

# **POLICY PAPER ON ENSURING THE RIGHT TO HEALTH IN THE CONTEXT OF PREVENTION OF HIV**



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## I. SUMMARY

In addition to being a public health problem, HIV is also an integral part of the right to health recognized by International Human Rights Law (IHRL). The IHRL provides certain guarantees on the framework of the right to health. These guarantees define a number of obligations of States. These obligations are three-dimensional, and these three-dimensional obligations include the obligation to respect, the obligation to protect, and the obligation to fulfill:

- Respect: to refrain from interfering with the exercise of the right;
- Protect: to prevent violation of rights by third parties;
- Fulfill: to take all the steps necessary for the full exercise of the right.

The promotion and protection of human rights are critical to preventing the spread of HIV and reducing the socioeconomic impact of the disease. This is due to three reasons: *first, the promotion and protection of human rights substantially reduce vulnerability to HIV infection. Therefore, the international community's effective response to the AIDS epidemic must respect all civil, cultural, economic, political, economic, social, development, and other rights and be consistent with international human rights norms and principles.*

It should be noted that the Republic of Azerbaijan (AR) has adopted the relevant legislative framework for the fight against HIV and several state guarantees have been determined. However, as a result of the analysis of the compliance of the Legislation with international standards, the following gaps and problems have been identified:

- The strategic plan does not detail the provisions related to participation in the fight against HIV;
- HIV legislation does not make clear provisions for effective community cooperation;
- HIV legislation does not provide mechanisms for periodic review of legislation and by-laws in accordance with the specific needs of HIV;
- Sanctions are envisaged in the Criminal Code and the Code of Administrative Offences for infected patients for knowingly (intentionally) not informing about the disease (criminal sanction) or avoiding examination and treatment (administrative sanction). However, when such sanctions are applied without considering the context, they create severe consequences for patients. In order to avoid such problems, criminal and quasi-criminal legislation should be clarified. However, the positive criminal and administrative offenses law, currently in force, does not have such clarity;
- The general and specific anti-discrimination guarantees in the fight against HIV are of a general nature in the legislation, and what exactly they mean should be clarified at the normative level;

The following problems regarding the compliance of the practical implementation of the legislation with national legislation and international law have been identified:

- In Azerbaijan, the HIV Center currently operates only in Baku. Therefore, it is questionable whether that Center provides the necessary level of service;

- State bodies related to anti-discrimination and anti-stigmatization carry out the obligation of awareness-raising at a formal level;
- There are inconsistencies in the capture of patient statistics;
- The level of transparency of penitentiary institutions is not desirable in AR. Therefore, the possibilities of verifying the accuracy of the information provided by the Ministry of Justice regarding medical assistance and medical services in alternative ways are limited;
- Independent Ombudsman control over the implementation of HIV legislation is also not desirable. Considering the sensitivity of the problem, there is a need to create a specific working group within the Ombudsman institution that oversees this area;
- Since community cooperation for the purpose of the implementation of HIV legislation is not established in accordance with the positive practice in the legislation, there are problems in practice in this field.
- Restrictions on NGO legislation create additional obstacles for HIV patients to exercise their rights.

Thus, in practice, the fight against HIV lays the groundwork for the implementation of basic services (medical examination, medical care, social security) at the primary level. However, there are problems in the implementation of these guarantees at an optimal level.

## **II. INTRODUCTION**

The disease caused by the human immunodeficiency virus (HIV) is one of the health disasters facing humanity. Since the discovery of HIV as a health problem, a number of continuous measures have been taken by both the international world and various countries to combat it. However, the measures taken so far have not given the desired result in achieving a satisfactory result and eliminating the problems caused by HIV for humanity. Therefore, there is a need to optimize HIV control measures in the current situation. The realization of this need is also comprehended on the international platform. For this purpose, even among the Sustainable Development Goals (SDGs) announced by the UN for 2030, the fight against HIV is mentioned as a separate line. Various steps are recommended to achieve this goal.

In order to combat HIV, HIV should not be seen only as a public health problem. In addition to being a public health problem, HIV is also a component of the right to health recognized by International Human Rights Law (IHRL). In this regard, the fight against HIV should be considered in harmony with public health interests and state obligations to ensure human rights.

The Republic of Azerbaijan (AR) has adopted an appropriate legislative framework for the fight against HIV. This legislation has been implemented at a certain level in practice. However, whether this legislation is satisfactory in itself, as well as the state of implementation in practice, is questionable. The subject of this study is the review and evaluation of the HIV legislation of AR and its implementation practice based on the integrated approach of public health and human rights.

### **III. METHODOLOGY**

The methodology of this study is based on the review of international and national law, determination of the evaluations of the international monitoring mechanisms on the Republic of Azerbaijan, media monitoring, and obtaining information by sending appropriate information requests to the state authorities. Within the framework of this study, international legal obligations and national legislation to combat HIV will be reviewed. As a result of the study of international law and national legislation, the compatibility of the national legislation on the fight against HIV with the international legal obligations of AR will be determined. Furthermore, the results of studies by international public organizations which monitor the international legal obligations of the Republic of Azerbaijan will be reviewed. In this way, the effectiveness of AR's measures to combat HIV until the current period will be clarified. In addition, various examples of the fight against HIV will be considered based on the media monitoring of the last period. With this, the relevance of the measures to fight HIV will still be clarified. Finally, on the basis of the information requests sent to the state authorities and the answers to those requests, it will be determined at what level the state authorities fulfill their obligations in the fight against HIV.

The methods listed above is applied not individually, but cumulatively. Based on this approach, results are determined on whether the strategies and measures to combat HIV in AR are satisfactory and appropriate recommendations are made.

Within the framework of this study, first, a brief history of HIV as a public health problem is reviewed. Then, the three-dimensional (trilateral) guarantees of the right to health (the obligations of the state) are identified and detailed in relation to HIV. After that, it is clarified whether the local (national) legislation coincides with the international standards on HIV. After that, the status of the fight against HIV is determined based on the information requests and media monitoring. The obtained results are reflected in the “Conclusions” section of the study and “Recommendations” are given in accordance with relevant international standards.

#### **IV. A BRIEF HISTORY OF HIV AND THE DISEASE IT CAUSES AND MEASURES TO COMBAT THIS PHENOMENON**

More than 30 years after HIV was first diagnosed, HIV has become one of the most serious diseases of mankind. Since the epidemic, more than 60 million people have become infected with HIV, and nearly 30 million people have died from this disease. HIV has become the sixth leading cause of death worldwide.

At the end of 2009, more than 33.3 million people worldwide were living with HIV. In 2009 alone, the number of deaths was more than 1.8 million, and the number of new cases was more than 2.6 million. But data from 2009 shows that as the number of new HIV infections and HIV deaths has gradually declined, so has the AIDS epidemic.

The main reason for this is the general increase in life expectancy and thus increased access to antiretroviral treatment. Africa remains the worst-hit region in the world for HIV/AIDS. 69% of new cases come from this region. Seven major countries in Eastern Europe and Central Asia saw a 25% increase in HIV infections. Moreover, more than 90 percent of states said they focused on legalization and the elimination of discrimination in their HIV responses, and less than 50 percent of states said they have specified expenditures or budgets for such activities. Vulnerability to HIV, linked to various challenges related to human rights, still remains a problem.



## **V. STATE OBLIGATIONS TO COMBAT THE DISEASE CAUSED BY HIV**

Socio-economic rights are as important as traditional civil and political rights. The existence of socio-economic rights contributes positively to the human rights in general. At the same time, violations of socio-economic rights cause a number of negative consequences when considering their importance. These include:

- Failure to provide social rights has serious consequences. For example, deprivation of housing is a fact that has a very serious impact on people's lives;
- Failure to provide social rights affects people massively;
- Severe violation of social rights is one of the main causes of conflicts in society;
- Failure to ensure social rights also leads to violation of other human rights.

The right to health is one of the socio-economic rights. The right to health was first reflected in the 1946 Constitution of the World Health Organization (WHO). Later, the right to health was established in the Universal Declaration of Human Rights (UDHR) adopted on December 10, 1948 (Article 25). However, both the Charter of the WHO and the UDHR are declarative documents and do not create any obligations on the states. The normative definition of the right to health as a right was the result of the 1966 International Covenant on Social, Economic and Cultural Rights. It is through that Covenant that the right to health is imposed as an international legal obligation on the states that are parties to the document. Paragraph 1 of Article 12 of the Covenant imposes the following general legal obligation on States under the right to health:

“The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”

Paragraph 2 of Article 12 of the Covenant defines a number of specific obligations related to the right to health. Two of those obligations are applicable to the fight against HIV. These guarantees include:

“..."

c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.”

The general obligation regarding the right to health imposes on states the obligation to take the necessary measures to achieve the "highest attainable standard" of physical and mental health of the individual. The mentioned special measures encourage the taking of measures for the prevention (prophylaxis) and treatment of epidemic and endemic diseases, as well as the creation of conditions for the provision of affordable medical assistance and medical services for the general population in case of illness. The mentioned obligations also apply to the disease caused by HIV, which is currently epidemic and is of endemic nature.

The Republic of Azerbaijan joined the International Covenant on Social, Economic and Cultural Rights. Therefore, it is committed to detailing the right to health within the framework of the Covenant, including measures to combat HIV.

Socio-economic rights are significantly different from traditional civil and political rights. Civil and political rights are directly realized (executed). However, socio-economic rights are subject to the regime of progressive (gradual) realization mentioned in Article 2 of the International Covenant. This means that the States Parties are not obliged to implement social rights directly and on the spot. Instead, the States Parties can fulfill socio-economic rights within a certain time frame according to their economic capacity. Because social rights require more economic resources than traditional civil and political rights, and such resources may not be available to them according to the level of economic development of states. Therefore, the States Parties can indirectly implement these rights within a certain time frame. The mentioned feature is also valid in relation to the right to health.

Social rights have a number of characteristic features, and these features apply to the right to health as a social right:

- Individual character of social rights;
- Availability;
- Accessibility: Physical, economic, and non-discriminatory;
- Acceptability;
- Quality

Restrictions on social rights, including the right to health, are reasonableness and proportionality.

Based on the above, states have a three-dimensional (trilateral) obligation regarding social rights, including the right to health:

- Respect: to refrain from interfering with the exercise of the right;
- Protect: to prevent violation of rights by third parties;
- Fulfill: to take all the steps necessary for the full exercise of the right.

The Constitution of AR also establishes and recognizes the right to health (right to protection of health) (Constitution, Article 41):

“I. Everyone has the right to protection of his/her health and to medical assistance.

II. The state takes all necessary measures for development of all forms of health services based on various forms of property, guarantees sanitary-epidemiological safety, facilitates various forms of medical insurance.

III. Officials who conceal facts and circumstances threatening life and health of people are accountable under the law.”

Unlike the International Covenant, the Constitution of the AR does not adequately establish the criteria of the right to health. Nevertheless, since Azerbaijan is a party to the Covenant, it

is obliged to accept and practically apply the standards stipulated in the framework of that document.

The mentioned social law standards, including the standards on the right to health, require the following three-dimensional obligations of the states to combat HIV.

States have an obligation not to directly violate human rights and to guarantee the conditions under which rights can be exercised as fully as possible. In response to HIV/AIDS, this means that governments have an obligation to do the following:

***Respect:*** States must not directly violate rights through laws, policies, programs, or practices. For example, governments increasingly recognize their responsibility to protect the privacy of HIV-infected patients or to ensure that HIV-infected prisoners receive the same standard of care as other prisoners.

***Protect:*** States must prevent violations by others and provide affordable and accessible measures. For example, states must ensure that private employers do not discriminate against HIV positive employees and provide ways for redress if individuals are fired or denied housing or employment because of their HIV status.

***Fulfill:*** States must take increasingly proactive measures, including budgetary, legislative, administrative, and other measures, to realize rights. For example, states should take urgent measures to prevent the spread of HIV and provide education and services. To address the HIV problem, they must take steps to reduce the impact of HIV on all sectors and segments of society.

## **VI. WHAT ARE THE CONNECTIONS BETWEEN HUMAN RIGHTS AND HIV?**

Human rights are closely linked with the global spread of HIV and its impact on individuals and communities. A strong lack of human rights accelerates this spread and exacerbates the impact of HIV. At the same time, it hinders the process of realizing human rights. This relationship is reflected in the disproportionate incidence and prevalence of HIV among some groups. Depending on the nature of this epidemic and the underlying social, legal, and economic conditions, vulnerable groups mainly include women and children, especially those living in poverty. Moreover, it is clear that developing countries are currently bearing the brunt of the HIV epidemic, posing a major threat to the fundamental achievements of human development. In many developing countries, HIV and poverty have become negative forces that work intensively together.

The relationship between HIV and human rights is highlighted in three areas:

**Increasing disadvantage.** Certain groups are more exposed to HIV infection because they cannot realize their civil, political, economic, social, and cultural rights. For example, those denied the right to freedom of association and information may be excluded from discussions about HIV and unable to participate in HIV-related services and self-help groups, and as a result may not take other protective measures to protect against HIV infection. Women, especially young women, are more vulnerable to infection if they lack adequate information, education, and services to maintain sexual and reproductive health and prevent infection. The unequal status of women in society also seriously undermines their ability to discuss the sexual activity. Low-income populations often lack access to AIDS care and treatment, including antiretroviral therapy and other medical measures against opportunistic infections.

**Discrimination and legalization.** The rights of people living with HIV are often violated because of their perceived or known HIV status, burdening them not only with the burden of the disease but also indirectly with the loss of other rights. HIV-related stigma and discrimination can equally hinder their access to treatment and affect their employment, housing, and other rights. HIV-related legalization and discrimination prevent affected people from receiving appropriate medical and social services, which, in its turn, increases the vulnerability of others to the virus. As a result, even when services are available, they are not accessible to those who need information, education, and advice the most.

**A barrier to effective prevention:** Strategies to respond to an epidemic are ineffective in an environment where human rights are not respected. For example, discrimination and legalization against vulnerable groups such as injecting drug users, sex workers, and men who have sex with men lead to the underground movement of such groups. This makes it difficult for responses to reach these populations, thereby increasing their vulnerability to HIV infection. Similarly, the lack of awareness and knowledge about HIV and its treatment and the lack of care and support services, etc. exacerbate the HIV epidemic. These elements are essential components of effective aids. If these rights are not respected, they can be a major obstacle in the fight against HIV.

## **Negative and positive effects of society on people living with HIV:**

The impact of HIV on societies and individuals will be reduced when individuals and communities can exercise their rights to education, association, freedom of information, and non-discrimination. When the social environment provides open and ongoing support for people living with HIV, protects people living with HIV from discrimination, ensures their dignity, and provides access to treatment, care, and support, individuals proactively take control of their status. Furthermore, people living with HIV cope more effectively with their condition by seeking and receiving treatment and psychosocial support and by taking measures to prevent transmission to others. With this, the impact of HIV on themselves and society is reduced.

Therefore, the promotion and protection of human rights are extremely important to prevent the spread of HIV and reduce the socio-economic impact of the disease. This is due to three reasons: first, the promotion and protection of human rights substantially reduce vulnerability to HIV infection. Therefore, the international community's effective response to the AIDS epidemic should be consistent with all civil, cultural, economic, political, social, development, and other rights, international human rights norms and principles.

States' obligations to promote and protect HIV-related human rights are clearly defined in existing international treaties. Human rights related to HIV include:

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States' obligations to promote and protect HIV-related human rights are clearly defined in existing international treaties. Human rights related to HIV include:

1. The right to life, liberty, and security;
2. The right to the enjoyment of the highest attainable standard of physical and mental health;
3. The right to non-discrimination;
4. The right to equal protection and equality before the law;
5. The right to freedom of movement;
6. The right to seek and enjoy asylum;
7. The right to privacy;
8. The right to freedom of opinion and expression;

9. The right to freely obtain and transmit information;
10. The right to freedom of trade unions;
11. The right to marry;
12. The right to work;
13. The right to equal education;
14. The right to live with dignity;
15. The right to social security;
16. The right to receive assistance and allowances;
17. The right to share scientific progress and its benefits;
18. The right to participate in public and cultural life;
19. The right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment.

UN human rights instruments and mechanisms provide the normative legal framework and necessary tools to ensure the realization of HIV-related rights. Through the review of national reports, concluding observations, recommendations, and general recommendations, UN **treaty bodies** provide guidance and assistance to States in the implementation of HIV-related rights. Special procedures of the Human Rights Council, including special representatives, thematic and country reports, and working groups, are committed to monitoring respect for HIV-related rights.

## **VII. A LEGISLATIVE AND PRACTICAL IMPLEMENTATION OF OBLIGATIONS TO COMBAT THE DISEASE CAUSED BY HIV IN AZERBAIJAN**

HIV disease, which is one of the biggest problems in the whole world, exists in Azerbaijan too. In order to eliminate this problem in the country, the state has a number of responsibilities, one of which is to adopt legislation on HIV. Currently, Azerbaijan has adopted the Law on Fighting against the Disease Caused by the Human Immunodeficiency Virus (the law was adopted by the Milli Majlis on May 11, 2010, and entered into force after being promulgated (signed) by the President on June 10, 2010). However, HIV disease is currently one of the serious problems in Azerbaijan. The existing problems related to the content and implementation of the legislation are as follows:

The HIV Law explains the main terms related to HIV, defines the main principles and state guarantees for the fight against HIV, determines the rights and duties of HIV-infected persons, as well as specifies the obligations of state authorities in relation to HIV patients. In addition, it defines prohibitions of discrimination and stigmatization in the field of education and social services. The HIV Law defines the general rules of medical assistance and medical care. It also establishes safeguards related to HIV prevention and the safety of medical procedures among high-risk population groups. Finally, the legislation also includes provisions for international cooperation and scientific-medical progress in the field of HIV.

The monitoring of the Law in the sense of the quality of the legislation shows that this law is generally sufficient in relation to international standards and contains general guarantees related to the fight against HIV. In particular, the law clearly defines the list of state guarantees related to HIV. Among others, the HIV Law defines the following among the state guarantees in the field of combating HIV (those relevant to the study were selected):

1. Adoption and implementation of the national strategy and state programs to combat HIV infection;
2. Ensuring the organization of services to combat HIV infection throughout the country;
3. Comprehensively informing and educating the population in the field of HIV infection and the fight against it;
4. Implementation of complex measures for effective prevention of HIV infection among high-risk population groups;
5. Ensuring anonymity and confidentiality of HIV medical examination;
6. Free medical examination for HIV in state medical institutions;
7. HIV medical examination accompanied by pre-test and post-test psychosocial counseling;
8. HIV medical examination based on informed consent;
9. Organization of the epidemiological control, monitoring, and evaluation system in the field of combating HIV infection;

10. Ensuring the safety of medical procedures, as well as blood, blood components, other biological fluids, organs, and tissues used for diagnostic, therapeutic, and scientific purposes;
11. Providing citizens of the Republic of Azerbaijan, stateless persons permanently residing in the Republic of Azerbaijan, and persons granted refugee status by the Republic of Azerbaijan, living with HIV, with medical assistance (including specialized medical assistance) and medicines in state medical institutions free of charge;
12. Providing palliative care to people living with HIV who are in the stage of AIDS;
13. Social protection of persons living with HIV and persons affected by HIV infection in accordance with the legislation.

In order to implement these guarantees, first of all, it is necessary to adopt and implement the national strategy and state programs for the fight against HIV infection. It should be noted that such a strategy and a program have already been adopted. The National Strategic Plan for Preventing the Spread of the Disease caused by Human Immunodeficiency Virus (AIDS) in the Republic of Azerbaijan was adopted by the Cabinet of Ministers on September 25, 2002. In addition, the Action Program for the Fight against HIV/AIDS for 2016-2020 was adopted by the Cabinet of Ministers on February 17, 2016. The level of implementation of the National Strategic Plan and Action Program is reviewed below in accordance with international standards and national legislation.

#### Analysis of compliance of legislation with international standards

HIV legislation includes the establishment of national frameworks in the field of the fight against HIV. This Strategic Plan envisages the coordinated activity of state bodies. It defines formal-legal guarantees related to transparency and accountability. However, this Strategic Plan does not detail the provisions related to participation in the fight against HIV; therefore, the lack of clarification of the aspect of participation is a missing aspect of the legislation;

HIV legislation does not make clear provisions for effective community collaboration. Therefore, the prospects of cooperation in this area between the medical community, patients, and public control mechanisms are not optimized;

HIV legislation does not provide mechanisms for periodic review of legislation and by-laws in accordance with the specific needs of HIV. Therefore, HIV legislation is not updated at all or not updated in time to meet specific needs. This causes unnecessary delays in an issue that requires an urgent response, such as HIV;

The HIV legislation also includes decriminalization in the fight against HIV. Currently, the criminal and quasi-criminal (administrative offenses) legislation of Azerbaijan prescribes a number of sanctions related to HIV. It is true that these sanctions are determined in connection with infected patients for knowingly (intentionally) not informing about the disease (criminal sanction) or avoiding examination and treatment (administrative sanction). However, when such sanctions are applied without considering the context, they create severe consequences for patients. In practice, law enforcement agencies may apply these sanctions



disproportionately. Therefore, criminal and administrative legislation should be clarified in order to avoid such problems. However, the positive criminal and administrative offenses legislation, currently in force, does not have such clarity;

The fight against HIV should also include general and specific anti-discrimination measures. As we mentioned above, some of such guarantees are provided in the HIV Law. However, such guarantees are of a general nature in the legislation, and their exact meaning should be clarified at the normative level. Such clarification should be done through guidelines and instructions, such guidelines should include more detailed obligations, and the employees of medical, social service, and educational institutions should have a clear idea about it. However, such detailed guidelines have not been developed. Their incompleteness should be considered as a deficit of HIV legislation;

The norms of the HIV legislation regarding the virus and the prevention, examination, treatment, and post-illness support of the disease caused by it can be considered at a satisfactory level;

HIV legislation includes additional safeguards for women, children, and disadvantaged groups. However, these provisions have rhetorical problems in relation to some disadvantaged groups, especially the LGBTQI+ community. In other words, the specific needs of the LGBTQI+ community need to be further specified.

Thus, if we consider the above assessment, the HIV legislation can be considered satisfactory in general. However, considering the current international standards, this legislation is incomplete regarding several issues. These include the absence of a separate legislative act on general anti-discrimination provisions, the absence of specific clarifications on anti-discrimination, the existence of a rhetorical problem in relation to a part of disadvantaged groups and the failure to take into account their special needs, the lack of determination of periodic review of the legislation, the lack of clear norms on the promotion of participation and community cooperation, as well as the remaining risks of legal liability provided by the criminal and administrative legislation.

#### Compliance of the practical implementation of legislation with national legislation and international law

In order to verify the compliance of the HIV legislation with the standards and state guarantees, media monitoring was conducted and appropriate information requests were sent to state bodies. These requests were related to the obligations of the relevant state bodies to act in accordance with the Action Program approved by the Cabinet of Ministers. The requests that are the subject of the study are attached to the report.

As a result of the mentioned study, the following conclusions have been reached:

In Azerbaijan, the HIV Center currently operates only in Baku. The level of patient reception at that Center is not sufficient considering the status of general patients and potential persons in the country. Therefore, it is questionable whether that Center provides the necessary level of service. Furthermore, the absence of an HIV Center or equivalent institutions at the

regional level results in problems with access to medical care and medical services for patients in the region due to the distance factor. Considering that HIV patients belong to a disadvantaged group, this distance factor is a serious problem for them. Moreover, the low financial resources of HIV patients should also be taken into account. Although 12 years have passed since the adoption of the HIV Law, this problem has not been solved. True, on the basis of the information request sent and interview conducted, it was determined that relevant regional examination centers were established in the provinces for conducting HIV medical examinations. However, these centers only provide a medical examination. Medical services are located in the capital. Therefore, the implementation obligation of the state in the fight against HIV is not at the desired level and does not meet the implementation obligation of the state;

The anti-discrimination and anti-stigmatization obligation is related to the state's duty to protect. At present, how to realize this obligation is under question. Monitoring shows that the state does not adequately fulfill its obligations in this area. In this regard, the monitoring of the provision of education on the basis of the information requests shows that the state bodies carry out the obligation of education at a formal level and do not take necessary steps towards the understanding of this by the people. Unfortunately, HIV patients continue to be stigmatized in society. This demonstrates that the obligation to awareness-raising has not been implemented at the proper level;

Medical examination and behavior of service staff towards patients are generally satisfactory. But experience shows that steps must be taken in this area as well. Medical staff need further improvement in matters of informed consent and anonymity;

The situation regarding the provision of medical supplies (medicines) and medical services free of charge is satisfactory, and state bodies fulfill their obligations in this area. Availability and accessibility standards are followed in this area;

There are contradictions in the preparation of statistics about patients. So, the information requests sent show that there are contradictions between the statistics of the state bodies;

The state of implementation of legislation on social security issues can be considered satisfactory. Appropriate disability status is granted. However, bureaucratic problems have started to appear in the new policy regarding the granting and evaluation of disabilities in the country. These problems also affect HIV patients;

An information request sent to the Ministry of Justice shows that HIV patients are provided with appropriate medical care and medical services in penitentiary institutions. However, the level of transparency of penitentiary institutions is not desirable. Therefore, the possibilities of verifying the accuracy of the information provided by the Ministry of Justice regarding medical assistance and medical services in alternative ways are limited. In particular, it should be noted that HIV-related stigma still exists among the public in Azerbaijan. If we also assume that traditional stereotypes are widespread among both staff and prisoners, there is a need for independent monitoring in this area.

Independent Ombudsman control over the implementation of HIV legislation is also not desirable. The response to the information sent shows that the Ombudsman institution does not monitor this area on a regular basis. Therefore, taking into account the sensitivity of the problem, there is a need to create a specific working group within the Office of the Ombudsman that oversees this area;

Since community cooperation for the purpose of implementing HIV legislation is not established in accordance with the positive practice in the legislation, there are problems in practice in this area. These problems are related to the lack of participation of local communities in the fight against HIV;

HIV patients do not have the necessary opportunities to defend their rights. This situation is mainly related to the general situation of the civil society in the country. The limitations of NGO legislation create additional obstacles for HIV patients to exercise their rights, prevent them from using public protection mechanisms and, as a result, create the basis for double criminality against them. This is further influenced by the non-existence of the provisions of the legislation regarding participation.

Thus, the fight against HIV in practice lays the groundwork for the implementation of primary-level guarantees (medical examination, medical care, social security). However, there are problems in the implementation of these guarantees at an optimal level.

## **VIII. CONCLUSIONS**

As a result of this study, the following conclusions were made:

- 1) HIV legislation generally meets international standards. The Republic of Azerbaijan defines the general framework for combating HIV through the Constitution of the country, the International Covenant to which it has joined, the HIV Law it has adopted, as well as the National Strategy and Action Program for its implementation;
- 2) There are problems with the specific provisions of the HIV legislation. These problems include:
  - a) Weakness of formal-legal guarantees on participation and community cooperation;
  - b) Lack of separate anti-discrimination legislation and failure to accept and implement specific anti-discrimination guidelines;
  - c) Lack of clarity of sanctions of criminal and administrative legislation;
  - d) Lack of regular control of the legislation;
  - e) Rhetoric problems in relation to some of the disadvantaged groups and the fact that their special needs are not taken into account.
- 3) There are practical implementation problems with HIV legislation. These problems include:
  - a) The fact that the HIV Center is centralized and this factor has a negative impact on access to medical services across the country;
  - b) Formal nature of anti-discrimination and anti-stigmatization measures, including awareness-raising activities;
  - c) Lack of advanced level of health care provision in matters of informed consent and anonymity;
  - d) Existence of serious deficiencies in matters of participation and community cooperation;
  - e) Remaining bureaucratic obstacles in the provision of services related to social security;
  - f) Remaining obstacles created by the state to protect the rights of HIV patients.

## **IX. RECOMMENDATIONS**

Based on this study, the following recommendations are made:

- 1) In order for the HIV Law to meet international standards, clear and detailed legal norms should be defined in order to develop guarantees of participation and community cooperation;
- 2) Specific norms for periodic review of HIV legislation according to specific needs should be established;
- 3) The legal norms in relation to HIV patients in criminal and administrative offenses legislation should be clarified;
- 4) Uniform and improved anti-discrimination legislation should be adopted and this legislation should include special provisions for HIV patients;
- 5) Detailed instructions for civil servants on the relationship with HIV patients should be prepared and the compliance of these instructions should be monitored;
- 6) HIV centers providing regional medical services should be established and provided with infrastructure in relation to the number of actual and potential patients;
- 7) Steps should be taken to eliminate bureaucratic obstacles related to social security;
- 8) Restrictions on civil society legislation should be lifted to protect the rights of HIV patients;
- 9) In order to improve the Ombudsman's control, a separate working group should be created in relation to the HIV problem.

## X. APPENDIX

### INFORMATION REQUESTS SENT TO GOVERNMENT BODIES AND RESPONSES RECEIVED

#### *Gender distribution of the 15-49-year-old population infected with HIV by the State Statistical Committee of Azerbaijan:*

The number of people aged 15-49 diagnosed for the first time with HIV infection:

In 2010, 459 people were infected with this disease, of which 20.7% were women and 79.3% were men.

In 2011, 495 people were infected with this disease, of which 24.4% were women and 75.6% were men.

In 2012, 458 people were infected with this disease, of which 31% were women and 69% were men.

In 2013, 453 people were infected with this disease, of which 36.2% were women and 63.8% were men.

In 2014, 509 people were infected with this disease, of which 37.7% were women and 62.3% were men.

In 2015, 610 people were infected with this disease, of which 32.5% were women and 67.5% were men.

In 2016, 465 people were infected with this disease, of which 35.7% were women and 64.3% were men.

In 2017, 477 people were infected with this disease, of which 37.1% were women and 62.9% were men.

In 2018, 526 people were infected with this disease, of which 32.1% were women and 67.9% were men.

In 2019, 560 people were infected with this disease, of which 35% were women and 65% were men.

In 2020, 456 people were infected with this disease, of which 27.9% were women and 72.1% were men.

#### *Illness of the population*

1.2.28. The number of people infected with the disease caused by the human immunodeficiency virus (HIV) (citizens of the country, people)

	2000	2005	2007	2008	2009	2010	2011	2012	2013

The number of patients diagnosed for the first time with the disease caused by human immunodeficiency virus (HIV) - total	63	210	441	436	455	459	537	502	494
Among them, those diagnosed with acquired immunodeficiency syndrome (AIDS)	4	55	41	59	99	250	190	233	187
Among them, children up to 18 years old	-	-	2	-	2	1	1	3	4
The number of patients registered in treatment and prevention institutions with the disease caused by the human immunodeficiency virus (HIV) - total	-	870	1320	1744	2174	2671	3154	3656	4149
Among them, those diagnosed with acquired immunodeficiency syndrome (AIDS)	-	166	294	349	447	691	881	1114	1301

	2014	2015	2016	2017	2018	2019	2020
The number of patients diagnosed for the first time with the disease caused by human immunodeficiency virus (HIV) - total	586	704	541	559	630	686	547
Among them, those diagnosed with acquired immunodeficiency syndrome (AIDS)	194	187	159	166	181	190	104
Among them, children up to 18 years old	2	1	1	-	1	1	1
The number of patients registered in treatment and prevention institutions with the disease caused by the human immunodeficiency virus (HIV) - total	473	5439	5979	6538	7162	7846	8395
Among them, those diagnosed with acquired immunodeficiency syndrome	1495	1682	1841	2007	2187	2377	2482

(AIDS)							
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### **Ministry of Education**

Question asked: In 2016-2021, what measures were implemented to raise awareness about HIV in educational institutions?

*Response received:* None

### **Ministry of Health**

*Questions asked:*

1. How much funds were allocated from the state budget for the treatment of HIV patients for the years 2016-2021? In what directions were these funds spent?
2. During 2016-2021, how many of the people infected with HIV were completely cured after receiving treatment, and how many died?
3. What is the current number of active HIV patients?
4. Has a unified electronic register and database of people with HIV been created?
5. What medicines, necessary reagents, equipment, and supplies are used in medical institutions fighting against HIV?
6. In 2016-2021, what measures were implemented to prevent HIV among high-risk population groups?
7. In 2016-2021, what measures were implemented to prevent HIV and provide psychological assistance to persons who were subjected to sexual exploitation and sexual violence?
8. What measures were implemented to improve palliative care, care services, and support for people living with HIV in 2016-2021?

*Response received:* Your appeal addressed to the official website of the Ministry of Health through the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan has been considered.

You can get information about HIV/AIDS from the official website of the Republican AIDS Center.

*The response received after the appeal to the Ombudsman:*

Based on your appeal to the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan for assistance in answering your information request dated 11.04.2022, relevant information was requested from the Ministry of Health of the Republic of Azerbaijan.

In the response received, it was stated that the funds allocated for the implementation of the Action Program for the Fight against HIV/AIDS for 2016-2020 were spent on the implementation of the relevant paragraphs of the Action Program, and the Ministry of Health submitted a report to the relevant government bodies every year.



By the end of 2021, 7,896 people infected with HIV were registered at the Republican AIDS Center. In the period from 1987 to the end of 2021, 1,163 citizens of Azerbaijan died due to this virus. According to the current protocol, people infected with HIV are considered to be ill for life. In international practice, there is no division of HIV patients into "active" or other groups. In accordance with the requirements of the law on HIV, taking into account confidentiality, anonymity, and similar conditions, there is a database of people infected with HIV in the Republican AIDS Center. Medical institutions fighting against HIV are provided with antiretroviral drugs, necessary reagents, and other medical equipment in accordance with the recommendations and methodical instructions of the World Health Organization.

Expanding coverage of high-risk populations (injecting narcotic drug users, people who practice irregular sexual intercourse, sexual minorities, etc.) with HIV testing, provision of accessibility, involvement of injecting narcotic drug users in opioid substitution therapy, distribution and promotion of the use of protective equipment, as well as psychological assistance, medical and educational-behavioral information, are carried out regularly. With the help of non-governmental organizations, relations were established with the groups of the population prone to risky behavior in a state of isolation, relevant examinations were organized in the places where they were gathered through mobile stations, and educational printed materials (brochures, etc.) were distributed.

The procedure and scope of medical and psychological assistance to persons subjected to sexual exploitation and sexual violence are regulated by relevant legislative documents. When such cases occur, the examination of the necessary specialists (with the involvement of a pediatrician for children), examination by a psychologist, and post-contact prophylaxis are carried out, and when the patient applies directly, the law enforcement agencies must be informed about the incident. During the mentioned period, there was no one who applied to the Center in this regard.

During inpatient treatment, patients have full use of palliative care, care services, and support services in the department.

In ambulatory conditions, visits are made to the homes of HIV-infected persons in the order of medical observation and referral, by doctors and paramedics, and relevant assistance, care, and support services are provided. Patients are interviewed for the purpose of psychological support, safety rules, and rules of behavior during pain and side effects of drugs and in a number of other situations are explained to family members.

At the same time, it was mentioned in the answer that your information request of the same date was answered by the letter No. 04-01/08-188 dated 10.05.2022 of the Republican AIDS Center.

Sincerely, Deputy Chief of Staff - Rashid Rumzade

### **Penitentiary Service**

*Questions asked:*

1. How many prisoners with HIV are there in penitentiary institutions?
2. Is there a unified electronic register and database of prisoners with HIV?
3. How is the treatment of prisoners with HIV organized in medical institutions of penitentiary service?
4. What measures were implemented for the prevention of HIV among prisoners in 2016-2021?
5. In 2016-2021, what measures were implemented to provide palliative care, care services, and support to prisoners living with HIV?

*Response received:* Your appeal, which was submitted to the Penitentiary Service of the Ministry of Justice on 31.05.2022 through the Office of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, has been sent to the Main Medical Department of the Ministry of Justice for consideration. For your information, it is reported that since some of the issues you are interested in regarding the health of prisoners are directly related to the powers of the Main Medical Department of the Ministry of Justice, so your appeal with the same content, which was submitted to the Penitentiary Service of the Ministry of Justice on 15.04.2022, was sent to the relevant institution on 20.04.2022 for consideration.

### **Office of the Ombudsman**

#### *Questions asked:*

1. In 2015-2021, how many people who are carriers of the HIV/AIDS disease applied for violation of their rights?
2. In 2015-2021, how many people who are carriers of the HIV/AIDS disease applied for violation of their rights of access to health care?
3. In 2015-2021, how many people who are carriers of the HIV/AIDS disease applied for being subjected to discrimination in the workplace?

*Response received:* All appeals are considered by the Ombudsman without discrimination. Appeals to the Ombudsman are received from people suffering from HIV/AIDS, which are investigated by us, information requests are sent to the relevant state bodies, and necessary measures are implemented in a timely manner in order to solve the issues they raise and ensure their rights. At the same time, within the National Preventive Mechanism activity of the Ombudsman, within the framework of regular visits to places that cannot be left by detained persons of their own free will, dozens of people suffering from HIV/AIDS are heard while studying the situation of the rights of detained persons, the issues they raise regarding their rights are investigated on the spot, and their appeals are granted.

In addition to these, on the initiative of the Ombudsman, every year on the eve of December 1 - World AIDS Day, successive awareness-raising events addressed to the general public are carried out throughout the republic, which is of great importance in terms of promoting, protecting, and ensuring the rights of people suffering from HIV/AIDS.

*Response received after repeated appeal:* In response to your information request dated May 19, 202, addressed to the Commissioner for Human Rights (Ombudsman) of the Republic of

Azerbaijan, we inform you that during the years 2015-2021, the Office of the Ombudsman received 2 (two) applications from persons with HIV/AIDS regarding the violation of their rights. These appeals related to the assessment of disability were investigated by us, information requests were sent to the relevant state bodies, and measures were taken to resolve the issues they raised and ensure their rights.

Regarding the other issues you mentioned in the information request, the Office of the Ombudsman did not receive any appeals during the years 2015-2021.

**State Committee for Family, Women and Children Affairs of the Republic of Azerbaijan**

*Questions asked:*

1. In 2016-2021, what measures were implemented to raise awareness about the fight against HIV?
2. In 2016-2021, what measures were implemented to prevent HIV and provide psychological assistance for persons who were subjected to sexual exploitation and sexual violence?

*Response received:*

Work done in 2016: <https://bit.ly/3dKnK17>

Work done in 2017: <https://bit.ly/3SEMxxf>

Work done in 2018: <https://bit.ly/3pccxCv>

Work done in 2019: <https://bit.ly/3QlJb0w>

Work done in 2020: <https://bit.ly/3QFavXf>

**Center for Combating AIDS of the Republic of Azerbaijan (Republican AIDS Center)**

*Questions asked:*

1. Could you please send a copy of the Charter of the Center?
2. How many regional departments does the institution have and how many of these departments carry out examination and treatment of people with HIV?
3. How much funds were allocated for the treatment of HIV patients from the state budget for 2016-2021? In what directions were these funds spent?
4. In 2016-2021, how many of the people infected with HIV were completely cured by receiving treatment, and how many died?
5. What is the current number of active HIV patients?
6. In 2016-2021, what measures were implemented to prevent HIV among high-risk population groups?
7. What measures were implemented to improve palliative care, care services, and support for people living with HIV in 2016-2021?
8. What is the number of beds in intensive care units in the capital and regions?

*Response received:*

From the parts of the Action Program for the Fight against HIV/AIDS for 2016-2020 adopted by Decision No. 63 of the Cabinet of Ministers of the Republic of Azerbaijan dated February 17, 2016, related to the Ministry of Health, its structures, and other enterprises and organizations on joint activity with it, only in Paragraph 3 of Section 6.5 - awareness raising on the fight against HIV (6.5.3), the 13th task of public education on prevention of HIV envisages the involvement of mass media in the process. However, the Ministry of Health also undertook the preparation of press releases, articles, and other information and distribution among the population through mass media as an additional responsibility in the development of the action plan based on the Program.

For your information, it is reported that the works according to the adopted Action Program have been implemented in full. Among the information you requested, those that are considered necessary for wide dissemination among the population are regularly placed on the electronic websites of the Ministry of Health and the Republican AIDS Center for the mass media and other interested users.

*The response received after the appeal to the Ombudsman:*

Dear Rashid Muallim,

Aydan Fuad gizi's appeal to the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan was reviewed at the Republican AIDS Center of the Ministry of Health.

It is reported that A. Fuad gizi's appeal with the same content was answered by our letter No. 0401/08-188 dated 10.05.2022.

She appealed to the Ministry of Health and requested information through the 8-question information request on the State Program for Combating Human Immunodeficiency Virus (HIV) for 2016-2020 by the Resolution of the Cabinet of Ministers dated 16.02.2016 No. 63, the proceedings of which ended in 2020.

In the letter, referring to the obligations assigned to the mass media under the State Program, the results of the implementation of the tasks were questioned.

In response to A. Fuad gizi, it was stated that mass media are involved in the implementation of tasks only in paragraph 6.5 of the State Program, and the information request for that paragraph was also answered. At the same time, the information intended for the public is posted on the websites of the Ministry of Health and the Center, so the author was advised to refer to those sources.

We bring to your attention that the analysis of the requested information (the amount of funds allocated to the treatment of patients and the direction of expenses, the existence of an electronic database, specific drugs and their names and effects, laboratory equipment and the state of their use) is beyond the scope of interest mentioned by A. Fuad gizi at the beginning

of her letter and covers specific areas. Furthermore, among the questions, questioning the number of fully recovered or active HIV patients and sometimes calling our patients HIV patients indicate that the author does not have elementary basic knowledge about HIV infection and raise doubts about the good intentions of her sudden interests. However, despite these doubts, in accordance with the requirements of the law on HIV, a response was sent to A. Fuad gizi, which is considered open to the public, taking into account confidentiality, anonymity, and similar conditions, and within the framework of supporting this service among the population in the field of fighting against HIV.

A few days after the mentioned information, on 12.05.2022, A. Fuad gizi sent a similar 8-question letter to the Director of the Republican AIDS Center on the same date (11.04.2022), and this time in her appeal, she questioned the Charter of the Center, the organization of the institution's structure, the number of beds in intensive care units in the capital and regions.

At the same time, we inform you that the author complained about the response to the first letter in her second complaint letter, while the first letter was answered by the Center.

For your information, we inform you that according to Paragraph 17.3 of the Law No. 1001-IIIQ dated May 11, 2010, of the Republic of Azerbaijan on Improving the Fight against the Disease Caused by HIV, the Republican AIDS Center has the status of a specialized state medical institution for the fight against HIV infection and a special type of treatment-prophylaxis institution according to the Charter approved by the Order No. 65 of the Ministry of Health dated 31.08.2012. In relation to the mentioned status, the Center was assigned the tasks of "... taking appropriate security measures in the areas of activity" according to Paragraph 7.19 of the Charter, as well as "ensuring the collection, clarification, and delivery of reports on the activity of the Center to the Ministry of Health in accordance with the legislation" according to Paragraph 7.20 of the Charter.

In connection with the above, taking into account that pure interest in the information questioned by A. Fuad gizi raises doubts and guided by the above-mentioned normative documents, we ask you to consider the claims of the information requester unfounded and to support our position.

Based on the information requested by the Office of the Ombudsman, we state the following:

1. The Charter of the Republican AIDS Center and a copy of the complainant's first letter are attached to the letter.
2. 10 regional HIV-diagnostic laboratories of the Republican AIDS Center are operating. Treatment of HIV-infected persons is carried out only in the Center's ambulatory care and dispensary observation, as well as inpatient care departments.
3. For the purpose of implementation of the State Program on the fight against HIV for 2016-2020, financial resources were allocated to the Innovation and Supply Center of the Ministry of Health, and the goods and materials ordered were presented to the Republican AIDS Center. Reports on the financial value of the equipment are not within the scope of the Center.

4. According to the current protocol, people infected with HIV are considered to be ill for life, and we can only talk about remission in their health. As for the number of those who died during that period, we inform you that the information about deaths is delivered from places and other institutions with great delays, and the information obtained during the mentioned period covers a wide period. For your information, we inform you that by the end of 2020, there were 7,302 people infected with HIV in the registration of the Republican AIDS Center. During the observation period, information about the death of 1,093 people was received.
5. There is no classification of HIV patients into "active" or other groups.
6. During the surveyed period, educational activities on the prevention of HIV transmission to others were carried out among population groups at high risk of infection (injecting narcotic drug users, people who practice irregular sexual intercourse, sexual minorities, etc.), and HIV screening examinations were conducted. For this, all available opportunities were used, taking into account the closedness of these groups, the opportunities of non-governmental organizations were used according to the principle of "equal equality". With their help, stable relations were established with risk groups and periodic HIV screenings were conducted. Contacts with risk groups were organized in the places where they gather through the mobile stations organized under the Center so that the reliability of medical workers increased by observing confidentiality.
7. All people living with HIV have full access to palliative care, care services, and support service while being treated at the Center's inpatient department. Food sets are presented to them, and efforts are made to solve their household and social problems. Placement of our patients in other hospitals due to concomitant diseases is carried out by the Center.  
Outpatient palliative care, care services, and support are provided by a multi-professional team. In addition to the attending physician, this group includes, if necessary, a lawyer, a therapist, a nurse, and a janitor. Care and support services are provided at home, even to family members.  
In the first letter, question 7 was related to those subjected to sexual abuse and violence and received medical and psychological help.  
As for this issue, we inform you that the procedure and scope of medical and psychological assistance to those citizens is determined by Law No. 1001-IIIQ dated May 11, 2010, of the Republic of Azerbaijan on Combating the Disease Caused by HIV and the instructions of the Order No. 65 of the Ministry of Health of the same name dated August 31, 2021, and the medical staff of the Center have been trained based on the mentioned documents. However, for information, we inform you that the Center has not been appealed regarding the mentioned cases.
8. The manner in which the question was asked suggests that it is not related to the Center.

Determining the number of intensive care units located in the capital and regions is beyond the power of the Republican AIDS Center.

The Republican AIDS Center, hoping for the implementation of the motion filed before you, asks you to support our position.

Attachment:

9. Regulations of the Republican AIDS Center.
10. A copy of the first letter received by A. Fuad gizi through the Ministry of Health.

Sincerely, Director - Famil Mammadov

Copy of the Charter - <https://bit.ly/3T07UsL>

### **Public Television and Radio Broadcasting Company of the Republic of Azerbaijan**

*Question asked:*

In 2016-2021, what measures were implemented to raise awareness about the fight against HIV?

*Respond received:*

The Company provides official information to the Audiovisual Council of the Republic of Azerbaijan established by the state every six months.

In this regard, you can officially appeal to the Audiovisual Council of the Republic of Azerbaijan to obtain any information related to the issue you are interested in.

*The response received after the appeal to the Ombudsman:*

In response to letter No. 3/11281-22 of the Office of Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan dated 06.06.2022 regarding the question "What measures were taken to raise awareness about the fight against HIV in 2016-2021?", we are sending the "List of programs broadcast on AIDS on Public Television in 2021-2022".

In addition, we inform you that the Public Television and Radio Broadcasting Company has been carrying out propaganda work on the above-mentioned topic since April 2021.

### **Ministry of Youth and Sports of the Republic of Azerbaijan**

*Question asked:*

In 2016-2021, what measures were implemented to raise awareness about the fight against HIV?

*Respond received:*

On June 23, 2016, a conference on "The role of youth organizations in the fight against drug addiction" was held.

On November 7, the "Youth Health Festival - 2016" project was implemented in Ganja.

In 2016, with the support of the Ministry of Youth and Sports, the project "Strengthening the fight for the prevention of AIDS among young people" of the Development of Youth Towards the Future Public Union was carried out in connection with "December 1 World AIDS Day".

In 2016-2019, the play "Game with Life" against drug addiction was shown in higher education institutions of the republic.

In 2016-2019, an educational campaign was held in the regions and cities of the republic under the motto "United against harmful habits for a healthy future!".

On June 25, 2018, a conference on "Strengthening the fight against drug addiction among young people" and an awarding ceremony for the winners of the best author's articles competition on the topic among young journalists were held.

On September 8-14, 2019 An international practical training course called "Promoting a healthy lifestyle" was held in Baku for young journalists, bloggers, and active social network users by the Ministry of Youth and Sports, the Interstate Humanitarian Cooperation Fund of the CIS member countries, and the "Addim" Creative Youth Association in Baku. 74 young people from Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan, Ukraine, Estonia, and Lithuania participated in the training course.

During 2020-2021, educative trainings and online seminars organized by 22 Youth House social service institutions operating under the Ministry of Youth and Sports of the Republic of Azerbaijan on the topics of "Damage of tobacco and narcotic drugs to human life", "Healthy life means a healthy future", "Negative effects of harmful habits on the life of young people and ways to solve them", "Let's stay away from bad habits", "Causes of harmful habits and addictions and ways to eliminate them", "Let's fight together against drug addiction and other harmful habits!", "Coronavirus pandemic: let's ensure our healthy future", and those dedicated to the World Health Day on the topics of "The importance of coronavirus vaccination", "What we should follow to protect our health during the pandemic", "Our fight against COVID-19", "Psychological problems occurring during the pandemic and real solutions to them" were held, videos on the topics of "World Health Day", "Let's Say No to Drugs", "Let's fight against the coronavirus together!" etc. were prepared and shared on social networks.

In February and March 2021, online zone seminars-deliberations on "Strengthening the fight against drug addiction among young people during the COVID-19 pandemic" were held.

### **Ministry of Labor and Social Protection of Population of the Republic of Azerbaijan**

#### *Questions asked:*

1. How many HIV/AIDS patients are assigned with 1st-degree disability status?
2. How many HIV/AIDS patients are assigned with 2nd-degree disability status?
3. How many HIV/AIDS patients are assigned with 3rd-degree disability status?
4. In 2016-2021, what measures were implemented to provide palliative care, care services, and support to people living with HIV?



*Response received:*

Based on your request to the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan for assistance in answering your information request dated 11.04.2022, relevant information was requested from the Ministry of Labor and Social Protection of Population of the Republic of Azerbaijan.

In the response, it was stated that during the years 2021-2022, 3 people (men) diagnosed with HIV/AIDS were assigned with a first-degree disability, 518 people (332 men, 186 women) with a second-degree disability, 181 people (103 men, 78 people) with a third-degree disability, 706 people have been assigned with disability degrees, including 4 people with limited health opportunities.

According to the "Rule of provision of home (mobile) social service" approved by the Resolution of the Cabinet of Ministers of the Republic of Azerbaijan No. 17 dated 31.01.2013, home (mobile) social service is not provided to persons whose life activity is limited due to contracting a socially dangerous disease.

It was also mentioned in the answer that there is only 1 person infected with HIV in the social service institutions under the Social Services Agency under the Ministry, and he is registered in the Republican AIDS Center of the Ministry of Health of the Republic of Azerbaijan. Periodic examination of the mentioned person and provision of medicines are carried out by the Center, and necessary social and medical services are also provided by the Agency.

The medical staff of the institutions under the Agency were involved in trainings on the epidemiological situation, fight and prevention measures related to HIV infection/AIDS disease organized by the Center.

**Ministry of Justice of the Republic of Azerbaijan / Main Medical Department of the  
Ministry of Justice of the Republic of Azerbaijan**

*Questions sent:*

1. How many prisoners with HIV are there in penitentiary service institutions?
2. Is there a single electronic register and database of prisoners with HIV?
3. How is the treatment of prisoners with HIV organized in medical institutions of penitentiary service?
4. What measures were implemented for the prevention of HIV among prisoners in 2016-2021?
5. In 2016-2021, what measures were implemented to prevent HIV and provide psychological assistance to persons who were subjected to sexual exploitation and sexual violence?
6. In 2016-2021, what measures were implemented to provide palliative care, care services, and support to prisoners living with HIV?

*Response received:*

There is no instruction before the Ministry to publicize the work done in the mentioned action plan and ensure accountability. Only in this field, there is a request to carry out educational work on the fight against HIV and to prepare necessary publications. Moreover, since the issues you have raised constitute doctor-patient confidentiality, according to Article 10 of the Law on Information, Informatization and Protection of Information of the Republic of Azerbaijan and Article 34 of the Law on Access to Information of the Republic of Azerbaijan, that information is confidential. At the same time, in Article 3 of the aforementioned resolution of the Cabinet of Ministers, coordination, monitoring, and evaluation of the measures to be implemented under the Action Program, as well as the involvement of international and non-governmental organizations related to the implementation, have been entrusted to the Ministry of Health. Therefore, the necessary information was presented by us during the last period.

*The response received after the appeal to the ombudsman:*

Regarding your appeal to the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan for providing you with information on the status of the implementation of the obligations entrusted to the Ministry of Justice in the Action Program for the Fight against HIV/AIDS for 2016-2020 approved by Resolution No. 63 of the Cabinet of Ministers of the Republic of Azerbaijan dated February 17, 2016, the following is reported:

- Currently, 2% of prisoners held in penitentiary institutions are persons with human immunodeficiency virus (HIV).
- There is an electronic database of prisoners with HIV in the Main Medical Department.
- Prisoners with HIV have the opportunity to freely apply to the Medical and Sanitary Departments (MSD) of penitentiary institutions, like other people, without any obstacles. They are periodically monitored by doctors and undergo appropriate examinations. In accordance with the requirements of the legislation, the anonymity of the data of persons who do not violate confidentiality is protected. Access to antiretroviral (ARV) therapy is carried out in the Infectious Diseases Department of the treatment facility under the supervision of an infectious disease doctor and continued in the MSD. Those receiving ARV treatment are supplied with daily medications according to treatment regimens. When necessary, people with HIV are involved in inpatient treatment at MSD or in treatment facilities.
- In order to prevent HIV infection, all penitentiary institutions are provided with personal protective equipment (condoms) and accessible conditions are created for each prisoner to use them anonymously. In order to prevent blood-borne infections, kits containing condoms, a protective mask, a single-use razor, a toothbrush, sterile napkins, and other personal hygiene items are distributed to every prisoner entering all penitentiary institutions. In order to educate the prisoners, a theatrical performance and a documentary film on the prevention of HIV/AIDS and the positive results of the treatment are regularly shown in penitentiary institutions. Representatives of the civil society are involved in the medical education measures provided to the prisoners, various training and information sessions on the prevention of HIV/AIDS and health

promotion are held in the "Health rooms" created in penitentiary institutions through non-governmental organizations, information on blood-borne infectious diseases is given, printing materials are distributed, and psychological help is provided. In order to detect HIV among arrested persons and convicts, mass examinations are conducted among those who enter detention centers and treatment facilities, and among those who belong to the risk group in prisons.

- Psychologists working in the "Health Rooms" created in the MSDs of the facilities, together with the psychologists of the Penitentiary Service, working in the facilities, carry out the prevention of HIV and the provision of psychological assistance to the prisoners who were subjected to sexual exploitation and sexual violence. Palliative care, care services, and support measures are implemented for HIV-infected persons in the MSD and the Infectious Diseases Department of the treatment facility, when necessary. Individually, conditions are created for the relatives of the patients so that they are allowed to meet the prisoners daily for the purpose of care.

The implementation of all the measures listed above was continued in 2021-2022.

Deputy Chief/Colonel of Medical Service – Iftikhar Gurbanov

### **State Statistical Committee of the Republic of Azerbaijan**

*Questions asked:*

1. How much funds were allocated from the state budget for the treatment of HIV patients for the years 2016-2021? In what directions were these funds spent?
2. In 2016-2021, how many of the people infected with HIV were completely cured after receiving treatment, and how many died?
3. What is the current number of active HIV patients?
4. How many HIV/AIDS patients are assigned with 1st-degree disability status?
5. How many HIV/AIDS patients are assigned with 2nd-degree disability status?
6. How many HIV/AIDS patients are assigned with 3rd-degree disability status?

*Response received:*

**Attachment to the letter of the State  
Statistical Committee No. 02/2-117  
dated 20.04.2022**

### **Number of people infected with the disease caused by human immunodeficiency virus (HIV)**

Years	The number of patients registered with a diagnosis of HIV in medical institutions - total, people ( <i>as of the</i>	Number of HIV-infected persons aged 18 and older assigned with disability for the first time - total,	Among them:		
			Persons with a first-	Persons with a second-	Persons with a third-

	<i>end of the year)</i>	<i>people (during the year)</i>	<b>degree disability</b>	<b>degree disability</b>	<b>degree disability</b>
<b>2016</b>	5979	245	9	211	25
<b>2017</b>	6538	263	9	207	47
<b>2018</b>	7162	219	-	195	24
<b>2019</b>	7846	447	-	277	170
<b>2020</b>	8395	206	4	146	56

**Number of deaths from disease caused by the immunodeficiency virus**

Years	Number of deaths (people)
2016	7
2017	12
2018	17
2019	18
2020	19
2021	7

## **NEWS WEBSITES**

The news, shared on the website of "BBC NEWS Azerbaijan" on December 1, 2017:

<https://www.bbc.com/azeri/azerbaijan-42164645>

This interview was received from Natig Zulfugarov, head of the Monitoring and Evaluation Department of the Republican AIDS Center. Natig Zulfugarov said that 437 people were infected with new HIV in Azerbaijan within 10 months. He said that at that time, 5,549 people in the country were registered in the Center. That year, 437 people were diagnosed with HIV, of which 431 were citizens of Azerbaijan, 275 were men, and 156 were women. Out of the total number of 5,549 people with active disease, 4,000 were men, and more than 1,500 were women. The age category was between 25-45 years old. In Azerbaijan, regional indicators were mostly in Lankaran, Sumgayit, Hajigabul, Shirvan, Masalli, and Astara districts. Natig Zulfugarov said that infections spread more among narcotic drug users. Later, he said that there were 12 regional laboratories and 50 voluntary consulting examination offices in the republic.

### **Is it possible to take additional blood for HIV without the patient's knowledge while taking a blood test?**

- Definitely. Such an examination must be offered to the patient and must be carried out based on his/her consent. We have examined up to 200,000 pregnant women. That is, there is no need to apply separately for HIV. There are risk groups, and HIV examination is offered to patients who can be attributed to these groups.

### **What about treatment after HIV infection?**

- Since 2006, HIV treatment has been carried out in the country and it is paid for by the state. Medicines are not sold in private pharmacies, only those who are given a prescription at the pharmacy of the Center are given medicine. Our doctors also write prescriptions. Currently, 4 thousand patients are involved in the treatment process. About 500 of them have been involved in treatment this year. The number of people receiving treatment for the fourth, most severe stage of HIV is about 1,500. Until now, up to 900 people have died from this virus.

### **Natig Bey, how much do people in Azerbaijan know about HIV?**

- We have done a lot of educational work, I think now they are more informed and the reactions have softened. We say that HIV is not scary, get tested and get treatment if you are infected.

Lent.az news website shared the statistics of 2016:

[https://lent.az/xeber/sosial/xeber\\_azerbaycanda\\_iive\\_yoluxanlarin\\_sayi\\_aciqlandi\\_-\\_statistika\\_-261003](https://lent.az/xeber/sosial/xeber_azerbaycanda_iive_yoluxanlarin_sayi_aciqlandi_-_statistika_-261003)

According to lent.az, this was said by Natig Zulfugarov, head of the Monitoring and Evaluation Department of the Republican AIDS Center, at an event dedicated to World AIDS Day on December 1.

According to N. Zulfugarov, 450 (97.0%) of them were Azerbaijani citizens, and 14 (3.0%) were foreigners: "Out of 450 registered Azerbaijani citizens, 287 (63.8%) are men, 163 (36.2%) are women. In total, 5,107 people living with HIV are officially registered in the Republican AIDS Center until this day of 2016. 72.4% (3695) of them are men, 27.6% (1412) are women. 1,373 people are in the AIDS stage. The number of people who died from HIV infection is 794. 46.3% of people living with HIV have been infected by injecting narcotic drugs, 42.7% by heterosexual contact, 1.9% by homosexual contact, and 1.8% by mother-to-child transmission. In 7.3%, the way of infection could not have been determined."

Lent.az shared the statistics for 2021 as follows:

Every year, the third day off in May is celebrated as World AIDS Day.

Regarding the subject, the Ministry of Health told Lent.az that from 1987, when HIV infection was first detected in Azerbaijan, to the end of the 4th month of 2021, HIV infection was confirmed at the Republican AIDS Center, and 7,449 people living with HIV were officially registered:

"Of them, 5,198 (69.8%) are men, 2,251 (30.2%) are women. The number of citizens in the AIDS stage is 1,889, and the number of citizens who died of HIV infection is 1,119."

Baku, December 1, AZERTAC:

[https://azertag.az/xeber/Dekabrin\\_1-i\\_Umumdunya\\_QICHS\\_le\\_Mubarize\\_Gunudur-1939700](https://azertag.az/xeber/Dekabrin_1-i_Umumdunya_QICHS_le_Mubarize_Gunudur-1939700)

An AIDS patient was first registered in our country in 1987. According to the information provided by the State Statistical Committee, last year, i.e. in 2020, 8 thousand 395 patients with the disease caused by the immunodeficiency virus (HIV) were registered in treatment and prevention institutions. 2 thousand 481 of them were AIDS patients. Last year, 547 patients were registered as HIV patients for the first time.

## ***AZERBAIJAN HAS ALSO SIGNED SOME INTERNATIONAL AGREEMENTS ON HEALTH***

**Universal Declaration of Human Rights** (adopted by the UN General Assembly on December 10, 1948) (<https://www.un.org/en/about-us/universal-declaration-of-human-rights>)

### **Article 25**

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

**International Covenant on Economic, Social and Cultural Rights** (adopted by UN General Assembly Resolution No. 2200 A (XXI) dated December 16, 1966) (<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>)

### **Article 12**

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
  - a. The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
  - b. The improvement of all aspects of environmental and industrial hygiene;
  - c. The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
  - d. The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

**Convention on the Elimination of All Forms of Discrimination against Women, New York, 18 December 1979** (<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>)

### **Article 12**

1. States Parties shall take all appropriate measures to eliminate 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.

2. Notwithstanding the provisions of paragraph I of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.



## **THERE ARE SOME CASES IN THE ECtHR PRACTICE RELATING TO THE DISEASE CAUSED BY HIV**

**Oyal v. Turkey (No. 4864/05), 23 March 2010** (<https://hudoc.echr.coe.int/Eng?i=001-97848>)

This case was related to the denial of full and free health insurance for life to a patient infected with HIV through a blood transfusion during childbirth. In particular, he and his parents alleged that the national authorities had not protected his right to life as a result of their failure to give sufficient training to the health personnel concerned, who were involved in the blood transfusion, and to supervise and inspect their work.

The Court ruled that Article 2 of the Convention (right to life) had been violated. While the Court acknowledges the sensitive and positive approach adopted by the national courts, it considers that the most appropriate remedy in the circumstances would have been to have ordered the defendants, in addition to the payment of non-pecuniary damages, to pay for the treatment and medication expenses of the first applicant during his lifetime. The Court concludes therefore that the redress offered to the applicants was far from satisfactory for the purposes of the positive obligation under Article 2 of the Convention. Furthermore, since the national court proceedings lasted more than nine years, it cannot be said that the administrative courts complied with the requirements of the legislation. The Court also held that there had been a violation of Article 6 § 1 (right to a fair trial) and Article 13 (right to an effective remedy) of the Convention due to the length of the administrative proceedings.

**P.T. v. The Republic of Moldova (No. 1122/12), 26 May 2020** (<https://hudoc.echr.coe.int/fre?i=001-202520>)

This case concerned the disclosure of the applicant's HIV positive status in his exemption certificate from military service. The applicant complained that he had to show the certificate when renewing his identity card in 2011 and in some other cases, such as when applying for a new job. The Court ruled that Article 8 (right to respect for private and family life) of the Convention had been violated and that the disclosure of HIV infection in the exemption certificate violated the applicant's right to privacy. The Court noted in particular that the Government of Moldova had not specified what "legitimate aim" foreseen in Article 8 of the Convention was pursued by revealing the applicant's illness. Furthermore, the Government did not submit any explanation of the need to include such a degree of sensitive medical details in a certificate which could be requested in a variety of situations where the applicant's medical conditions was of no apparent relevance. The Court considered that such a serious interference with the applicant's rights was disproportionate. See also, among others: *Mockutė v. Lithuania* 27 February 2018.

Məhkəmə hesab etdi ki, ərizəçinin hüquqlarına belə ciddi müdaxilə qeyri-mütənasib olub. Digərləri arasında həmçinin baxın: *Mockutė v Lithuania*, 27 February 2018.

**G.N. and Others v. Italy (no. 43134/05), 1 December 2009**  
**(<https://hudoc.echr.coe.int/eng?i=001-95926>)**

This case concerned the fact that the applicants and their relatives were infected with human immunodeficiency virus (HIV) or hepatitis C. The applicants suffered from a hereditary disorder (thalassaemia) and were infected with the virus as a result of a blood transfusion carried out. The applicants complained that the authorities had not carried out the necessary checks to prevent infection. They also complained of shortcomings in the subsequent conduct of the civil proceedings and of the refusal to award them compensation. They also alleged that they had been discriminated against compared to other groups of infected persons. The Court held that there had been no violation of Article 2 (right to life) of the Convention regarding the obligation to protect the lives of the applicants and their relatives because at the material time, the Ministry had known or should have known about the risk of transmission of HIV or hepatitis C via blood transfusion, and the Court could not determine from what dates onward the Ministry of Health had been or should have been aware of the risk. The Court further held that the Italian judicial authorities had not provided them with an adequate and prompt response while considering this arguable complaint under Article 2; as a result, Article 2 of the Convention had been violated in accordance with the state's procedural obligations regarding the conduct of civil court proceedings. Finally, the Court held that there had been a violation of Article 14 (prohibition of discrimination) in conjunction with Article 2 of the Convention, finding that the applicants as thalassaemia sufferers or their heirs had been discriminated against in relation to the haemophiliacs.

**Armonas v. Lithuania (no. 36919/02) (<https://hudoc.echr.coe.int/eng?i=001-89823>) and Biriuk v. Lithuania (no. 23373/03) (<https://hudoc.echr.coe.int/eng?i=001-89827>), 25 November 2008**

In January 2001 Lietuvos Rytas, Lithuania's biggest daily newspaper, published an article on its front page concerning an AIDS threat in a remote part of Lithuania. In particular, medical staff from the AIDS centre and hospital were cited as having confirmed that the applicants were HIV positive. The second applicant, described as "notoriously promiscuous", was also said to have had two illegitimate children with the first applicant. The applicants complained in particular that although the domestic courts had found that their right to privacy had been seriously violated, they had been awarded derisory damages (10,000 litai, approximately 2,900 euros). The Court noted that domestic law safeguarded patient confidentiality and discouraged any disclosures on personal data, especially bearing in mind the negative impact of such disclosures on the willingness of others to take voluntary tests for HIV and seek appropriate treatment. The Court held that, in both cases, there had been a violation of Article 8 of the Convention.

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Reference to IDI is compulsory when using information.

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