

**Fourth meeting**  
**of the EECA Judges' Forum on HIV, Human Rights and the Law**  
**17-18 November 2022**  
**Tbilisi, Georgia – hybrid format**  
**CONCEPT NOTE**

**1. Thematic background**

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.<sup>1</sup> Most new infections in the region are among key populations,<sup>2</sup> 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 region.<sup>3</sup>

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.<sup>4</sup>

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 including through important enabling court decisions.

**2. Context**

Punitive and discriminatory laws and policies are undermining the AIDS response by pushing people away from services and undermining public health efforts to reach those most at risk of new infection or death. Removing these laws will help get the AIDS response back on track.<sup>5</sup>

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<sup>1</sup> UNAIDS data, <https://aidsinfo.unaids.org/>.

<sup>2</sup> 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](https://www.unaids.org/sites/default/files/media_asset/2015_terminology_guidelines_en.pdf)).

<sup>3</sup> Stop TB Partnership, *High Burden Countries*, <https://www.stoptb.org/securing-quality-tb-care-all/high-burden-countries-tuberculosis>.

<sup>4</sup> Global Commission on HIV and the Law, *Supplement*, 2018, <https://hivlawcommission.org/supplement/>.

<sup>5</sup> UNAIDS, *Global AIDS Update 2022*, <https://www.unaids.org/en/resources/documents/2022/in-danger-global-aids-update>.

In its flagship “Risks, Rights & Health” report of 2012<sup>6</sup> and subsequent 2018 Supplement<sup>7</sup>, 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.<sup>8</sup> 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.

In response to the Global Commission’s recommendation, the United Nations Development Programme (UNDP) has been facilitating the work of the African Regional Judges’ Forum on HIV and AIDS, which held its eighth meeting in 2022. As the Forum proved to be an important platform for information and experience exchange, raising awareness and sensitizing members of the judiciary on the issues of HIV and key and vulnerable populations, UNDP supported participation of EECA judges in the meetings of the African Judges Forum in 2018 and 2019, creating a clear demand by these judges to replicate the experience in the EECA region.

So far, three meetings of the EECA Judges’ Forum on HIV, Human Rights and the Law (hereinafter, the Forum) were organized:

- The 1<sup>st</sup> meeting took place on 3-4 October 2019, in Chisinau, Moldova, and covered a broad range of issues around HIV and the law.
- In the midst of the COVID-19 pandemic, the 2<sup>nd</sup> meeting, co-organized together with the Supreme Court of the Republic of Tajikistan, was held on 15-16 October 2020, in a hybrid format, whereby participants in Tajikistan gathered in one venue, and participants from other countries connected remotely via Zoom. The meeting was focused on the issue of criminalization of HIV transmission, exposure and non-disclosure.
- The 3<sup>rd</sup> meeting, co-organized with the National School of Judges of Ukraine, was held on 11-12 November 2021 also in a hybrid format with two hubs: a larger hub in Dushanbe, Tajikistan, and a smaller hub in Bishkek, Kyrgyzstan. The meeting consisted of two days, with one day devoted to criminal law and a second day on civil law.

The fourth Forum meeting is to be held in Georgia, Tbilisi, on 17-18 November 2022.

### **3. Main objectives and expected outcomes**

The Forum aims to provide a collegial environment for EECA judges to discuss the latest scientific, medical and epidemiological evidence, international and regional guidance, social and structural factors that increase the vulnerability of people living with HIV and key populations, and judicial and legislative responses to HIV and related national, regional and international laws, and to share experiences and challenges in their work to protect people’s rights in the context of HIV and co-infections.

The agenda of the fourth Forum meeting will cover the following issues and sub-topics:

#### Day 1:

- Access of people living with HIV, affected by TB and key populations to justice, including in context of emergencies

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<sup>6</sup> Global Commission on HIV and the Law, *Risks, Rights and Health*, <https://hivlawcommission.org/report/>.

<sup>7</sup> Global Commission on HIV and the Law, *Supplement*, 2018, <https://hivlawcommission.org/supplement/>.

<sup>8</sup> Global Commission on HIV and the Law, *Risks, Rights and Health*, <https://hivlawcommission.org/report/>.

- International standards and guidelines, international experience and scientific evidence related to decriminalization of HIV transmission, exposure and non-disclosure
- HIV status in criminal procedure
- Risk levels in the context of HIV criminalization and other offenses.

Day 2:

- HIV-status in the context of civil litigation: access to justice
- Civil law and HIV:
  - a) the right to confidentiality – enforcement mechanisms, claiming moral damage for disclosure of HIV-status
  - b) claiming moral and material damage for HIV infection
  - c) HIV and employment: labour disputes
- Family law and HIV:
  - a) custody and adoption by people living with HIV
  - b) the right to confidentiality
  - c) HIV as a barrier for marriage and as a ground for divorce.

Additionally, during the meeting participants will discuss governance, membership, and strategic planning of the Forum.

Expected outcomes:

- a) Increased awareness among participants on:
  - International standards, guidelines and recommendations on issues related to HIV in criminal, civil and family law and litigation
  - Latest HIV-related scientific and medical evidence and information
  - Qualification and levels of risk in criminal law
  - Access of people living with HIV, affected by TB and key populations to justice, including in context of COVID-19 pandemic
  - The positive impact of HIV decriminalization in other regions
  - The practice of HIV-related criminal justice and civil litigation in EECA countries.
- b) Support the further development of judicial leaders to undertake follow-up activities at national level, such as sensitisation and experience-sharing with other judicial members, and the potential integration of modules on HIV and the law into formal judicial training with the overall objective of reducing biased and misinformed judgements on HIV-related criminal cases and promoting good civil litigation practice.
- c) Decisions on the host country, format and content of the next Forum meeting.
- d) Ideas on how members of the Forum can share learning with colleagues in their countries.
- e) Approval of the Governance and Membership Policy and Strategic Framework of the Forum.

#### **4. Methodology**

The fourth meeting of the Forum will be co-hosted by the High School of Justice of Georgia and UNDP. The Forum Steering Committee (SC) with support from UNDP, WHO, UNAIDS and other

partners, will prepare the methodology, agenda and format for the Forum. UNDP and partners will support implementation of the fourth meeting of the Forum. The methodology may include panel discussions, presentations by eminent jurists, and reviews of pertinent judgements from different jurisdictions. It may also include expert presentations on newest epidemiological, scientific, and medical evidence or specific areas of interest. In addition, it may include engagement between civil society, including affected communities, and the judiciary, to facilitate discussion of the constraints and challenges experienced by people living with HIV and key populations.

### **5. Participants**

Judges, representatives of National Institute of Justice<sup>9</sup> and UNDP Country Office HIV, Health and Development focal points from selected EECA countries, including Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Ukraine, Uzbekistan and possibly other countries of the region will be invited to participate. Participation will focus on judges with experience in HIV-related cases that are consonant with human rights principles and seen as advancing HIV jurisprudence, as well as the judges who participated in previous Forum meetings. The meeting will bring together up to 60 participants, including resource persons (for face-to-face part). Official languages of the meeting will be Russian and English, with simultaneous interpretation from and into these languages provided.

### **6. Resource persons**

Subject to the agreed upon agenda, the following expert resource persons may be called upon to provide input during specific Forum sessions:

- Members of the Global Commission on HIV and the Law,
- Regional members of the judiciary presiding in landmark HIV-related judgements,
- Legal experts with understanding of the critical HIV-related legal issues in the region, including from countries which decriminalized HIV exposure, transmission, and non-disclosure,
- Health experts with understanding of the medical, scientific, and epidemiological evidence impacting on matters of HIV and the law,
- Representatives of the PLHIV community, key population networks and civil society organizations with experience in protecting and advocating for people living with HIV, and members of key populations,
- Representatives of UNDP, UNAIDS, WHO and other key partners.

### **7. Conveners and modalities of participation**

The fourth meeting of the Forum will be convened by the Forum Steering Committee. UNDP Istanbul Regional Hub together with UNDP CO Georgia, and in collaboration with UNAIDS Regional Support Team for Eastern Europe and Central Asia and other partners will facilitate convening the Forum and will provide ongoing support. Support from other UNDP Country Offices in EECA may be required, should it be decided to run the meeting in the hybrid format in other countries.

The organizers will cover all costs related to the participation in the Forum, including travel, per diems and terminals.

For participants with limited knowledge of using web-conferencing, UNDP Istanbul Regional Hub will provide detailed guidance on connecting through Zoom.

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<sup>9</sup> National Institute of Justice or other relevant organization in country responsible for the training and continued education of judges.