

**August 2017**  
**Republic of Moldova**

**Report to the Committee on Economic, Social and Cultural Rights**  
**Concluding Observations**

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This Joint NGO Submission has been drafted by the Moldovan Institute for Human Rights (IDOM) and the Mental Disability Advocacy Centre (MDAC). The submission focuses on **the rights of persons with intellectual and psychosocial disabilities**, offering a critical perspective on relevant policies, legislation and practices.

**IDOM**  
INSTITUTUL PENTRU  
DREPTURILE OMULUI

**The Moldovan Institute for Human Rights (IDOM)** is an independent, non-profit organisation that promotes and defends effectively human rights on grassroots and government levels, through education and empowerment, monitoring and reporting, raising awareness activities, strategic litigation and promotion of human rights standards in policies and legislation.

IDOM carries out activities in the following main areas: the rights of people living with HIV/AIDS, the rights of people with mental disabilities, patient's rights, and right not to be subjected to torture or other cruel, inhuman or degrading treatment.<sup>1</sup>

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**Mental Disability Advocacy Centre (MDAC)** is an international human rights organization which uses the law to secure equality, inclusion and justice for persons with mental disabilities worldwide. MDAC's vision is a world of equality where emotional, mental and learning differences are valued equally; where the inherent autonomy and dignity of each person is fully respected; and where human rights are realized

for all persons without discrimination of any form. MDAC has participatory status at the Council of Europe, and special consultative status at ECOSOC.

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<sup>1</sup> The members of IDOM contribute to writing reports on diverse violations of human rights. The reports result from various sources, as the analysis of the situation and of cases, the comparison of national legislation with international acts in the domain of human rights and from recommendations for improvement, such as: Alternative Reports to the UN Committees: UN Committee for Civil and Political Rights, available at: [http://www2.ohchr.org/english/bodies/hrc/docs/ngos/CreDO\\_IDOM\\_Moldova97.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/ngos/CreDO_IDOM_Moldova97.pdf) (27.02.2011), List of issues submitted in 2010 to the UN Committee for Social, Economic and Cultural Rights, available at <http://www2.ohchr.org/english/bodies/cescr/cescrwg44.htm> (27.02.2011); UN Committee against Torture, available at: [http://www2.ohchr.org/english/bodies/cat/docs/ngos/CreDO\\_IDOM\\_CNR\\_Moldova43.pdf](http://www2.ohchr.org/english/bodies/cat/docs/ngos/CreDO_IDOM_CNR_Moldova43.pdf) (27.02.2011) and others. For more info, please see [http://idom.md/index.php?option=com\\_k2&view=item&layout=item&id=76&Itemid=400&lang=en](http://idom.md/index.php?option=com_k2&view=item&layout=item&id=76&Itemid=400&lang=en)

**I. Legal barriers to forming a family (Article 10)**

In the Republic of Moldova people who were deprived of legal capacity cannot marry. The legislation related to deprivation of legal capacity has indeed changed on 13 April 2017, but the situation stays the same. People who are placed under the so called “judicial protection” cannot marry.<sup>2</sup> These are practically all people who are deprived, partially or totally, of their legal capacity. Such legislation overwhelmingly affects people with disabilities. Moldova has over 3,000 people in such situation.<sup>3</sup> Not being able to marry means people cannot receive legal recognition as a family, and this impedes them from enjoying the rights awarded to them under Article 10 of the Covenant on Economic, Social and Cultural Rights (hereinafter “the Covenant”).

This Covenant is not the only UN human rights instrument such legislation is infringing upon. One other relevant treaty within the UN system is the United Nations Convention on the Rights of Persons with Disabilities (CRPD), which expressly recognises, in its Article 23 (1) (a), the right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses and without discrimination.

**Suggested recommendations for the Government:**

- **The State party should take the measures, including the repeal of legislation, necessary to eliminate discrimination against persons with disabilities, in all matters relating to marriage, family and parenthood. In particular, the State Party should repeal legislation which impedes persons with disabilities who are under guardianship from marrying.**

**II. Institutionalisation of people with disabilities (Articles 2, 9, 11 and 12)**

In Moldova there are over 3.000 people living in institutional settings, psychiatric hospitals and psycho-neurological institutions. They are most often forced to be there either because they are under guardianship, either because they have no alternative. There are therefore the people who are placed under guardianship, or other forms of so called „judicial protection”. Somebody else can take, on their behalf, decisions related to the place where they live. Secondly there are people who are not provided with alternatives to institutionalisation, which would enable them to live and be included in the community. In the same time there are numerous reports, which reveal that institutionalisation of persons with disabilities places them at significantly increased risk of human rights abuses, including living in inhuman and degrading conditions, suffering from physical and emotional abuse and being subjected to forced treatments, cases which can often reach the level of inhuman or degrading treatment or punishment and even torture.<sup>4</sup>

<sup>2</sup> For example, Article 15 alin. (1) lit. f) of the Moldovan Family Code states: “Marriage is not allowed between [...] Persons where at least one of them are under the measure of judicial protection (provisional protection, curatorship or guardianship) and is no authorization to marry, provided by law;” (in Romanian: „(1) Nu se admite încheierea căsătoriei între [...] Persoane dintre care cel puțin în privința uneia este instituită o măsură de ocrotire judiciară (ocrotire provizorie, curatelă sau tutelă) și lipsește autorizarea prevăzută de lege la încheierea căsătoriei; [Art.15 al.(1), lit.f) în redacția LP66 din 13.04.17, MO171-180/02.06.17 art.297]”).

<sup>3</sup> See MDAC, United Nation’s Office of the High Commissioner for Human rights et. Al. (2015). *Human Rights of People with Mental or Intellectual Disabilities in the Republic of Moldova*, available at [http://www.mdac.org/sites/mdac.info/files/moldova\\_report\\_2015\\_english.pdf](http://www.mdac.org/sites/mdac.info/files/moldova_report_2015_english.pdf)

<sup>4</sup> See relevant sections of 2015 MDAC’s report with OHCHR and other UN agencies- Study on Human Rights of Persons with Mental or Intellectual Disabilities in the Republic of Moldova, available at [http://www.mdac.org/sites/mdac.info/files/moldova\\_report\\_2015\\_english.pdf](http://www.mdac.org/sites/mdac.info/files/moldova_report_2015_english.pdf), (2005). *ECONOMIC, SOCIAL AND CULTURAL RIGHTS. Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable*

While the State Party has committed itself to deinstitutionalisation, the laws and policies adopted for this purpose are ineffective and inappropriate in several ways. There aren't sufficiently clear and acceptable timelines, and this slows down the process significantly. Technically, the Republic of Moldova initiated deinstitutionalisation in 2009. Between 2009 and 2014 the number of people which were institutionalized decreasing with 1.000 residents (from 4100 in 2009 to 3100 in 2014, for psychiatric hospitals and psycho-neurological boarding houses). In 2016 however the number of people with institutions seems however to have increased with 230 people (to more than 3.300).<sup>5</sup> While vital to deinstitutionalisation, the development and maintenance of alternative support services for people with disabilities has been placed under the responsibility of local authorities, without necessarily allocating them with specific extra budget for such services.

Institutionalisation is in violation of the standards established by the Covenant, as interpreted in the light of all other relevant international instruments. Given the numerous reports referred to above on the awful conditions people are living in institutions, it can certainly be said that such places cannot be argued to fulfil the requirements of an adequate standard of living or proper access to health services established by CESCR.

Moreover, the Covenant, in its Articles 11 and 12, guarantee the right to an adequate standard of living and the right to health. The Committee has underlined that *State parties must demonstrate, inter alia, that it has taken whatever steps are necessary, either alone or on the basis of international cooperation, to ascertain the full extent of homelessness and inadequate housing within its jurisdiction. In this regard, the revised general guidelines regarding the form and contents of reports adopted by the Committee (E/C.12/1991/1) emphasize the need to "provide detailed information about those groups within ... society that are vulnerable and disadvantaged with regard to housing"*.<sup>6</sup> The CESCR Committee has also explained that "segregation and isolation achieved through the imposition of physical and social barriers"<sup>7</sup> is a form of discrimination. Such characteristics constitute an accurate description of Moldovan long-term residential institutions, which effectively segregate persons with disabilities for life.

The prohibition on discrimination is absolute. According to, inter alia, General Comment 3 of the UN Committee on Economic, Social and Cultural Rights ("CESCR Committee") and, arguably, to *jus cogens*, non-discrimination requirements are immediately binding on the State upon ratification.<sup>8</sup> In the context of Article E of the Revised European Social Charter on non-discrimination, the Revised Charter requires States to "ensure that social arrangements are not such as would effectively lead to or reinforce social exclusion".<sup>9</sup> Where, for example, the State chooses to provide healthcare services to the general public in the form of community-based clinics and hospitals but provides healthcare services for people with

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*standard of physical and mental health*, Paul Hunt. E/CN.4/2005/51, paras. 9 and 10; Judith Klein. (2010). *Bring Europeans with Mental Disabilities Out of the Shadows*, available at <https://www.opensocietyfoundations.org/voices/bring-europeans-mental-disabilities-out-shadows>

<sup>5</sup> See „Monitorizarea respectării drepturilor electorale în instituțiile psihiatrice și psihoneurologice din Republica Moldova. Alegeri prezidențiale din 2016” (Monitoring the respect for electoral rights in psychiatric and psycho-neurological institutions in the Republic of Moldova) by IDOM, page. 24; available at (Romanian language): [http://idom.md/index.php?option=com\\_k2&view=item&id=324:raport-privind-monitorizarea-respect%C4%83rii-drepturilor-electorale-%C3%AEn-institu%C8%9Biile-psihiatrice-%C8%99i-psihoneurologice-din-republica-moldova&Itemid=396&lang=en](http://idom.md/index.php?option=com_k2&view=item&id=324:raport-privind-monitorizarea-respect%C4%83rii-drepturilor-electorale-%C3%AEn-institu%C8%9Biile-psihiatrice-%C8%99i-psihoneurologice-din-republica-moldova&Itemid=396&lang=en)

<sup>6</sup> Committee on Economic, Social and Cultural Rights. *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, U.N. Doc E/1992/23, 13 December, 1991, para. 13

<sup>7</sup> Committee on Economic, Social and Cultural Rights. *General Comment No. 5, Persons with disabilities*. (Eleventh session, 1994), U.N. Doc E/1995/22 at 19 (1995), para. 15.

<sup>8</sup> “In particular, while the Covenant provides for progressive realization and acknowledges the constraints due to the limits of available resources, it also imposes various obligations which are of immediate effect... One of these... is the “undertaking to guarantee” that relevant rights “will be exercised without discrimination ...”, CESCR General Comment No. 3: The nature of States parties’ obligations, (Art. 2, par.1) of 1 January 1991 at para. 1.

<sup>9</sup> *International Federation for Human Rights (FIDH) v. Belgium*, Complaint No. 75/2011, decision adopted 18 March 2013 at para. 206.

disabilities in the form of financing for segregating institutions, the State fundamentally violates the prohibition of non-discrimination set out in Article 2 (2).

The lack of a state policy that would adequately ensure basic housing services within the community for all people with disabilities represents as well a violation of the right to social security. There is also no state system of collection of reliable data/available data on the quality of services provided in the psychiatric and residential institutions.

We must also underline that the right to adequate housing should be interpreted in the light of the provisions of the UN Convention on the Rights of Persons with Disabilities, which guarantees all people with disabilities the right to living independently and being included in the community (Article 19), requiring States Parties to recognize the equal right of all persons with disabilities to live in the community, with choices equal to others and to take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right.

Thus, there is an urgent need to implement developing deinstitutionalisation policies in relation to both children and adults. The CESCR Committee has determined already that institutionalisation is not an acceptable method of providing social services<sup>10</sup>. Moreover, the State Party cannot argue in support of the current situation by referring to the economic and social nature of the right to live in the community and the insufficient efforts it has been undertaking. The CESCR Committee has made clear that the phrase “progressive realization” “should not be misinterpreted as depriving the obligation of all meaningful content. It thus imposes an obligation to move as expeditiously and effectively as possible towards [the full realization of the rights in question]”.<sup>11</sup> The principle of progressive realization requires more of States than to simply refrain from taking or facilitating measures which might have a negative impact on people with disabilities: it includes an obligation to “take positive action to reduce structural disadvantages and to give appropriate preferential treatment to people with disabilities in order to achieve the objectives of full participation and equality within society for all persons with disabilities.”<sup>12</sup> The CESCR Committee recognizes that this will almost invariably entail use of additional resources and a wide range of specially tailored measures. Therefore States have an obligation to progressively introduce new in-home, residential and other community support services specifically for people with disabilities and to progressively increase access to existing disability-specific services through, for example, expanding their geographical scope and putting in place accessibility measures. Failure to demonstrate positive action in this regard breaches the rights of people with disabilities.

To this we must add that the Government of the Republic of Moldova has already been criticized this spring, by the UN Committee on the Rights of Persons with Disabilities, in relation to the problematic aspects of its deinstitutionalization process.<sup>13</sup>

### **Suggested recommendations for the Government:**

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<sup>10</sup> The CESCR Committee has clearly stated that “institutionalization of persons with disabilities... cannot be regarded as an adequate substitute for the social security and income-support rights of such persons.” CESCR Committee’s General Comment No. 5: Persons with disabilities, of 1 January 1995 at para. 29.

<sup>11</sup> General Comment No. 3: The nature of States parties’ obligations (Art. 2, par.1) of 1 January 1991 at para. 9.

<sup>12</sup> CESCR General Comment No. 5: Persons with disabilities of 1 January 1995 at para. 9.

<sup>13</sup> See Committee on the Rights of Persons with Disabilities. *Concluding observations on the initial report of the Republic of Moldova*, U.N. Doc. CRPD/C/MDA/CO/1, paras. 36-37, available at [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fc%2fMDA%2fCO%2f1&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fc%2fMDA%2fCO%2f1&Lang=en)

- **The State Party must expedite the process of deinstitutionalization and ensure the application of a moratorium on any new admissions. It recommends that the State party:**
  - **Execute, without delay, the action plan for the implementation of reforms relating to deinstitutionalization, which should include a deadline and timelines for closing all remaining institutions;**
  - **Adopt legal measures providing for independent living, including personal assistance, and clarify the responsibilities and resource allocations of central and local authorities;**
  - **Involve persons with disabilities, through their representative organizations, in all stages of the deinstitutionalization process (planning, implementation, evaluation and monitoring).**

**V. The right to the enjoyment of the highest attainable standard of physical and mental health. (Article 12)**

*Health is a fundamental human right indispensable for the exercise of other human rights. Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity. The right to health contains both freedoms and entitlements. [...] The freedoms include the right to control one's health and body, including sexual and reproductive freedom, and the right to be free from interference, such as the right to be free from torture, non-consensual medical treatment and experimentation. By contrast, the entitlements include the right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health.<sup>14</sup>*

The biggest psychiatric institution in Moldova (from Balti) has at the moment, only one psychiatrist for approximately 400 people. Most residents have access to general medical services, which are often in great delay due to an extensive number of people, requesting such services and necessity to undertake relevant procedure.<sup>15</sup>

Medical treatment available in psychiatric institutions consists mostly only of medication. The monitoring visits show that a very significant number of patients are not aware of their rights, they are not informed properly on the conditions of hospitalization and simply are given two forms for signature – one consenting hospitalization and another one for the treatment, at the moment of admission or shortly thereafter. There are also cases of detention for several days on medication, even after a clear verbal complaints about adverse reactions.

According to available statistics the annual death rate in such institutional settings is of 5% (5.06) per year from the total number of residents. There is no assessment of the causes of this high mortality rate in psychiatric institutions.<sup>16</sup>

Moreover, in the Republic of Moldova people with intellectual and psychosocial disabilities can lawfully be subjected to treatment without their full and informed consent through the operation of the system of guardianships. In such cases, consent for medical or health care interventions can be gained from other people (relatives, guardians etc.), and the person is not provided with adequate information which would enable him/her to take the decision themselves. In other cases, legislation allows health professionals to

<sup>14</sup> Committee on Economic, Social and Cultural Rights. General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant), U.N. Doc. E/C.12/2000/4, 8 August 2000.

<sup>15</sup> op.cit., Report on the monitoring visit to the Psycho-neurological Internat of Bălți, para. 8.4.

<sup>16</sup> Ibid, para. 7.2

impose various treatments without the direct consent of the patient. According to the IDOM report, there are cases of patients who were admitted on a voluntary basis, but they were not allowed to leave when they changed their mind. Complaints against illegal deprivation of liberty and inhuman treatment have been submitted by IDOM in relation to some of these cases. To take an example, one of the cases deals with a man who was brought to the psychiatric hospital using violence, was forcibly placed there, without consent, was not allowed to leave when he wanted and instead he was a victim of negligence, which make it hard to understand why the hospital wanted to keep him there.<sup>17</sup>

To this we must add that recent unannounced visits to psychiatric hospitals were opportunities to observe severe problems related to hygiene, with monitors having difficulties in breathing due to pungent and unbearable odors.<sup>18</sup> Such settings cannot be seen as appropriate for providing adequate physical and mental health care.

#### **Suggested recommendations for the Government:**

- **The State Party should raise awareness of the rights of persons with disabilities among medical professionals through training and the promulgation of ethical standards;**
- **The State Party should ensure the availability and accessibility of health-care services and facilities, including emergency services, for all persons with disabilities throughout the country;**
- **The State Party should take measures to ensure that people with mental health issues have access to holistic treatment, which go beyond purely pharmaceutical options;**
- **The State Party should revise and repeal the legal provisions that authorize forced admission to psychiatric institutions and non-consensual psychiatric treatment on the grounds of impairment.**

### **RIGHTS OF PERSON LIVING WITH HIV/AIDS**

#### **Article 12 Right to Health: Concerns about legal provisions related to the transmission HIV test result that is confidential data of a patient and the Article 2 Right to not be discriminated**

In 2012 the Parliament of the Republic of Moldova adopted amendments to the 2007 HIV Law (Law on HIV/AIDS infection prevention no.23-XVI of 16 February 2007), particularly to Article 14 “Confidentiality” that excluded the family doctor from the list of mandatory persons who has to get personal data of all the patients' HIV test results.

In 2012, the above mentioned legal provisions were reviewed in accordance to the Concluding observations and recommendation of the Committee on Economic Social and Cultural Rights of 46 session/E/C.12/MDA/CO/2<sup>19</sup>. It was a common practice of family doctors from the entire country to disclose HIV status of patients to third parties (e.g. relatives, habitants from the same village with the patient etc.).

According to the observations based on the legal consultancies and strategic litigations, during the last 3 years the disclosure of HIV status still occurs, but not in that scale as it was during 2007-2012. Nevertheless, on 16 March 2015 the Ministry of Health adopted<sup>20</sup> the Order no. 198 that amends and

<sup>17</sup> See "Report on respecting the rights of the persons with disabilities in the psychiatric hospital Chisinau from 28.04.2017", para.9.6. and „raport privind respectarea drepturilor persoanelor cu dizabilități în spitalul clinic de psihiatrie Orhei din 18.04.2017”, para. 7.4.;

<sup>18</sup> Ibid, para. 8.6

<sup>19</sup> (23)...The Committee recommends that the State party ensure the confidentiality of a patient's HIV status, including through reforming the Law on HIV/AIDS...

<sup>20</sup> Ministry of Health Order nr. 198 [http://www.ms.gov.md/sites/default/files/legislatie/ordinul\\_198\\_din\\_16.03.2015.pdf](http://www.ms.gov.md/sites/default/files/legislatie/ordinul_198_din_16.03.2015.pdf)

supplements the Order no. 1227 of September 4, 2012 "On approval of regulations related to transmission of personal medical information about patients with HIV status". The Ministerial Order no. 198 from 2015 establishes a mandatory transmission of HIV test result by the infectious disease doctors to the family doctors. Actually, this procedure of transmission is absolutely contrary to the art. 14 para. 2 of the Law on HIV/AIDS (with amendments of 2012), because the family physicians are no longer in the list of persons who are entitled to get the HIV test result of patient(s).

Within the Moldova Institute for Human Rights we had a few beneficiaries, (e.g. IDOM cases: *I.V.1087 from Ryshkani region of Moldova, I.P. 1084*) who asked the lawyers to intervene and to stop the transmission the confidential information related to HIV test result from the infectious disease physician to family doctor. Moreover, the beneficiaries of IDOM's partner organisations, particularly the Social Regional Centers for people living with HIV and non-governmental organization "Positive Initiative" expressed their concerned related to procedure of data flotation/information flow control of the confidential data related to HIV from doctors to doctors. The ministerial Order no. 198 does not provide any option to the patient to refuse transmission of his/her information related to HIV to the family doctor(s), although some infectious disease physician doctors know that part of patients would not want their information to be passed to their family doctors, for different reasons (the same town/ village of living with doctors) or previously their family doctor did not respect the confidentiality of patients' medical data.

According to the Global Commission on HIV and the Law, HIV and the law: Risks, rights and health, p. 25 the countries must not enact laws that explicitly criminalise HIV transmission, HIV exposure or failure to disclose HIV status. Where such laws exist, they are counterproductive and must be repealed. The provisions of model codes that have been advanced to support the enactment of such laws should be withdrawn and amended to conform to these recommendations. Also, existing HIV-specific criminal laws should be repealed, in accordance with UNAIDS recommendations<sup>21</sup>. If, following a thorough evidence-informed national review, HIV related prosecutions are still deemed to be necessary, they should be based on principles of proportionality, foreseeability, intent, causality and non-discrimination; informed by the most up-to-date HIV-related science and medical information; harm-based, rather than risk-of-harm based; and be consistent with both public health goals and international human rights obligations. The criminal laws do not change behavior in the complex social issues, especially behavior that is based on desire and impacted by HIV-related stigma. Such behavior is changed by counseling and support for people living with HIV that aims to achieve Health, dignity and empowerment.

According to the Moldovan Criminal Law (Article 212 Contamination with AIDS<sup>22</sup>), the persons who are living with HIV and also medical worker still are criminally liable, even if Article 211 from the same Code are punishing transmitting of any venereal disease. Related to the Article 212, any other persons cannot be responsible for this criminal act. In consequence, it's necessary to decriminalize the law that explicit criminalized HIV- transmission. In transitory period, with the mention of compromise it's need to review this discriminatory approach in perspective to eliminate this limitation just for PLHIV, as well as repeal of

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<sup>21</sup> UNAIDS Guidance note 2013 „Ending overly broad criminalization of HIV non-disclosure, exposure and transmission: Critical scientific, medical and legal considerations”, page. 43-44. Available at: [http://www.unaids.org/sites/default/files/media\\_asset/20130530\\_Guidance\\_Ending\\_Criminalisation\\_0.pdf](http://www.unaids.org/sites/default/files/media_asset/20130530_Guidance_Ending_Criminalisation_0.pdf)

<sup>22</sup> Article 212 Criminal Code: „(1) Deliberately placing another person at risk of AIDS contamination shall be punished by imprisonment for up to one year. (2) Contamination with AIDS by a person who knew he was suffering from this disease shall be punished by imprisonment from 1 to 5 years. (3) The action referred to in paragraph (2), committed: a) on two or more persons; b) knowingly about a minor, shall be punished by imprisonment from 3 to 8 years. (4) AIDS contamination as a result of a medical practitioner's failure or inadequate performance of his / her professional obligations shall be punished by imprisonment for up to 5 years with the deprivation of the right to hold certain positions or to practice certain activities for a period of up to 3 years. (5) The person who has committed the actions referred to in paragraphs (1) or (2) shall not be liable to criminal liability if he has previously communicated to the person threatened to be contaminated the existence of the first AIDS illness or if the person the danger of being contaminated knew about the existence of this disease, but voluntarily committed actions that constituted a danger of contamination.”

alienate 1 of article 212 which are criminalized the „placing another person at risk of AIDS contamination”. Also it’s necessary to review the term AIDS and to replace with HIV, because AIDS refers to a set of symptoms and illnesses that occur at the very final stage of HIV infection, contraire to HIV itch is a virus that attacks the immune system and just this act can be liable to criminal responsibility.

**Suggested recommendations for the Government:**

- **The State party should take the measures, including the repeal the Order no. 198 of 16 March 2015, adopted by the Ministry of Health, in part, which obliges the infectious disease physicians to transmit HIV test results of each patient to the family doctors.**
- **State party shall repeal the article 212 from Criminal Code witch explicit criminalized the HIV - transmission. With the mention of compromise in transitory period State party shall:**
  - **review term AIDS in article 212 (Contamination with AIDS) from Criminal Code, and replace him with HIV;**
  - **fully repeal alienate 1 from article 212 from Criminal Code;**
  - **revise and modify art.212 from the Criminal Code which criminaleses only the transmission of HIV from a person who lives with HIV and in result to eliminate discriminatory limitation.**