above), member states of the EU are obliged, following to the Victims’ Rights Directive, ensure a sufficient network of support services, including therapies or psychological counselling. However, the network of such specialized services is, at least in Validity’s target countries, clearly insufficient. According to our recent research on access to justice for victims with disabilities, they do not factually have access to such services.[[41]](#footnote-41)

1. Please specify the budget allocated in your country/ies in focus, to health related response to survivors of all/some forms of violence mentioned above. Please indicate the percentage of the national budget devoted to this; the percentage of the international aid provided or received for this. Please explain the impact of Covid 19 to the funding of responses to all/some forms of violence in your State/institution.
2. **Please describe the needs of survivors of the abovementioned forms of violence as identified by your State/institution. Please share survivor-self identified needs and those of their families, with a focus on health emergency and long-term needs.**

The following are needs for legislative or policy change which would improve protection against violence on persons with disabilities as identified by our organisation:

1. Criminalisation of legalized practices of violence against persons with disabilities, including coercive treatment, use of restraints and isolation, cage beds, and involuntary sterilisations and abortions. Harmonisation of the national criminal codes with the definition of torture and ill-treatment enshrined in the United Nations Convention Against Torture. Recognition of institutionalisation on the basis itself as a form of violence.
2. Ensuring effective protection against the already criminalized forms of violence:
	1. introducing criminal responsibility of legal entities not only physical individuals;
	2. ensuring regular monitoring of institutions with the participation of civil society organisations and persons with disabilities (Article 33 § 3 of the UN CRPD);
	3. effectively investigating instances of police violence against persons with disabilities;
	4. facilitating regular human rights training of law enforcement and professionals working in social care or medical institutions;
	5. introducing effective remedies, including physical and psychological rehabilitation, and provision of other community-based services;
	6. developing and putting in place a strategy of protecting victims of violence in institutions against retaliation;
	7. Ensure equal access to justice of victims during their legal proceedings, including:
		* + - Ensuring equal standing and respect for their testimonies;
				- Facilitating procedural and reasonable accommodations and legal aid;
				- Appropriate training of law enforcement and justice professionals.

3. Undertaking measures to provide collective and individual reparations and redress to persons with disabilities who have experienced institutionalisation on the basis of disability, including guarantees of non-repetition and structural reform necessary to end disability-based detention.

1. Please share examples of good practices and examples of comprehensive health responses to survivors of violence and indicate efficient multi-sectorial efforts at the community, national, regional and international levels by State or non-State actors.
2. Please describe State and other actors initiatives and measures to prevent these forms of violence, specific budget allocated to prevention, and good practices in this regard.

**Glossary of definitions for the purpose of this questionnaire**

* Gender based-violence, is violence directed toward, or disproportionately affecting someone because of their gender or sex. Such violence takes multiple forms, including acts or omissions intended or likely to cause or result in death or physical, sexual, psychological or economic harm or suffering, threats of such acts, harassment, coercion and arbitrary deprivation of liberty. Examples include, sexual violence, trafficking, domestic violence, battery, dowry related violence, coerced or forced use of contraceptives, violence against LGBTI people, femicide, female infanticide, harmful practices and certain forms of slavery and servitude. Gender-based violence may be perpetrated against women, girls, men, boys, and non-binary persons. Gender-based violence, including sexual violence, may linked to a conflict.
* Gender based violence against women (including girls) refers to violence that is directed against a woman because she is a woman or that affects women disproportionately. (CEDAW, [General recommendation 19](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CEDAW/GEC/3731&Lang=en), 1992). It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender based violence affect women to different degrees depending on their experience of varying or intersecting forms of discrimination including on the basis of ethnicity/race, socioeconomic status, age, disability, being lesbian, bisexual, transgender or intersex, etc. [(CEDAW, General recommendation 35, 2017).](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/35&Lang=enhttps://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/35&Lang=en)
* Violence against children refers to all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse against children. (CRC, [General Comment No. 13](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f13&Lang=en), 2011). Violence experienced by boys and girls may also be a form of gender-based violence.
* Gender based violence perpetrated against LGBTI or other persons based on real or imputed sexual orientation, gender identity, and /or sex characteristics includes killings, imposition of death penalty for homosexuality, death threats, beatings, corporal punishment imposed as a penalty for same-sex conduct, and/or transgender persons, arbitrary arrest and detention, abduction, incommunicado detention, rape and sexual assault, humiliation, verbal abuse, harassment, bullying, hate speech and forced medical examinations, including anal examinations, and instances of so-called “conversion therapy” and forced/coerced medically unecessary procedures on intersex children and adults. (Report of the Independent Expert on protection against sexual orientation and gender identitiy, ([A/HRC/38/43](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/38/43), 2018, [OHCHR, Born Free and equal](https://www.ohchr.org/Documents/Publications/Born_Free_and_Equal_WEB.pdf), OHCHR, [Background note on human rights violations against intersex perople).](https://www.ohchr.org/Documents/Issues/Discrimination/LGBT/BackgroundNoteHumanRightsViolationsagainstIntersexPeople.pdf)
* Conflict related gender-based violence: Conflict can result in higher levels of gender-based violence against **women and girls**, including arbitrary killings, torture, **sexual violence** and forced marriage. Women and girls are primarily and increasingly targeted by the use of sexual violence, including as a tactic of war. M**en and boys** have also been victims of sexual violence, especially in contexts of detention. *Conflict related sexual violence* refers to rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict. That link may be evident in the profile of the perpetrator, (often affiliated with a State or non-State armed group, which includes terrorist entities); the profile of the victim, ( frequently an actual or perceived member of a political, ethnic or religious minority group or targeted on the basis of actual or perceived sexual orientation or gender identity); the climate of impunity, (generally associated with State collapse, cross-border consequences such as displacement or trafficking, and/or violations of a ceasefire agreement). The term also encompasses trafficking in persons for the purpose of sexual violence or exploitation, when committed in situations of conflict”. (Report of the Secretary General [S/2019/280](https://undocs.org/en/S/2019/280), 2019.)
* Systemic or institutional violence refers to institutional practices, laws or procedures that adversely affect groups or individuals psychologically, mentally, culturally, economically, spiritually, or physically. This violence has its origins within or outside the state, and is a major obstacle for the realization of the right to health, a right which is interconnected with rights to the underlying determinants of health.
1. Source: Validity’s case docket. [↑](#footnote-ref-1)
2. Ibid. [↑](#footnote-ref-2)
3. See, for instance, the United Nations Committee Against Torture, *Concluding Observations to Czechia*, CAT/C/CZE/CO/6, 6 June 2018, § 32-33, or the same conclusion in an individual complaint filed by Validity against Slovakia: Validity Foundation, *Slovakia: UN Committee against Torture condemns the use of netted cage-beds*, 21 December 2021, available at: <https://validity.ngo/2021/12/21/slovakia-un-committee-against-torture-condemns-the-use-of-netted-cage-beds/>. See also the collective complaint filed in 2019 by Validity Foundation against the use of cage beds in Czechia to the European Committee on Social Rights, available at: https://bit.ly/34TKMb3 [↑](#footnote-ref-3)
4. In a 2014 report on the use of cage-beds in the Czech Republic, Validity documented Kosmonosy Psychiatric hospital staff as saying that netted cage-beds would be insufficient for detaining men, who could easily damage the netting. One staff member stated that cage-beds were used for “delirious grandmas”. The director of the institution stated that 90 % of the use of cage beds occurred on ward B1 (a female admission ward) and on ward B3 (a female elderly admission ward). See MDAC, Cage beds and coercion in Czech psychiatric institutions, 2014, p. 31. Available at:

http://www.mdac.info/sites/mdac.info/files/cagebed\_web\_en\_20140624\_0.pdf [↑](#footnote-ref-4)
5. Source: Validity’s case docket. [↑](#footnote-ref-5)
6. Ibid. [↑](#footnote-ref-6)
7. Validity Foundation, *NGO information to the Committee on the Elimination of Discrimination against Women. For consideration when compiling the Addendum to General Recommendation No. 19: accelerating the elimination of gender-based violence against women*, 30 September 2016, Chap. 4. Available at: [https://www.ohchr.org/Documents/HRBodies/CEDAW/GR19/Mental%20Disability%20Advocacy%20Centre%20(MDAC).docx](https://www.ohchr.org/Documents/HRBodies/CEDAW/GR19/Mental%20Disability%20Advocacy%20Centre%20%28MDAC%29.docx). [↑](#footnote-ref-7)
8. Validity Foundation, *Moldova: doctor guilty of raping 18 women, compensation ordered*. Available at: https://validity.ngo/2019/12/09/moldova-doctor-guilty-of-raping-18-women-compensation-ordered/ [↑](#footnote-ref-8)
9. Recently, Czechia was shaken by a case of a 12-year-old girl placed in a ward of adolescent men in psychiatric hospital Bohnice who was repeatedly raped by other patients. The institution did not face any charges for having placed a girl in a male ward despite their awareness that many of the young men with whom the girl had been hospitalized had history of sexual offences. Only one individual perpetrator faced criminal charges. Idnes.cz, *Opakovaně znásilňovanému dítěti v léčebně přiznal soud vyšší odškodnění (The court awarded higher compensation to a repeatedly raped child).* 13 August 2021, available at: <https://www.idnes.cz/zpravy/domaci/dite-znasilneni-autista-lecebna-soud-odskodneni.A210813_104355_domaci_remy>. Another publicly discussed case concerns a well-known psychiatrist who reportedly for decades sexually abused dozens of his patients as a doctor of the psychiatric hospital in Bohnice and later in his private practice. Idnes.cz, *Měsíc skandálu s Cimickým: policie prověřuje desítky sexuálně poškozených (A month with the Cimický scandal: the police reviews complaints of dozens of sexually abused women).* 23 November 2021, available at*:* https://www.idnes.cz/zpravy/domaci/psychiatr-jan-cimicky-sexualni-obtezovani.A211123\_102044\_domaci\_knn [↑](#footnote-ref-9)
10. Similarly shocking case was revealed in Slovakia several years ago. Employees of a social care institution for children reportedly repeatedly sexually abused girls placed therein. The story leaked only after a mother of a girl residing in the institution, having repeatedly been denied access to her child, forced her entry into the institution, and discovered her daughter laying on the floor with visible injuries suggesting violence and sexual abuse. Idnes.cz, *Slovenský výchovný ústav čelí podezření, že v něm zneužívali klientky (Slovak institution faces allegations of sexual abuse of their clients)*. 12 September 2016, available at: <https://www.idnes.cz/zpravy/zahranicni/sexualni-zneuzivani-vychovne-zarizeni-slovensko.A160912_175454_zahranicni_aba> [↑](#footnote-ref-10)
11. See, for instance, the case communicated by the European Court of Human Rights, *G. M. v. Moldova*, no. 44394/15, available at: https://hudoc.echr.coe.int/eng?i=001-209235 [↑](#footnote-ref-11)
12. Validity Foundation, *Moldova: doctor guilty of raping 18 women, compensation ordered*. Available at: https://validity.ngo/2019/12/09/moldova-doctor-guilty-of-raping-18-women-compensation-ordered/ [↑](#footnote-ref-12)
13. See, for instance, UN CRPD Committee, General comment No. 3, *Women and girls with disabilities*, CRPD/C/GC/3, 2 September 2016, §§ 10, 16, 32, 44, 45; General Comment No. 1, *Equal recognition before the law*, CRPD/C/GC/1, 2014, § 42; Concluding observations: CRPD/C/PRY/CO/1, § 17. The following reports of the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the United Nations General Assembly qualify forced abortions or sterilisations as a form of torture and ill-treatment: A/63/175, 2008, § 40-41; A/63/175, 2008, § 40-41 and 70-76, A/67/227, 2012, § 28; A/HRC/22/53, 2013, §§ 48, 64; A/HRC/32/32, 2016, § 94. [↑](#footnote-ref-13)
14. Source: Validity’s case docket. [↑](#footnote-ref-14)
15. Ibid. [↑](#footnote-ref-15)
16. The Disability Rights Monitor was coordinated by leading global disability rights organisations, including Validity Foundation. See the website of the project: <https://www.covid-drm.org>. [↑](#footnote-ref-16)
17. Disability rights during the pandemic, report of the Disability Rights Monitor published in 2020, p. 28, 33, 37, available at: https://covid-drm.org/assets/documents/Disability-Rights-During-the-Pandemic-report-web.pdf [↑](#footnote-ref-17)
18. Ibid., p. 37. [↑](#footnote-ref-18)
19. COVID-19 Disability Rights Monitor (DRM) calls for an end to police violence and abuse against persons with disabilities and their family members, 4 August 2020, available at: https://covid-drm.org/en/statements/covid-19-disability-rights-monitor-drm-calls-for-an-end-to-police-violence-and-abuse-against-persons-with-disabilities-and-their-family-members [↑](#footnote-ref-19)
20. Ibid. [↑](#footnote-ref-20)
21. Ibid. [↑](#footnote-ref-21)
22. Disability rights during the pandemic, report of the Disability Rights Monitor published in 2020, p. 28, 33, 37, available at: https://covid-drm.org/assets/documents/Disability-Rights-During-the-Pandemic-report-web.pdf [↑](#footnote-ref-22)
23. Validity Foundation, *Tackling Torture: Victims of Crime with Disabilities in the COVID-19 Outbreak*, 2020. Available at: <https://validity.ngo/wp-content/uploads/2020/12/Tackling-Torture-Victims-with-Disabilities-in-the-COVID-19-Outbreak-WEB.pdf>. [↑](#footnote-ref-23)
24. Ibid. [↑](#footnote-ref-24)
25. Source: Validity’s case docket. [↑](#footnote-ref-25)
26. In one Validity’s case in Slovakia, for example, criminal investigation into an ill-treatment suffered in an institution was repeatedly terminated with reference to the victim’s inability to testify due to her intellectual disability. The victim has provided consistent testimony about the treatment on multiple occasions. Yet she had to wait for a decision of the United Nations Committee Against Torture for a recognition of the abuse she had suffered. Validity Foundation, *Slovakia: UN Committee against Torture condemns the use of netted cage-beds*, 21 December 2021, available at: <https://validity.ngo/2021/12/21/slovakia-un-committee-against-torture-condemns-the-use-of-netted-cage-beds/>. [↑](#footnote-ref-26)
27. For example, Validity represented a case in which a man was badly beaten up by another patient in a psychiatric hospital. Criminal proceedings were discontinued because the perpetrator was judged as not criminally responsible. The violence happened foremost because the institution did not give the patients enough food and did not take any measures to prevent conflicts arising from this problem. Nevertheless, the institution could not have been prosecuted according to the Moldovan Criminal Code. No perpetrator was found and no redress for the victim, therefore, provided. Source: Validity’s case docket. [↑](#footnote-ref-27)
28. Source: Validity’s case docket. [↑](#footnote-ref-28)
29. Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime. [↑](#footnote-ref-29)
30. The information follows from the research findings of Validity’s project Voices for Justice: Communicating with Victims of Crime with Disability, co-financed by the European Union. Research reports mapping the access to justice issues for victims of crimes with disability in Czechia, Slovakia, Slovenia, Croatia, Bulgaria, Romania and Lithuania will be published in the course of this year. Information about the project is available at: <https://validity.ngo/projects-2/voices-for-justice/> Some of the issues have already been mapped in previous research concerning access to justice for children with mental disabilities in the region published in 2015: http://www.mdac.org/en/accessing-justice-children [↑](#footnote-ref-30)
31. Ibid. [↑](#footnote-ref-31)
32. Ibid. [↑](#footnote-ref-32)
33. Ibid. [↑](#footnote-ref-33)
34. Source: Validity’s case docket. [↑](#footnote-ref-34)
35. Source: Validity’s case docket. See, for instance, also the case Tymoshenko v. Ukraine, no. 13459/15, communicated by the European Court of Human Rights. Available at: https://hudoc.echr.coe.int/eng?i=001-211639 [↑](#footnote-ref-35)
36. *Voices for Justice: Communicating with Victims of Crime with Disability* research findings. See above fn. 25. [↑](#footnote-ref-36)
37. Ibid. [↑](#footnote-ref-37)
38. See, for instance, the Concluding Observations of the UN Committee against Torture on the combined 4th and 5th periodic reports of the Czech Republic of 2012, CAT/C/CZE/CO/4-5, para. 21 (c), and the Concluding Observations of the UN Committee against Torture on the 6th periodic report of the Czech Republic of 2016, CAT/C/CZE/CO/6, paras. 32 and 33 (c). [↑](#footnote-ref-38)
39. Amendment to the Health Care Act no. 371/2021 Coll., effective since 1st January 2022. [↑](#footnote-ref-39)
40. United Nations Committee Against Torture, *Concluding Observations to Czechia*, CAT/C/CZE/CO/6, 6 June 2018, § 8-9; *Concluding Observations to Slovakia*, CAT/C/SVK/CO/3, 8 September 2015, § 7. [↑](#footnote-ref-40)
41. Ibid. [↑](#footnote-ref-41)