10 May 2021

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 the right of everyone to sexual and reproductive health – challenges and opportunities during COVID-19, which will be presented to the UN General Assembly in October 2021.

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 3000 words per questionnaire. Please submit the completed questionnaire to srhealth@ohchr.org. The deadline for submissions is: **10 June 2021.**

Tlaleng Mofokeng

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

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**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): Civil society organisation (disability rights)  |
| Name of StateName of Survey Respondent | European Disability ForumMarine Uldry, EDF Human Rights Officer  |
| Email | Marine.uldry@edf-feph.org  |
| Can we attribute responses to this questionnaire to your State publicly\*? \*On OHCHR website, under the section of SR health |  Yes NoComments (if any): the response covers the Euro-region  |

**QUESTIONNAIRE**

# Background

The right to sexual and reproductive health is an integral part of the right to health enshrined in article 12 of the International Covenant on Economic, Social and Cultural Rights and a key priority theme for the work of the Special Rapporteur on the right to physical and mental health during her tenure.

The Special Rapporteur, Tlaleng Mofokeng will focus her next thematic report to the General Assembly on “The right to sexual and reproductive health – challenges and opportunities during COVID – 19”.

# Objectives of the report

With her report, the Special Rapporteur intends to shed light on the current status/level of realization of the right to sexual and reproductive health and the availability, accessibility, acceptability and quality of related services, during the COVID-19 pandemic. Building on the work and previous reports of the mandate, she aims to further develop understanding of the structural and systemic issues preventing all persons from freely and fully enjoying the right to sexual and reproductive health.

She will focus on elements historically neglected, including the impact of colonialism and racism in the enjoyment of these right, with an intersectional approach and will also analyze the impact of COVID -19 and related policies, legal developments and practices on access to sexual and reproductive health services. She will also aim to present challenges and opportunities in the operationalization of the right to sexual and reproductive health in the current context of pandemic.

*For the purpose of this questionnaire:*

*The* ***Right to sexual and reproductive health*** *entails the right to make free and responsible decisions and choices, free of violence coercion and discrimination regarding matters concerning one’s body and sexual and reproductive health. It also entails entitlement to unhindered access to a whole range of health facilities, goods, services and information, which ensure all people full enjoyment of the right to sexual and reproductive health under article 12 of CESCR.*

***Sexual reproductive health care*** *refers to services, goods and facilities including:*

* *Pregnancy and post-natal related services*
* *Family planning and contraception, including access to safe abortion*
* *Prevention, diagnosis and treatment of reproductive cancers, sexually transmitted infections, and, HIV/AIDS*
* *Hormonal treatments*
* *Gender affirming treatments*
* *Access to information on all aspects of sexual and reproductive health issues.*

# Key questions

1. Since the beginning of COVID-19 pandemic, States have adopted new policies, laws and other measures in response to the crisis. Please refer to the relevant measures in your country (or countries in focus) and their impact on the right to sexual and reproductive health. Please share information on opportunities and challenges.

In Europe, European states and the European Union have adopted measures in response to the pandemic that were not inclusive of persons with disabilities, including women and girls with disabilities.

Restrictions measures have particularly affected the 60 million women and girls with disabilities in Europe and their sexual and reproductive health and rights. Women and girls living in institutions are often victims of violations of their right to sexual and reproductive health and rights. This includes forced sterilisation, abortion or contraception, and/or lack of gynecological care and access to safe abortion. Because lockdowns have affected to a greater extend persons in institutions, as they have been closed for longer and visits were not allowed, women and girls with disabilities living there have been affected to a greater extend. In addition, women with disabilities in general have experienced even more delay in accessing gynecological care and support to motherhood.

The gender and disability movements have advocated for gender and disability inclusive response to the pandemic. Unfortunately, women and girls with disabilities fell within the gaps. The responses including a gender perspective did not include the rights and needs of women and girls with disabilities. Below is a testimony extracted from [EDF’s Human Rights Report on COVID-19](https://www.edf-feph.org/publications/human-rights-report-2021-impact-of-covid19-on-persons-with-disabilities/):

**Testimony: Magdalena Kocejko, Feminist with disabilities from Poland (**[**Article 6 Collectif**](https://www.facebook.com/artykul6/)**)**

“There is no data or any other research about the situation of women with disability in care homes during pandemic, but the overall reality has been dramatic. According to Polish Disability Forum the risk of death from COVID-19 is several dozen times higher than outside institutions. In many care homes people have been staying locked up since March without any possibility to go outside or meet their family. There has not been any policy solution to address the problems of human rights violations, isolation and increasing risk of psychological, sexual and physical abuse. It is safe to assume, that women with disabilities have been particularly disadvantaged. These institutions have remained closed to the public so there is no way to get help in case of abuse or psychological crisis.”

1. Please also specify legal or other measures introduced during the pandemic aiming at recognizing, or restricting, banning or criminalizing: a) access to legal abortion; b) consensual sex between adults; c) same sex sexual relations, d) consensual sex between adolescents of similar ages, e) sex work, f) same sex marriage, g) information on the right to sexual and reproductive health; h) HIV transmission and i) autonomy and free decision making on one’s body and sexual and reproductive health.

Pre-crisis, women and girls with disabilities already had more difficulties in exercising their sexual and reproductive health rights. Because of myths, stereotypes, and lack of knowledge of disability, they face discriminatory treatment and abuse (including forced sterilisation, contraception, and abortion), with important and sometimes irreparable consequences on their lives.[[1]](#footnote-2)

During the pandemic, some States have attempted to limit access to some sexual and reproductive health services, particularly abortion, by classifying them as non-essential services or attempting to adopt laws that further restrict access to them. This was, for instance, the case in **Poland**. The Constitutional Tribunal in Poland has ruled that the law permitting abortion on grounds of “a severe and irreversible foetal defect or incurable illness that threatens the foetus’s life” was unconstitutional. It has triggered mass protests across Poland and many women with disabilities decided to join the protests.[[2]](#footnote-3)

In **Italy**, some hospitals stopped providing abortion services and sent women needing sexual and reproductive healthcare to other hospitals, making obtaining an abortion much more complicated.[[3]](#footnote-4)

1. Regarding sexual and reproductive health care, what services, goods and information is being provided in your country (or countries in focus), during the pandemic?
	1. Any changes compared to pre-COVID 19? Has any service, good or information been deprioritized or defunded? Who is this affecting in particular?
	2. Please explain if there has been any impacts on the availability, accessibility, acceptability or quality of sexual reproductive services during COVID – 19.
	3. Please also share information on other practical obstacles or challenges to access sexual reproductive services during the pandemic, and who were most affected.
	4. Please also share good practices and opportunities in the provision of sexual and reproductive health care during the pandemic.

Already before the pandemic, services, goods and information on sexual and reproductive health were not available or accessible for women with disabilities. For example, information on sexual and reproductive health services is not available in accessible formats such as Braille, Easy to Read or in sign language. There is also often no information provided to girls and women with disabilities living in institutions and/or under substituted decision-making mechanisms (such as guardianship and curatorship).

During the pandemic, women with disabilities faced even more restrictions in accessing services. For example, they were not always allowed to be accompanied by their personal assistant or a sign language interpreter could not be present with them.

1. In connection to questions 1 to 3, please also share other relevant information on legal, policy or other changes affecting the right to sexual and reproductive health and related health care in your country or countries in focus, unrelated to COVID-19.

Women with disabilities are still victims of sterilisation without their knowledge or consent. It is a widespread form of violence and violation of sexual and reproductive rights, in particular affecting members of ethnic minorities such as Roma women and women under guardianships and/or living in institutions.

The UN Committee on the Rights of Persons with Disabilities raised concerns over the fact that several EU Member States still authorise forced sterilisation and abortion in their legislation, including in Croatia, Czechia, Germany, Lithuania, Slovakia and Spain. In December 2020, Spain adopted a [bill to prohibit forced sterilisation](https://www.cermi.es/es/actualidad/noticias/espa%C3%B1a-ilegaliza-las-esterilizaciones-forzadas-de-personas-con-discapacidad-en) in its penal code. Previously, the penal code was authorising such practice by decision of a doctor.

Even in countries in which the law does not authorise forced sterilisation and abortion, such violations may still take place when they are performed without the understanding and consent of the girl or woman with disabilities. For example, the [Belgian Disability Forum](https://rm.coe.int/grevio-reponse-bdf-20191210/16809939ba) had reported that occurrences of forced sterilisation and contraception may still take place in Belgium.

More information about forced sterilisation of women with disabilities is available in a [report of EDF](https://www.edf-feph.org/content/uploads/2020/12/edf_forced-sterilisation_8-accessible_6.pdf) published in 2017. The document highlights examples of women with disabilities who have been sterilised without their consent, and sometimes without their knowledge, and calls for urgent reforms in all European countries.

It is also important to note that in some other cases, women with disabilities have difficulties to access safe abortion, including when becoming pregnant as a consequence of rape.

1. Please indicate if your country, institution or organization has decreased financial support or aid to other State, donor or institution or programme in the area of sexual and reproductive health, including through international cooperation, compared to pre-Covid time.

The European Disability Forum does not provide financial support or aid.

1. Please indicate if your country, institution or organization has been affected by a decreased in financial support or aid, including through international cooperation, compared to pre-COVID time, and how this has affected sexual and reproductive health care.

The European Disability Forum did not faced decreased of financial support or aid, but we are aware that some civil society organisations in European countries faced such difficulties, including those working in the area of sexual and reproductive health.

1. EDF, [Position paper on sexual and reproductive health and rights of women and girls with disabilities](http://www.edf-feph.org/sites/default/files/edf_position_paper_on_srhr_english_0.pdf), (March 2019).   [↑](#footnote-ref-2)
2. MS Magazine “[In the Battle Over Abortion, Polish Feminists with Disabilities Are Claiming Their Rights](https://msmagazine.com/2020/12/15/abortion-poland-polish-feminists-women-with-disabilities-fetal-defect/)”, (15 December 2020). [↑](#footnote-ref-3)
3. Women Enabled International, [Submission to the Special Rapporteur on Violence against Women: Violence at the Intersection of Gender and Disability during COVID-19](https://womenenabled.org/pdfs/WEI%20SRVAW%20Submission%20DV%20COVID%20FINAL%20June%2030%2C%202020.pdf), (30 June 2020). [↑](#footnote-ref-4)