

REPUBLIC OF MOLDOVA'S 2ND UNIVERSAL PERIODIC REVIEW (UPR) 2016

DOMESTIC VIOLENCE IN THE REPUBLIC OF MOLDOVA

In the UPR review in 2011, the Moldovan authorities were given ten recommendations to combat violence against women. The cases listed in our UPR joint submission, illustrate Moldova's failure to implement it.



EMERGING ISSUES

LAW 45 ON PREVENTING AND COMBATING DOMESTIC VIOLENCE REQUIRES MECHANISMS TO MONITOR THE SUCCESSFUL IMPLEMENTATION OF THE NEW AMENDMENTS, IN ORDER TO ELIMINATE BARRIERS TO JUSTICE, ENSURE VICTIM SAFETY, AND PROVIDE ACCOUNTABILITY FOR OFFENDERS.

DESCRIPTION

Since 2013, the State has been working on amendments that would harmonize national legislation with provisions of the Council of Europe Convention on preventing and combating violence against women and domestic violence. After a lengthy and difficult three year process, on 28 of July 2016, the amendments were adopted by the Parliament and on 16 of September 2016 the Law was published in the Official Monitor. The provisions regarding the establishment of an emergency restraining order will come into force on expiry of 6 months from the date of publication of the law.

RECOMMENDATION

- Develop mechanisms for the monitoring of the effective implementation of the domestic violence law.
- The State should sign and ratify the Istanbul Convention

PROTECTIVE ORDERS ISSUES: RELUCTANCE TO ISSUE AND/OR APPLY THEM, INCONSISTENT APPLICATION OF THE LAWS IN CASES OF PROTECTIVE ORDER VIOLATIONS.

DESCRIPTION

Victims in shelters or in the process of divorce are often denied protective orders by judges, who mistakenly think protection is not necessary. Judges frequently do not issue protective orders within the required 24-hour time frame, do not specify distances and locations in the protective measures or do not promptly communicate to all parties that the order has been issued.

The authorities are often reluctant to remove the aggressor from the home where the victims often reside with their children, even if the distances are specified in the protective orders.

Reports by psychologists, who actually provide direct services to victims, are not accepted as direct evidence by the courts for purposes of issuing a protective order, or for the investigation and prosecution in domestic violence cases.

RECOMMENDATION

- The judiciary should develop/adjust its own guidelines and protocols in accordance with international standards on human rights and the Istanbul Convention as it concerns the protective orders. The State must train judges on dealing with domestic and sexual violence issues.
- The State should create sanctions for system professionals who fail to enforce the provision and application of the protective orders.
- The State should accredit the psychologists as judicial experts in Law No 1086/2000 on Judicial Expertise and should include psychological reports issued by psychologists, who provide direct services to victims, that courts accept as evidence.

SUGGESTED QUESTIONS

- *What measures has the State undertaken to ensure real and effective protection for victims of domestic violence?*
- *What measures has the State undertaken to prosecute each violation of a protective order?*
- *How does the State ensure that psychologist reports are accepted as direct evidence by the courts for purposes of issuing a protective order, and/or for investigations and prosecutions in cases of domestic violence?*

THE APPLICATION OF THE CRIMINAL CODE PROVISIONS BY POLICE AND PROSECUTORS IN CASES OF VIOLENCE AGAINST WOMEN, NAMELY DOMESTIC AND SEXUAL VIOLENCE, REMAINS INEFFICIENT.

DESCRIPTION

Often, police often are insensitive to victims and dismiss acts of violence that result in low-level injuries.

Police and prosecutors fail to investigate cases of sexual violence and do not believe victims of sexual violence. These cases are investigated on outdated instructions that do not comply with international best practice standards.

RECOMMENDATION

- Develop mechanisms for the monitoring of the effective implementation of the domestic violence law and effective police and prosecutors investigations into complaints.
- Develop guidelines and protocols for prosecutors and criminal investigation officers, in accordance with international standards on human rights and the Istanbul Convention;

LACK OF SAFE HOUSING AND SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE.

DESCRIPTION

Moldova needs to provide a total of 356 shelter spaces to comply with the Council of Europe Taskforce Recommendations. Only 181 victims of violence benefit from shelter places with at least 175 places still missing.

RECOMMENDATION

The State should improve and expand rehabilitation centers for domestic violence victims, in particular in rural areas, and increase capacity and coverage of domestic violence shelters. The State should ensure the security and welfare of victims of domestic and sexual violence by guaranteeing effective remedies through reliable access to social, medical and psycho-logical victim assistance programs.

SUGGESTED QUESTIONS

- *What measures has the State undertaken to ensure safe housing and services for victims of domestic violence?*

THERE IS A LACK OF HARMONIZATION WITHIN THE CRIMINAL PROCEDURE CODE CONCERNING THE INITIATION OF COMPLAINTS IN SEXUAL VIOLENCE CASES.

DESCRIPTION

Article 276 of the Criminal Procedure Code requires a victim complaint to initiate criminal prosecution of rape; yet, the provision listing crimes for which a victim complaint is required does not include rape.

RECOMMENDATION

The provisions of the Criminal Procedure Code concerning the initiation of complaints in sexual violence cases should be appropriately harmonized.

DANGEROUS USE OF "SETTLEMENT" PRACTICES

DESCRIPTION OF THE ISSUE

Both prosecutors and judges use "settlement" techniques when determining a victim's willingness to reconcile under Criminal Code Article 276(5). In cases of sexual violence, Article 276 states that even if the victim makes a complaint and prosecution commences, the prosecution will terminate if the victim and aggressor reconcile.

SUGESTED RECOMMENDATION

The law should be harmonized and be consistent with the requirements of the Istanbul Convention and CEDAW as to prohibit mediation in all cases of domestic and sexual violence as well as "friendly agreements" that allow for the payment of compensation and other means of reconciliation in cases of sexual violence.