Date: 21 June 2021

11 Tamuz 5781

To: Ms. Tlaleng Mofokeng, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Subject: **The State of Israel's Submission to the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health's Report on the Right to Sexual and Reproductive Health**

The State of Israel respectfully submits its contribution in relation to the above-mentioned questionnaire.

**Treatments Limited in order to Minimize the Spread of COVID-19**

On 20 March 2020, as part of the State's measures taken to minimize the spread of COVID-19 and maximize the medical resources allocated to treating COVID-19 patients, the Ministry of Health Chief Medical Directorate published directives *Limiting the Activity in IVF (in vitro fertilization) Units due to the COVID-19 Pandemic*, by which elective medical treatments, including fertility treatments, in public hospitals would be suspended, with certain exceptions. Nevertheless, ongoing IVF treatment cycles, in which a follicle of at least fifteen (15) millimeters was found, were continued, as well as treatments conducted by women in fertility treatment cycles preceding oncological treatments.

On 27 April 2020, the National Council for Women's Medicine, Neonatology and Genetics, an expert council which advises the Ministry of Health, submitted recommendations to re-examine this policy. Alongside these recommendations, on 26 April 2020, the Ministry of Health's Chief Medical Directorate published an *Outline for Gradual Return of the Health System to Conduct Elective Treatments*, and on 27 April 2020, the Chief Medical Directorate published a directive concerning *Preparation for and Gradual Return of Fertility and IVF Units to Adapted Activity*. These guidelines established the format for the gradual resumption of the fertility and IVF unit activity. The resumption was conducted with meticulous consideration of the general health regulations in place, supervision of a COVID-19 Committee monitoring the relevant data, in an attempt to fully resume activities within three (3) months.

Following a significant decrease in COVID-19 related mortality, on 10 May 2020, the Ministry of Health Chief Medical Directorate published an update to its previous directive on *Preparation to and Gradual Return of Fertility and IVF Units to Adapted Activity*. Pursuant to this updated guideline, IVF treatments for all women were to be resumed, while maintaining the general health restrictions for minimizing the spread of COVID-19. The Directorate included an informed consent form to undergo fertility and IVF treatment adapted to the COVID-19 pandemic. Note that the full resumption of fertility treatments was decreed before the three (3) months deadline the Ministry established had passed, which reflects the State's commitment to strive to fulfill human rights, while balancing the importance of maintaining stability throughout the pandemic.

The temporary limitations placed on fertility and IVF treatments were under the judicial oversight of the High Court of Justice. Towards the end of April 2020, a petition was submitted against the policy suspending the majority of the fertility and IVF treatments in order to minimize the spread of COVID-19, claiming the policy promoted inequality (HCJ *2656-20 Chair of the Women's Forum for Advancing Fertility in Israel v. The Prime Minister*). Following the Ministry of Health's Medical Directive of May 2020, wherein due to the decreasing mortality rate the Ministry of Health ordered to resume fertility and IVF treatments, the petitioners maintained their stance, noting that a rise in mortality could be imminent and requesting to prevent future impairments of rights in this regard. However, as the petition submitted was against the redacted policy, the Court dismissed the case on 4 June 2020.

Following the successful vaccination campaign and overwhelming decrease in COVID-19 related mortality, on 8 June 2021, the Ministry of Health Chief Medical Directorate published a directive concerning *Resumption of Activity in Fertility and IVF Units*. Pursuant to this guideline, fertility and IVF treatments would now be considered ambulatory hospital treatments, subject to the same future guidelines and regulations as other clinics. Additionally, the requirement to provide either a negative PCR test or a certificate of vaccination was rescinded, as well as the informed consent form to undergo adapted treatments.

**Policy Changes in Reproductive Health Care**

In May 2020, the *National Health Insurance Order (Change in Second and Third Amendment to the Law) (Temporary Provision)* 5780-2020 was enacted; pursuant to this Order, any person who is entitled to certain treatments, including fertility and IVF treatment, whose insurance coverage for the relevant treatment expired due to their age during the COVID-19 pandemic, will receive a three (3) months extension from the date of expiration. In August 2020, the same Order was enacted, extending the date of expiration in an additional three (3) months.

The extensions were given respective of the periods in which the access to treatment was limited, to ensure that the health restrictions would not inflict damage on the relevant parties' insurance coverage. It may be noted that the extension pertains to a longer period of time than the period in which the treatments were limited, in light of the gradual resumption, so as to ensure that all affected parties would receive the benefits entitled to them.