

**Key words: Gender equality, sexual violence, sexuality education, abortion, contraception**

## **Executive Summary**

1. This submission has been prepared by Gender Alternatives Foundation and the Sexual Rights Initiative<sup>1</sup>. It draws attention to the lack of a legislative framework in Bulgaria on gender equality and domestic violence, including rape. It makes recommendations for strengthening the enforcement of laws and regulations related to gender-based violence. Sexuality education is not a compulsory and separate subject in the Bulgarian school curricula. Together with the lack of access to contraception, this is the cause for high rates of unintended pregnancy and abortion among adolescents. Women face verbal abuse, extortion and other forms of abuse when accessing reproductive health services. This submission makes recommendations to ensure accountability for such abuses.

## **Legislation affirming gender equality**

### *Legal framework*

2. Bulgaria has not ratified yet the Convention on preventing and eradicating all forms of violence against women, including domestic violence (Convention No210 of the Council of Europe), Protocol 12 to the European Convention on Human Rights and Fundamental Freedoms and the Optional Protocol to the UN Covenant on Economic, Social and Cultural Rights which affirm the standard of gender equality.
3. No specific legislation on gender equality is adopted in Bulgaria. No specialized body is created to implement the national policy in the area of gender equality.

### *Implementation*

4. The implementation of the existent anti-discrimination legislation very often affirms the unequal position of women in society and, subsequently, in the family. The legal form is one of the main expressions of the social practice, the expression of the real relations of inequality of the two sexes. Law defines the character and creates the institutions of the social relations in the frame of which men and women act, the family acts. The legal system continuously reproduces a concrete ideological concept of the relations between the two sexes which can be defined as patriarchal ideology.
5. Despite that, in its 2010 Annual report, the Commission for Protection against Discrimination admitted that the stereotypes, deeply-rooted in the society, are often a serious obstacle for achieving equality between the sexes and stated that in many cases, the seemingly not harmful stereotyped behavior illustrates women as incapable of performing tasks other than being mothers and house wives, and creates negative image leading to violation of their dignity and fundamental human rights, its practice proves that women cannot expect change in the social mentality soon and cannot rely on both the national courts and the commission for their right to non-discrimination to be effectively protected.

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<sup>1</sup> The Sexual Rights Initiative (SRI) is a coalition including: Action Canada for Population and Development (Canada); Egyptian Initiative for Personal Rights (Egypt); Federation for Women and Family Planning (Poland); Creating Resources for Empowerment and Action (India); Coalition of African Lesbians (Africa); Akahata Equipo de Trabajo en Sexualidades y Generos (Latin America) and others.

6. Bulgaria did not implement the previous UPR recommendations in the area of protecting women's rights through ensuring adoption and implementation of international, European and national legislation in the area of gender equality. Although an Action plan for the implementation of the CEDAW Committee recommendations (CEDAW/C/BGR/CO/4-7) was adopted by Decision No438 of the Council of Ministers on 25.07.2013, no legal measures were undertaken to ensure effective women's rights protection.

*Recommendations:*

7. Ratify the Convention on preventing and eradicating all forms of violence against women, including domestic violence (Convention No210 of the Council of Europe).
8. Ratify Protocol 12 to the European Convention on Human Rights and Fundamental Freedoms.
9. Ratify the Optional Protocol to the UN Covenant on Economic, Social and Cultural Rights.
10. Take all the necessary measures to disseminate knowledge of the provisions of the CEDAW, its Optional protocol and its General Recommendations among judges, prosecutors and lawyers to enable them to invoke and apply the Convention in relevant cases.
11. Adopt and implement specific legislation on equality between men and women, thereby officially recognize the particular nature of discrimination against women and adequately address it.
12. Adopt a comprehensive approach to overcome traditional stereotypes regarding the roles of women in family and society, including political, legal and awareness-raising measures involving state officials and civil society as well as the media.

**Sexual violence**

*Legal framework*

13. Rape in a family context is not specifically recognized as a crime (Article 152 of the Penal Code).
14. According to Article 158 of the Penal Code, a perpetrator of sexual violence is not punished if he marries the victim before the end of the trial.
15. Under the Penal Code, domestic violence is not recognized as a separate crime. The Protection against Domestic Violence Act (PDVA) was enacted in March 2005. It provides for administrative measures in cases of domestic violence. Only the violation of a protection order under the PDVA was criminalized in 2009 (Article 296 (1) of the Penal Code).
16. According to Article 161 (1) of the Penal Code, light and medium bodily injuries, among other similar offenses, caused within the context of domestic violence, are prosecuted in a private complaint procedure, i.e. on the initiative of the victim.
17. According to Article 191 (4) of the Penal Code a person living in a marital relation with a girl the age under 16, is not punished by law if he marries the girl before the end of the trial.
18. Under the Criminal Proceedings Code, the victims of trafficking have the right to be legally represented during the criminal proceedings both in their capacity of civil claimant and witness (Articles 75 (1) *in fine* and 122 (2) ).

19. The Victims' Assistance and Financial Compensation Act provides explicitly for free legal aid to victims of trafficking if "*they do not have financial means to pay an attorney, wish to have one and it is in the interest of justice to have one*" (Article 23 (2) of the Legal Aid Act in conjunction with Article 10 of the Compensation Act).
20. Article 73 (1) of the Criminal Proceedings Code imposes on the court and prosecution authorities a duty to inform the victim of her right to file a claim for compensation of the damages caused as a result of the crime. Pursuant to article 84 (1), the victim may file, in the course of the trial, a civil claim for compensation of the moral and non-moral damages caused and has the right to join the trial as a civil claimant.

### *Implementation*

21. As rape in the family context is not specifically criminalized, no special support is offered for the women victims of such rape, including counseling and rehabilitation. This legislators' decision diminishes the importance of the problem and sustains perpetrators' understanding that rape within a family is not worth serious attention. On the other hand, the lack of State involvement in addressing it confirms the general society's understanding that it is more of a private matter and the State does not bear the responsibility for preventing such violence and adequately punishing its authors. By its failure to condemn and adequately respond to the serious problem of family rape, the Bulgarian State has demonstrated its complicity in widespread violence against women in the country.
22. Although the violation of a protection order under the PDVA was criminalized in April 2009 (Article 296 (1) of the Penal Code), and was made punishable by imprisonment or a fine, there are only few cases initiated by the Prosecutor's office in that regard. Thus, there is low number of cases of domestic violence that are actually brought to justice and sanctioned under the Penal Code.
23. Article 161 (1) of the Penal Code has not been repealed despite the fact that it constitutes discrimination against women and victims of different forms of gender-based violence within the family. It is ascertained to be such as it is expected of the victims of domestic violence – who are usually humiliated, threatened, beaten, coerced and their life and health are in danger – to initiate private criminal proceedings against their abusers and to become "private prosecutors" to the perpetrators – usually an impossible option for a victim of domestic violence whose prime consideration might be how to physically survive and remove her children in order to save their lives. The burden of proof would be upon her and she would face all the difficulties of an expensive and a time consuming judicial process which would require her to meet her abuser whom she just managed to escape and leave after years of experiencing different forms of domestic violence, which is the usual case.
24. According to data collected by NGOs, the number of teenage girls living in marital relations with older men has been on the rise in recent years because of the lack of criminal investigation and punishment of the perpetrators of sexual violence against girls.
25. Although the prosecution and court authorities have a statutory obligation to inform the victims of trafficking about their right to take part in the trial as civil claimants, it most often remains unclear for the victims what the substance of this right is. The victims do not have information of the reasonable amount of compensation to claim and the appropriate evidence to adduce. Most importantly, the victims are unaware of

the possible means to guarantee the actual payment of the compensation awarded, after the verdict becomes final. If the victim does not file a compensation claim before the criminal court or considers that the compensation awarded does not cover all damages, the victim can avail of another option, namely to claim compensation under the Obligations and Contracts Act to a civil court, after which the case will follow the rules of the Civil Proceedings Code. However, the chances that the victims learn about the possibility to claim compensation under the Civil Proceedings Code are insignificant. Pursuant to Article 3 of the Victims' Assistance and Financial Compensation Act, financial compensation may be awarded to victims who survive trafficking and have suffered non-moral damages. The law does not provide for financial compensation of moral damages. It only provides for financial compensation of a list of pecuniary damages, enumerated in Article 14. However, most of them are irrelevant for the crime "human trafficking".

26. Thus, the forms of violence that women experience in the home, including rape, murder, assault and battery, are condemned by the criminal law. However, when committed against a woman in an intimate relationship, these attacks are more often tolerated as the norm than prosecuted as crimes. Those who commit such acts are often prosecuted less vigorously and punished more leniently than perpetrators of similarly violent crimes committed against strangers.
27. There is lack of State funded and supported research on prevalence, causes and consequences of gender based violence.
28. The State does not adopt and/or implement and periodically review and analyse its national legislation to ensure its effectiveness in eliminating violence against women, emphasizing the prevention of violence and the prosecution of offenders.
29. Bulgaria did not implement the previous UPR recommendations in the area of fighting gender based violence. Although an Action plan for the implementation of the CEDAW Committee recommendations (CEDAW/C/BGR/CO/4-7) was adopted by Decision No438 of the Council of Ministers on 25.07.2013, no legal, political or other measures were undertaken to ensure effective protection of the victims of sexual violence.

*Recommendations:*

30. Repeal or amend Articles 152, 158, 161 (1) and 191 (4) of the Penal Code so as to classify all forms of violence within the family as criminal offences, including domestic violence.
31. Provide shelter to victims of gender based violence without bureaucratic proceedings in the process of application.
32. Amend the Victims' Assistance and Financial Compensation Act so as to include financial compensation for moral damages.
33. Provide mandatory training for judges, lawyers and law enforcement personnel on the application of the gender based violence legislation.
34. Initiate regular gender sensitive monitoring of gender based violence cases.
35. Ensure State funded and supported research on prevalence, causes and consequences of gender based violence.
36. Ensure periodic review and analysis of the national legislation so as to guarantee its effectiveness in eliminating violence against women, emphasizing the prevention of violence and the prosecution of offenders.
37. Promote social inclusion and economic empowerment among victims of gender based violence and discrimination, young women, minority women, rural women,

foreign women and migrant women, based on the identification and recognition of their particular needs and interests.

## **Sexuality education**

### *Legal framework*

38. Sexuality education is not a compulsory and separate subject in the Bulgarian school curricula.

### *Implementation*

39. Despite many positive examples and good practices, among which there are the attempts to introduce compulsory sexuality education in schools and to improve the access to youth services and information, the Bulgarian health, social and educational systems are still not flexible enough to respond to the needs of the Bulgarian youth.
40. A detailed analysis of a Summary Report on the access of young people to sexual and reproductive health services unambiguously shows that the young people aged 10-14 from ethnic minorities who live in the rural parts of the country, as well as the persons who are excluded from the social security system, seek and receive limited number of services. The research shows that the typical group that benefits from these kinds of services comprises of young people aged 15 – 24 who define themselves as Bulgarians and live in the cities, have financial resources and social security.
41. The school environment is not suitable for young people to acquire comprehensive sexuality education and the respondents in a Summary Report on the access of young people to sexual and reproductive health services, written by the Bulgarian Family Planning and Sexual Health Association, do not even rank it among their reliable sources of information.
42. There is no centralized and unified curriculum on sexuality education pertaining to contraception and prevention of sexually transmitted infection and HIV. There are existing policies but they remain out of the practice of the educational system. The services and education on these topics is mainly provided by the NGO sector.
43. Bulgaria did not implement the previous UPR recommendations in the area of achieving gender equality. Although an Action plan for the implementation of the CEDAW Committee recommendations (CEDAW/C/BGR/CO/4-7) was adopted by Decision No438 of the Council of Ministers on 25.07.2013, no legal, political or other measures were undertaken to ensure prevention of early marriages, to promote use of modern contraception and ensure effective access to it as well as to abortion services.

### *Recommendations:*

44. Introduce compulsory sexuality education in schools and improve the access to youth services and information.
45. Update the existing policies in the educational system in the areas of sexual and reproductive health and rights.

## **Abortion**

### *Legal framework*

46. Abortion in Bulgaria has been legal on request within the first 12 weeks of pregnancy since 1990. Between 12 and 20 weeks, abortion is only permitted for women who suffer certain medical conditions that may endanger her life or that of the fetus, and after 20 week abortion is only permitted if the woman's life is in danger or the fetus is severely genetically harmed.

### *Implementation*

47. Bulgaria has one of the highest abortion rates in Europe and the highest rate of teenage abortion in Eastern Europe. As of 2010, the abortion rate is 14.7 abortions per 1000 women aged 15-44 years. This high abortion rate poses serious concern for public health. Some of the reasons for it are: unintended pregnancy due to lack of compulsory comprehensive sexuality education and lack of access to affordable modern contraception.
48. Reports on verbal and physical abuse of women by hospital staff during abortion and delivery are very common in Bulgaria, albeit primarily verbal. Therefore, they leave very little trace. Socially, the most typical and omnipresent ill-treatment of labouring women, such as shouting at them, making sarcastic and vulgar remarks, forbidding them to scream, and slapping them, is widely accepted as the natural way of birth.
49. The labouring women are expected to be apologetic and docile. Disobedience may be punished by inflicting unnecessary pain by staff during delivery.
50. Roma women are segregated and ignored both when accessing abortions or going for delivery.
51. Similar experiences are shared by women who suffered miscarriages or underwent abortions. The women are approached with continuous requests for money during the miscarriage and while in pain; they are threatened, coerced, and shamed. Some report that during abortion, no nurse was present and they were attended to by only male staff.
52. There is no quantitative data whatsoever in respect of the abuse suffered by women in maternity wards in Bulgaria. There is no comprehensive and specialized research or investigation of this issue, nor are there any successful attempts at strategic litigation as ways of addressing the problem and creating publicity.

### *Recommendations:*

53. Take measures to reduce teenage pregnancy by providing comprehensive sexuality education and ensuring access to a wide range of contraceptives.
54. Investigate the issue of abuse of women in hospitals during childbirth, miscarriage or abortion.
55. Enforce penalties for hospital staff who abuse women during childbirth, miscarriage or abortion.
56. Carry out training of hospital staff in ethics of assisting childbirth and the consequences of violations.
57. Introduce measures to prevent extortion from women in hospitals during miscarriage or abortion.
58. Introduce supervision and enforce accountability of the medical staff.

## **Contraception**

### *Legal framework*

59. Emergency contraception is available in Bulgaria and is used as a method for family planning. However, emergency contraception is not reimbursed or covered by social security. In addition, for girls under the age of 16 it is only available by prescription.

### *Implementation*

60. In an analysis of youth lifestyle reviewed in a Municipal strategy (2012-2017) it is observed that during the last decade there is a tendency for increasing risk behavior of young people: early dropping out of school, alcohol, tobacco and drug use, unprotected sexual activity, juvenile delinquency, transactional sexual activity, running away from home. The Strategy explains the reasons for this “social immaturity” not only due to the absence of appropriate systematic education in the educational system, but with the lack of “good traditions” in family upbringing as well. The existing social and economic crises and the lack of sufficient perspectives for young people’s future realization contribute to risky behavior with regard to social and individual wellbeing. Young people today do not have sufficient skills of risk management.
61. According to the UN index on knowledge on HIV and AIDS, 8% of the Bulgarian youth have an active sexual life before the age of 15. A youth website reveals that Bulgaria ranks second after Russia with high levels of pregnancies and births between the ages of 15-19 years. In 2009, more than 10 000 girls have given birth before turning 20 and nearly 500 of them have been under 15 years of age.
62. According to data from 2011, 60% of the newly registered HIV infections in Bulgaria were among young people aged between 15-29 years old. 21% of the young people aged 16-24 had sex with more than one partner within a month. Half of the Bulgarian youth experienced their first sexual intercourse at the age of 16 years or younger and 39% of them did not use a condom and/or other forms of contraception.
63. Limited number of emergency contraceptives is available over-the-counter without a prescription in pharmacies. It is not accessible for those under the age of 16 who need a prescription. It is not reimbursed or covered by social security, thus it is not affordable, especially for young people.
64. Modern contraceptives are not commonly used in Bulgaria for preventing pregnancies, nor condoms for preventing STIs, including HIV.
65. There is not adequate information on modern contraception.
66. There is not effective access to affordable contraceptives.

### *Recommendations:*

67. Ensure access to information on modern contraceptives.
68. Ensure affordable access to modern contraception, including emergency contraception.
69. Build capacity among youth in order to use effectively the available youth services in the primary and specialized outpatient assistance.
70. Ensure that in the municipal districts the services directed towards young people are of priority for the local decision makers.

