

**Iliyana Miteva\***

**ACCESS TO HEALTH AMONG WOMEN  
WITH DISABILITIES – LEGAL ASPECTS  
AND PRACTICAL PROBLEMS IN BULGARIA**

**Abstract**

This scientific study is dedicated to the legal aspects and practical problems in the Bulgarian legislation of access to healthcare for women with disabilities. Its relevance comes from the growing need to understand the legal construction linked to the right to health of one of the vulnerable groups in society. Attention herein is directed to the existing legal framework in the People with Disabilities Act, the Health Act, the Health Insurance Act and the Medical-Treatment Facilities Act, as well as separate provisions in other legal acts. The analysis is accompanied by conclusions and suggestions for optimising practice and legislation.

**Keywords:** women with disabilities, people with disabilities, access, healthcare, Bulgarian law

---

\* Iliyana Miteva, Ph.D. student, Faculty of Law, Plovdiv University “Paisii Hilendarski”, e-mail address: [iliqna\\_smile@abv.bg](mailto:iliqna_smile@abv.bg), ORCID: 0000-0003-0701-9129.

## **Introduction**

People with disabilities, and in particular women with disabilities, are part of a modern society that has more specific needs than its other members, but that does not mean that they have lost the capacity to retain certain rights and their corresponding responsibilities; they just need more protection for their legitimate interests, resulting in broader engagement with institutions, both nationally and internationally. Women with disabilities face many difficulties in different spheres of public life that are of a medical, educational and working nature. Among those in need of consideration and suggestions for improving legislation is the area of access to healthcare. The urgency of the topic arises from the lack of specific legal provisions concerning the specific needs of women with disabilities in health services. Current regulations affecting the lives of disabled women include the Convention on the Rights of Persons with Disabilities (CRPD), the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the United Nations General Assembly on 18 December 1979, the Convention for the Protection of Human Rights and Human Dignity in relation to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine, Constitution of the Republic of Bulgaria, People with Disabilities Act, Health Act, Health Insurance Act, Medical-Treatment Facilities Act, and Ordinance No. 2 of 1 February 1990 on the conditions and procedures for artificial Interruption of pregnancy.

### **Legal concepts relating to access to healthcare for disabled women**

The clarification of a main conceptual apparatus related to access to healthcare for women with disabilities contributes to a more comprehensive understanding of the issues. That is why we will consider separately notions such as ‘healthcare,’ ‘people with disabilities,’ ‘health,’ ‘health information,’ ‘patient,’ ‘health records,’ ‘screening,’ and ‘informed consent.’

The Bulgarian legal doctrine and practice lacks a legally attached concept of healthcare. Therefore, the present work will present the structure of healthcare in the Republic of Bulgaria as derived from the relevant normative acts, namely the Health Insurance Act, Medical-Treatment Act and Health Act.

The main strategic framework for healthcare policy is defined by the Ministry of Health through the document ‘National Health Strategy 2020,’ which contains the priorities and policies that address the growing challenges for the health

of Bulgarian citizens. Included are ways of linking health policies with measures ensuring a level playing field, the necessary impacts on the social determinants of health, and the basic prerequisites for the functioning of the health system.

A critical part of the healthcare structure is the Bulgarian national health system, which is legally regulated and based on an insurance model that consists of compulsory and voluntary health insurance.<sup>1</sup> Compulsory health insurance provides a package of health activities guaranteed by the budget of the National Health Insurance Fund, while voluntary health insurance is carried out by limited public companies. The legal regulation of social health insurance is in the Health Insurance Act. The status, activity and legal instruments are arranged by the National Health Insurance Fund (NHIF). According to Associate Professor Pehlivanov, 'It is a public institution with a monopoly in the pursuit of its business.'<sup>2</sup> The main purpose of the NHIF is to ensure equal access to the health system for insured persons. The basic package of health services and their prices, guaranteed by the budget of the NHIF, are the subject of negotiations between the NHIF and the professional organisations of doctors and dental practitioners. This negotiation ends with the adoption of national framework contracts. National framework contracts are intended to be adopted for a period of three years and, where necessary or at the request of either party are updated in the order of their adoption.

The Medical-Treatment Facilities Act regulates the standard and activity of medical institutions in Bulgaria. They are independent actors in the health services market, and the medical institutions are organisationally separated structures of functional principle in which doctors or dental practitioners alone or with the help of other medical and non-medical professionals, carry out all or some of the following activities: diagnosis, treatment, and rehabilitation of patients, monitoring of pregnant women and delivery of maternity care, monitoring of chronically ill and threatened persons, prevention of diseases and early detection of diseases, measures to strengthen and protect, and transplantation of organs, tissues and cells (art. 2, para. 1 of the Medical-Treatment Facilities Act). The act defines three types of medical institutions. The first are medical establishments

---

<sup>1</sup> Ilieva, A., *Control in Healthcare*, Sofia 2018, p. 19.

According to Professor Mrychkov, 'The legal framework for health insurance in domestic law is contained in Art. 52 of the Constitution and in the new health insurance legislation created since 1998: Health Insurance Act, Professional Organisations of Doctors and Dentists Act, Medical-Treatment Facilities Act, Health Act, etc.' Mrychkov, V., *Insurance Law*, Sofia 2014, p. 441.

<sup>2</sup> Pehlivanov, K., *Independent Administrative Bodies in Parliamentary Governance*, Sofia 2016, p. 133.

for outpatient care. The second are medical institutions for hospital care. And the third are of mixed type<sup>3</sup> and include emergency medical centres, transfusion haematology centres, mental health centres, skin-venereal disease centres, complex oncology centres, homes for medical-social care for adults, centres for complex services for children with disabilities and chronic diseases, hospices, dialysis centres, as well as tissue banks.

The Health Act regulates the conditions for the exercise of a medical profession. Medical professionals in Bulgaria are natural persons holding a university degree in professional disciplines including ‘medicine,’ ‘dentistry,’ ‘pharmacy,’ and ‘healthcare.’ Medical care is a system of diagnostic, curative, rehabilitative, and prophylactic activities provided by medical professionals (§ 1, item 9 of the supplementary provisions of the Health Insurance Act). A detailed study on the concept of ‘healthcare’ was made by Dr Antonia Ilieva in her work ‘Control in Healthcare.’

The CRPD was ratified, promulgated, and entered into force in the Republic of Bulgaria in 2012. It is a sign that the international community, and, in particular, national society, is ready to overcome the imposing millennia of understanding of people with disabilities as ‘the subject of care’ and will perceive them as ‘entities’ with equal rights. According to art. 1) of the Convention, people with disabilities are persons with a permanent physical, mental, intellectual or sensory insufficiency which, in interaction with their environment, may have the potential to regain their full and effective participation in society on an equal basis with others.<sup>4</sup> In the newly adopted People with Disability Act (PDA), in force since 1.01.2019, the Bulgarian legislator implemented, ratified and promulgated a law that entered into force in Bulgaria. Until the PDA was adopted, the term ‘people with disabilities’ had been legally enshrined only in art. 1) of the CRPD. And now, this concept is found in § 1, item 1 of the PDA.

In my opinion, the Bulgarian legislator needs to amend § 1 of the additional provisions of the PDA by adding the legal notion of ‘women and girls with disabilities.’ I believe that such a legislative approach will clarify the perception of women and girls with disabilities and will lead to filling the gaps in acknowledging their fundamental rights, in particular, access to healthcare.

---

<sup>3</sup> Zinovieva, D., *Medical Law*, Sofia 2016, p. 54.

<sup>4</sup> Miteva, I., *Specialized enterprises and cooperatives of people with disabilities – Legal regime according to the Bulgarian legislation*, “Society and Law” 2018, No. 9, p. 62.

In the Constitution of the World Health Organisation,<sup>5</sup> health is defined as one's complete physical, mental, and social wellbeing, not just the absence of disease or handicap. This shows how important health is considered at the international level.

Part of the legally enshrined concepts such as 'health information,' 'patient,' 'health records,' 'screening,' and 'informed consent' are set out in the Health Act. These definitions are of utmost importance in this work with a view to the perception of women with disabilities as equal participants in access to healthcare in the Republic of Bulgaria.

According to art. 27, item 1 of the Health Act, health information is personal data relating to the state of health, physical and mental development of individuals, as well as any other information contained in medical prescriptions, prescriptions, protocols, certificates and in other medical records.

In view of their right of access to healthcare, women with disabilities at certain stages are patients. The Health Act provides a legal concept for a patient in art. 84, para. 1, where it states that a patient is any person who has sought or has been medically assisted. According to Professor Zinovieva,<sup>6</sup> there has always been a lot of discussion about the exact definition of the concept of a patient in medical law. In summary, it may be formed of two principle opinions. The first is that a 'patient' is a person who suffers from disease. The second opinion is that a 'patient' is a person who needs medical attention and/or medical care.

In § 1, items 1, 6, and 15 of the additional provisions of the Health Act are the legal concepts of 'health records,' 'screening' and 'informed consent'. Health records comprise registration and stored health information. Screening is a targeted prophylactic study carried out within a particular programme to identify the prevalence of a particular sign, symptom or disease among a group of individuals. When accessing health services for women with disabilities, the practical problems often stem from the lack of, for example, screening for breast cancer or cervical cancer due to inaccessible medical equipment in relation to the specificity of the disability and the need to change the regulatory requirements for it. Informed consent is granted voluntarily after acquaintance with certain information. Art. 88 of the Health Act provides that the person who gives this information

---

<sup>5</sup> CWHO, [https://www.who.int/governance/eb/who\\_constitution\\_en.pdf](https://www.who.int/governance/eb/who_constitution_en.pdf).

<sup>6</sup> Zinovieva, D., *Medical Law*, Sofia 2016, p. 139.

More on the concept of 'patient' in: Zinovieva D., *Rights of the patient – an analysis of the existing legislation in some specific hypotheses*, "Medical Law" 2008, No. 1.

to the patient about the person's condition or impending treatment is the attending physician. Also are listed the main points about which the patient needs to be informed, namely the diagnosis and the nature of the disease, a description of the objectives and the nature of the treatment, reasonable alternatives, expected results and prognosis, potential risks related to the diagnostic and therapeutic methods offered, including side-effects and adverse reactions, pain and other inconveniences, as well as the likelihood of a favourable response, the health risk in the application of other treatment methods, or in case of refusing treatment. Medical information should be provided to the patient in a timely manner and in appropriate volume and form.

### **Access to healthcare for women with disabilities – analysis of international acts**

People with disabilities, and in particular women with disabilities, face at an international level many challenges stemming from the lack of specific legal measures related to their rights under individual national legislation and the absence of international instruments. Internationally, more often women with disabilities have a minimum income and are dependent on social services or their families. Thus, they are less able to pay for quality healthcare. Even in countries with free health services or health insurance, there will be additional costs for services and medicines that a person needs to pay for themselves. In many countries, access to health insurance depends on gainful employment or family status. Women with disabilities have higher health risks than women without disabilities. For example, physical disability can lead to lack of exercise and therefore to weight problems. The risk of osteoporosis, heart disease, high blood pressure, and diabetes are also associated with this. The social isolation associated with disability and illness involves the danger of depression, as well as of emotional, physical, and sexual violence. In addition, there are social and physical barriers present in, for example, doctor's offices, gynaecological surgeries, or early detection centres (e.g., mammography centres) – which are rendered unavailable or not adapted to the needs of women with disabilities. A major problem is the lack of knowledge that women with disabilities and their guardians or families have of basic preventive healthcare. In many societies, social constraints or the existence of cultural prejudices lead to not supporting the reproductive rights of

women with disabilities. Due to regulatory shortages, women with disabilities are still perceived as sexually explicit. This means that health services related to contraception, sexually transmitted diseases, prenatal classes<sup>7</sup> and birth control or infertility are either not adapted to the needs of women with disabilities or not taken into account in their personal backgrounds. Conversely, girls and women with disabilities are more often victims of sexual violence than women without disabilities are, or have to undergo forced sterilisation or to terminate their pregnancy.<sup>8</sup>

The UN Standard Rules on equality and equal opportunities for people with disabilities<sup>9</sup> are a key document in the national development of disability policies. It provides guidance on the development of a legal framework in the area of disability affecting the fundamental rights of persons with disabilities, namely education, labour rights, accessibility and health. One document, entitled 'Family life and personal integrity,' specifically focuses on women and girls with disabilities, and declares that states must take measures to change the negative relationship that still prevails in society towards marriages, sexual relations, and the parental qualities of people with disabilities, especially with regard to girls and women.

In light of the variety of barriers affecting women with disabilities as regards their health, the establishment of relevant governmental measures based upon the provisions in the text of the CRPD are aimed at guaranteeing the right to health. The CRPD states in its preamble that women and girls with disabilities are often at greater risk both inside and outside the home from violence, injury or harassment, disparaging or negligent treatment, abuse or exploitation. The Convention does not intend to create new rights or to influence national policies on the size of the family, reproduction, or other areas concerning disability. It does not require the adoption of new laws on reproductive health or related matters, but rather that people with disabilities, and in particular women and girls with disabilities, have the same, non-discriminatory access to the relevant health services. Art. 6 of

---

<sup>7</sup> Prenatal classes prepare women for what to expect during pregnancy and during child-birth and the immediate postpartum period.

<sup>8</sup> General discussion on women and girls with disabilities, United Nations Committee on the rights of persons with disabilities, 2014, [http://www.fundacioncermimujeres.es/sites/default/files/general\\_discussion\\_on\\_women\\_and\\_girls\\_with\\_disabilities.pdf](http://www.fundacioncermimujeres.es/sites/default/files/general_discussion_on_women_and_girls_with_disabilities.pdf). Accessed on: 20.4.2019.

<sup>9</sup> Standard Rules on Equality and Equal Opportunities for People with Disabilities, Sofia 2000.

the Convention relates directly to women with disabilities. States that are parties to the Convention acknowledge that women and girls with disabilities are subject to multiple forms of discrimination and, in this regard, the signature states must take measures to assist them in their full enjoyment of all human rights and fundamental freedoms. One of these rights is access to healthcare. Member states therefore shall take all necessary measures to ensure the full development, social growth, and empowerment of women in order to ensure the recognition and enjoyment of human rights and fundamental freedoms as enshrined in this Convention. Healthcare is specifically regulated in art. 25 of the CRPD. This is primarily an anti-discrimination provision whereby states parties ensure that the health services provided can also be used by persons with disabilities without discrimination on the grounds of their disability. As this is a non-discriminatory clause, it shall immediately apply.

In the area of sexual and reproductive health, this could lead to the following measures, which should be publicly promoted and supported. People with disabilities, in particular women with disabilities, must receive sexual education equal to young people without disabilities and in a comprehensible way. This should include education on the legal methods of family planning and the dangers of sexually transmitted diseases. Social, medical, or family prejudices, according to which women with disabilities should be asexual, must be discarded. Bodily changes during puberty, care during menstruation, or first sexual experience should be discussed openly with young women with disabilities as well as, if necessary, with families or caretakers. As women with disabilities are at greater risk of becoming victims of sexual violence, they need help to learn how to recognise and defend against sexual violence. The independence of women with disabilities should be supported using family planning methods or other legal methods for regulating fertility. When choosing methods of contraception, care should be taken about the possible higher risk of thrombosis in women with disabilities. Sterilisation or abortion should only be carried out on a consensual basis, as defined in art. 25 (d) of the Convention. People with disabilities, particularly women with disabilities, should be informed about all the factual possibilities of reproductive healthcare services in formats adapted to them. Reproductive healthcare services should also be accessible and acceptable to persons with disabilities. Moreover, women with disabilities in adolescence should have the possibility of basic gynaecological health services. Adequate,



sensitive healthcare must be provided. Gynaecological examinations should not be directed to specialists in the field of the relevant disability, but rather common gynaecological practices should be accessible. Physicians and other medical personnel should be aware that disabilities in women are not sexually transmitted, but that they may have sexually transmissible diseases, unwanted pregnancies, and breast or cervical cancer. Early prophylactic examinations for breast cancer should be carried out more often for women with disabilities, depending on the extent to which these individuals have paraesthesia<sup>10</sup> in their hands due to their disability. Since oral examinations can be difficult due to physical disabilities, it is important that medical staff know the possible transfer techniques or alternative inspection positions, and that they can help the patient relax. For pregnant women with disabilities and their partners, medical advice should be provided during pregnancy, childbirth and postpartum. Their decisions on prenatal diagnostics should be respected.<sup>11</sup>

The Universal Declaration of Human Rights of 1948, in art. 25, defines a right of living level, including medical care, suitable for the health and wellbeing of each person. As the first legally binding treaty, the International Economic Act, Social and Cultural Rights (IAESCR) of 1976 contains the right of everyone to benefit from the highest attainable standard of physical and mental health (art. 12 of the IAESCR). As in the CRPD, the right to health is also included in the Convention on the Rights of the Child (art. 24) and the Convention on the Elimination of All Forms of Discrimination against Women (art. 12). Provisions on the right to healthcare are also available in the Convention for the Protection of Human Rights and Human Dignity in relation to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (art. 5–art. 16). In addition, the right to health is established in regionally binding human rights treaties, such as the Council of Europe's European Social Charter.

---

<sup>10</sup> Paraesthesia is a spontaneous, arousing, non-palpable manifestation that is most commonly described as skin tingling. Similar sensations can be experienced by any individual in the form of acroparaesthesia in violation of the blood supply to some of the limbs. In such cases, acroparaesthesia is temporary and completely reversible after removal of compression on the arteries of the limb. Paraesthesias can be caused by affecting all parts of the somatosensory system – from the peripheral nerve to the somatosensory cortex. Shotekov, P., *Neurology*, Sofia 2010, p. 35.

<sup>11</sup> General discussion on women and girls with disabilities, United Nations Committee on the rights of persons with disabilities, 2014, [http://www.fundacioncermimujeres.es/sites/default/files/general\\_discussion\\_on\\_women\\_and\\_girls\\_with\\_disabilities.pdf](http://www.fundacioncermimujeres.es/sites/default/files/general_discussion_on_women_and_girls_with_disabilities.pdf). Accessed on: 20.4.2019.

Interest in this article of the Convention stems from the widespread pseudo-science of the past – eugenics, the idea of which is that the human race can be perfected, purposefully, by artificial abortion to multiply the desired and eliminate undesirable qualities. A 1914 report on the most effective practice of eliminating a defective genetic resource among the American population, prepared by a commission at the American Breeders' Association, argued that 'the genetic resource must be seen as not just the individual who is the bearer of the society.' As the main means of reducing a defective genetic resource, the report recommended isolation, sterilisation, and, accordingly, re-education of the ten percent of the population that it described as 'socially unadjusted.' It also included a modelling law for sterilisation. It foresaw the sterilisation of parents of potentially socially unadapt offspring: 'Mentally backward, mental, criminals, epileptics, alcoholics, sick, blind, deaf, handicapped and people, unable to survive without help.' In 1907, the first law authorising forced sterilisation of armed criminals, mental patients, rapists, and the mentally 'retarded' was adopted in the state of Indiana. By 1931, already 30 states had adopted similar acts. In the United States, there are cases in which the applicants insisted that these acts violate the right to equal protection and the right to a fair trial provided for in the Fifth and Fourteenth Amendments to the US Constitution. So, a few bills were rejected, but in 1927, the Supreme Court supported an act in the state of Virginia, prepared with the aim of eliminating such legal obstacles. With it, the sterilisation of Carrie Buck was carried out.<sup>12</sup>

Under the CRPD, forced, forced or non-conformable sterilisation is a violation of human rights, and women with disabilities have the right to keep their birth rates on an equal footing with others. The guidelines of the International Federation of Obstetrics and Gynaecology state that only women themselves can give ethically valid consent to be sterilised, and sterilisation cannot be a condition for access to medical care or any other benefit. Despite legal prohibitions, forced sterilisation is used to limit the fertility of some people with disabilities, especially those with intellectual disabilities. The failure of some countries to prohibit forced sterilisation is challenged before the European Court of Human Rights (Gauer in France).<sup>13</sup>

---

<sup>12</sup> Johnson, A., *The Birth of Bioethics*, Sofia 2011, pp. 61–63.

<sup>13</sup> Stephani, O., *Women with disabilities and the justice system: rights without remedies* 2013, <https://worldjusticeproject.org/news/women-disabilities-and-justice-system-rights-without-remedies>. Accessed on: 20.4.2019.

---

### Access to healthcare for women with disabilities in Bulgarian law

The Constitution of the Republic of Bulgaria, adopted on 12.07.1991 and currently in force, contains provisions relating to the fundamental rights of the citizens of the state (e.g., the right to health insurance), such as those pertaining to women with disabilities. The main provisions of the Constitution are art. 29, para. 2, art. 47, para. 2, and art. 52. In art. 14, the Constitution provides that family, motherhood and children are under the protection of the state and society. Furthermore, in art. 47, para. 2 of the Constitution, the mother shall benefit from the special protection of the state, which provides paid leave before and after childbirth, free obstetric care, relief of labour, and other social benefits. The right of social security and welfare and the right to health insurance are regulated, respectively, in arts. 51 and 52 of the Constitution. A fundamental right of citizens is the right to health insurance under the basic law. According to Professor Drumeva<sup>14</sup>:

‘(...) the function of health insurance, and hence the right to health insurance is to avoid material difficulties in the treatment of the injured health of the insured person. The entitlement to health insurance must guarantee affordable medical care; it also includes the right of free use of medical care, but from art. 52, para. 1 comes an explicit assignment to the legislator to regulate the terms and conditions thereof. A special law is the Health Insurance Act, also the Health Act and the Medical-Treatment Facilities Act. From the overall framework of art. 52, the Constitutional Court concludes that the Constitution recognises people’s health as a public good.’

The PDA of 1.01.2019 has as its object public relations related to the exercise of the rights of persons with disabilities. It is a special act, as in art. (4). Its basic principles are laid down, namely the personal choice and independence of persons with disabilities and their families, equal treatment and non-discrimination, social inclusion and full and effective participation of persons with disabilities and their families in social life and accessibility. In art. 5, para. 1, item 1, the PDA provides that one area of support for people with disabilities is healthcare, as in para. 2, which sets out a non-exhaustive list of means of support – medical, occupational, social, occupational and psychological rehabilitation, education and vocational training, services supporting employment, accessibility and reasonable facilities, social services, financial support, accessible information,

---

<sup>14</sup> Drumeva, E., *Constitutional Law*, Sofia 2018, pp. 787–788.

access to justice and legal protection, providing personal mobility with a maximum degree of independence, personal assistance, universal design, and other means. The news in the PDA is that for the first time it implements provisions of the CRPD, but the Bulgarian legislator has neglected to create legal rules specifically for women and girls with disabilities, who in the international and national scale are one of the most vulnerable groups of people with disabilities, especially as regards their right to healthcare.

I believe that the Bulgarian legislator should introduce separate provisions in the PDA on the right to health of women and girls with disabilities, as it is a special act in the field of disability, and the CRPD in its art. 6 pays special attention to women with disabilities.

The Health Act entered into force in 2005 and repealed the Public Health Act (PHA -revoked). According to Professor Zinovieva,<sup>15</sup> ‘it can practically be said that both laws constitute the “Constitution of health”, as they regulate all the basic principle relationships in healthcare.’ In art. 2 of the Health Act, the protection of citizens’ health as a state of complete physical, mental and social wellbeing is defined as a national priority and is guaranteed by the state through the implementation of the principles set out in paras. 1–6. They are a level playing field in the use of health services, providing affordable and quality healthcare, priority for children, pregnant women, and mothers of children up to one year, priority of health promotion and integrated disease prevention, preventing and reducing the risk to citizens’ health from the adverse effects of living environment factors, particularly the protection of the health of children, pregnant women, mothers of children up to one year and persons with physical disabilities and mental disorders, as well as state participation in the financing of activities aimed at protecting citizens’ health.

In my opinion, it is necessary for the Bulgarian legislator to make the appropriate additions to art. 2, items 2 and 5 of the Health Act, as the principles are basic rules of conduct from which the state, citizens, and relevant organisations responsible for women with disabilities are governed. Item 2 should be supplemented with the phrase ‘including those with disabilities’ to provide affordable and quality healthcare, with priority for children, pregnant women and mothers of children up to one year old. Art. 5 should be supplemented with language extending the scope of the types of disability, besides physical and psychological,

---

<sup>15</sup> Zinovieva, D., *Medical Law*, Sofia 2016, p. 30.

to add intellectual and sensory difficulties, as in the legal notion of people with disabilities' in art. 1) of the CRPD and § 1, item 1 of the additional provisions of the PDA.

Chapter Three of the Health Act refers to medical care, with provisions on the availability and quality of medical care provided in Section One. Every Bulgarian citizen, including women with disabilities, is entitled to affordable medical care. Section Two regulates the rights and obligations of patients. Here, it is important to emphasize that women and girls with disabilities are also patients at certain stages of their lives and need adequate health services on an equal footing with other members of society. Art. 85 of the Health Act is an anti-discrimination provision that stipulates that the patient is provided with healthcare regardless of the listed social signs, including disability and type and cause of the disease. In art. 86, para. 1, the same law exhaustively regulates the rights of the patient, and art. 87 refers to informed consent of the patient. When the patient is underage or is placed under limited guardianship, it is necessary to carry out medical activities in addition to the patient's informed consent and the consent of a parent or guardian. When the patient is a minor or incapacitated, informed consent is expressed by the parent or guardian, except in cases provided by the act. Chapter Four of the Health Act defines the health protection of certain populations.

In my view, it is necessary to establish in Chapter Four of the Health Act a section dedicated to the health protection of women and girls with disabilities. This is because they are a vulnerable group of society and are often subjected to double discrimination – by gender and disability. Also, women with disabilities are at increased risk to their health than are women without disabilities. For example, physical disability can lead to a lack of exercise and therefore to weight problems. The risk of osteoporosis, heart disease, high blood pressure and diabetes is also associated with this. Furthermore, the social isolation associated with disability and illness involves the danger of depression, as well as of emotional, physical, and sexual violence. In addition, there are social and physical barriers such as those found in doctor's offices, gynaecological surgeries or early detection centres (e.g., mammography centres) that are unavailable or not adapted to the needs of women with disabilities. A major problem is the lack of knowledge that women with disabilities and their guardians or families have for basic preventive health care. What is more, practical, social constraints or the

existence of cultural prejudices lead to not supporting the reproductive rights of women with disabilities.

Section Two, Chapters Three and Four of the Health Act are devoted, respectively, to reproductive health and assisted reproductive and genetic health and genetic research. A detailed study of genetic health was made by Professor Mariela Deliverska.<sup>16</sup> Chapter Five of the act is devoted to mental health.

Important provisions on access to healthcare for women with disabilities are also contained in the Health Insurance Act (for example, for the status of NHIF, for assistive devices, and for devices for people with disabilities) and the Medical-Treatment Facilities Act (types of institutions, which women with disabilities can visit).

Ordinance No. 2 of 1 February 1990 on the conditions and procedures for artificial termination of pregnancy regulates the conditions and procedures for the artificial termination of pregnancy (abortion).<sup>17</sup> This ordinance is issued on the basis of § 11 of the National Health Act (cancelled). According to it, the decision to perform an abortion may be done in one of two ways – optionally or medically. Of interest is abortion based on medical indicators, provided in arts. 12–17 of the ordinance. These are performed at the request of a pregnant woman in the presence of a disease, undoubtedly proven and documented, in which the further course of pregnancy or childbirth can endanger the life or health of the woman or the vitality of the offspring (for example, mental illnesses) and within a period of gestation no greater than 20 weeks. If the disease is not listed in Appendix 2 of the ordinance, abortion may be granted by exception. Abortion exceeding 20 weeks of gestation is allowed only if there are urgent reasons to save a woman's life or with proven course of morphological changes or severe genetic damage to

---

<sup>16</sup> Deliverska, M., *Genetic Discrimination, Nature, Regulation and Protection*, Sofia 2013. Also Miteva, I., *Legal and Ethical Issues in the Application of the Regulation of Genetic Research in Bulgaria*, "Norma" 2017, No. 2.

<sup>17</sup> Abortion – sweeping; premature birth; abortion – Boychev, G., *Legal Latin-Bulgarian Dictionary*, Sofia 2004, p. 17. Abortion is the termination of pregnancy. Abortion constitutes a crime when committed in violation of provisions governing its lawful conduct – illegal abortion. The Penal Code (CC) provides for aggravated liability when the defendant does not have a university degree in medical education, upon re-performance, when performed without the consent of the pregnant woman, or when the patient dies as a result of abortion. A pregnant woman has no criminal liability. Georgiev, Ch., Velinov, L., *Legal Dictionary*, Sofia 1994, p. 9.

the foetus.<sup>18</sup> A pregnant woman with the designated disease visits her GP, which shall immediately provide the necessary clinical and paramedical examinations and consultations and refer the case to the relevant special medical committee with direction, accompanied by the results of the examinations, consultations and other medical documents justifying abortion by medical evidence. Abortion in medical indications is carried out in specialised obstetric-gynaecological hospitals and in regional, interregional and national multi-profile hospitals in the obstetric-gynaecological (gynaecological) clinic or ward.

## Conclusion

Gaps in legislation on women with disabilities and in particular their access to healthcare still exist in places in Bulgarian laws. Therefore, *de lege ferenda* needs the Bulgarian legislator to make a positive change in § 1 of the additional provisions of the PDA by adding the legal notion of ‘women and girls with disabilities.’ I believe that such a legislative approach will clarify the perception of women and girls with disabilities and will lead to the filling of gaps in acknowledging their fundamental rights, in particular access to healthcare.

The author also believes that the Bulgarian legislator should introduce separate provisions in the PDA on the right to health of women and girls with disabilities, as it is a special act in the field of disability, and the CRPD, in its art. 6, pays special attention to women with disabilities.

Moreover, it is necessary for the Bulgarian legislator to make the appropriate additions to art. 2, items 2 and 5 of the Health Act, as the principles are basic rules of conduct from which the state, its citizens and relevant organisations responsible for women with disabilities are governed. Item 2 should be supplemented with the phrase ‘including those with disabilities’ to provide affordable and quality healthcare, with priority for children, pregnant women and mothers of children up to one year of age. Item 5 should be supplemented by extending the

---

<sup>18</sup> The decisions of the European Court of Human Rights are of interest. Where the law permits abortion only in cases of malformation of the foetus, there should be an adequate legal and procedural framework to ensure that the pregnant woman is provided with all relevant, detailed and reliable information on the health of the foetus. By creating such a clear framework and allowing the doctors to unduly delay the issuance of the genetic test referral, the Polish authorities violated the applicant’s privacy. According to the court, it also constitutes degrading treatment within the meaning of Art. 3 of the Convention (Convention for the Protection of Human Rights and Fundamental Freedoms) – R. R. v. Poland, No. 27617/04.

scope of the types of disability, besides physical and psychological, to add intellectual and sensory difficulties, as in the legal notion of ‘people with disabilities’ in art. 1) of the CRPD and § 1, item 1 of the additional provisions of the PDA.

The author also believes that it is necessary to establish in Chapter Four of the Health Act, a section dedicated to the health protection of women and girls with disabilities, as they are a vulnerable group of society and are often subjected to double discrimination – by gender and disability. More arguments to support the proposal are that women with disabilities are at increased risk to their health than women without disabilities. For example, physical disability can lead to lack of exercise and therefore to weight problems. The risk of osteoporosis, heart disease, high blood pressure and diabetes are also associated with this. The social isolation associated with disability and illness involves the danger of depression, as well as of emotional, physical and sexual violence. In addition, there are social and physical barriers such as those found in doctor’s offices, gynaecological surgeries or early detection centres (e.g. mammography centres) that are made unavailable as they are not adapted to the needs of women with disabilities. A major problem is the lack of knowledge that women with disabilities and their guardians or families have of basic preventive healthcare. Practically, social constraints or the existence of cultural prejudices lead to not supporting the reproductive rights of women with disabilities.

## Literature

- Boychev, G., *Legal Latin-Bulgarian Dictionary*, Sofia 2004.
- Deliverska, M., *Genetic Discrimination, Nature, Regulation and Protection*, Sofia 2013.
- Drumeva, E., *Constitutional Law*, Sofia, 2018.
- Georgiev, Ch., Velinov L., *Legal Dictionary*, Sofia 1994.
- Ilieva, A., *Control in Healthcare*, Sofia 2018.
- Johnson, A., *The Birth of Bioethics*, Sofia 2011.
- Miteva, I., *Legal and Ethical Issues in the Application of the Regulation of Genetic Research in Bulgaria*, “Norma” 2017, No. 2.
- Miteva, I., *Specialized enterprises and cooperatives of people with disabilities – Legal regime according to the Bulgarian legislation*, “Society and Law” 2018, No. 9.
- Mrychkov, V., *Insurance Law*, Sofia 2014.



- 
- Ortoleva, S. (ed.), *Women with disabilities and the justice system: rights without remedies*, source material of the website: <https://worldjusticeproject.org/news/women-disabilities-and-justice-system-rights-without-remedies>. Accessed on: 20.4.2019.
- Pehlivanov, K., *Independent Administrative Bodies in Parliamentary Governance*, Sofia 2016.
- Shotekov, P., *Neurology*, Sofia 2010.
- Standard Rules on Equality and Equal Opportunities for People with Disabilities, Sofia 2000.
- Zinovieva, D., *Medical Law*, Sofia 2016.
- Zinovieva, D., *Rights of the patient – an analysis of the existing legislation in some specific hypotheses*, “Medical Law” 2008, No. 1.

### **Legislation**

- Convention for the Protection of Human Rights and Fundamental Freedoms – R. R. v. Poland, No. 27617/04.

### **Internet sources**

- [https://www.who.int/governance/eb/who\\_constitution\\_en.pdf](https://www.who.int/governance/eb/who_constitution_en.pdf). Accessed on: 20.4.2019.
- [http://www.fundacioncermimujeres.es/sites/default/files/general\\_discussion\\_on\\_women\\_and\\_girls\\_with\\_disabilities.pdf](http://www.fundacioncermimujeres.es/sites/default/files/general_discussion_on_women_and_girls_with_disabilities.pdf). Accessed on: 20.4.2019.