**Second EECA Regional Judges’ Forum on HIV, Human Rights and the Law**

October 2020

Dushanbe, Tajikistan/Virtual

1. **Thematic background**

The rate of new HIV infections is decreasing globally, however in Eastern Europe and Central Asia (EECA), the HIV epidemic continues to grow; 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 1.7 million people living with HIV in the region.[[1]](#footnote-1) Most new infections in the region are among key populations,[[2]](#footnote-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 region[[3]](#footnote-3).

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]](#footnote-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.

**Context**

In its flagship “Risks, Rights & Health” report of 2012[[5]](#footnote-5) and subsequent 2018 Supplement[[6]](#footnote-6), 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]](#footnote-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.

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 sixth meeting in 2019. 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. Thus far, the meetings were attended by four EECA judges (from Ukraine, Moldova and Tajikistan), creating a clear demand by these judges to replicate the experience in the EECA region.

On 3-4 October 2019, the first meeting of the EECA Judges’ Forum on HIV, Human Rights and the Law (hereinafter, the Forum) took place in Chisinau, Moldova. It gathered over sixty participants, including members of the judiciary, representatives of national judicial training institutes, officers of UN country offices, and civil society and community activists from 11 countries of EECA, as well as representatives of headquarters and regional offices of UN agencies.

It was agreed that the Forum should also go beyond one-off event and become a sustainable platform for information and experience exchange among judges of EECA countries on matters related to HIV, TB, Hepatitis C and key and vulnerable populations. It was also agreed to form a steering committee to coordinate the process of organizing a second meeting of the Forum, to take place in May/June 2020 in Dushanbe, Tajikistan. The participants also agreed to create a mailing list for the participants of the Forum to sustain communication.

**Main Objectives**

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 with the protection of rights in the context of HIV and co-infections.

In order to make the second meeting of the Forum more focused, it is proposed to narrow down thematic focus to the issue of criminalization of HIV exposure, transmission and non-disclosure. This topic continues to be highly relevant for the region, where almost all countries have laws that criminalize HIV exposure and transmission, and which is home to three of four world’s “leaders” in terms of HIV prosecutions (Russian Federation, Belarus, and Ukraine).[[8]](#footnote-8)

The second meeting of the Forum will seek to address the following issues:

Criminalization of HIV transmission, exposure and non-disclosure as an atmosphere of false security in the society

Landscape of existing HIV criminalization practices in EECA countries

The act of deliberately putting another person at risk of contracting HIV in the context of criminal law

International standards, guidelines and recommendations regarding criminalization of HIV transmission, exposure and non-disclosure

The practice of criminal justice in the context of HIV and human rights protection in EECA countries

The use of cutting-edge scientific advancements for creating a humane justice system and efforts to introduce modern science in courtrooms

The Forum intends to instigate a shift in the comprehension of HIV and key populations. Participants will have the benefit of better understanding the contemporary scientific, medical, legal and social dimensions of HIV and its co-infections and rights-based approaches to addressing them through the judiciary. The Forum will provide an interconnecting platform for judiciary members, to ensure there is space to communicate, deliberate, and share information.

**Expected outcomes from the Forum**

An increased awareness among participants on:

Latest scientific and medical evidence regarding the risk of HIV transmission

International standards, guidelines and recommendations regarding HIV transmission, exposure and non-disclosure

Landscape of existing HIV criminalization practices in EECA countries

Experiences and challenges of their peers in HIV-related litigation

The practice of criminal justice in the context of HIV and human rights protection in EECA countries, with particular focus on countries that decriminalized certain aspects of HIV exposure, transmission and non-disclosure

The benefits and shortcomings of available scientific tools that are used to prove HIV transmission

Findings of the review of Tajikistan’s judicial practice on HIV criminalization

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 cases of HIV exposure, transmission and non-disclosure.

Agreement on the format, membership and content of future Forum meetings.

Ideas on how members of the Forum can share learning with colleagues in their countries.

**Methodology**

The second meeting of the Forum will be co-hosted by the Supreme Court of the Republic of Tajikistan and UNDP. The Steering Committee, created as an outcome of the first Forum meeting, with support from UNDP, UNAIDS and other partners, will prepare the methodology, agenda and format for the Forum. UNDP and partners will support implementation of the second 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 newer 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.

Due to the COVID-19 pandemic and response measures taken by countries, it was no longer realistic to follow the agreements of the first Forum regarding the date and the format of the second Forum meeting. As it is impossible to predict when countries will open borders and allow gatherings, the Steering Committee proposed moving the Forum’s second meeting to first half of October 2020. As to the meeting format, there are three possibilities; final choice will be made by the end of July depending on the state of the pandemic and borders.

Option A: Face-to-face format. If countries open their borders and allow international travel, the second Forum meeting will take place as planned, in Dushanbe, Tajikistan.

Option B: Fully virtual format. If international travel is not resumed or is associated with significant limitations or difficulties, which will make a face-to-face format problematic or impossible, the second Forum meeting will be organized virtually using Zoom or another online platform.

Option C: Hybrid format. If countries maintain restrictions for international travel, but resume domestic travel and lift the ban for gatherings, the Steering Committee will, in coordination and consultation with HHD team in Istanbul and UNDP country offices, consider organizing the meeting in a mixed format, whereby participants in each country will gather in one venue (e.g. UNDP Country Office conference room) and connect using Zoom or another online platform. Within hybrid format there may be countries with limitations for gatherings or local travel; participants in such countries may be connecting individually as in Option B.

**Participants**

Judges, representatives of National Institute of Justice[[9]](#footnote-9) and UNDP CO HHD focal points from selected EECA countries, including Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Ukraine and Uzbekistan will 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 the first Forum meeting in 2019. Depending on the meeting format (see Methodology), the meeting will bring together from 25 (face-to-face format) to 100 (virtual/hybrid format) participants, including resource persons. Official languages of the meeting will be Russian and English.

**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.

**Venue and dates**

Depending on the format, the second meeting of the Forum is planned to last 2-3 days (face-to-face), 3.5-4 hours (virtual) or one day (hybrid), and take place in the first half of October 2020. In case of the face-to-face format, the meeting will take place in Dushanbe, Tajikistan.

**Conveners and modalities of participation**

The second meeting of the Forum will be convened by the Forum Steering Committee. UNDP Istanbul Regional Hub together with UNDP CO Tajikistan, 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 to should it be decided to run the meeting in the hybrid format.

The organizers will cover costs related to the participation in the Forum. Depending on the format, such costs will include:

Face-to-face meeting: travel, per diems and terminals

Virtual: internet packages, USB modems, webcams

Hybrid: for participants travelling to a local venue: travel, per diems and terminals; for participants connecting individually: internet packages, USB modems, webcams.

In case of a virtual or hybrid format, it will be recognized that participants may have limited knowledge of using web-conferencing; in this case, UNDP Istanbul Regional Hub will provide detailed guidance on connecting to and participation in virtual meetings.

1. Communities at the Centre – Global AIDS Update 2019 - <https://www.unaids.org/sites/default/files/media_asset/2019-global-AIDS-update_en.pdf> [↑](#footnote-ref-1)
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>). [↑](#footnote-ref-2)
3. High Burden Countries – Stop TB Partnership - <http://www.stoptb.org/countries/tbdata.asp> [↑](#footnote-ref-3)
4. Global Commission on HIV and the Law – 2018 Supplement - <https://hivlawcommission.org/supplement/> [↑](#footnote-ref-4)
5. Global Commission on HIV and the Law – Risks, Rights and Health - <https://hivlawcommission.org/report/> [↑](#footnote-ref-5)
6. Global Commission on HIV and the Law – 2018 Supplement -<https://hivlawcommission.org/supplement/> [↑](#footnote-ref-6)
7. <https://www.undp.org/content/dam/undp/library/HIV-AIDS/Governance%20of%20HIV%20Responses/Commissions%20report%20final-EN.pdf> [↑](#footnote-ref-7)
8. HIV Justice Network, *Advancing HIV Justice 3: Growing the Global Movement Against HIV Criminalization*, <http://www.hivjustice.net/advancing3/> [↑](#footnote-ref-8)
9. National Institute of Justice or other relevant organization in country responsible for the training and continued education of judges. [↑](#footnote-ref-9)