

**Mandates of the Working Group on discrimination against women and girls; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on violence against women and girls, its causes and consequences**

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(Please use this reference in your reply)

19 April 2023

Excellency,

We have the honour to address you in our capacities as Working Group on discrimination against women and girls; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Special Rapporteur on violence against women and girls, its causes and consequences, pursuant to Human Rights Council resolutions 50/18, 51/21, 43/20 and 50/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of **medical negligence, during and after childbirth, and the resulting physical and mental health complications suffered by Ms. Regina Michele Tedsen.**

According to the information received:

On 4 January 2017, Ms. Regina Tedsen, gave birth at Careggi University Hospital in Florence, Italy. During labour and childbirth, she was subjected to several procedures without her informed consent, including procedures during which she was reportedly mistreated, and received disrespectful care.

During labour, without any warning, a midwife put her hand and a part of her arm inside Ms. Tedsen's vagina to rupture the membrane, following which the Kristeller manoeuvre was performed by a student, without prior consent, using the full weight of his body, causing immense pain to Ms. Tedsen. In addition, the health care providers allegedly yelled at Ms. Tedsen on several occasions during her stay at the hospital. She was also denied pain relief medication and water during labour.

Immediately after delivery, Ms. Tedsen was separated from her new-born, who was placed in the sub-intensive care unit for three days, without any explanation. It is medically possible that the complications experienced by the new-born, which necessitated her placement in the sub-intensive care unit was caused by the failure of the doctors to administer the required antibiotics during labour to Ms. Tedsen for her autoimmune condition. She was also subjected to a painful vaginal examination by a medical resident, who did not stop the examination despite her requests. She was then subjected to a subsequent vaginal examination by a student doctor, in both instances, without supervision. When she later informed the other doctors in the ward, no one intervened to assist her.

During the delivery, the doctors left a large piece of gauze along with a piece of placenta inside her uterus which caused an infection, leaving Ms. Tedsen in acute pain. She was unable to stand up properly and eventually, had to use a wheelchair. In the days leading up to her discharge and afterwards, she requested to be examined by the doctors as she was in severe pain, but she was informed that any pain experienced was normal after childbirth. As she did not receive medical assistance from the hospital despite her repeated requests, eventually she sought private intervention from a midwife, who discovered the source of her pain and identified the infection endangering her life, thirteen days after childbirth. Ms. Tedsen had to undergo an emergency hysteroscopy surgery to have the gauze removed and take antibiotics to treat the infection.

On 15 March 2019, Ms. Tedsen emailed the doctors at Careggi University Hospital requesting an explanation for her mistreatment and a formal apology. She notified the doctors that there were many errors in her medical records relating to her delivery. She was informed that an internal audit was conducted for the internal records of the hospital to generally improve the quality of health care provided in the hospital, but the results were not shared with her.

On 4 April 2019, she sent a report to the hospital explaining the adverse impacts all this experience had on her physical and mental health but received no response.

On 28 January 2022, Ms. Tedsen was diagnosed with post-traumatic stress disorder by a psychiatrist who indicated that this was related to the treatment, during labour and childbirth and the resulting health complications. She experienced severe migraines, distressing dreams, anxiety, has become socially isolated and is unable to work efficiently as a result. She has also been affected by dysregulation of the autonomic nervous system and has experienced a flare up of lupus following her experience in the hospital. She struggled with breastfeeding her new-born which initially contributed to her post-traumatic stress disorder and reactivated her autoimmune disease.

On 12 July 2022, Ms. Tedsen formally requested the initiation of an internal investigation by the Careggi University Hospital and to be informed of its outcome with a reservation to bring the matter before a competent judicial and/or administrative body.

Six years after childbirth, she still suffers from the repercussions of the mistreatment that she experienced, which has adversely affected her health and quality of life, as she continues to undergo strenuous postpartum rehabilitation. As of today, Ms. Tedsen has not received the results of an investigation requested by her and has not been offered any remedy for the alleged wrongdoing.

With regards to the situation generally in Italy, in 2016, the Italian social media campaign, #Bastatacere: lemadri hanno voce (#breakthesilence: mothers have voice) was launched (<https://www.facebook.com/bastatacere>) to raise awareness about obstetric violence. This online campaign garnered over 3,000 personal stories of women who publicly shared their experiences of being

subjected to varied forms and levels of obstetric violence and mistreatment, in situations involving, although not limited to: maternity assistance during labour and birth, relationships with healthcare providers, the acceptability of certain types of interventions, communication of informed consent, decision-making of pregnant women during labour and childbirth and respect for personal dignity, across maternity wards in Italy. This campaign was also specifically noted in the report of the Special Rapporteur on violence against women and girls in her report on a human rights-based approach to mistreatment and violence against women in reproductive health services with a focus on childbirth or obstetric violence (A/74/137). In the same report, the Special Rapporteur on violence against women and girls also noted that 61% of women in Italy who were subjected to an episiotomy were not given appropriate information and that their informed consent was not sought.

In 2018, a study conducted on a sample of 424 women in Italy concluded that: 21.1% considered themselves to be the victims of obstetric violence; 33% felt inadequately supported during childbirth; 34.5% felt their privacy had been denied; 14.5% decided to not return to the same facility; 5.9% said they are not going to have any more children because of the treatment that they received; and 54.24% were subjected to an episiotomy, which is a practice that can cause bleeding, perineal pain, bruising or oedema, vaginal haematoma, anal sphincter damage and dyspareunia when used excessively or unnecessarily.

Without prejudging the accuracy of these allegations, we express our most serious concern that these allegations, if confirmed, would illustrate a persistent trend of women being subjected to obstetric violence and the absence of adequate quality, acceptability, and safety of care provided in maternity wards in Italy.

Obstetric violence as defined by the World Health Organization in reaction to the growing concerns of women during childbirth in 2015, as “outright physical abuse, profound humiliation and verbal abuse, coercive or unconsented medical procedures (including sterilization), lack of confidentiality, failure to get fully informed consent, refusal to give pain medication, gross violations of privacy, refusal of admission to health facilities, neglecting women during childbirth to suffer life-threatening, avoidable complications, and detention of women and their new-borns in facilities after childbirth”. It was recognised that “such treatment not only violates the rights of women to respectful care, but can also threaten their rights to life, health, bodily integrity and freedom from discrimination” ([https://apps.who.int/iris/bitstream/handle/10665/134588/WHO\\_RHR\\_14.23\\_eng.pdf](https://apps.who.int/iris/bitstream/handle/10665/134588/WHO_RHR_14.23_eng.pdf)).

A woman during childbirth is in a particularly vulnerable situation. “Medical authority can thus foster a culture of impunity, where human rights violations do not only go unremedied, but unnoticed” (A/74/137). This power imbalance is particularly apparent in instances in which providers abuse the doctrine of medical necessity in order to justify mistreatment and abuse during childbirth. We are concerned about the risk women face of being subjected to humiliating and degrading treatment in health-care facilities, especially during pregnancy, childbirth, and the postpartum period and reiterate the ethical obligation to do no harm. Ms. Tedsen was subjected to the Kristeller manoeuvre and two vaginal examinations without informed consent and her requests for follow-up examinations were consistently dismissed as her pain and discomfort

were assumed to be normal, post-partum. Such disregard for Ms. Tedsen's requests has not only caused severe physical health complications but have also contributed to her diagnosis of post-traumatic stress disorder.

Women's mental health during pregnancy, childbirth and the post-partum period requires both stability in their environment and quality of care. Reports of disrespect and ill-treatment during childbirth in health facilities provide a deeply distressing picture of the extent of women's exposure to degrading treatment, lack of privacy, and even verbal and physical violence. In the present case, Ms. Tedsen was not listened to, and her symptoms were not taken into account, which led to serious consequences for her health. She continues to suffer mental and physical repercussions of ill-treatment and medical negligence, six years after giving birth to her daughter. The incident has severely limited Ms. Tedsen's professional and personal life, as certified by her psychiatrist. In this respect, the former Special Rapporteur on Torture indicated that "purely negligent conduct lacks the intent required under article 1 (of the Convention Against Torture) but may constitute ill-treatment (under article 16 of UNCAT) if it leads to severe pain and suffering" (A/63/175, para. 49).

Provision of poor quality of various forms of reproductive health care, such as maternal health care, including undertaking emergency obstetric interventions without informed consent constitutes not meeting the obligation to guarantee equality in the area of sexual and reproductive health (A/HRC/47/38). The failure to administer adequate antibiotics to Ms. Tedsen for her autoimmune condition and the careless act of leaving a piece of gauze inside Ms. Tedsen's body, post-delivery, are indicative of serious omissions in the provision of quality maternity care, potentially amounting to medical negligence. Refusal of pain relief and proper health care constitutes a failure to provide adequate maternal health care (A/HRC/32/44). If Ms. Tedsen's repeated pleas for a check-up to investigate the dire pain and discomfort she was in had been answered, the infection could have been identified and the emergency surgery that followed could have been prevented.

In Italy, the Supreme Court has stated in several decisions that informed consent, a constitutional right, is related to the right to self-determination in choosing medical treatment and it is the act that legitimates medical intervention. We are concerned that in cases of childbirth and obstetric care, this standard is not being effectively applied.

We note that the Italian Obstetric Surveillance System (ItOSS) has a role to investigate and monitor maternal mortality, including vital statistics analysis and prospective surveillance relying on incident reporting and confidential enquiries. We urge your Excellency's Government to record and provide recent data on cases reviewed by the ItOSS and expand the surveillance from 15 Italian regions to a nationwide surveillance system.

Based on the allegations that we have received, and the large number of public testimonies, we are particularly concerned that women are being discriminated against on the basis of their sex and gender when accessing reproductive health care services and attempting to exercise their legal rights, as a consequence of which they are being put in harm's way. It appears that they are being subjected to discriminatory and humiliating treatment, based in part on negative stereotypes in relation to the roles and

responsibilities of women in society. In connection with the above alleged facts and concerns, please refer to the Annex on Reference to international human rights law attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please indicate whether any investigation has been launched into the case of Ms. Regina Tedsen, and if so, provide information on the outcome of such investigation and measures taken to guarantee her right to adequate redress and compensation for the alleged violations.
3. Please provide detailed information on the legal frameworks and redressal mechanisms in place to combat obstetric violence in Italy.
4. Please provide recent statistics and qualitative data gathered by the ItOSS on the prevalence of and trends in obstetric care including investigations into maternal deaths and reports of obstetric violence.
5. Please indicate whether and if so, what measures have been taken to ensure the quality of pre- and post-natal care and service provided in maternity wards and how such measures are effectively implemented in practice.
6. Please indicate the steps being taken to ensure that women's sexual and reproductive health rights, in particular, obstetric and maternal care and their right to equality and non-discrimination, are duly protected in the context of healthcare in compliance with the constitutional safeguards and international human rights standards.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

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Chair-Rapporteur of the Working Group on discrimination against women and girls

Tlaleng Mofokeng  
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Alice Jill Edwards  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Reem Alsalem  
Special Rapporteur on violence against women and girls, its causes and consequences

## Annex

### Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer, especially, to articles 2, 3, 6, 7 and 17 of the International Covenant on Civil and Political Rights (ICCPR), which protects the equality of men and women, the physical and psychological integrity, right to privacy, to be free from torture and other cruel, inhuman or degrading treatment or punishment, article 16 of the Convention against Torture (CAT), and non-discrimination; and article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) which enshrines the right of everyone to the enjoyment of the highest attainable standard of physical and mental health both instruments ratified by Italy on 15 September 1978. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which Italy ratified on 10 June 1985, imposes obligations in relation to elimination of discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning, especially in its article 12.

Article 3 of the European Convention on Human Rights (ECHR), to which your Excellency's Government is party to since 4 November 1950, bestows up on the State an obligation to prohibit torture and inhuman or degrading treatment, which is closely bound to respect for human dignity (see *Bouyid v. Belgium* [GC], 2015, §81) and includes informed consent and access to timely and adequate sexual and reproductive health care services (see *V.C. v. Slovakia*, 2011, §§153-154).

Article 8 of the European Convention on Human Rights, which protects the right to private and family life bestows on the State an obligation to ensure and protect an individual against arbitrary interferences with private and family life, home, and correspondence by a public authority. This includes a positive obligation to protect life and health through adopting regulations compelling both public and private hospitals against arbitrary interferences with private and family life, home, and correspondence by a public authority. The European Court of Human Rights has found that the medical personnel's disregard for the patient's right to be duly informed can trigger the State's responsibility under article 8 of the Convention (see *Codarcea v. Romania*, §105). This includes informing patients of foreseeable consequences of a planned medical procedure on their physical integrity (see *Csoma v. Romania*, §42).

In its general comment no. 36: article 6 of the ICCPR, on the right to life, the Human Rights Committee stressed that although States parties should ensure the availability of, and effective access to, quality prenatal and post-abortion health care for women and girls, in all circumstances and on a confidential basis.

The former Special Rapporteur on Torture raised concern about the high risk of ill-treatment, in many States, against women seeking maternal health care, particularly immediately before and after childbirth. He underscored abuses ranging from extended delays in the provision of medical care, such as stitching after delivery to the absence of anesthesia, noting that "such mistreatment is often motivated by stereotypes regarding women's childbearing roles and inflicts physical and psychological suffering

that can amount to ill-treatment”. “The detention of post-partum women in health-care facilities for failure to pay medical bills amounts to ill-treatment by separating new mothers from their children and exposing them to significant health risks.” (A/HRC/31/57, para. 47)

Health providers withholding care or performing treatments that intentionally or negligently inflict severe pain or suffering for no legitimate medical purpose, and medical care that causes severe suffering for no justifiable reason can be considered cruel, inhuman or degrading treatment or punishment, and if there is State involvement and specific intent, it is torture. (A/HRC/22/53, para. 39).

The Committee on Economic, Social and Cultural Rights when interpreting article 12 of the ICSECR in its general comment no. 14, stated that article 12 imposes an obligation on States Parties to realize the right of women and girls to the highest attainable standard of health. This implies an obligation to ensure that steps are taken to ensure that access to health services is available to all, especially those in the most vulnerable or marginalized situations, without discrimination. According to the Committee, article 12 imposes an obligation on States parties to ensure access to essential health services for the child and his or her family, including pre- and post-natal care for mothers. Article 12.2(a) outlines the need to take measures to reduce infant mortality and promote the healthy development of infants and children.

The Convention on the Rights of the Child directs States to ensure access to essential health services for the child and his or her family, including pre- and post-natal care for mothers. Furthermore, in its general comment general comment no. 22 (2016) on the right to sexual and reproductive health (article 12) the Committee insisted that “When third parties contravene the right to sexual and reproductive health, States must ensure that such violations are investigated and prosecuted, and that the perpetrators are held accountable, while the victims of such violations are provided with remedies.” (Para. 64).

CEDAW general recommendation no. 24 emphasizes the duty of a State party to ensure, on a basis of equality of men and women, access to health-care services, information and education implies an obligation to respect, protect and fulfil women’s rights to health care. CEDAW general recommendation no. 35 affirms that violations of women’s sexual and reproductive health and rights such as abuse and mistreatment of women and girls seeking sexual and reproductive health information, goods and services, are forms of gender-based violence that, depending on the circumstances, may amount to torture or cruel, inhuman or degrading treatment (CEDAW/C/GC/35 at para. 18).

The Working Group on discrimination against women and girls has observed with concern that throughout their life cycle, women’s bodies are instrumentalized and their biological functions and needs are stigmatized. The instrumentalization on women’s bodies is often reflected on practices such as the withholding or delay in treatment, curtailment of women’s autonomy and denial of respect for privacy and obstructing their access to reproductive and sexual health care. The enforcement of such provisions generates stigma and discrimination and violates women’s human rights, by particularly infringing on their dignity and bodily integrity and restricting their autonomy to make decisions about their own lives and health. The Working Group also

stated that central among women's and girls' health needs are those relating to their reproductive and sexual health. Discrimination against women in health is sometimes manifested in humiliating treatment that women may face in facilities that are dedicated exclusively to them, such as birthing facilities where, as repeatedly stressed by United Nations human rights mechanisms and WHO, they are too often subjected to degrading and sometimes violent treatment. In some situations, failure to protect women's rights to health and safety may amount to cruel, inhuman, or degrading treatment or punishment or torture, or even a violation of their right to life. The Working Group has recommended States to prevent instrumentalization of women in the birthing process, ensure that penalties are incurred for gynaecological or obstetrical violence, including performing abusive caesarean sections, refusing to give women pain relief during birth or surgical termination of pregnancy and reduce maternal mortality and morbidity by ensuring proper prenatal, birthing and post-natal care and ensure that laws, policies and practices mandate respect for women's autonomy in their decision-making, especially regarding pregnancy, birthing and postnatal care (A/HRC/32/44).

In a report to the Human Rights Council, the Working Group has observed increase in disrespectful maternity care and cases of obstetric violence has been observed, alongside a reduction in antenatal and childbirth services. Denial of access to various forms of reproductive health care, such as maternal health care, including emergency obstetric care is a profound failure to meet the obligation to guarantee equality in the area of sexual and reproductive health. Violations of sexual and reproductive health rights are linked to structural discrimination and have been recognized as forms of gender-based violence, and which may amount to torture or cruel, inhuman or degrading treatment. The Working Group has recommended States to ensure timely access to maternal health services and emergency obstetric care, including treatment for pregnancy-related morbidities, without surveillance and reporting requirements that violate individual privacy, and establish safeguards to prevent and redress obstetric violence (A/HRC/47/38).

The Beijing Declaration and Platform for Action elaborates that reproductive health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. This includes the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant.

In a report on a human rights-based approach to mistreatment and violence against women in reproductive health services with a focus on childbirth and obstetric violence, the Special Rapporteur on violence against women has observed that informed consent for medical treatment related to reproductive health services and childbirth is a fundamental human right. Women have the right to receive full information about recommended treatments so that they can make informed and well-considered decisions. Women's human rights include their right to receive dignified and respectful reproductive health-care services and obstetric care, free from discrimination and any violence, including sexism and psychological violence, torture, inhuman and degrading treatment and coercion. In the context of reproductive care and childbirth, health systems must have the necessary budgetary resources needed to provide quality, accessible reproductive and maternal healthcare, thus ensuring that women's reproductive health needs and interests are met during childbirth, gynaecological

examinations, fertility treatments, miscarriage, abortion, contraception and in other sexual and reproductive health contexts. The Special Rapporteur recommended States to establish constructive cooperation between health institutions and professional associations with women's non-governmental organizations, women's movements and independent human rights institutions dealing with reproductive and obstetric care. To prevent obstetric violence, the Special Rapporteur additionally recommended States to monitor health-care facilities and collect and publish data on the percentage of caesarean sections, vaginal births and episiotomies and on other treatments related to childbirth, obstetric care and reproductive health services on a yearly basis, apply women's human rights instruments and WHO standards related to respectful maternity care, intrapartum care and violence against women and address the lack of anesthesia and pain relief, lack of choice of birth position and lack of respectful care and elaborate national strategies on reproductive health services and childbirth in order to secure respectful and caring human rights based treatments in the context of childbirth and other reproductive services, in line with international women's human right standards, including respect for privacy and confidentiality (A/74/137).

Further, the Special Rapporteur on violence against women and girls addressed this type of violence as a continuum of the violations that occur in the wider context of structural inequality, discrimination and patriarchy, and are also the result of a lack of proper education and training as well as lack of respect for women's equal status and human rights. She recommended that States should elaborate a national strategy on reproductive health services and childbirth in order to secure human rights based and caring and respectful treatments in the context of childbirth and other reproductive services, in line with international women's human right standards including respect privacy and confidentiality (A/74/137).

In a joint statement on the occasion of the high-level summit to officially launch the 2030 Agenda for Sustainable Development in September 2018, a group of international and regional human rights experts called on States, in implementing the Agenda, to seize the opportunity to recommit to and ensure the full respect, protection and fulfilment of sexual and reproductive health and rights. They stressed that States should also address acts of obstetric and institutional violence suffered by women in health care facilities, including with respect to forced or coerced sterilization procedures, refusal to administer pain relief, disrespect and abuse of women seeking healthcare and reported cases of women being hit whilst giving birth. (<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16490&LangID=E>)