

CONCEPT NOTE
National Forum on HIV, human rights and Law

Dates of the event: 24-25 February 2022.

Place of conduction: Tajikistan, Dushanbe, hotel Serena, 2 floor

Duration: 2 days.

National partner: The Supreme Court of the Republic of Tajikistan.

International partners: UNDP, UNAIDS, WHO and other key partners.

1. Introduction

Eastern Europe and Central Asia (EECA) is one of only three regions where the HIV epidemic is growing; it is also one of only two regions in the world where the annual number of AIDS-related deaths has increased since 2010. According to UNAIDS, there are approximately 1.6 million people living with HIV in the region.¹ Most new infections in the region are among key populations,² who must contend with punitive legal environments, social ostracization and discrimination.

High rates of co-infections are prominent, with tuberculosis (TB) increasingly linked to HIV infection and drug use, while hepatitis C infection is approaching 80 percent prevalence amongst people who use drugs. Nine of the world's 30 countries with a high burden of multidrug-resistant TB (MDR-TB) and extensively drug-resistant TB (XDR-TB) are within the EECA region³.

While there have been significant improvements in the legal environment relevant to HIV and TB in the region, legal barriers persist. The rights of PLHIV, key populations at risk of HIV, and of people experiencing TB are not sufficiently and effectively protected. Additionally, the legal, policy and regulatory frameworks that govern national efforts in prevention, treatment, care and support need significant strengthening. Some key obstacles include: criminalisation of HIV transmission, non-disclosure and exposure; criminalisation of sex work or introduction of increased punitive measures against sex workers; criminalisation of drug use and/or possession for personal use; forced and coerced HIV testing and others.⁴

Functional and effective judicial systems are imperative to ensure the protection of the rights of key populations. In this regard, the judiciary in a number of the EECA countries has been quite progressive also through important enabling court decisions.

2. Context

In its flagship "Risks, Rights & Health" report of 2012⁵ and subsequent 2018 Supplement⁶, the Global Commission on HIV and the Law recognized that the law alone cannot stop HIV transmission, nor can the law alone be blamed when HIV responses are inadequate. However, the Global Commission found that legal environments can play a powerful role in the well-being of people living with or vulnerable to HIV.⁷ Without the contribution of judicial members in combatting HIV and related conditions, it is unlikely that significant change in how HIV is comprehended on a societal, legal and medical level will be actualized.

¹ UNAIDS - <https://aidsinfo.unaids.org/>

² UNAIDS considers gay men and other men who have sex with men, sex workers and their clients, transgender people, people who inject drugs and prisoners and other incarcerated people as the main key population groups. These populations often suffer from punitive laws or stigmatizing policies, and they are among the most likely to be exposed to HIV. Their engagement is critical to a successful HIV response everywhere—they are key to the epidemic and key to the response (UNAIDS Terminology Guidelines, 2015, https://www.unaids.org/sites/default/files/media_asset/2015_terminology_guidelines_en.pdf).

³ Stop TB Partnership, High Burden Countries - <http://www.stoptb.org/countries/tbdata.asp>

⁴ Global Commission on HIV and the Law – 2018 Supplement - <https://hivlawcommission.org/supplement/>

⁵ Global Commission on HIV and the Law – Risks, Rights and Health - <https://hivlawcommission.org/report/>

⁶ Global Commission on HIV and the Law – 2018 Supplement - <https://hivlawcommission.org/supplement/>

⁷ <https://www.undp.org/content/dam/undp/library/HIV-AIDS/Governance%20of%20HIV%20Responses/Commissions%20report%20final-EN.pdf>

The "National Program on combating the epidemic of Human Immunodeficiency Virus and Acquired Immunodeficiency Syndrome in the Republic of Tajikistan for 2021-2025" and its implementation plan were approved by the Government Decree of the Republic of Tajikistan № 50 dated February 27, 2021.

To achieve international goals, Tajikistan has identified key challenges, one of which is to overcome existing barriers to an effective response to the HIV epidemic in the area of realizing the rights of people living with HIV, key populations, and other people affected by the epidemic, and ensuring their broad access to justice. The Government of the Republic also plans to improve legislation and policies to overcome existing barriers to the effective implementation of HIV program, and the full enjoyment of the rights of people living with human immunodeficiency virus, key populations and other people affected by the epidemic.

Reducing stigma and eliminating discrimination and violence against people living with HIV, key and vulnerable populations and other people affected by the epidemic is also a priority.

Previously, the United Nations Development Programme (UNDP) facilitated three meetings of the Eastern European and Central Asian Judges' Forum on HIV, Human Rights and the Law, which provided impetus for further work.

In order to implement the Plan of implementation of the "National Program to combat the epidemic of human immunodeficiency virus and acquired immunodeficiency syndrome in the Republic of Tajikistan for 2021-2025". UNDP jointly with the Supreme Court of the Republic of Tajikistan intends to organize and conduct a national scientific and practical forum on legislation, human rights and HIV, with the first day of the meeting devoted to criminal law and the second to civil law.

3. Main objectives and expected outcomes

The forum aims to provide judges, prosecutors, and law enforcement officials around the country with a collegial environment to discuss the latest scientific, medical, and epidemiological data, international and regional guidelines, social and structural factors that increase the vulnerability of people living with HIV and key populations, judicial and legislative responses to HIV, and relevant legal provisions at the national and international levels, and to share experiences and challenges related to protecting rights in context of HIV and co- infections.

The program of the National Forum will cover the following issues:

Day 1: legal regulation of HIV criminalization (existing documents, their status, gaps); international experience in decriminalization HIV-positive aspects; HIV in the context of criminal procedural law: (grounds and procedure for legal proceedings);

Day 2: civil law and HIV: access to justice; the right to confidentiality - mechanisms for their implementation, compensation for non-pecuniary damage for disclosure of HIV status; compensation for material and moral damage in connection with HIV infection; HIV status in the context of civil procedural law: (grounds and procedure for legal proceedings); adoption, adoption and guardianship by people living with HIV; the right to privacy.

The expected results of the National Forum are aimed at raising participants' awareness of international standards, guidelines and recommendations regarding HIV in the context of criminal, family and civil law, as well as procedural law; about the latest cutting-edge scientific and medical evidence related to HIV transmission; on the qualification and gradation of risk in criminal law; about the access of people living with HIV and key populations to justice, about the positive impact of decriminalization in different regions of the world; on the existing judicial practice in the consideration of criminal and civil cases related to HIV in Tajikistan.

It is also proposed to solve the following tasks:

- Discuss Tajikistan's achievements in the development of the Sustainable Development Goals to implement the Political Declarations adopted by the United Nations General Assembly in 2016 and 2021 "Accelerate to

Intensify the Control of Human Immunodeficiency Virus and End the Acquired Immunodeficiency Syndrome Epidemic by 2030" and other international acts in the field of human immunodeficiency virus, to which Tajikistan is committed.

- To overcome existing barriers to an effective response to the human immunodeficiency virus epidemic in ensuring the rights of people living with human immunodeficiency virus, key populations, and other people affected by the epidemic, and to ensure wide access to justice for them.
- To outline the main directions for further improvement of Tajikistan's legislation, taking into account best international practices;
- to identify a unified framework for action of the Republic of Tajikistan to comply with the commitment to achieve the Sustainable Development Goals, in particular, to end the AIDS epidemic by 2030 according to the strategy of response of 95%-95%-95%.

4. Methodology

The National Forum meeting will be organized by the Supreme Court of the Republic of Tajikistan, which has previously held similar events for judges. With the support of UNDP, UNAIDS and other partners, the National Forum meeting will be fully supported. The methodology may include panel discussions, presentations by eminent jurists and reviews of important judicial decisions from various jurisdictions. It may also include presentations by experts on the latest epidemiological, scientific and medical data or specific issues. It may also include engagement with civil society activists, including representatives of affected communities, and other lawyers to stimulate discussion about the barriers and challenges faced by people living with HIV and key populations.

It is planned that the meeting of the Forum will take place over two days, 5-6 hours a day, and will take place on February 24-25, 2022.

5. Participants

Judges, prosecutors, lawyers, internal affairs officials, as well as representatives of the Ministry of Health and Social Protection of the Population of the Republic of Tajikistan, as well as national justice institutions and staff from the UNDP Country and Regional Office on HIV, Health and Development, UNAIDS and other partners will be invited to participate.

The total number of participants will be up to 100, including speakers. The official languages of the meeting will be Tajik and Russian, with simultaneous translation.

6. Resource persons

It is planned that the authorities of the Supreme Court, Prosecutor's Office, Ministries of Interior, Justice, Health and Social protection of the Republic of Tajikistan, as well as the National Coordinating Committee on combating AIDS, Tuberculosis and Malaria in the Republic of Tajikistan will make welcoming remarks at the Forum with the focus on improving the legislation and policies of the Republic of Tajikistan on the decriminalization of HIV, drug possession for personal use, alternative measures of punishment.

It is expected that the Chairman of the Supreme Court, Heads of the Prosecutor's Office, the Ministries of Internal Affairs, Justice, Health and Social Protection of the Population of the Republic of Tajikistan, as well as the National Coordinating Committee on AIDS, Tuberculosis and Malaria in the Republic of Tajikistan will make speeches with an emphasis on improving the legislation policy of the Republic of Tajikistan on decriminalization of HIV, possession of drugs for personal use, the use of alternative measures of punishment, compulsory treatment of drug users and people living with HIV, as well as health care, education, employment and others in accordance with international standards, in order to protect the rights and freedoms of human and citizen, recognized as the highest value.

7. Organization of the event

The National Forum will be coordinated by the above-mentioned structures. The UNDP Regional Center in Istanbul and UNDP Tajikistan, in cooperation with the UNAIDS Regional Support Team for Eastern Europe and Central Asia and other partners, will fully support the organization and conduction of the National Forum, including covering all expenses related to renting the Forum venue and costs related to participants who need to travel to the venue: transportation costs, per diem, travel costs to and from the airport.