



SPECIAL REPORT

**of the People's Advocate on
the investigation results of the
Niculina BULAT's case**

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ABBREVIATIONS

PAO - People's Advocate Office

PA - People's Advocate

MHLSP – Ministry of Health, Labor and Social Protection

CNAM – National Insurance Company in Medicine

TA - Territorial Agency of the National Insurance Company in Medicine

AMUP – Pre-hospital Emergency Medical Assistance

AMU – Urgent Medical Assistance

IMSP – Public Medical-Sanitary Institution

AMP – Primary Medical Assistance

LPA – Local public authorities

DASPF – Social assistance and family protection directorate

CMF – Center of Family Doctors

WHO - World Health Organization

CRF - Chronic renal failure

INTRODUCTION

In accordance with the provisions of Article 1 of the Law on the People's Advocate (Ombudsman) number 52 of 03.04.2014, the People's Advocate ensures the protection of all human rights and freedoms by the public authorities, by the organizations and companies, no matter of the type of property and the legal organizational form, by the non-commercial organizations and by decision makers at all levels and contributes to the protection of the human rights and freedoms through the prevention of their violation, through monitoring and reporting on the modality of protection of the fundamental human rights and freedoms, through the application of the procedures provided by the present Law.

According to the provisions of Article 22 of the Law number 52 of 03.04.2014 on the People's Advocate (Ombudsman), in the case when are found mass or severe violations of the human rights and freedoms the People's Advocate has the right to act ex officio.

Thus, on November 03, 2017 the People's Advocate recorded the notification ex officio as a result of the information published in the Ziarul de Garda newspaper „Orphan in dialysis: 10 days in hell, rejected by 3 medical institutions”¹. A comprehensive investigation was initiated on this case, aimed at verifying the actions / inactions of the competent public authorities, officials at all levels, in terms of functional attributions, national and international standards in the field of human rights in the context of ensuring the right to health and social protection.

In exercising his / her duties as defender of human rights and fundamental freedoms, the intervention of the People's Advocate Office is based on mediation and dialogue, not having, by its very purpose, sanctioning power, but relying on the professionalism of the bodies empowered with the right to apply the sanctions that are imposed.

In accordance with Article 18 paragraph (2) of the Law on the People's Advocate number 52 of 03.04.2014, the People's Advocate doesn't substitute by his/her competencies the public authorities, legal bodies or courts.

Thus, the purpose of the investigation of this case is not to apply sanctions, but to highlight the deficiencies, the systemic problems that generate the violation of human rights.

At the same time, we have proposed that by this special report to highlight the problems existing both in the medical system and in the field of social protection, making

¹ <https://www.zdg.md/stiri/orfana-in-dializa-10-zile-in-iad-respinsa-de-3-institutii-medicale;>

recommendations to the responsible authorities, as well as informing the society about the results of the investigation, but also preventing situations of human rights violations.

The right to health and access to health services has been declared by the People's Advocate as one of his / her priorities for the coming years.

The right to health is today approached through the international provisions, emphasizing the rights of the patient, which are stipulated in the European Charter of Patients' Rights, which states 14 patients' rights².

In the process of investigating the N. Bulat's case we set out to assess, in particular the observance of the following patient rights:

- ***Right to Information***, which assumes that every individual has the right to access to all kind of information regarding their state of health, the health services and how to use them, and all that scientific research and technological innovation makes available. This moment is very important to determine the real possibility of the patient to make a decision regarding the proposed treatment and interventions.
- ***Right of Access***, which assumes that every individual has the right of access to the health services that his or her health needs require. The health services must guarantee equal access to everyone, without discriminating on the basis of financial resources, place of residence, kind of illness or time of access to services.
Thus, the goods and services in the health field, available to the state, must be accessible to every person from 4 aspects: *non-discriminatory access*, *physical access* (distance, access conditions for people with disabilities etc.), *economic access*, *access to information*.
- ***Right to Respect of Patients' Time***, which assumes that, each individual has the right to receive necessary treatment within a swift and predetermined period of time, depending on the degree of urgency of the disease.
- ***Right to Avoid Unnecessary Suffering and Pain***, which assumes that, each individual has the right to avoid as much suffering and pain as possible, in each phase of his or her illness.

² Right to Preventive Measures, Right of Access, Right to Information, Right to Privacy and Confidentiality, Right to Consent, Right to Complain, Right to Compensation, Right to Free Choice, Right to Respect of Patients' Time, Right to the Observance of Quality Standards, Right to Safety, Right to Innovation, Right to Avoid Unnecessary Suffering and Pain, Right to Personalized Treatment.

Avoiding and alleviating suffering and pain is the primary goal of palliative care. The patient has the right to reduce the suffering and alleviate the pain, caused by an illness and / or medical intervention, by all the available legal methods and means, determined by the existing level of medical science and by the real possibilities of the health service provider³.

Everyone with disabilities has the right to reduce suffering and alleviate pain through all available legal methods and means, determined by the current level of medical science and the real possibilities of the medical service provider. People with incurable diseases in advanced or terminal stages are entitled to palliative care services, which provide for the physical, mental, emotional and spiritual needs of the patients and their families⁴.

- ***Right to the Observance of Quality Standards***, which assumes that, each individual has the right of access to high quality health services on the basis of the specification and observance of precise standards.

The right to quality health services requires that health care institutions and professionals provide satisfactory levels of technical performance, comfort and human relations. The health protection system is based on the principle of the responsibility of the medical-sanitary bodies and units for the accessibility, the opportunity, the quality and the volume of the medical-sanitary benefits, for the quality of the professional training and the improvement of the qualification of the medical-sanitary and pharmaceutical staff.

METHODOLOGICAL ASPECTS

For efficient and objective investigation of the case:

- visits were made to public institutions / authorities that were involved or had to be involved in ensuring the observance of the rights of the citizen Bulat N. and accumulated the necessary information, documents and materials;
- explanations were requested from the officials or who had a tangent / interacted with this case;
- information was collected from the media and other available sources;
- the national normative framework and international human rights standards were analyzed

³ Law on patient rights and responsibilities number 263 of 27.10.2005, Article 5.

⁴ Law on social inclusion of persons with disabilities number 60 of 30.03.2012, Article 43.

I. INVESTIGATION CONDUCTED BY THE PEOPLE'S ADVOCATE

According to media sources, Niculina Bulat, a young woman from the Drochia village, Drochia district, aged 20 years was suffering from kidney failure, and from the age of 9 she was dependent on hemodialysis procedures. After her mother passed away, Niculina Bulat was left alone, without income, without home, support and money.

As mentioned in the media, the dialysis procedures offered did not contain the necessary medication and for this reason, her situation has degraded constantly.

The People's Advocate has accumulated additional information on this case and has prepared a Special Report, which reports on the extent to which the human rights have been respected in the described case, implicitly the right to health protection and the right to social assistance and protection.

1.1. Respecting the right to social assistance and protection

The constitution establishes in Article 47 the right to social assistance and protection, granting constitutional value to one of the basic principles of the democratic state. Directly through paragraph 2 of Article 47, the Constitution names the criteria for which citizens have guaranteed rights (certain periods of age, health condition, working capacity, etc.).

People with disabilities are a category of population with a clearly disadvantaged status compared to other categories of people, requiring the creation of conditions for their integration into society.

The state's obligations on the provision of a minimum social protection for this category of population are reflected in the content of Article 51 of the Constitution of the Republic of Moldova.

Also, the Law on social inclusion of persons with disabilities number 60 of 30.03.2012 establishes that for the purpose of rehabilitation and social inclusion, persons with disabilities benefit from primary, specialized and highly specialized social services, in accordance with the provisions of the legislation in force.

The social assistance of persons with disabilities is provided by the authorities of the local public administration through its structures (sections / directions of social assistance and family protection).

According to the provisions of Article 56 of the Law number 60 of 30.03.2012 the local public administration authorities are responsible for analyzing and assessing the social problems of persons with disabilities in the assigned territory, the approval and development of the local social assistance programs for this category of persons, as well as the control over their realization, the setting up of the primary and specialized social services with the assurance of the human, material and financial

resources necessary for their proper functioning, the establishment of additional facilities for the persons with disabilities regarding access to medical, social services and other types of social services.

N. Bulat was on the record of the DASPF (Social assistance and family protection directorate) from Drochia, since 2004, when guardianship was instituted on behalf of her grandmother - Potic Ludmila, because her mother Ludmila Negura, being severely disabled, was unable to raise and care for her children.

According to the information provided by the DASPF (Social assistance and family protection directorate) since 2013, her sister - Bejenari Irina has been assigned as her tutor, who had her place of residence in the Drochia village, Drochia district. From 2013, until reaching the age of majority, the monthly allowances for the maintenance of the child under guardianship were raised by her sister - Bejenari Irina.

At the same time, the head of the DASPF (Social assistance and family protection directorate) from Drochia stated that this family was permanently in the attention of the Directorate and was supported with material aid allocated, including for the treatment needed to N. Bulat. In particular, during the years 2010-2016 she benefited from material aid in accordance with the decisions of the Management Board of the local Fund for social support of the population of Drochia. Based on the data provided, the amount allocated varied from MDL 100 to MDL 2000, and in 2014 for the treatment of N. Bulat were allocated MDL 5000.

Regarding the application for granting social aid or aid for the cold period of the year⁵ to the family, where N. Bulat was also included, it was found that DASPF (Social assistance and family protection directorate) from Drochia, by the decision of September 13, 2017 refused to grant social aid, being established only the right to aid for the cold period of the year in the amount of MDL 315, starting with November 2017 - March 2018.

In the process of the investigation it was found that from 2016 N. Bulat changed her place of residence several times staying at different relatives: in the Drochia village, Mindic village, Donduseni district.

Social assistance in the Mindic village

While she was in the care of her aunt in the **Mindic village, Drochia district**, the social worker from the locality completed the N. Bulat's file, the case being instrumented according to the Case management⁶.

On December 19, 2016, during the social investigation and the complex assessment, it was established that N. Bulat needs the help of a third person, including for traveling, because she

⁵ Law on social assistance number 133 of 13.06.2008

social aid – monthly payment in money granted to the disadvantaged family;

aid for the cold period of the year – fixed monthly payment, in money, granted to the disadvantaged family for the months of January-March and November-December;

⁶ Case management, approved by the Order of the Minister of Social Protection, Family and Child number 71 of October 3, 2008 (currently the Ministry of Labor, Social Protection and Family);

was dependent on a special needs stroller. Respectively, the members of the commission for the examination of the housing and social conditions recommended to include her in the social service „Personal assistance”.

At the same time, in the family visit report of December 19, 2016 is mentioned *„According to Niculina's words, she did not sleep all night because she did not have the necessary medicines”*.

On December 22, 2016, the multidisciplinary team met at the Mindic Mayoralty, discussing the living conditions and the health status of the citizen Bulat Niculina. The mayor of the Mindic village, the family doctor, the social worker and the local police representative attended the meeting.

Following that meeting it was decided:

- to give her treatment at home;
- to grant her material aid;
- to place her in the „Personal Assistance” social service.

It was found that N. Bulat, at the recommendation of the Territorial Council for the Determination of Disability and Work Capacity, but also based on the decision of the multidisciplinary commission, on 23.12.2016, submitted an application to benefit from the „Personal Assistance” Social Service. Subsequently, on 30.12.2016 she refused placement in this service, because she was forced to choose between this social service and the allowance for care, companionship and supervision.

Social assistance in the Drochia village

The social worker from the **Drochia village**, Stati Vera, explained that N. Bulat had the residence visa in Drochia village and was on record with the social worker as a person with severe disability. On September 13, 2017 a relative of Niculina went to examine the possibility of providing her the „Personal assistance” social service. After being informed about the fact that in order to benefit from this service it is necessary to refuse the maintenance allowance, no other addresses were received.

Also, the social worker reported the situation at the moment in the locality, mentioning that 5 other people from Drochia village are awaiting their turn, but do not benefit from this service, because DASPF (Social assistance and family protection directorate) from Drochia does not have free units.

At the same time, it is clear from this explanation that during the year 2017 at N. Bulat's residence, only one visit was made on November 3, 2017. According to the social assistance in the case of N. Bulat, the file was not prepared, as she periodically changed her place of living. Only on November 2, 2017, after the case was publicized, a file was opened according to Case Management.

In the absence of conclusive, convincing and clear data / information on the way of monitoring by the social workers of the actions that have been carried out in this case, we find that there has not been sufficient diligence in assessing the situation at the moment of the person in difficulty and the referral, as appropriate, to other specialists

to overcome the difficult period.

Monitoring involves the permanent verification of the progress established in the individualized assistance plan, in order to be able to detect the evolution of the case. This step is particularly important for changing the intervention, as the case may be, with other temporary measures / social services, if no progress is shown in the beneficiary's situation, as well as in improving the quality of services and the impact on the beneficiary.

It is worth mentioning that these tasks, as well as ensuring the connection between the social service and the beneficiary, are tasks that fall within the competence of the social worker. Namely, the community social worker is the specialist who initiates and creates the community social service, integrating in a team the social workers, the representatives of the mayoralty, the specialists who work in the community, including the medical worker.

Note: The legislation of the Republic of Moldova stipulates that if the person with disabilities benefits from an allowance for care, companionship and supervision, received from the Territorial Pay Office of Social Insurance, he / she cannot benefit simultaneously from the „Personal Assistance” service, Government Decision number 314 of May 23, 2012⁷.

Allocation for care, companionship and supervision as provided by the *Law on state social allowances for some categories of citizens*⁸ it is granted to people who care, accompany and supervise at home a child with severe disabilities up to 18 years of age; to people with severe disabilities from childhood; visually impaired people with severe disabilities.

At the same time, the Law stipulates that for the persons specified above the allowance cannot be established if these persons are beneficiaries of the personal assistance service.

The data provided by the Social Assistance and Family Protection Directorates indicate that the requests for the „Personal Assistance” Service practically exceed 2 times the number of personal assistants employed. We note that as of 2017⁹ only 2277 persons benefit from this service, and 4279 others are on the waiting list.

Social benefits

Based on the accumulated information it was found that N. Bulat benefited from a state allowance of MDL 540.02 (financial aid of MDL 180) and maintenance allowance of MDL 711, 63¹⁰.

⁷ Decision of the Government of the Republic of Moldova number 314 au 23.05.2012 for the approval of the Framework Regulation on the organization and functioning of the „Personal Assistance” social service and the minimum quality standards;

⁸ Law number 499 of 14.07.1999 on state social allowances for some categories of citizens, Article 14 paragraph (1);

⁹ Thematic report: Integration of persons with severe disabilities in the community: Impact of the „Personal assistance” social service www.ombudsman.md;

¹⁰ Certification of the CNAS (National Pay Office of Social Insurance) number 1408 of 03.08.2016;

Also, being classified as severely disabled from childhood N. Bulat benefited from compensations for the transport services, in the amount of MDL 552 annually, in accordance with the provisions of the Government Decision number 1413 of December 27, 2016.

According to the information provided by the medical vice-director of the Institute of Mother and Child, the patient N. Bulat was on record in the hemodialysis section of the IMSP (Public Medical-Sanitary Institution) IMC (Institute of Mother and Child) during 9.5 years. The patient underwent weekly 2 hemodialysis sessions. Respectively, the patient had to travel the distance from Drochia to Chisinau twice (2) a week round trip. The transport expenses were reimbursed to the patient after the presentation of the transport tickets. According to the information provided only in 2017 the patient had 85 hemodialysis sessions, the last one being performed on October 31, 2017.

Note: According to the Order of the CNAM (National Insurance Company in Medicine) number 45-A of February 13, 2006¹¹ performing dialysis, the expenses for the public transport from / to home for dialysis for patients with chronic renal failure are covered by the medical-sanitary institutions.

In case of the impossibility of presenting the interurban (suburban) travel tickets, at the written request of the patients, the transport expenses are compensated based on the tariff for the transport of passenger bus type common suburban and interurban routes approved by the Ministry of Transport and Road Management.

Given the condition of health of N. Bulat and the mentions regarding the impossibility of traveling without the support of a third person, it is obvious that traveling by public transport and without an attendant for the hemodialysis procedure was difficult. Therefore, the compensation of the expenses for transport in accordance with the provisions in force did not cover by far the actual expenses. However, according to the words of the relatives, they had to ask for private transport, for which they paid much larger amounts.

According to a number of data provided by mass media sources in Moldova, there are almost 500 patients who are dependent on dialysis service. Depending on the severity of the disease, they come to dialysis two or three times a week. Patients move to perform hemodialysis procedures either by public, occasional or private transport. Some travel hundreds of kilometers and because their body is weak, they often get pneumonia, having to wait for transport, in the cold, rain, etc.¹².

According to the information provided by the National Center for Health Management there are 735 people with chronic kidney failure in the Republic of Moldova.

¹¹ Order number 45-A of 13.02.2006 on the approval of the Procedure for covering the expenses for public transport from / to home for carrying out dialysis;

¹² <http://e-sanatate.md>;

CONCLUSIONS

Having examined the case of N. Bulat from the point of view of the obligations of the State, implicitly with the responsibilities of the person in charge of the field of social protection, the People's Advocate considers that, some actions have been taken to realize the right to social protection to the person in difficulty, based on the legal provisions in force.

At the same time, the People's Advocate attests that insufficient due diligence has been submitted by the persons from the field of social protection at community level in the proper performance of the duties of the service, especially from the Drochia village, Drochia district. According to the job description the work assignments of the social worker comprise: identification and assessment of the situation of the beneficiary and his / her family, moving in the field during home visits; formulating the problems that the beneficiary faces in a certain period of time, in certain socio-economic circumstances and establishes the modalities to support him / her; ensures the beneficiaries' records and completes the beneficiaries file; develops and implements individualized assistance plans with the participation of the beneficiary and his / her family.

Another very important aspect in this process, but that is done in the wrong way, is the monitoring and coordination of the staff activity in the social assistance system in conjunction with the territorial structure of social assistance¹³. Although it was mentioned that the person frequently changed her place of living, however she was within the territorial range of DASPF (Social assistance and family protection directorate) from Drochia, where she was on record, which was to monitor and coordinate the activity of the staff in the social assistance system.

At the same time, we consider that the frequent change of the place of living denotes the fact that the restrictions, both financial and social, determined N. Bulat to be permanently in search of a third person / relatives to provide her the necessary support.

The investigation denotes the lack of the capacity of the public administration to respond to the demands of individuals, which is rather reactive than proactive, and the managerial capacity to implement decentralized responsibilities is not sufficiently strengthened.

Also, we established a faulty cooperation of the structures at community level: mayoralty, social assistance, medical worker.

The social benefits granted to N. Bulat, but which are relevant in many similar cases, do not even cover the minimum of existence, not talking about an assessment of the needs of people with severe disabilities.

¹³ Law on social assistance number 547 of 25.12.2003, Article 14 letter g);

According to the data of the National Bureau of Statistics, the average value of the minimum of existence in the Ist semester of 2017 was MDL 1866.3¹⁴ for one person.

In the opinion of the People's Advocate, this case highlights some system problems, including the legislative one. The conclusions that come from the investigation of the case come to feed the findings of the People's Advocate on the implementation of the „Personal Assistance” social service and the impact on the integration of people with severe disabilities in the community. The thematic report „Integration of persons with severe disabilities in the community: the impact of the „Personal assistance” social service, publicly presented on 04.12.2017 is accessible on the official page of the PAO (People's Advocate Office) www.ombudsman.md.

We reiterate the problem identified in the investigation of the N. Bulat's case, moreover, addressed in the Thematic Report mentioned above, that people with severe disabilities, beneficiaries of maintenance allowance, are put in the situation of choosing between the allowance and the admission to social service with payroll to the person who grants support to them. We mention that the allowances established in accordance with the Law number 499¹⁵ are paid from the means of the state budget, through the social insurance budget, and the financing of the „Personal assistance” social service - from the budget of local public authorities.

Another problem identified relates to the procedure of compensating the expenses for the transfer of patients with chronic renal failure to the medical-sanitary institutions that perform dialysis. Or, the National Insurance Company in Medicine reimburses the expenses only for public transport.

¹⁴ <http://www.statistica.md>;

¹⁵ Law number 499 of 14.07.1999 on state social allowances for some categories of citizens, Article 5;

1.2. Respecting the right to health protection

According to media reports, at the age of 9, Niculina Bulat was diagnosed with a kidney disease, subsequently undergoing hemodialysis procedures. She had to travel to Chisinau, because with a growing stagnation, she could benefit from dialysis procedures only at the Institute of Mother and Child, which has the necessary equipment (filters and dialysis equipment) for children with lower body mass.

Primary medical assistance

In the investigation of the case it was found that, according to CNAM (National Insurance Company in Medicine), N. Bulat was on the record of the family doctor, Rotari Serghei, from the Mindic village, being registered on 19.10.2016.

At the same time, the family doctor, Rotari Serghei, in the explanation offered to the People's Advocate, mentions that he did not know that the patient N. Bulat was in his records, because she did not apply for medical services.

Note: Joint order of the Ministry of Health and the National Insurance Company in Medicine number 1087/721A of 30.12.2016¹ on the approval of the Regulation on the registration of the person with the family doctor from the medical-sanitary institution that provides primary assistance within the compulsory insurance of assistance, provides that:

In order to benefit from primary medical assistance, the entire population regardless of the status of the insured or uninsured person shall register on the List of the family doctor from the medical-sanitary institution that provides primary medical assistance within the compulsory health care insurance system (hereinafter - the family doctor), being respected the principles of the free choice of the family doctor, as well as of granting the primary medical assistance to the persons registered in the list, according to the normative acts in force.

As a basis for confirming the registration to the family doctor for IMS PMA (Primary Medical Assistance) serves the *application for registration with the family doctor* within the medical-sanitary institution that provides primary medical assistance in the system of compulsory health care insurance. The application is completed in accordance with the Instruction on how to complete the Registration Application (Form number 1-33 / c) at the family doctor, from annex number 2 to the above-mentioned Regulation.

Subsequently, the family doctor verifies the correctness of filling in the application, confirms the acceptance of the person on the List of the family doctor by completing the box 8 of the application, applies the signature and stamp and presents it to the responsible person within the IMS (Medical-sanitary institution) PMA (Primary Medical Assistance).

The representative of the Territorial Agency of the CNAM (National Insurance Company in Medicine), will take within 5 working days, the necessary measures to ensure the introduction of the related data in all the information systems of the CNAM (National Insurance Company in Medicine).

In the context of the above mentioned we can deduce that the family doctor from Mindic village, Rotari Serghei, had to know about the fact that the patient Bulat Niculina is on his record. Or, according to the *Order number 1087/721A of 30.12.2016*¹⁶, the family doctor is responsible for verifying the correctness of the application submitted by the person requesting to be registered and only after that, the family doctor applies the stamp and signature.

Moreover, according to the provisions of the Order of the MH (Ministry of health) number 695 of 13.10.2010 on Primary Medical Assistance in the Republic of Moldova¹⁷, the family doctor is the one who gives care to the people in the context of the family and the families within the community, without causing discrimination.

According to the respective Order, Section 11, the family doctor has the following functions:

- to provide home medical assistance to patients, in the case of acute conditions and exacerbation of chronic diseases, to children, the elderly and non-transferable persons, other cases provided for by the normative acts in force, determines the tactic of providing medical assistance;
- to organize and carry out measures of medical care at home and palliative care;

As a result of the investigation of this case, it was found that the family doctor, on whose record she was, did not pay any visit to N. Bulat's residence, reasoning that there was no request from her.

At the same time, investigating the case, it was found that at the meeting of the multidisciplinary team from 22.12.2016, at the Mayoralty of the Mindic village, where the living conditions and the health status of the citizen N. Bulat were discussed participated, including the Head of the Mindic Health Center, Rotari Rodica. At that meeting it was decided to grant her home treatment.

It was found that the first visit to her home was made by the family doctor from Drochia village, Gheorghelas Silvia, on 01.11.2017, at about 09.00 p.m., being notified by the head of the Drochia Health Center, Rodica Rotari, who informed her that the patient N. Bulat needs urgent consultation.

It should be mentioned that the visit was made only after the case was publicized throughout the day.

¹⁶ Joint Order of the Ministry of Health and Social Protection and of the National Insurance Company in Medicine number 1087/721A of 30.12.2016¹⁶ on the approval of the Regulation on the registration of the person at the family doctor from the medical-sanitary institution that provides primary medical assistance within the compulsory insurance of medical assistance;

¹⁷ Order of the Ministry of Health number 695 of 13.10.2010 on Primary Medical Assistance in the Republic of Moldova;

The patient's medical card was then at the family doctor from Mindic village, Rotari Serghei. At the proposal of the family doctor to be hospitalized, the patient refused.

From the explanations of the family doctor, it turns out that Niculina and her cousin, who cared for her, did not go to the family doctor, because „they didn't know that it could help her somehow, considering that only the hemodialysis procedure can help her”.

Mrs. Gheorghelas S., paid a repeat visit the next day (02.11.2017), at 7.30 a.m., consulted the patient, establishing the condition of her disease's severity (terminal phase), and she informed about this the management of the Drochia Health Center and issued to her a direction for emergency admission to the Drochia District Hospital (DH). At the same time, the intervention of SAMU (Urgent Medical Assistance Station) from Drochia was requested, which transported her to the Drochia District Hospital, from where she was taken over by AVIASAN Service.

Hospital and emergency medical assistance

In the investigation of the case it was found that during the period 21.10.2017 - 03.11.2017, Niculina Bulat has requested the necessary medical assistance services several times.

On October 21, 2017: hour 5:00 a.m., emergency medical assistance was called.

The SAMU (Urgent Medical Assistance Station) Drochia team, made up of the feldsher and the driver of the ambulance, established the RED CODE and transported the patient to the Drochia District Hospital.

At the Drochia District Hospital, the hospitalization ward, N. Bulat was examined by the on-call surgeon, Martina Igor, who proposed to the patient hospitalization to decide on the subsequent conduct of the treatment, but she refused.

The patient asked Drochia District Hospital's representatives to be transported to the Institute of Mother and Child in the capital, where she performed the hemodialysis procedures.

From the explanations of the on-duty doctor and of the director of the Drochia District Hospital, Mrs. Galina Maximciuc, it turns out that the patient's health at that time required immediate hospitalization, but the patient refused.

The director of the Drochia District Hospital announced for the media sources that such patients (with the „R” emergency degree) are to be transferred to another medical institution with a specialized team of the „AVIASAN” Service.

*Note: Regulations on organization and functioning of the AVIASAN Republican Service*¹⁸ provides that, the supervised medical transport of patients by the AVIASAN Service is organized at the request of the district, municipal, republican IMSPs (Public Medical-Sanitary Institutions), in case of major medical-surgical emergencies that endanger the patient's life.

¹⁸ Annex number 10 to the Order of the Ministry of Health of the Republic of Moldova number 85 of 30.03.2009 on the organization and functioning of the Emergency Medical Assistance Service in the Republic of Moldova;

According to the Regulation of the admission (hospitalization) ward of the IMSP (Public Medical-Sanitary Institution) Drochia District Hospital, approved by the Director of the institution, Galina Maximciuc, „At the discharge at home from the hospitalization ward will be issued a sending sheet (F.027/e) and a letter will be sent to the family doctor, which will include the data about the reasons for requesting the emergency service, the established diagnosis, the recommendations of investigations and therapy of the doctors who consulted the patient in the hospitalization ward”.

We found that no letter was issued to the family doctor from the Drochia District Hospital Hospitalization Ward. Moreover, the family doctor was not informed nor by SAMU (Urgent Medical Assistance Station) from Drochia about the request for urgent medical assistance by N. Bulat.

However, according to the Regulation on the organization and functioning of SAMU (Urgent Medical Assistance Station) from Drochia, the Substation is responsible for the efficient cooperation with the primary and hospital medical assistance services. Also, the aforementioned Regulation provides that the Substation must present daily to the Centers of Family Doctors and Health Centers information about the urgent medical assistance provided to the population from the service territory.

Moreover, the way of working of Emergency Medical Services with Primary and Hospital Medical Assistance is expressly stipulated in the annex number 9 of the Order of the Ministry of Health number 85 of 30.03.2009¹⁹. The regulation provides for the daily transmission by the dispatcher of the AMU (Urgent Medical Assistance) Station, to the Centers of Family Doctors of the requests served by the AMU (Urgent Medical Assistance) Service for their mandatory service on the same day by the family doctor (marking the major emergencies with the letter „R”), in the case of patients who have refused hospitalization.

From the explanations of the nurse within the Office of the Family Doctors, Drochia village, it turns out that the information about the patients who requested emergency medical care has started to be registered in a special register, starting with 27.11.2017, after the death of N. Bulat. Previously such information was not transmitted to the OMF (Office of the Family Doctors).

Note: Law number 264 of October 27, 2005 on the exercise of the profession of doctor, in Article 17 stipulates that, the doctor is obliged to provide the treatment until the patient's recovery or until his / her passing in the care of another doctor.

Article 18 of the aforementioned law provides that the doctor-patient report is based on mutual respect and trust, on the patient's right to option.

Moreover, the doctor is obliged to inform the patient or his / her legal representatives about possible risks involved within the medical intervention, as well as a possible refusal of medical intervention.

¹⁹ Annex number 9 to the order of the Ministry of Health of the Republic of Moldova number 85 of 30.03.2009. Regulation on the co-operation of the Emergency Medical Assistance Service with the Primary Medical Assistance Service and the Hospital Service in the provision of emergency medical assistance to the population of the Republic of Moldova;

Law on patient's rights and responsibilities number 263 of 27.10.2005 stipulates in Article 5, that the patient has the right to exhaustive information regarding his / her own health, the methods of diagnosis, treatment and recovery, prophylaxis, as well as to the potential risk and their therapeutic efficiency.

The deontological code of the medical worker and the pharmacist provides that the medical worker must show maximum vigilance in the provision of medical services and in avoiding the foreseeable complications to the patient in their care²⁰;

IMSP (Public Medical-Sanitary Institution) Balti Municipal Clinical Hospital

Also on October 21, 2017, accompanied by her cousin, they went with a private transport to Chisinau, at the Institute of Mother and Child. On the way to Chisinau, due to the deteriorating state of health, they requested medical assistance at the Balti Municipal Hospital.

At the Balti Hospital, the surgeon, Tudor Bouros, examined her in the Emergency Department, subsequently being subjected to the procedure of extracting the fluid from the abdominal cavity.

From the explanations of the surgeon and the inscriptions in the Medical Record for the Emergency Department of the Balti Hospital, it was found that the patient underwent: monitoring of the Blood Pressure, the primary surgical treatment of the wound, the small surgical intervention, the wound suture and the local anesthesia.

After about an hour under the supervision of the emergency department medical staff, the patient was sent home, with the recommendation of supervision by the family doctor.

Note: The national clinical protocol „Ascites in adult liver cirrhosis”, approved by the Order of the Ministry of Health of the Republic of Moldova number 175 of 19.06.2009 defines *ascites* as a complication of liver cirrhosis by accumulating of fluid in the abdominal cavity.

The protocol establishes the behavior of the medical personnel in relation to the patient with ascites. Thus, the surveillance of the patient with ascites is mandatory by the family doctor and the specialist doctors, to ensure a successful treatment.

²⁰ Decision of the Government of the Republic of Moldova number 192 of 24.03.2017 on the approval of the Deontological code of the medical worker and the pharmacist;

On October 22, 2017: hour 10:55 p.m., emergency medical assistance was called.

The SAMU (Urgent Medical Assistance Station) Drochia team, made up of a doctor, a feldsher and the ambulance driver, consulted the patient at home, establishing an emergency YELLOW CODE. Medications were given to the patient and she was left at home.

On October 24, 2017: hour 00:29 a.m., emergency medical assistance was called.

The SAMU (Urgent Medical Assistance Station) Drochia team, made up of the feldsher and the ambulance driver consulted the patient at home, establishing an emergency RED CODE. According to the Emergency Medical Assistance Application Form, the patient was left at home, on the grounds that after 3 hours she was going to Chisinau for the hemodialysis procedure.

On October 25, 2017: hour 03:42 p.m., emergency medical assistance was called.

The SAMU (Urgent Medical Assistance Station) Drochia team, made up of a doctor, a feldsher and the ambulance driver, consulted the patient at home, establishing an emergency RED CODE. General condition: stable-severe. Medications were given to the patient and she was left at home.

On November 01, 2017

In the media sources appeared information about Niculina Bulat and her health condition: <https://www.zdg.md/stiri/orfana-in-dializa-10-zile-in-iad-respinsa-de-3-institutii-medicale>)²¹.

On November 02, 2017: hour 08:14 a.m., emergency medical assistance was called.

The SAMU (Urgent Medical Assistance Station) Drochia team, made up of a doctor, a feldsher and the ambulance driver, consulted the patient at home, establishing an emergency RED CODE. General condition: *very serious*. She was transported to Drochia hospital, where she was taken by the AVIASAN Republican Service.

On November 03, 2017 in the morning N. Bulat died at the Institute of Urgent Medicine, after a complicated intervention.²²

In conclusion, we deduced that the SAMU (Urgent Medical Assistance Station) Drochia teams, called by N. Bulat, established an emergency RED CODE in 4 of the 5 request cases.

It is worrying that the patient was left at home, although the Red Emergency Code established by the AMU (Urgent Medical Assistance) teams indicates that the patient's vital functions are in danger.

²¹ <https://www.zdg.md/stiri/orfana-in-dializa-10-zile-in-iad-respinsa-de-3-institutii-medicale>;

²² <http://e-sanatate.md>;

Note: Order of the Ministry of Health number 85 on the organization and functioning of the Emergency Medical Assistance Service in the Republic of Moldova of 30.03.2009²³, classifies „Color-Cod” for medical emergencies at the pre-hospital stage for practical use by the dispatch service 903 (112) of the operative section of the Urgent Medical Assistance Station.

Thus, the Red Code,²⁴ includes the medical-surgical emergencies in which the vital functions of the applicants are endangered. In these cases, it is mandatory to send specialized AMU (Urgent Medical Assistance) resuscitation, cardiology, neurology, psychiatry or general profile teams that possess the appropriate level of professional competence and endowment. The AMU (Urgent Medical Assistance) team leader informs the Emergency Medicine Department of the hospital.

Another concern, which, in the opinion of the People's Advocate, imposes prompt involvement by the competent public authorities, is about access to palliative care.

It is worth mentioning that the patient N. Bulat was not referred to palliative care services, when her condition worsened considerably, although since 2010 the National Palliative Care Standard exists in the Republic of Moldova²⁵.

According to the WHO (World Health Organization), palliative care aims to improve the quality of life of patients and their families, when faced with problems associated with life-threatening diseases, by preventing and removing suffering, by early identification, assessment and treatment of pain and other physical, social, psycho-emotional and spiritual issues.

With the signing of the Resolution on palliative care by the Republic of Moldova, our country has committed to develop these services, recognizing their beneficial impact and their need. However, health officials acknowledge that medical institutions lack well-trained palliative care specialists.²⁶

By the order of the Ministry of Health number 329 of April 28, 2017 was approved the National Clinical Protocol number 279 „On the elaboration of the national clinical protocol” Palliative care for children”, which states that the main purpose of palliative treatment is to obtain the best possible quality of life of patients and their families, to provide a complex assistance of the incurable patient.

The same document stipulates that the family doctor is the one who supervises, guides the application of palliative care services to the patient whom he has on record. Moreover, the family

²³ Order of the Ministry of Health of the Republic of Moldova number 85 of 30.03.2009 on the organization and functioning of the Emergency Medical Assistance Service in the Republic of Moldova;

²⁴ Annex number 44 to the Order of the Ministry of Health of the Republic of Moldova number 85 of 30.03.2009;

²⁵ Approved by the Order of the Ministry of Health of the Republic of Moldova number 884 of 30.12.2010 „On the

approval of the national standard of Palliative care”;
²⁶ www.e-sănătate.md;

doctor will ensure communication and continuity of palliative care in the institutional and home care environments.²⁷

CONCLUSIONS

Based on the results of the investigation of the N. Bulat case, we can conclude that were admitted, at different stages of requesting the necessary medical assistance the violations of the following rights of the patient:

- Right to Information,
- Right of Access,
- Right to Respect of Patients' Time,
- Right to Avoid Unnecessary Suffering and Pain,
- Right to the Observance of Quality Standards.

In the opinion of the People's Advocate, there are several factors that have led to the violation of the patient's rights, namely:

- Lack of co-operation between Emergency Medical Assistance, Primary Medical Assistance and Hospital Medical Assistance services
- Defective management by the IMSPs' (Public Medical-Sanitary Institutions) leaders in ensuring the implementation of the provisions of the normative acts in force (laws, orders, regulations, clinical protocols).
- Lack of an efficient monitoring of the patient by the family doctor and the non-observance of the professional obligations, in accordance with the principles established in the Deontological code of the medical worker and the pharmacist.²⁸
- Lack of monitoring of the patient's condition throughout the health system and the lack of cross-sectoral collaboration (between the links of the health system), in the aspect of transmitting the information for monitoring / continuation of the patient's treatment.
- Poor doctor-patient communication, which limits the patient's possibility to make a correct decision regarding the treatment and interventions proposed.

²⁷ Order of the Ministry of Health of the Republic of Moldova number 329 of 28.04.2017 „On the elaboration of the national clinical protocol „Palliative care for children”;

²⁸ Decision of the Government of the Republic of Moldova number 192 of 24.03.2017 regarding the approval of the Deontological code of the medical worker and the pharmacist;

- Gaps in the mechanism of sorting medical emergencies and lack of doctors in all AMU (Urgent Medical Assistance) teams. In some cases of requesting emergency medical care, the establishment of major medical emergencies was found by the feldsher, in the absence of the doctor.
- Limited access to palliative care services.

The People's Advocate considers that in the case of N. Bulat there were not enough measures taken by some medical workers to provide the necessary medical assistance, in particular, in terms of adequate communication with the patient.

III. ACTIONS TAKEN BY THE COMPETENT AUTHORITIES

On October 21, 2017, the N. Bulat case came to the attention of the authorities, after the Ziarul de Garda newspaper published an article about her <https://www.zdg.md/stiri/orfana-in-dializa-10-zile-in-iad- respinsa-de-3-institutii-medicale>.

- On November 02, 2017, **Ministry of Health, Labor and Social Protection** communicated on the official page about the internal examination by the ministry on the case of patient N. Bulat. According to the published press-release, the Ministry of Health, Labor and Social Protection has decided the hospitalization of the patient in the Institute of Emergency Medicine from Chisinau, in order to give her complex care and continuous medical supervision.
- On November 03, 2017, after N. Bulat's death, the case was discussed in an exceptional meeting with the **Government**, and Prime Minister Pavel Filip requested a broad investigation of the case with the application of criminal sanctions.
- On November 03, 2017, after the Government meeting, the Ministry of Health, Labor and Social Protection initiated an **internal investigation** into the patient N. Bulat's case. The internal investigation aimed to elucidate the medical assistance granted and the attitude of the medical staff from the Balti Municipal Clinical Hospital, Drochia District Hospital and the Institute of Mother and Child, the possible deviations from the ethical and medical deontology norms.

It follows from the same press-release that the Ministry will make every effort to make this case transparent, equidistant, so that such regrettable cases do not happen again²⁹.

- Also after the death of N. Bulat, the *Prosecutor's Office of the Drochia district* get informed from the press and started the criminal prosecution on the basis of Article 213 letter b) of the Criminal Code, on the fact of negligence of the rules and methods of granting the medical assistance, resulting in the death of the patient”. The materials taken by the Prosecutor's Office of the Drochia district were submitted on November 06, 2017 to the National Center for Judicial Expertise for carrying out forensic expertise. At the present stage the criminal prosecution in this case is exercised by the *General Prosecutor's Office*. From the information provided by the representatives of the General Prosecutor's Office, the National Center for Judicial Expertise did not submit the case report.

In the context of the ex officio notification of the People's Advocate on this case, on December 06, 2017, based on the legal competences, he / she asked the Ministry of Health, Labor and Social Protection to send the Report of the Commission that carried out the internal investigation on the N. Bulat's case. By the letter number 01-1/2007 from December 26, 2017, the Ministry informed the People's Advocate that all the materials in the Mrs. N. Bulat's case, based on the relatives' claims, were sent to the court, which will examine the case in substance. The Ministry assured the Ombudsman that it would submit the materials when it has them.

The People's Advocate considers the refusal of the Ministry of Health, Labor and Social Protection to inform the ombudsman and the society of the progress and results of the investigation in this case.

The deliberate disregard by the officials at all levels of the referrals and recommendations of the People's Advocate, as well as the hindrance in any form of his / her activity attract the responsibility according to the legislation³⁰.

The Ombudsman considers that the investigations carried out by the MHLSP (Ministry of Health, Labor and Social Protection), as well as by the criminal prosecution body, are important for identifying systemic problems and the effective implementation of the reforms initiated in the field of health.

²⁹ <http://MHLSP.gov.md/ro/content/cazul-niculinei-bulat-va-fi-investigat-de-catre-o-comisie-ministerului-sanatatii-muncii-si;>

³⁰ Contravention code, Article 320 The interference in the activity of the People's Advocate and the Children's Rights Ombudsperson.

In this regard, the People's Advocate emphasizes the importance of finalizing the investigations initiated and ensuring their transparency.

In the context of the aforementioned, the People's Advocate urges the authorities to pay maximum vigilance in the efficient and prompt investigation of the mentioned case, but also of all the cases reported, with the elucidation of the circumstances that lead to the violation of human rights.

IV. RECOMMENDATIONS OF THE PEOPLE'S ADVOCATE

3.1 In the field of social protection:

Government / MHLSP (Ministry of Health, Labor and Social Protection)

- Creation of an inter-ministerial working group for the revision of the normative framework in force in the sense of financing / co-financing from the State Budget of the „Personal Assistance” Social Services, intended for people with severe disabilities;
- Analyzing the opportunity to exclude the requirement to refuse the monthly allowance for care and supervision, in case of granting a personal assistant, if the size of the social benefits granted to the beneficiary does not cover the minimum of existence.

CNAM (National Insurance Company in Medicine) / MHLSP (Ministry of Health, Labor and Social Protection)

- Reviewing the way of compensating the transport expenses for the patients' travel to the dialysis procedures and / or the ensuring specialized transport.
- Development of a mechanism for assessing the quality of the social services provided, based on both quantitative performance indicators and qualitative indicators for assessing beneficiaries' perceptions.
- Establishing a mechanism of co-operation between the local public authority and the territorial structure of social assistance for monitoring and coordinating the activity of the staff of the social assistance system, as well as of the beneficiaries;

LPA (Local public authorities) / National Agency for Social Assistance

- Establishing the efficient mechanisms of intra- and inter-sectoral coordination at community level (mayoralty, social worker, medical worker)
- Unitary and coherent implementation of the legal provisions in the field of social assistance, correlated with the social needs and problems of the beneficiaries.
- Continuous improvement of human rights capacities, including protection of persons with disabilities, the representatives of local public authorities and its structures.

3.2. In the field of health

MHLSP (Ministry of Health, Labor and Social Protection)

- Ensuring efficient cooperation between the services of Emergency Medical Assistance, Primary Medical Assistance and Hospital Medical Assistance
- Performing periodic control on the compliance / implementation by the medical staff and the managers of the public medical-sanitary institutions of the normative acts in force in the field of health (laws, orders, regulations, clinical protocols).

- Reviewing the indicators of individual professional performance of the medical workers, with the inclusion in the list of performance indicators of the principles of conduct according to Deontological code of the medical worker and the pharmacist.
- Creating a mechanism to assess the quality of the medical services provided, based on the respect of the patient's rights, with the establishment of indicators to measure the quality of the medical act.
- Organization and implementation of an integrated information system in all institutions providing medical services, for monitoring the patient and ensuring continuity of treatment.
- Improving the mechanism of patient classification and effective cooperation of the urgent medical assistance service and the primary medical assistance service with the clear definition of responsibilities in order to provide qualitative and prompt medical assistance to the population.
- Developing health policies that meet the needs of patients with terminal or life-limiting illnesses, which ensure the integration of palliative care into the health system at all levels;
- Developing an effective normative framework for investigating and solving cases of medical errors and malpractice.

MHLSP (Ministry of Health, Labor and Social Protection) / „Nicolae Testemitanu” State University of Medicine and Pharmacy

- Organizing initial and continuous training of medical workers in the field of medical legislation and human rights in order to ensure the respect of the patient's rights in carrying out the medical act.
- Development of the curriculum and initiation of palliative care courses for the training of palliation specialists.