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TO END INEQUALITIES**

# **Discrimination against people living with HIV in healthcare settings – a European HIV Legal Forum project**

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**European HIV  
LEGAL FORUM**

# Content

- Project on discrimination against people living with HIV in healthcare settings – 11 country
- Project on discrimination against people living with HIV working in healthcare settings – Working positively – 6 country
- Main findings
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# Stigma and discrimination against people living with HIV in healthcare settings

- “HIV-related stigma” refers to the negative beliefs, feelings and attitudes towards PLHIV, and other key populations at higher risk of HIV infection (e.g. people who inject drugs, sex workers, men who have sex with men and transgender people).
- “HIV-related discrimination” refers to the unfair and unjust treatment of an individual based on their real or perceived HIV-status. HIV-related discrimination is usually based on stigmatising attitudes and beliefs about populations.
- While stigma refers to internal beliefs and attitudes, discrimination presents itself externally in one’s behaviour.

# Discrimination against people living with HIV in healthcare settings

- Legal and policy survey launched in 11 countries

## PART 1: LEGAL AND POLICY BACKGROUND

- Protection against discrimination in healthcare settings - relevant to HIV status:
- Legislation that directly or indirectly discriminates against or provides basis for discrimination against people living with HIV/AIDS
- Reporting discrimination in healthcare settings, legal and other remedies
- Rights and obligations of PLHIV in healthcare settings

# Discrimination against people living with HIV in healthcare settings

- Legal and policy survey launched in 11 countries
  - PART 1: LEGAL AND POLICY BACKGROUND
    - Prohibition or limitations on working in specific healthcare professions for PLHIV
    - Private insurance policies concerning PLHIV
  - PART 2: DISCRIMINATION AGAINST PLHIV IN HEALTHCARE SETTINGS
  - PART 3: CASE STUDIES
  - PART 4: GOOD PRACTICE/ NATIONAL CONTEXT
  - PART 5: BAD PRACTICE/ NATIONAL CONTEXT
  - PART 6: COVID-19 PUBLIC HEALTH MEASURES IMPACT ON PLHIV

# Discrimination against people living with HIV working in healthcare settings

- Legal and policy launched in 6 countries
  - Similar set of questions concerning law of labour, policies, good and bad practice in the field
- Legal reports
- Joint policy brief

# Main findings

Survey for the report on discrimination against PLHIV in healthcare settings

- (a) While laws usually prohibit discrimination on the grounds of a person's HIV status, it still occurs in practice and includes refusal of care. Many healthcare providers do not have procedures in place to address and eliminate discrimination.
- (b) While in most countries PLHIV are not obliged to disclose their HIV status in healthcare settings, some countries still have this obligation and that can lead to discrimination.
- (c) Confidentiality breaches by medical practitioners are a common practice.
- (d) Several gaps in legislation have been found, especially in countries outside the EU, with regards to protection of PLHIV against discrimination.

# Main findings

Survey for the report on discrimination against PLHIV working in healthcare settings

- (a) Lack of HIV-specific legal frameworks within national non-discrimination legislation and the absence of internal guidance from most healthcare providers
- (b) Unjustifiable prohibitions and/or limitations on work in healthcare for people living with HIV
- (c) Policies and practices imposing mandatory universal HIV testing in order for people to be able to work in any healthcare role in countries where this is not legally prohibited.



# Policy recommendations – PLHIV as patients

## LEGISLATION

- Abolish the requirement for mandatory HIV disclosure in healthcare settings.
- Clearly articulate in legislation and policy anti-discrimination and confidentiality requirements.

## PRACTICE

- Include in national medical training curricula and provide mandatory post-graduate education and training for healthcare workers to improve knowledge and understanding of HIV and of the experience of living with HIV.
- Establish protocols to ensure enforcement of anti-discrimination and confidentiality legislation in practice.
- Raise awareness and knowledge of PLHIV of their rights as patients and provide appropriate support mechanisms to allow them to seek available remedies if their rights are breached.

# Policy recommendations – PLHIV working in healthcare settings I.

## LEGISLATION

- Adopt and implement more HIV-specific and -sensitive legislation on the rights of PLHIV, including those working in healthcare.
- Specify employer's obligations for occupational health and safety, and employee well-being. Where this already exists, conduct reviews to ensure its relevance for PLHIV and their experiences in employment
- Abolish limitations and restrictions to employment of PLHIV in the healthcare sector that arise from over- or misinterpretation of legislation
- Adopt and implement legislation on HIV testing according to the international guidelines and recommendations, refraining from any HIV mandatory testing of employees in the healthcare sector who undertake procedures where there is no risk of HIV transmission.

# Policy recommendations – PLHIV working in healthcare settings II.

## PRACTICE

- Ensure that employers in the healthcare sector do not require any HIV testing of employees who do not undertake procedures where there is no risk of HIV transmission; any such testing should be conducted on a purely voluntary basis, with the data not being shared with the employer. Ensure there are no consequences for employees, students or job candidates who refuse to take an HIV test.
- Engage chambers/associations of healthcare workers/professionals in disseminating knowledge about the actual extent of HIV transmission risk, and in standing up against HIV stigma to achieve a change of attitudes towards HIV and people living with HIV among medical practitioners. Ensure they engage with PLHIV organisations who can provide expert knowledge in this area.
- Ensure that employers in the healthcare sector remove unnecessary limitations on, and restrictions to employment of people living with HIV, and make the well-being of these employees a priority.
- Implement procedures to ensure that occupational healthcare providers observe confidentiality protocols regarding HIV status and do not share this information with employers.. Data protection and privacy must be guaranteed in all sectors of the healthcare system, including during education and training.

# Questions – comments?

For more information please see: <https://www.europeanhivlegalforum.org/discrimination-against-people-living-hiv-healthcare-settings>

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