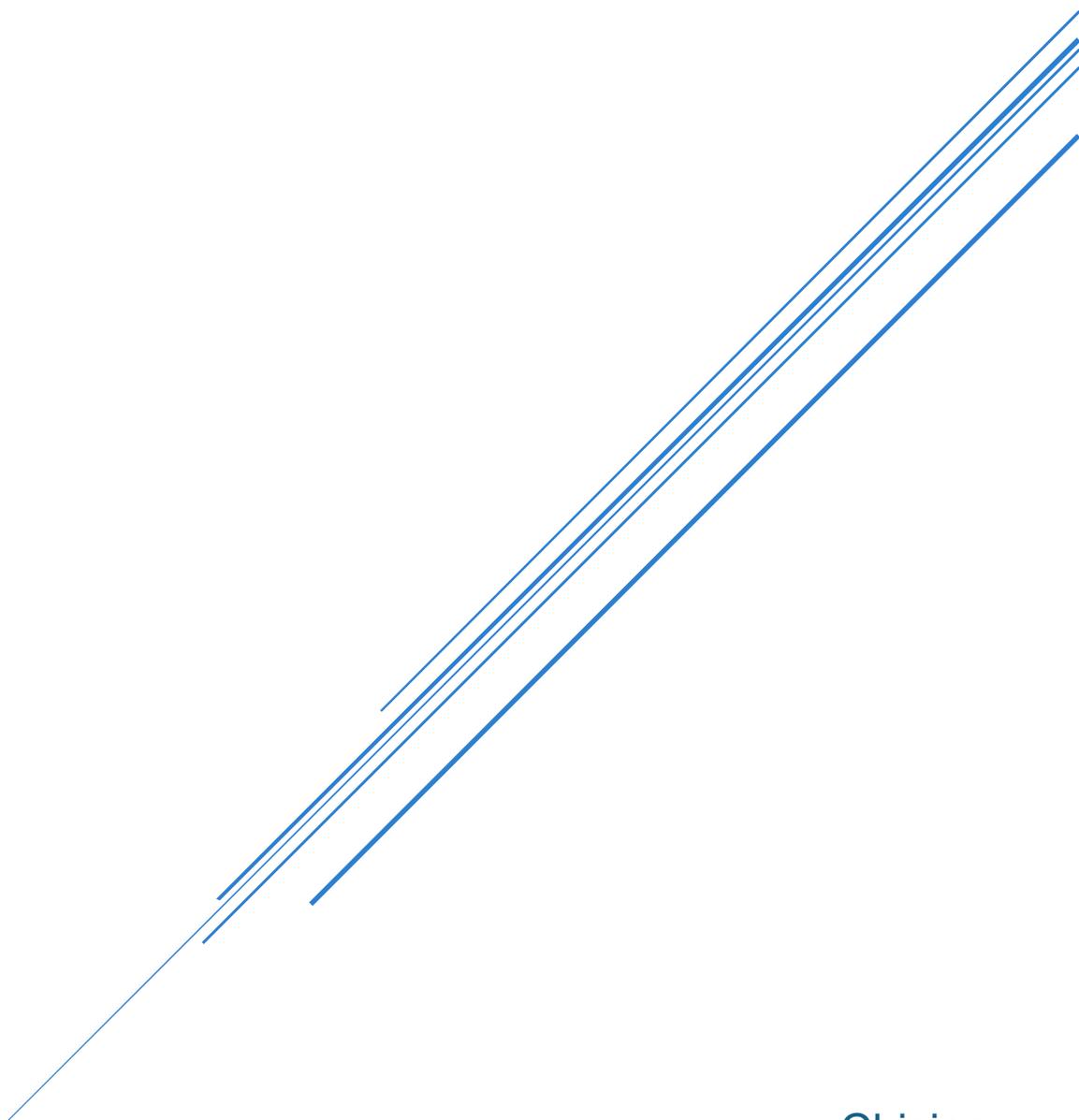


REPORT

Examining Legal Constraints on Family-Type Alternative
Childcare Services in the Republic of Moldova



Chisinau
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Contents

INTRODUCTION	2
SECTION I. OVERVIEW OF FAMILY-TYPE CHILDCARE SERVICES IN MOLDOVA.....	5
1. Legal Framework	5
2. Types of alternative childcare services.....	6
SECTION II. LEGAL CONSTRAINTS RELATED TO SETUP AND FUNCTIONING OF FAMILY-TYPE CHILDCARE SERVICES	8
1. Legal constraints related to the setup of family-type childcare services	8
2. Legal constraints related to the setup of family-type childcare services	17
SECTION III. CONCLUSIONS AND RECOMMENDATIONS	19

INTRODUCTION

This Report is issued under the Implementation Agreement between the International Labour Organization (ILO) and Association of Women Entrepreneurs in Moldova (AFAM) aiming to enhance the home-based nurseries capacities in the Republic of Moldova.

This initiative continues the joint efforts of ILO and AFAM in supporting the establishment and operation of home-based nurseries. The collaboration between these two organizations started in September 2023, when under a pilot program, 27 selected women received comprehensive training based on ILO methodology, preparing them to set up and manage home-based nurseries. By the Implementation Agreement, ILO and AFAM aim to continue the pilot program for home-based nurseries, document the results, create recommendations, and advise the authorities on potential legal reforms. As part of the Implementation Agreement, three women who participated in the training sessions during the initial phase of the pilot benefited from special grants and coaching services provided by ILO-certified experts to support the establishment of their home-based nurseries.

Moldova has taken significant steps in recent years to modernize its childcare system, particularly with the introduction of new legislation in 2023 governing alternative forms of childcare. This legislative shift is part of a broader effort to expand the variety of childcare options available to parents, ensuring that they can access services that meet their individual needs.

The newly established framework includes work-based childcare, home-based nurseries, and individualized childcare services, making a major policy development aimed at diversifying early childhood education and care services (ECEC). The Government's motivation for fostering the alternative forms of childcare stems from the National Development Strategy „Moldova Europeană 2030”. The National Strategy prioritizes the access to early childhood care and preschool education and aims to support all families in Moldova by providing affordable, accessible, safe and high-quality childcare. By the intended measures and policies, the Government intends to enable parents, especially women, to engage more fully in the labour market.

In line with these national priorities, ILO has been working to promote the implementation of ECEC services in Moldova as a mean of improving women's participation in the workforce. By strengthening childcare services, the ILO hopes to alleviate some of the barriers that prevent women from achieving full economic independence.

ILO's purposes related to the improvement of women's conditions in Moldova corresponds to AFAM mission, who is supporting women's potential in entrepreneurship and management in the Republic of Moldova. AFAM's community has over 70 members from various business sectors.

The Implementation Agreement between ILO and AFAM has an extensive scope, including (1) awarding financial support in the form of grants to participants who have decided to open a home-based nursery (2) providing consultancy support to the program participants in formalizing the home-based service before the tax authority, National Public Health Agency (NPHA), Ministry of Labour and Social Protection (MLSP); (3) identifying the legal constraints that prevent potential caregivers from setting up home-based childcare services; (4) recommending amendments of legal reform that would eliminate the identified constraints.

This Report seeks to identify obstacles, examines the legal formalities required for operating such services, and analyse the barriers that could hinder the successful establishment of home-based nurseries in Moldova. Through this analysis, the report will provide recommendations for overcoming these challenges to promote a more inclusive and accessible childcare system across the country.

Methodology

This Report aims to examine the regulatory framework governing alternative forms of childcare in Moldova, with specific focus on home-based nurseries. The central question addressed by this report is: *What are the regulatory constraints and barriers that hinder the establishment and operation of home-based nurseries in Moldova?*

The Report draws on the following key sources of data:

1. Legislation Analysis:
A comprehensive review of relevant laws and regulations was conducted. This included analysing legal provisions directly or indirectly impacting alternative forms of childcare, with particular emphasis on the legal framework for home-based nurseries as established by the Moldovan Parliament, Government, ministries and relevant public agencies.
2. Interviews:
The research team conducted interviews with individuals who have either obtained or are in the process of obtaining childminder status, a prerequisite for operating home-based nurseries. The aim of these interviews was to gain insights into the practical challenges and barriers these individuals face and to explore potential solutions that alternative forms of childcare could offer.

SECTION I. OVERVIEW OF FAMILY-TYPE CHILDCARE SERVICES IN MOLDOVA

1. Legal Framework

Home-based childcare, often referred to as ‘*childminding*’, is a crucial service used by many families in Moldova and other countries. This type of childcare involves a caregiver offering paid care to one or more children in a home environment which can either be the caregiver’s own home or the child’s domicile or temporary residence¹. Known in the international context as ‘family childcare’ or ‘family daycare’, home-based childcare provides a flexible solution for parents, particularly those with children below preschool age. According to the Organization for Economic Cooperation and Development (OECD), home-based childcare traditionally serves children up to the age of three, offering personalized care in a home setting (OECD, 2012)².

Historically, early childhood education and care (ECEC) in Moldova has been dominated by public institutions, which catered to children in two age groups: 0 to 2 years and 3 to 6/7 years. Formal legal entitlement to ECEC in Moldova has only applied to children from the age of two, leaving a significant gap in childcare options for children under two. As a result, there has been minimal enrolment of infants in formal childcare services, and informal arrangements, such as hiring nannies, remain largely undocumented and unregulated.

This lack of structured childcare for children under three years old represents a major barrier to balancing work and family life, disproportionately affecting women, who continue to carry the bulk of domestic and caregiving responsibilities. The Covid-19 pandemic, when early education services were suspended across Moldova for more than 6 months, leaving families without access to formal childcare services, highlighted the urgent need for more diverse and flexible childcare options, particularly for younger children.

In response to these issues, in 2022 Moldova introduced specific legislation in this field, namely the Law on Alternative Childcare together with the correspondent secondary regulations, which marked a significant shift in the country’s approach to early childhood education and care. For the first time, formal (private) childcare services were authorized for children under three years old, addressing the gap in care provision for the youngest children.

Regulatory framework on alternative forms of childcare in Moldova

- Law No. 367/2022 on Alternative Childcare Services;
- Law No. 93/1998 on Business Patent (*patenta de întreprinzător*)
- Government Decision No. 572/2023 approving specific regulations regarding the organization and operation of alternative childcare services, namely:

¹ Lynn Ang, Elizabeth Brooker, Christine Stephen, „A Review of the Research on Childminding: Understanding Children’s Experiences in Home-Based Childcare Settings” (2016), <https://link.springer.com/article/10.1007/s10643-016-0773-2>

² OECD (2012). Starting strong III: a quality toolbox for early childhood education and care. Paris: OECD. https://www.oecd-ilibrary.org/education/starting-strong-iii_9789264123564-en

- Regulation on organization and functioning of Work-Based Alternative Childcare Service;
- Regulation on Organizing and Functioning of Individualized Alternative Childcare Service;
- Regulation on Organizing and Functioning of Family-Based Alternative Childcare Service; and
- Regulation on Sanitary Requirements for Alternative Forms of Childcare Services.

Under the new regulatory framework, private individuals and organizations can establish home-based childcare services, provided they meet the necessary qualifications and legal requirements. Caregivers must be registered as childcare providers and hold a business patent (*patență de întreprinzător*), unless they are employed under an employment contract.

2. Types of childcare services

The Law No. 367/2022 establishes three primary types of alternative childcare services in Moldova for children under the age of 3 years old:

- **Workplace-Based Childcare**, which is organized by employers for their employees' children within the workplace. The service provides full-time care in employer-designated spaces.
- **Individualized Childcare**, representing a home-based service provided at the child's domicile or temporary residence by a qualified individual caregiver.
- **Family-Type Childcare**, representing a home-based service where a qualified caregiver looks after a small group of children in the caregiver's home, often including the caregiver's own children.

The Law No 367/2022 and the accompanying Regulations set out specific qualifications and conditions for self-employed caregivers to legally operate in Moldova. The main requirements include:

- (a) **Qualifications:** Caregivers must possess a recognized qualification for childcare at least at Level 3 of Moldova's National Qualifications Framework. Acceptable qualifications include diplomas in education, health, or social work, or certificates in relevant childcare fields.
- (2) **Licensing and Registration:** Caregivers must obtain a business patent (*patență de întreprinzător*) to operate legally, which allows them to work independently. They are also required to notify the service to the NHPA and register as service provider in the national information system managed by the MLSP.
- (3) **Health and Background Checks:** Caregivers must pass medical examinations, psychological evaluations, and provide clean criminal and contravention records. They must also declare that they do not live with individuals convicted of offences against children or other serious crimes.

- (4) Training and Continuing Education: Caregivers must meet initial and continuing education standards set by the Ministry of Education ensuring they are equipped to provide high-quality care for young children.

Table 1: *General presentation of main features of alternative forms of childcare in Moldova*

	Workplace-Based Childcare	Individualized Childcare	Family-Type Childcare
Setting:	Employers establish these services by internal orders and notify the National Public Health Agency. The services do not have independent legal status and operate under the employer's legal personality	Care is provided at the child's domicile or temporary residence. Caregivers must obtain a business license and register with the Ministry of Labour and Social Protection.	Care is provided for a small group of children (up to five children) in the caregiver's home. Caregivers must obtain a business license and register with the Ministry of Labour and Social Protection.
Cost:	Employers cover full costs, and the service is nonprofit. This care is primarily for children of employees.	Child parents/guardians cover the cost for the service based on the contract with the caregiver.	Child parents/guardians cover the cost for the service based on the contract with the caregiver.
Facility Health and Safety:	The facility where the service is provided must comply with strict health, safety, and fire protection standards, and cannot be located in areas with excessive noise or pollution.	Not applicable.	The facility where the service is provided must comply with strict health, safety, and fire protection standards.
Contracting:	Services are contracted through formal agreement between the employer and the caregiver, which specifies care responsibilities, hours, and remuneration. If the contracted does not hold a business license, the employer must formalize their collaboration by an employment	Services are contracted through formal agreement between the caregiver and the child's legal representative, which specifies care responsibilities, hours, and remuneration. Caregivers are paid based on an agreed hourly rate.	Services are contracted through formal agreement between the caregiver and the child's legal representative, which specifies care responsibilities, hours, and remuneration. Caregiver must register each childcare contract with the tax authority.

	agreement under the Moldovan Labor Code.		
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Alternative childcare services in Moldova are regulated and monitored by the following public authorities:

- MLSP is the authority responsible for overseeing policies related to alternative childcare services. The Ministry manages the registration system for childcare provider and implements support programs.
- NPHA ensures compliance with health, hygiene, and safety standards for all types of childcare services. Inspections are carried out to verify the safety and suitability of facilities.
- State Tax Service issues the business license for childminders and oversees the licensing process for caregivers.

SECTION II. LEGAL CONSTRAINTS RELATED TO SETUP AND FUNCTIONING OF FAMILY-TYPE CHILDCARE SERVICES

Following interviews with individuals under the program who have notified or are in the process of notifying the family-type alternative childcare service, the interviewees raised several difficulties related to the initiation and operation of the service. Below we will present these challenges along with the corresponding recommendations.

1. Legal constraints related to the setup of family-type childcare services

To provide a clearer presentation of the issues raised and identified during this exercise concerning the initiation of activities, we will offer a brief overview of the steps involved in establishing the service, highlighting the problems that arise at each corresponding stage. The stages for establishing the service are outlined in accordance with the provisions of the Law No. 367/2022 and related Regulations, as well as other applicable normative acts and information published on governmental websites.

The service setup process includes the consecutiveness of 5 stages including a (1) preliminary stage, (2) obtaining the business patent, (3) obtainment of social security and medical insurance registration, (4) service notification to NPHA, and (5) registration in the informational system of MLSP. A mind map of all five stages is illustrated in Figure 1 below.

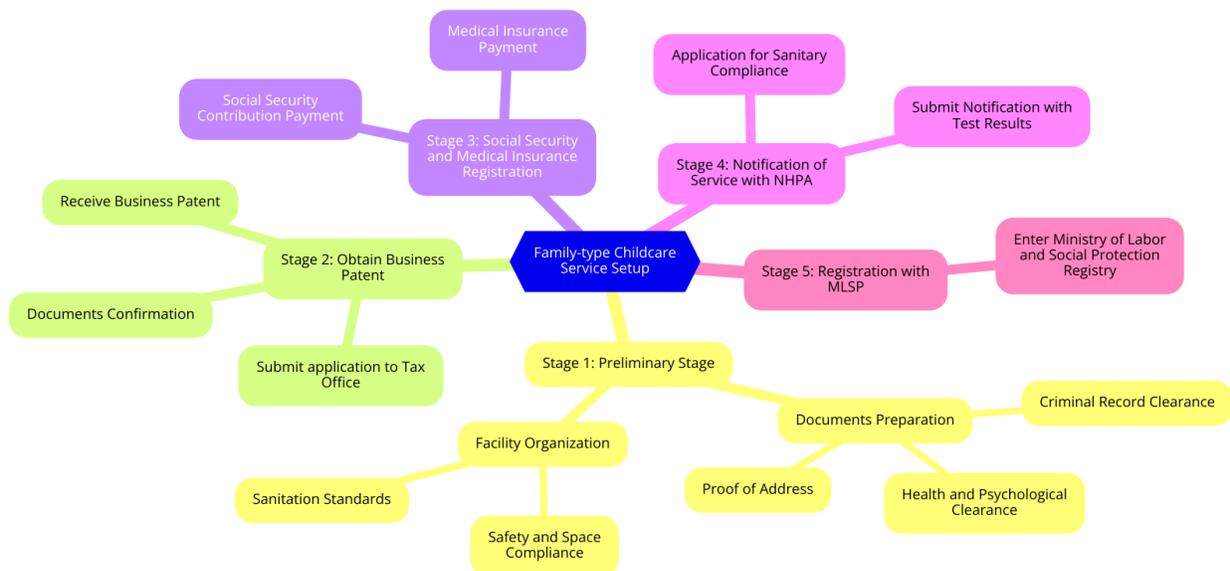


Figure 1. Mind map of the Family-type Childcare Service Setup

Stage 1: Preliminary stage

At this stage the applicant must collect all necessary certificates and documentary confirmations and to prepare the facility where the service will be located.

Table 2. List of documents to be obtained by the applicant for a family-type childcare service

No.	Name of Document	Issuing authority	Issuing Term	State fees implied to obtain the document
<i>Documents confirming qualification: ensure that you meet the required qualifications to become a caregiver</i>				
1.	Diploma of higher education in the field of education, health, or social assistance, OR Certificate of secondary technical vocational studies in the field of education, health, or social assistance, OR Certificate of gymnasium studies / certificate of high school studies / baccalaureate diploma / certificate of secondary	Relevant education institution	N/a	N/a

	general education / higher education studies or another equivalent document recognized by the competent authority, and a certificate confirming specialization in the field of childcare.			
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Criminal Record Clearance:
obtain your criminal record and declarations that no members of your household have been convicted of offences against children or other serious crimes

2.	Criminal record of individual	Ministry of Internal Affairs	From 1 to 10 days	From MDL 60 to MDL 120
3.	Contravention record of individual	Can be ordered, paid and delivered electronically on servicii.gov.md .		
4.	Declaration under own responsibility stating that the applicant do not reside with individuals who have been convicted of intentionally committing a crime or offence against life and health, against family and children, related to sexual conduct, or against a person's liberty, honour, and dignity	document is completed by the applicant according to the model provided in the Regulation (Annex 5)	n/a	n/a
5.	Declaration under the applicant's own responsibility stating that the applicant have not been deprived of parental rights by a final court decision	document is completed by the applicant according to the model provided in the Regulation (Annex 5)	n/a	n/a

Health and Psychological Clearance: *undergo medical and psychological examinations to certify that you are fit to work as a caregiver. Obtain the necessary medical records.*

6.	Individual medical record with the results of medical and laboratory examinations	subdivisions of NPHA		
7.	Proof of hygiene training in accordance with the provisions of normative acts	subdivisions of NPHA		

	approved by the Ministry of Health			
8.	Certificate regarding the psychological capacity to engage in social and professional activities with increased responsibility in accordance with Form No. 091/e.	ISPS Spitalul Clinic de Psihiatrie		
<i>Proof of address where the service will be rendered</i>				
8.	Copy of the extract from the Real Estate Register or, as applicable, a copy of the lease agreement for the property that will be used in the respective activity.	Agency of Public Services	up to 3 days	MDL 130 (in 3 days), or, MDL 390 (in one day), or MDL 650 (same day)

At this stage, the potential caregiver must ensure that the childminder’s facility where the home-based service will be performed meets the necessary health and safety standards required for family-type childcare, including proper sanitation, access to clean water, and safe environments for children.

In addition, the applicant must set up dedicated spaces for childcare, ensuring compliance with room size, ventilation, lighting, and safety standards as outlined in the NPHA regulations.

Following the interviews of the program participants, the following concerns may be identified in relation to the documents to be provided and the facility preparation.

Red flag 1. Difficulties with medical examination and hygiene training confirmations

Several respondents reported challenges in obtaining the individual medical examination record and proof of hygiene training. They indicated uncertainty regarding which authority to approach to acquire these documents. They contacted primary healthcare institutions (family doctors), but these institutions refuse, citing that they do not issue such documents.

The Law No. 367/2022 and its accompanying Regulations do not specify the procedure for obtaining the medical examination record or hygiene training certification for childminders. Instead, they merely refer to the „corresponding normative acts approved by the Ministry of Health”. No guidance for childminders are identified on the informational resource www.serviciialternative.gov.md.

Medical examinations are required for employees in childcare institutions to ensure the detection of infectious diseases that may pose a risk to children. These medical examinations are mandated by the following legal provisions:

- Law No. 10/2009 on State Supervision of Public Health;
- Order No. 255/1996 of the Ministry of Health „On the mandatory organization of medical examinations for employees of food enterprises, medical institutions, public utilities, and childcare institutions”.

Regarding hygiene training, their organization and implementation are conducted by the territorial subdivisions of the National Public Health Agency in accordance with the following provisions:

- Article 45 of Law No. 10/2009 on Supervision of Public Health;
- Order No. 314/2020 of the Ministry of Health on the approval of the list of professions requiring mandatory hygiene training and hygiene training programs.
- Order No. 876/2020 of the Ministry of Health on the approval of the Regulation on the organization of Hygiene Trainings.

The above-referenced legal provisions do not include home-based childminders as subjects of mandatory medical examinations or hygiene training. These examinations and training requirements primarily apply to specialists working under employment agreements within educational institutions (e.g. employees of early childhood institutions). For these employees, medical examinations are mandatory upon initial employment and twice annually thereafter. Hygiene training is compulsory upon employment, and upon completion, employees are issued a hygiene training certificate specifying the training period, course, date of issuance, and validity term.

To mitigate this red flag, normative acts regulating mandatory medical examination and hygiene trainings should be amended to explicitly include home-based childminders within the list of profession subject to these requirements, along with any specific provisions applicable to childminders.

Additionally, clear guidance and procedures for obtaining the medical examination and hygiene training (including details on the authorities to be approached, required documentation, information to be provided, and any applicable fees) should be provided on the informational website dedicated to home-based childminders (www.serviciialternative.gov.md).

Red flag 2. Request to change the applicant’s permanent domicile

Some respondents indicated that the authorities involved in the formalization process of family-based alternative childcare services require the caregiver to be registered with a permanent domicile at the address of the property where the service will be provided. Although this requirement is not explicitly stated in Law No. 367/2022 or the Regulation, it arises from the nature of the service, which is provided at the caregiver’s domicile.

The procedure for the establishing domicile or temporary residence is regulated by the Regulation on the Issuance of Identity Documents and Registration of Residents of the Republic of Moldova, approved by Government Decision No. 125/2013. According to Article 92 of the Regulation, individuals may have only one domicile and/or one temporary residence at a time. If they own multiple properties, they may establish their domicile or residence in any of them.

The establishment or change of domicile occurs by applying to the subdivisions of the Public Services Agency or online via the website eservicii.gov.md. The domicile is established or changed on the same day the application is submitted, subject to a state fee of MDL 50.

To mitigate this red flag, it is recommended that the public authorities reconsider the requirement for home-based childcare service providers to establish permanent domicile at the address where the service is provided. This requirement is not explicitly regulated by the Law No 367/2022 or the Regulation. Therefore, imposing this condition creates unnecessary bureaucratic obstacles for caregivers who may own or rent multiple properties.

To avoid any further confusions, amendments should be made in the Regulation to clarify that home-based childcare service can be provided at any property owned or rented by the caregiver, without the strict requirement of permanent domicile at the service address.

These measures would encourage more individuals to establish home-based childcare services by eliminating unnecessary regulatory barriers and streamlining the formalization process.

Red flag 3. *Additional Unforeseen costs for Facility Equipment*

Some respondents cited high costs associated with organizing the space where childcare services would be provided. They noted that, without the grants they received, they would have been unable to cover the necessary expenses, particularly for the technical outfitting of the premises (such as installing air conditioning, replacing lighting fixtures, addressing deficiencies in the potable water supply, equipping the sanitary facilities). Several respondents mentioned that additional and unforeseen investments were required to adequately equip the space to meet the regulatory standards.

To mitigate this risk, it is recommended that state authorities conduct a comprehensive review of the existing regulatory requirements related for the setup and equipment of childcare facilities for home-based childminders. This review should focus on reevaluating the necessity of certain requirements, particularly those that do not have a direct impact on child safety or wellbeing.

Alternatively, to ease the financial burden on childminders associated with equipping childcare facilities, it is recommended that state authorities implement a subsidy or reimbursement program specifically aimed at covering essential infrastructure and equipment costs. Such programs could include targeted grants to cover specific costs such as air conditioning, lighting, sanitation, and potable water supply improvements; or in-kind support programs that provide childminders with in-kind support through local government agencies or partnerships with NGOs.

By implementing these measures, the state can effectively support childminders, making these services more financially sustainable and encouraging wider participation in alternative childcare services.

Stage 2: Application for the Business Patent

The process implies the submission of the application for the entrepreneurial patent at the local tax office or through the electronic system „*Cabinetul personal al contribuabilului*”. The application must be accompanied by the documents specified in Table 2 of this Report, confirming qualification, criminal record and declarations, health and psychological certificates, proof of address where the service will be provided.

The tax office will issue the patent within 15 days from the date of submission, provided all documents are in order and the patent fee has been paid.

The patent is issued on an annual basis. The annual patent fee in 2024 is as follows:

- MDL 2,400 (Chisinau, Balti, Bender, Tiraspol),
- MDL 1,800 (other municipalities and cities), and
- MDL 1,200 (rural localities).

Red Flag 4. Bureaucratic impediments at tax office

Some respondents mentioned that the process of applying for and obtaining the patent took longer than necessary because the officials of tax offices were not familiar with the patenting requirements for alternative childcare services. This resulted delays, including refusals to issue the patent. Eventually, the misunderstandings were resolved, and the individuals were able to obtain the patent.

To mitigate this impediment, the Government should ensure that officials at the tax offices receive comprehensive training on the specific requirements and procedure for issuing patents for alternative childcare services. This will help streamline the process and prevent unnecessary delays or refusals due to lack of understandings.

It is also recommended to develop and distribute clear and accessible guidelines on the patenting process for alternative childcare services to both tax officials and applicants on the informational website dedicated to alternative childcare services.

Stage 3. *Social security and medical insurance of the applicant*

Once the patent is obtained, the applicant must obtain the social security registration with the National Social Security Company and pay the fixed annual amount of the mandatory social security contribution.

Similarly, the applicant must obtain the mandatory medical insurance registration with the National Medical Insurance Company and pay the fixed annual amount of the mandatory medical insurance contribution.

In 2024, the social security contribution and the medical insurance contribution paid by patent-holders caregivers are as follows:

- MDL 14,700 - social security contribution;
- MDL 12,636 - mandatory medical insurance contribution.

Red flag 5. Limited Social Security Benefits

The caregiver must support high initiation costs before starting the operation. Considering that home-based childcare is usually initiated by women with no permanent incomes, it might be

difficult for such a person to support all initiation costs without financing. This might be a barrier, particularly in the first year of operation.

As a patent holder, the caregivers providing family-type childcare services in Moldova have limited access to social security benefits. According to Annex 1 to Law No. 489/1999 on the Social Security Public System, patent holders are entitled only to old-age pension and funeral benefits. This means caregivers are excluded from other key social security benefits such as maternity allowance, child-rearing benefits up to the age of 3, benefits for preventing illness, recovery of work capacity, and childcare allowance during illness.

To ensure equitable access to social security benefits for caregivers, it is recommended that the Law on Public Social Security System be amended to extend the scope of social security benefits for patent holders providing childcare services.

Stage 4. Notification of the service to NPHA

This stage consists of the following steps:

1. Submission of the Application for Sanitary Compliance

The applicant must formally apply to NPHA requesting a sanitary compliance inspection of the childcare facility.

The sanitary compliance inspection includes laboratory testing and on-site inspections conducted by NPHA to ensure that the facility meets all applicable health and safety regulations.

Following the inspection, the applicant will receive the laboratory test results, which assess the sanitary conditions of the childcare facility (e.g. water quality, air ventilation). Based on these results, the applicant can then prepare a self-assessment report demonstrating that the facility complies with the required health and safety standards.

2. Submission of the Notification to NPHA

Once the self-assessment report and laboratory test results are prepared, the applicant must submit the notification to the territorial office of NPHA or online. The notification should follow the format outlined in the Regulation (Annex 5) and in accordance with NPHA Order No. 67/2024 on the Notification of Alternative Childcare Services.

The notification must include both the laboratory test results and the self-assessment report as supporting documents.

Upon receipt of the notification, NPHA will issue formal acceptance of the childcare service within 10 working days.

Red flag 6. *Bureaucratic impediments at NHPA*

Most respondents participating in the interviews reported difficulties related to the notification process for family-based childcare services. The main issues cited were as follows:

- The personnel responsible for receiving documents at the service counters were unfamiliar with specific procedures for notifying family-based childcare services. This lack of knowledge led to refusals to issue service acceptance, requests for unnecessary operating authorization, and delays in the notification process.
- Insufficient guidance to applicants, particularly in areas where the applicants lacked knowledge. For example, applicants were required to correctly indicate the CAEM (Economic Activities Classification) code for childcare services, but no assistance was provided in this regard. Similarly, information on the required laboratory tests was not communicated, resulting in incomplete or incorrect applications.
- delays in receiving laboratory test results being attributed to the absence of NPHA specialists who were on leave. This extended the notification process beyond the expected timeframe.

To mitigate the red flag identified above, it is required that NPHA provide comprehensive training to frontline personnel involved in the notification process. This training should focus on specific procedures and requirements for family-based childcare services, ensuring that staff are fully equipped to handle inquiries and guide applicants accurately.

It is also recommended to develop and disseminate clear, detailed guidelines for applicants on the steps required to complete the notification process. This should include information on how to correctly complete forms (such as indicating the correct CAEM code) and a checklist of required laboratory tests. These guidelines should be made available both online (on serviciialternative.gov.md) and at the service counter at NPHA.

Stage 5: Registration with the MLSP

Once the applicant submits the notification of the service and it is accepted by NHPA, the Ministry of Labour and Social Protection will register the family-type childcare service in the dedicated information system for childcare service providers.

As of the date of this report, the register of childcare service providers is under construction. The absence of the registry does not impede the provision of the service. The service provider may begin operations as soon as the notification is accepted by NHPA.

2. Legal constraints related to the operation of family-type childcare services

Following the interviews of the program participants, the following concerns may be identified in relation to the restrictions and prohibitions contained in the Family Type Childcare Regulation.

Red flag 7. Prohibition for childminders to contract or employ the services of childcare assistants

Some respondents highlighted the difficulty of managing multiple children, particularly when caring for five children simultaneously aged 1, 2, and 3 years old, or three children under age of one, without any assistance. Caregivers claim that they may not obtain any assistance from any individuals, including caregiver's immediate relatives. The prohibition of assistance may compromise the safety of the children under care.

In various EU countries, relations on whether childminders can hire assistants vary³. However, there are examples where this is permitted under certain conditions. For instance, in the United Kingdom, childminders are allowed to hire assistants. The assistant must be registered with the correspondent public authority (Ofsted), and the childminder must ensure that all staff meet regulatory requirements, such as background checks and necessary qualifications⁴. In Scotland, childminders can also employ assistants if assistants have the appropriate skills to work with children and meet safety and regulatory standards⁵.

, It is recommended that the Moldovan government revise the current regulations to allow home-based childminders to hire assistants under specific conditions. For instance, the assistants might be required to obtain a childcare patent (like caregivers contracted in workplace-based childcare). Alternatively, certain exemptions from the prohibition might exist for caregivers' family members who could provide non-paid support, subject to the consent of child parents. This would improve the safety and quality of care, particularly when childminders are responsible for multiple young children or children with special needs.

Red flag 8. No clear regulations on childminders association

Article 13 of the Regulation allow several patent-holding caregivers to associate for the purpose of jointly organizing and providing childcare service sunder a service contract. The caregiver hosting the service at their domicile or temporary residence is responsible for notifying and registering the service.

The regulation does not provide clear guidance on the legal form of association when multiple childminders join forces to offer childcare services. It is unclear whether they should form a partnership, or other legal entity, or if an informal association is sufficient. In addition, it is unclear whether each caregiver would be taxed exempted individually due to the business patent or

³ <https://eurydice.eacea.ec.europa.eu/national-education-systems/portugal/home-based-provision>

⁴ <https://childmindinguk.com/ofsted>

⁵ <https://www.careinspectorate.com/images/documents/157/Registering%20and%20running%20a%20childminding%20service%20-%20what%20you%20need%20to%20know%20-%20Oct%2013.pdf>

whether the association will need to set up a joint bank account subject to taxation. It is also unclear whether the 5-child ratio is applied to the entire service, and not per caregiver.

Caregivers may struggle to meet compliance standards due to the confusion generated by the absence of clear and detailed regulation. This could result in non-compliance with regulatory requirements, increasing the risk of sanctions or service suspension.

It is recommended that the Regulation clearly define the legal forms under which childminders can associate to provide services (e.g. partnerships or formal associations). It is also recommended that guidance on the legal documentation required to establish these associations, ensuring that caregivers understand their legal obligations and protections. In addition, the regulation must clearly define whether 5-child limit applies per caregiver or per entire service in cases where multiple patent-holding caregivers associate.

Red flag 9. Registration of each childcare contract with the tax authority

According to Article 24 of the Regulation, a copy of the childcare service contract must be submitted for registration to the authority that issued the business patent. However, the Regulation does not outline the specific procedure for registering these contracts with the tax authorities.

Caregivers are required to enter individual childcare contracts for each child, and these contracts may vary in duration. They may also include confidentiality clauses. The requirement to submit a copy of each contract for registration may create administrative burdens and impede the smooth and continuous provision of childcare service. This obligation can also raise concerns about the protection of confidential information and create delays in service delivery.

In respect to the above, it is recommended to review and simplify the contract registration by removing this requirement. Instead, caregivers could maintain the contracts for internal record-keeping and only submit them upon request by relevant authorities during inspections. This would reduce the administrative burden and allow childminders to focus on delivering childcare services.

Alternatively, if contract registration needs to be maintained, the regulation should be amended to provide clear guidance on how contracts are to be submitted, including any deadlines and the format of submission. It is also advisable to introduce provisions that protect confidentiality of sensitive information in the contracts (e.g. personal data of children and families, information on children health conditions). The submission process should ensure that only essential details are provided to the authorities, and that appropriate measures are in place to safeguard confidential information.

SECTION III. CONCLUSIONS AND RECOMMENDATIONS

In conclusion, this Report has identified several key legal constraints affecting the establishment and operation of family-type childcare services in Moldova. While Law No. 367/2022 and related regulations provide a framework for these services, multiple barriers create challenges for childminders seeking to formalize their activities.

The identified constraints may be summarized as follows:

- (1) Notification and Registration Issues: The process of obtaining the business patent, notification and registration process is often hindered by bureaucratic delays and unclear procedural requirements. Additionally, the requirement to establish a permanent domicile at the childcare service location creates unnecessary obstacles for caregivers, especially those with multiple residences.
- (2) Operational constraints: The prohibition on hiring assistants under civil law contracts places an excessive burden on caregivers. This risk compromises the quality and safety of care especially involving children with special needs.
- (3) Administrative Burdens: The requirement to submit childcare contracts for registration with tax authorities, combined with the lack of a clearly defined procedure for this process, creates unnecessary administrative burdens.
- (4) Financial Constraints: High costs related to the setting up the service, including payment of state fees for documents, patent, social security, medical insurance and equipping childcare facilities with necessary infrastructure might represent a significant barrier for caregivers to initiate the service.
- (5) Limited access to social security benefits: Current limitations on social security benefits for patent-holder caregivers restrict their access to essential protections, such as maternity and child-rearing benefits. These limitations leave caregivers financially vulnerable, particularly during periods of maternity, potentially undermining their ability to provide consistent childcare services.
- (6) Inconsistencies in State Support and Guidance: There is a need for better training and clearer guidance for both government officials and caregivers to streamline the notification and registration process.

As recommendations for improvement, we identified the following:

- Amend the Family Type Childcare Regulation to allow caregivers to hire assistants or support staff under special conditions.
- Clarify legal requirements for the creation of association of multiple patent-holder caregivers and child-to-caregiver ratio.

- Eliminate the childcare contract tax registration requirement or amending the Family Type Childcare Regulation by introducing clear registration procedure, including deadlines and form of registration; as well as introducing provision for safeguarding confidentiality of the childcare contract provisions by the tax authority.
- Provide clear guidance and training for government officials and caregivers to insure consistency and transparency in the notification and registration process. Elaborate clear guidance regarding the process for the obtainment of all documents, specifying the name of the document, public authority responsible for its issuance, timeframe to obtain the document and the applicable fee. Elaborate samples of completed documents such as notification, self-assessment report, declarations. All these guidance and supporting materials must be placed on the dedicated informational system www.serviciialternative.gov.md.

Amendment to the Law on Social Security Public System to extend the scope of social security benefits for patent holders providing childcare services, including such key social security benefits as maternity allowance, and child-rearing benefits.

- Development of the information system dedicated to the childcare services and caregivers of the Ministry of Labor and Social Protection.
- Law No. 367/2022 should be amended to offer multiple legal forms under which alternative childcare service providers can operate. These expanded options would provide caregivers with the flexibility to choose the structure that best suits their operational needs without the restrictive requirements of the entrepreneur's patent.