

**TAJIKISTAN**



**REACT**

**ANALYTICAL REPORT**  
**SEMIANNUAL, 2020**

**VIOLATIONS OF RIGHTS OF PEOPLE  
LIVING WITH HIV AND REPRESENTATIVES  
OF THE KEY POPULATIONS**



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## ABOUT THE ALLIANCE FOR PUBLIC HEALTH

**The mission of the Alliance** is to support communities in their response to HIV/AIDS, overcoming the spread of HIV and related diseases through the implementation of the efficient models and services, strengthening the healthcare and social services system, as well as key populations capacity building.

**Our vision** is the world where people do not get infected and die of AIDS, and the communities are able to control the epidemic.



## ABOUT FRONTLINE AIDS

**Frontline AIDS** dreams of a day, when there will be no person with AIDS in the world. Millions of people in the world are denied HIV prevention, testing, treatment and care just because of who they are and where they live.

Jointly with our partners in the frontlines, we try to take down social, political and legal barriers faced by people from the marginalized group, and we develop innovations to create the future without AIDS.

## ACKNOWLEDGEMENTS

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More about **REAct:**  
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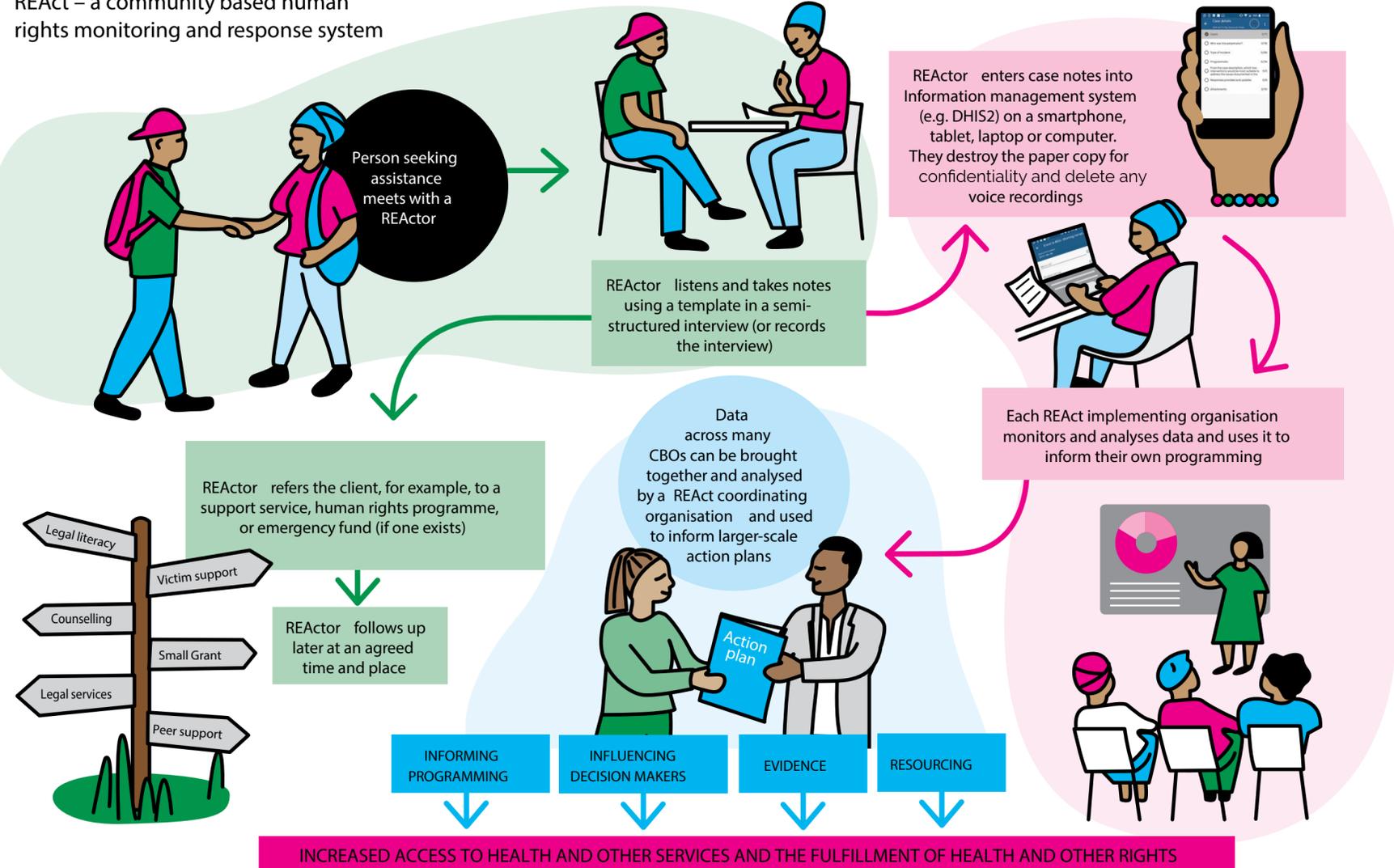
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# WHAT IS REACT?

REAct – a community based human rights monitoring and response system



**Rights – Evidence – ACTION (REAct), developed by Frontline AIDS, is a community-based human rights monitoring and response program. REAct documents and responds to human rights-related barriers that individuals experience in accessing HIV services at community level**

REAct is an online platform that enables organizations to record data about human rights violations experienced by individuals; provide and refer them to health, legal and other public services; and use this data to inform quality human rights-based HIV programming, policy and advocacy at national, regional and global levels.

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## WHO BENEFITS FROM REACT?

Whatever your local context, there are many potential benefits of implementing REAct for individuals affected by human rights violations, for implementing organisations, and for the global response to HIV:

### For individual clients, REAct:

- helps identify and document emergency responses and support.
- ensures a confidential service.
- facilitates a continuum of support and follow-up for cases and individuals.
- provides evidence to improve access to HIV and other health services.
- improves understanding and realisation of human rights.



### For implementing organisations, REAct:

- enables better identification of appropriate human rights responses for each community.
- enables better understanding of the human rights situation in each context.
- builds a body of better evidence to demonstrate a community's human rights needs and how best to respond to them.
- enables better evaluation of the effectiveness and impact of the responses provided.
- strengthens referral systems.
- serves as an outreach tool for increasing access to and uptake of HIV and related health services and referrals.
- ensures safe and confidential gathering of sensitive data.
- identifies priority funding needs (when a Small Grant Scheme is attached) for:
  - emergency individual responses
  - human rights programmes
  - advocacy.
- can be run without a grant by collecting data and making referrals. This evidence can then be presented to donors to secure funding.



### For policy-makers and programming actors locally and globally, REAct:

- gathers robust data and a body of evidence on human rights violations and barriers to accessing HIV and related health services for specific population groups.
- records compatible and comparable data that can be analysed across countries and client groups.
- provides robust evidence for the link between human rights violations and vulnerability to HIV.
- provides robust evidence for improving access to HIV and other health services.



REAct was developed with, and for, CBOs to provide them with an easy and systematic way to support individuals who were experiencing human rights violations that were impeding their access to health and other services. It also responded to a need for data that organisations could use to

advocate for sustainable, rights-compliant health services. REAct has been designed mainly, but not exclusively, for community-based and civil society organisations that focus on HIV programming and advocacy for marginalised people who are vulnerable to, or affected by, HIV and AIDS.

The human rights issues and violations encountered by clients will differ between population groups and country contexts. They will also be affected by laws, policies and other issues such as social and gender norms and religious beliefs.

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## WHAT CAN ORGANISATIONS DO WITH REACT?

The system enables the recording of individual cases in order to:

→ **respond to individual crises or emergencies:** The system enables implementers to identify and prioritise crisis situations and rapidly mobilise resources to avert or respond to specific individual crises and/ or emergencies; for example, violence, eviction or workplace discrimination.

→ **provide a service directly, or refer clients to services available elsewhere:** These services may include legal support; HIV treatment, care and support; psychosocial support; sexual and reproductive health and rights (SRHR); related health services (for example, TB, hepatitis C); medical support; and food

and shelter or other forms of support identified by clients.

→ **build a body of evidence for advocacy and evidence-informed re-programming:** REAct enables those documenting cases to assess critically in each case where the state may be said to have failed to fulfil its duty to respect, protect and promote the individual's right to health. This body of evidence is essential when engaging with and making state and non-state actors accountable in programming, policy and law.

→ **gather evidence that can be used to recommend rights-based programmes and interventions that could help mitigate against human rights violations:** Rights-based programmes are increasingly incorporated into the package of HIV interventions, and information collected through REAct helps implementing organisations

to identify the right combination of human rights interventions. These recommendations can later be used when engaging state actors to improve rights-compliance in HIV and health-related programming plans and policies.

→ **use data for analysis and research:** System is adapted to specific country contexts and populations. This enables REAct coordinating and implementing organisations to consolidate and analyse data at a country level. It also allows Frontline AIDS to carry out cross-country analysis, continually improve the data, and build a comprehensive body of global evidence to inform good practice and quality HIV programming.

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## REACT FEATURES

**Person-oriented** – documenting the experience of an individual, rather than an incident, allows multiple stories to be collected about the same incident thereby increasing the evidence base.

**Online / offline / mobile** – you can collect cases in the field even without access to the Internet, and then upload information to the database at the office. Access to information is provided at any time from any device.

**Information is stored in the cloud** – excludes data loss/theft, system hacking, since all data is stored on secure Amazon servers.

**Security of REActors and clients** – the system does not contain personal information that would help identify the victim or the REActor. Strict authorization rules and the “logout” function prevents information from misconduct.

**Simple and adaptive** – a simple and intuitive interface, the possibility of several language versions and customization of the

questionnaire template allow you to customize the questionnaire to the needs and characteristics of each country.

**Immediate response and cooperation** – cases appear in the database instantly and can be immediately processed by a lawyer or other employees of the organization who have access to the cases.

**Rapid monitoring and creating of charts** – many features and capabilities to analyze and visualize collected information.



## WHO IS IN FOCUS?

Marginalized people/populations are defined by Frontline AIDS as groups that are affected by HIV and AIDS, and are particularly vulnerable to stigma and discrimination and other human rights violations. Marginalised populations vary according to the local context and sexual or social identities, but are usually criminalised or persecuted, for example because of their HIV status or their sexual orientation. They include people living with HIV, sex workers, men who have sex with men, transgender people and people who use drugs. This definition also includes women, adolescents and girls, and sexual minorities in contexts of acute gender inequality and violence, as well as other populations affected by HIV and AIDS that are at heightened risk of human rights violations.

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## WHAT KIND OF DATA WE RECORD?

A template is used to collect information, and serves as a prompt in the semi-structured interviews. Prior to the launch of the system in countries, consultations were held with organizations and experts in the field of human rights to adapt the questionnaire to the country context.

### THE INTERVIEW QUESTIONNAIRE CONSISTS OF THE FOLLOWING SECTIONS:

**Client profile:** key group, age group, gender.

**Type of incident** – documents the kind of human rights violation/s.

**Perpetrators** – who the perpetrators are of the violation.

**Responsibility of the state** – identifies what the state's duty is to the client in this case, and whether this duty has been adequately performed.

**Response provided**, referrals made and follow up actions taken by the REActor.

**Policy recommendations**, based on the seven human rights programming areas identified by UNAIDS.

## HUMAN RIGHTS CONCEPT WE FOLLOW

**Human rights** – are basic universal entitlements that all people have because they are human. They are based on the idea that all persons are equal and entitled to be treated with dignity and respect, regardless of their race, sex, gender, age, disability or any other characteristic.

**Everyone has the right to health.** At its most basic, this means that every person has the right to services to prevent HIV transmission, as well as to treatment, care and support services for HIV and AIDS and related health services, for example, TB, hepatitis C, sexual and reproductive health services, or harm reduction interventions in the case of people who use drugs.

**State**, as well as, state institutions and representatives, including government officials, policemen and women, army personnel, prison officers, civil servants, the judiciary, political authorities, and medical or educa-

tion personnel in state-run facilities, have the obligation to **fulfil the rights** of all their citizens without discrimination. In order to do so, states have a responsibility to:

➔ **RESPECT** the human rights of all people, and to prevent, investigate and sanction violations committed by their officers.

➔ **PROTECT** the human rights of all citizens by taking all necessary measures to avoid the deprivation of their rights.

➔ **PROMOTE** the respect of the human rights of all citizens without distinction.

**Human rights violation** can only be committed by a state. Because state is a **duty bearer**, who is legally bound to respect, protect, promote and fulfil the entitlements of rights holders. Human rights law obliges the state and other duty bearers not to infringe or compromise the fundamental freedoms and rights of people, and means that the state has a duty to realise rights for all.

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## HUMAN RIGHTS VIOLATIONS CAN OCCUR THROUGH:

### → **Failing to respect human rights:**

This is an act committed directly by the state that is contrary to its human rights obligations (for example arbitrarily depriving someone of their freedom or torturing them).

### → **Failing to protect human rights:**

This is an indirect violation committed by the state by omission (i.e. by not providing protection against systematic abuse committed by one group against another, or by not promoting the rights of all citizens). Omission is negligence in performing the requirements of national or international law relating to the protection of human rights. In the case of omission, the actual hurt can be committed by common citizens. The state has a respon-

sibility to act to stop these incidents and provide protection to the victims. If the authorities don't do so, they are violating the rights of the victims by their omission.

### → **Failing to promote or fulfil human rights:**

It is the state's duty to ensure that laws that protect everyone without discrimination are enforced. The state must also promote these rights to ensure that all its citizens are aware of them and how they can claim them effectively. The state and its representatives must ensure that the mechanisms for denunciation and redress are in place for all citizens to access. Failure to do all these (for example by failing to undertake campaigns against social discrimination targeting a particular ethnic group or sexual minority) constitutes a violation of the state's responsibility to promote the human rights of all its citizens.

**REAct documents** and responds to human rights-related barriers in accessing HIV and health services, as well as other human rights violations, for marginalised people. Importantly, it identifies where the duty of the state lies in each case to ensure that human rights are respected, protected and fulfilled.

Individuals and institutions representing the state are often the direct perpetrators of human rights violations, or they directly endorse or fail to take action against stigma, discrimination or violence against individuals. There are documented cases where the state is not directly involved in the situation, for example, a sex worker suffers violence from her client.

We also qualify such cases as a violation of human rights, because the state has not created a legal environment where the victim could protect her rights: the victim is afraid to turn to law enforcement agencies, because sex work is criminalized and repeated violence by law enforcement officials is very likely.

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On the other hand, the reasons for people finding themselves in a difficult life situation and being reluctant to seek support may be associated with the failure of the state to fulfill its positive obligations to create conditions for everyone to exercise their rights without discrimination. For example, a difficult life situation may be associated with the inability to find a job due to social status or health conditions. If, knowing about stigma and discrimination against a particular social group, the state does not create conditions for the realization of rights by representatives of this group, such inaction of the state can be considered as a violation of the obligation to ensure human rights.

Massive manifestations of hatred by individuals against LGBT people are an example of the most common violations of the state's obligation to ensure the right to dignity and protection from discrimination. In most of these cases, the state directly or indirectly

endorses the manifestation of hatred through the promotion of laws or other initiatives to protect "traditional values". Also, government agencies usually do not possess the knowledge, skills and willingness to respond to incidents of hatred, because the government fails to its representatives, inform and encourage actions to protect LGBT people. In such conditions, LGBT representatives most often will not seek protection from government agencies, even in a difficult life situation and in a real need of it.

An example of other implicit violations would include cases where members of vulnerable populations have had negative experiences of seeking protection in the past. Such experiences in the past can be a serious obstacle to seeking protection in the event of subsequent violations. This is often the case for sex workers who view police officers as violators of their rights based on past experience with the police. Subsequently, even with serious violations of their rights by clients, such as manifestations

of violence, including rape, sex workers do not contact the police. In such cases, an analysis of the reasons why the victim does not seek protection is necessary. If the reasons originate in the fact that the state directly or indirectly promotes stigma in relation to a particular social group, then it is about a violation of the obligation to protect (exercise) the right.

We refer such cases to the same category as the cases when law enforcement agencies do not respond to violations even after the appeal.

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# RESPONSIBILITY OF A STATE

## TAJKIKISTAN

40

*Failure to respect*

7

*Failure to protect*

24

*Failure to promote*

## GEORGIA

31

*Failure to respect*

40

*Failure to protect*

85

*Failure to promote*

A unique feature of REAct's work in **Georgia** is the registration of a large number of cases that are qualified as a violation of the state's obligation to promote human rights. At the same time, fewer cases of direct violation were recorded. This is primarily due to the fact that Georgia has chosen a very broad approach to the question of what violations should be registered in the database. In Georgia, an approach was chosen with the orientation of the final decision on registering a case in the database, based on how this or that case influenced the life situation of a client from a vulnerable group. On one hand, such a broad approach made it possible to register a large number of cases with a low degree of verifiability. On the other hand, this approach allows us to set up a monitoring system to track signs of systemic violations of the obligation to promote, which, with a narrower approach, would most likely not be recorded at all.

Public agencies generally lack the knowledge, skills and willingness to respond to incidents of hatred, because the government does not educate, inform and encourage them to protect the rights of vulnerable groups. In such conditions, the victims will most often not seek protection from the official structures, even in a difficult life situation and needing protection.

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REAct recorded 22 cases in which the victims did not want to go to the police to protect their rights because they did not believe that the police would be able to help them, or had a negative experience of dealing with the police in the past. We also referred such cases to “Failure to protect” along with 18 cases where the victim contacted the police, but received no response.

It is necessary to pay attention to significant differences in the number of registered violations of the obligation to protect in **Georgia** and **Tajikistan** – 40 and 7 cases, respectively. On the one hand, the large number of violations of the obligation to protect in Georgia indicates that law enforcement agencies are poorly trained, not aware of human rights, do not know how to work with vulnerable groups of the population and therefore do not respond to cases of human rights violations. On

the other hand, the very fact of a large number of registered violations of the obligation to protect in Georgia suggests that representatives of vulnerable groups are contacting law enforcement agencies for protection. This, to a certain extent, reflects a positive perception of the law enforcement system by representatives of vulnerable groups.

Compared to Georgia, **Tajikistan** has almost six times fewer violations of the obligation to protect. These data should be assessed considering the attitude of vulnerable groups to the issue of contacting law enforcement agencies registered in the REAct. People often do not want to contact law enforcement agencies because they are no less afraid of them, and often even more, than other violators of rights. Many representatives of vulnerable groups have negative experience of interaction with law

enforcement agencies. In this context, the low number of violations of the obligation to protect in Tajikistan cannot be viewed as a direct sign of the effective work of the law enforcement system to protect the rights of vulnerable groups. It is also necessary to consider the number of registered cases of direct violations of the obligation to respect, of which there are more registered in Tajikistan than violations of other obligations of the state. Law enforcement agencies are the most common violators of the obligation to respect human rights. Monitoring indicators on violations of obligations to respect and indicators on violations of obligations to protect allows for a more accurate assessment of the human rights situation in a particular country.

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## MOLDOVA

67

*Failure to respect*

12

*Failure to protect*

46

*Failure to promote*

## KYRGYZSTAN

168

*Failure to respect*

17

*Failure to protect*

51

*Failure to promote*

In **Moldova**, the most widespread type of violations were violations by the police of the right to freedom from arbitrary detention and the right to observe legal guarantees by the police in respect of all those to whom the police exercise their powers. Police officers defiantly and emphatically neglect the right to honor and dignity of people who use drugs and sex workers. Many violations were recorded in the medical field in relation to OST patients, in particular in the context of ensuring the geographical accessibility of OST.

PLHIV are often discriminated against by health services, social support services, immigration services, and in the world of work. The breadth of the spectrum of violations recorded by REAct shows that HIV-related stigma permeates many important official structures, whose work depends on the possibility of releasing and protecting the rights of PLHIV. Also, in regards to all key groups, cases of stigma, hatred and violence on the part of relatives and on the part of individuals, including the general public, were recorded. In such cases, one can state the insufficient fulfillment by the state of the obligation to promote human rights, including reducing the stigma towards representatives of key groups.

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A unique feature of REAct's work in Kyrgyzstan is the prevalence of cases of active violation of the rights of key groups by the police or medical workers.

The number of direct violations of human rights by police officers significantly exceeds other types of violations. Police officers more often act as active violators of the state's obligation to respect human rights. In only 17 cases was it recorded that the duty to protect was inadequately fulfilled when the police showed no response to human rights violations.

This situation may be due to the fact that victims are often afraid to seek help from the police, and therefore cases of violation of rights remain outside the sphere in which the state could fulfill its responsibility to protect human rights. On the other hand, civil society organizations and communities of

key groups are active in Kyrgyzstan. This, in particular, can explain the large number of reports of direct violations by law enforcement agencies. That is, representatives of key groups are sufficiently aware of their rights to understand when their violation occurs.

However, they do not have enough trust in law enforcement to report such cases to law enforcement, especially when law enforcement officials act as perpetrators and there are no independent investigative mechanisms against law enforcement officials.

Also in Kyrgyzstan, a large number of violations of the obligation to promote rights were recorded. Basically, these violations are associated with the manifestation of stigma and hatred towards representatives of key groups, when the state does not create conditions for people to live in conditions of freedom from stigma and discrimination.

There are many similarities between **Kyrgyzstan** and **Moldova**. Both countries are quite progressive in promoting evidence-based HIV and TB prevention, treatment and care programs. In both countries, initiatives are being taken to reform laws on drug trafficking, on punishment, on human rights. Law enforcement and health professionals receive training in human rights issues and working with key populations in the context of HIV.

However, as REAct shows, all these positive initiatives are likely insufficient to significantly reduce the number of human rights violations against members of key groups. This probably requires more meaningful changes in laws and practices of their application, including measures of widespread decriminalization and destigmatization of key groups.

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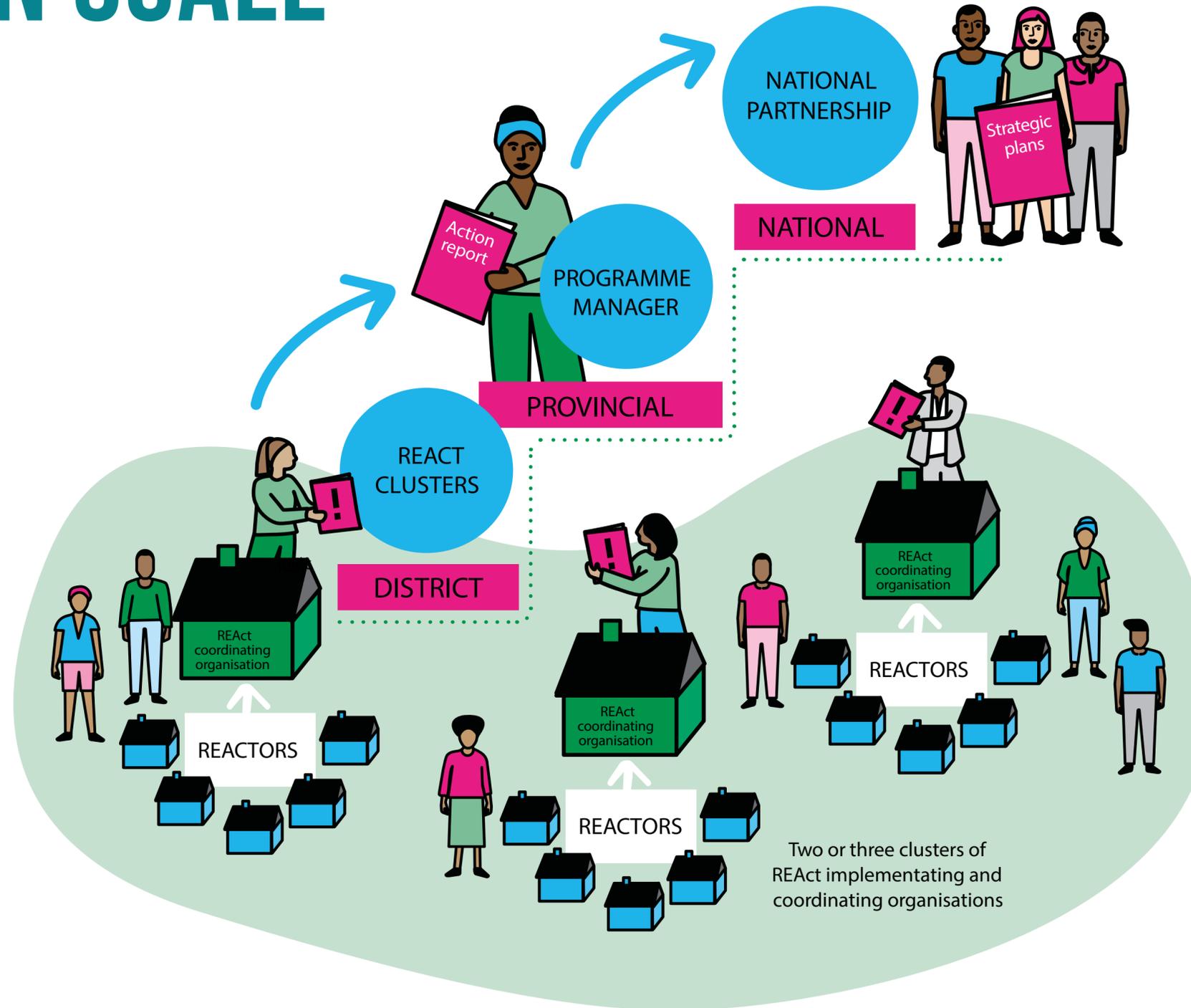
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# IMPLEMENTATION SCALE

The launch of the REAct system on a regional scale was initiated by the Alliance for Public Health as part of one of the areas of the regional #SoS\_project (2019-2021) “Reducing legal barriers to access to HIV prevention and treatment among key populations”.

For a more effective and comprehensive response to violations of rights, partnerships and close cooperation with organizations that work in the field of protecting the rights of key groups have been established in each country. Thus, the REACT tool was organically introduced into the already existing infrastructure (existing projects, organizations, specialists) in the country.

In Ukraine, the REAct project has been implemented since 2019 as part of the program “Accelerating progress in reducing the burden of tuberculosis and HIV infection by providing universal access to timely and high-quality diagnosis and treatment of tuberculosis, expanding evidence-based prevention, diagnosis and treatment of HIV infection, creating viable and sustainable health systems” in accordance with the Grant Agreement No. 1541 dd December 20, 2017 (grant name UKR-CAUA) between the



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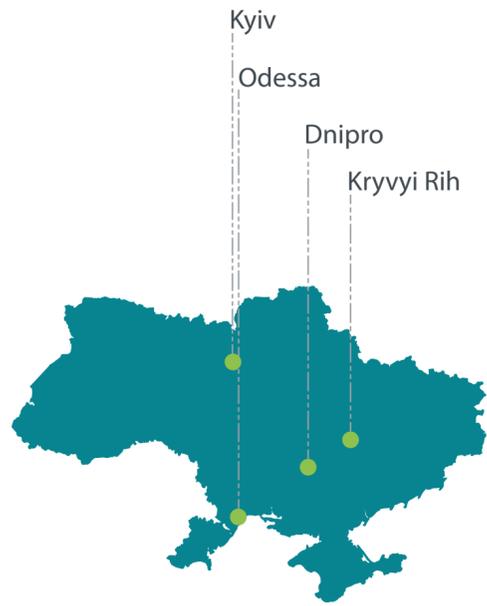
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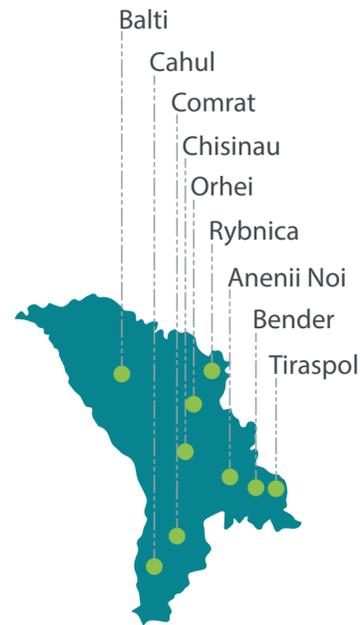
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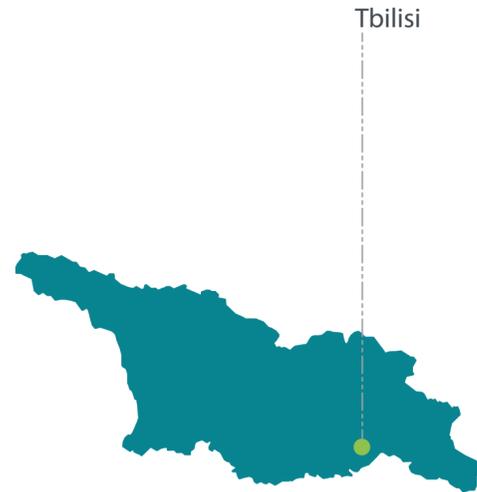
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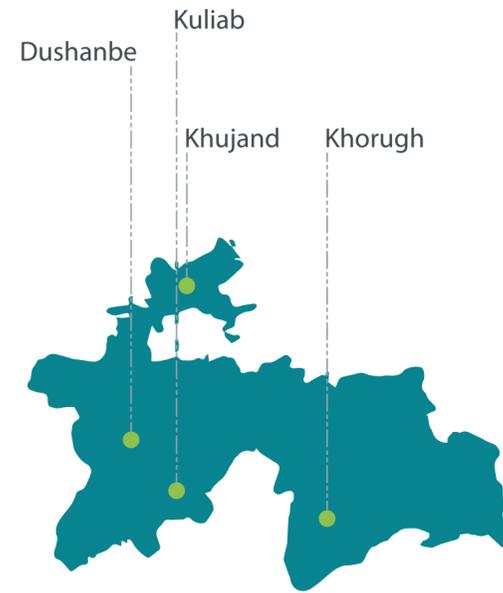
**UKRAINE**  
28 NGOs – 4 cities



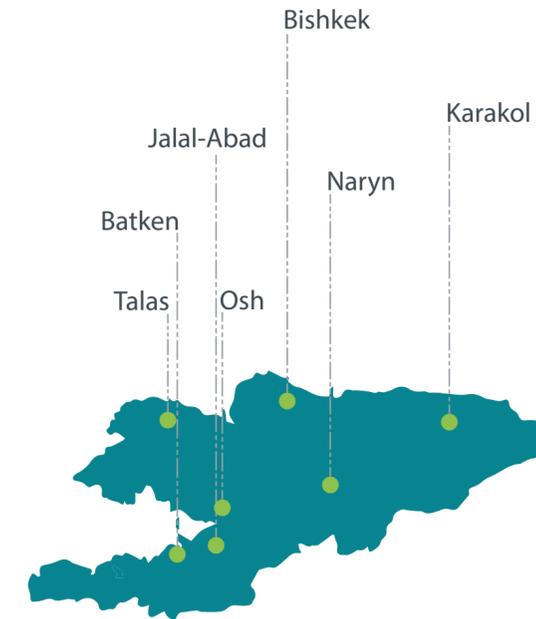
**MOLDOVA**  
12 NGOs – 9 cities



**GEORGIA**  
14 NGOs – 1 city



**TAJKISTAN**  
7 NGOs – 4 cities



**KYRGYSTAN**  
13 NGOs – 7 cities

between the ICF“ Alliance for Public Health” and the Global Fund to Fight AIDS, Tuberculosis and Malaria. “Gain momentum in reducing TB/ HIV burden through forging universal access for timely and quality TB diagnosis and treatment, scaling up evidence-based HIV prevention, di-

agnosis and treatment, building up resilient and sustainable systems for health” program, which is implemented according to the Grant agreement UKR-C-AUA dated 20.12.2017 between “Alliance for Public Health” and the Global Fund to Fight AIDS, Tuberculosis and Malaria.

**DURING THE FIRST HALF OF 2020, THE REACT SYSTEM IN THE EASTERN EUROPE AND CENTRAL ASIA REGION INCLUDES:**

**5**  
countries

**24**  
cities

**74**  
community-based organisations

**#SOS\_PROJECT** – “Sustainability of Services for Key Populations in Eastern Europe and Central Asia” is a three-year project coordinated by the Alliance for Public Health in a consortium with 100% Life, the Central Asian HIV Association and the Eurasian Key Populations Health Network, and implemented in 14 countries of the EECA region, funded by the Global Fund to Fight AIDS, Tuberculosis and Malaria.  
To learn more...

**#SOS\_PROJECT**

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# TAJIKISTAN

Tajikistan is a country with a high degree of stigma and criminalization of key populations. People who use drugs, sex workers and people living with HIV are influenced by laws that explicitly criminalize acts or omissions related to their personality or chronic illness. There are currently no significant reforms aimed at softening these laws in Tajikistan.

# GENERAL INFORMATION FOR REACT DATABASE

## IMPLEMENTATION SCALE

The REAct system is being implemented in Tajikistan as part of the #SoS\_project “Sustainability of services for key populations in the Eastern Europe and Central Asia region” (2019-2021) and the UNDP project “Reducing human rights barriers to HIV services in the Republic Tajikistan” (04 / 2020-31 / 2020). The implementation of the system is provided by the NGO “SPIN Plus” in cooperation with the Center for Human Rights and coordinated at the regional level by the ICF Alliance for Public Health.



SPIN Plus

NGO “SPIN Plus” coordinates the work of the system and REActors, organizes advocacy activities and trainings.



HUMAN RIGHTS CENTRE ЦЕНТР ПО ПРАВАМ ЧЕЛОВЕКА

NGO “CHR” provides legal assistance to PLHIV in criminal and civil cases related to their discrimination, analyzes these cases and deepens the knowledge and competence of REActors in the field of human rights.

ICF “Alliance for Public Health” provides technical support for maintaining the database, analyzing the collected information and forming strategic goals for advocacy.



*A REActor in Tajikistan is a community representative, an NGO employee who, in addition to providing services and outreach work, documents cases of rights violations when community members apply to her/him with complaints. The REActor can provide counseling, psychological support or referral. If the case requires more professional legal services, it is forwarded to the National Legal Coordinator from the Center for Human Rights.*

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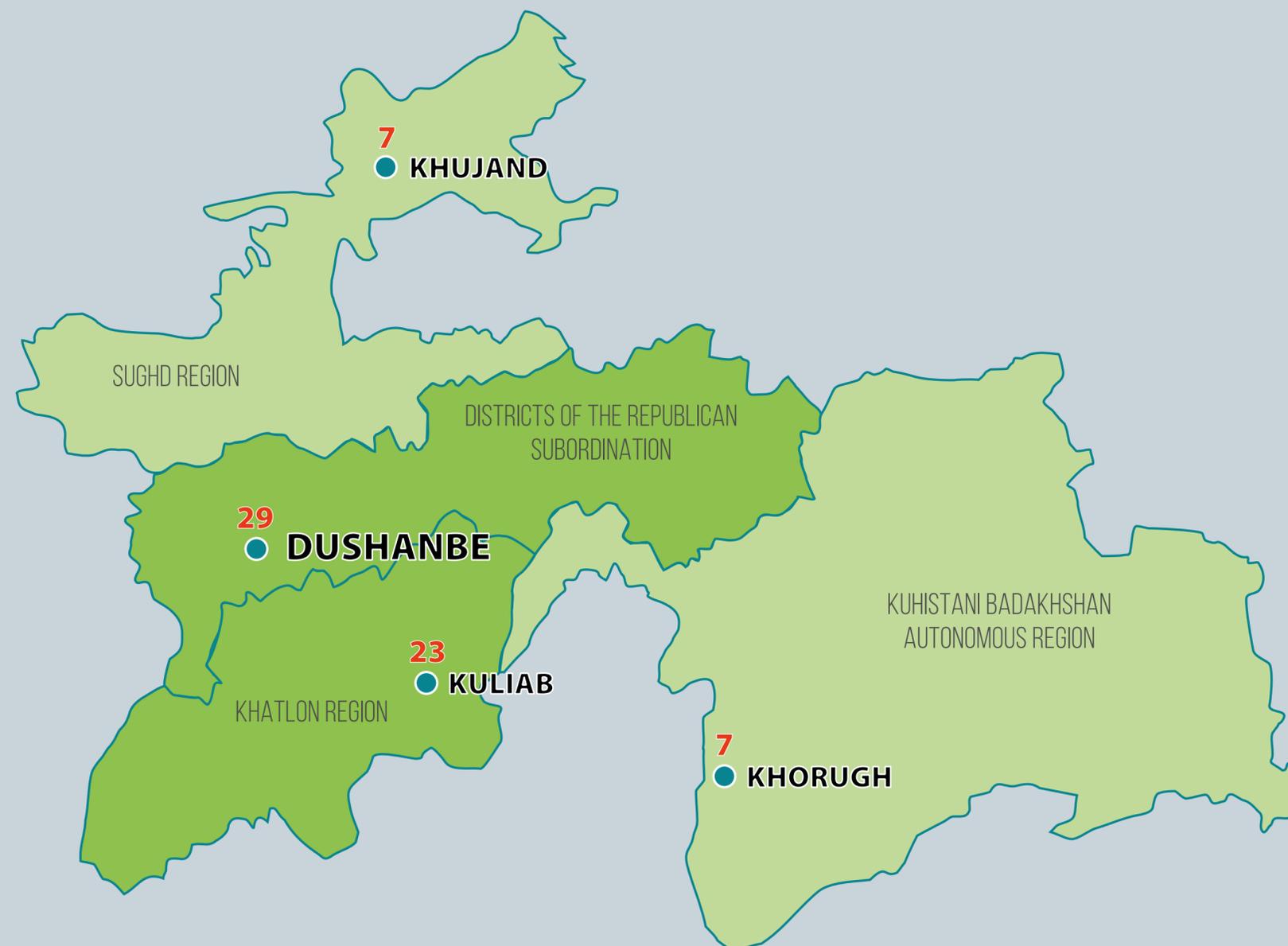
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NGOs involved in the project often work with several key groups simultaneously and provide a wide range of services, from legal aid to harm reduction programs and HIV prevention services.

REActors represent 5 NGOs located in different cities of the country, one REActor per region. The REActors are expected to travel to cities and towns of the region to collect information and provide services to clients. The cases are also documented through the hotline on the protection of the rights of key groups from the Center for Human Rights. In the future, it is planned to increase the number of REActors in order to provide better coverage in the regions.



REGIONS	REACTORS	NUMBER OF CASES
KHATLON REGION	KULOB	23
KUHISTANI BADAKHSHAN AUTONOMOUS REGION	KHORUGH	7
SUGHD REGION	KHUJAND	7
DISTRICTS OF THE REPUBLICAN SUBORDINATION	DUSHANBE	29

THE DIFFERENCE IN THE NUMBER OF CASES BETWEEN REGIONS CAN BE JUSTIFIED BY DIFFERENT LEVELS OF ACTIVITY AND CAPACITY OF ORGANIZATIONS IN THE REGIONS.

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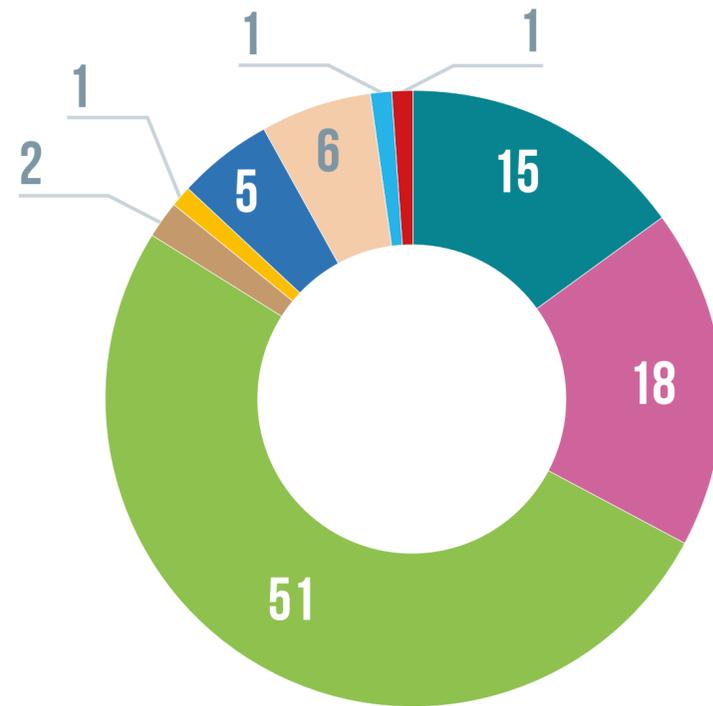
## CLIENTS' INFORMATION

### – KEY POPULATIONS

The most frequent victims of human rights violations are sex workers, people who use drugs and people living with HIV, which generally confirms that the most striking discriminatory legal norms are actively applied in practice.

Representatives of the category “Migrant workers” are also people living with HIV, therefore statistics on them are not presented in separate charts, but are included in statistics on PLHIV. People affected by TB also belong to the groups of PLHIV and PWID. Former prisoners are also drug users, so they are described in the statistics for this group. In one case, the victim was a person living with HIV and in prison at the time of documenting the case. And also there is one case in which the rights of a woman who does not belong to any key group were violated (she was mistakenly diagnosed with HIV +, which led to a deterioration in her health).

Number of registered clients (victims) with breakdown by key populations



*One client can belong to several key groups. In the report, in such cases, the case belonged to the most relevant group in terms of the incident. For example, if a victim is both PWID and PLHIV, and the case reports a violation of her/his rights due to discrimination based on HIV status, then such a case will be included in the statistics only for PLHIV, and will not be counted as PWID. If the type of violation of rights was not directly related to belonging to a particular group, such a case is taken into account in the statistics of all key groups to which the client belongs.*

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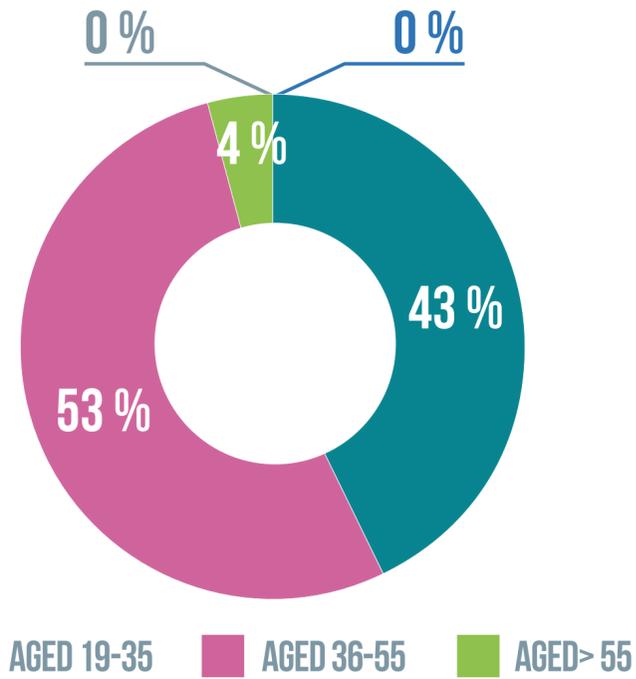
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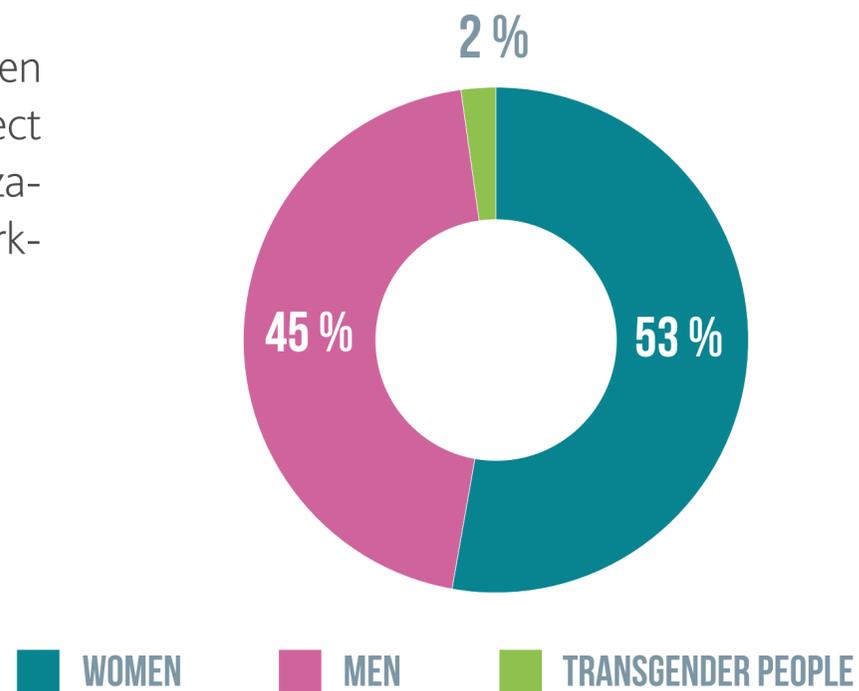
**– AGE GROUPS**

During the reporting period, not a single case was recorded in which the victim was a child or teenager. Most of the clients are people from 19 to 55 years old.



**– GENDER GROUPS**

The number of women prevails, as the project involves two organizations specializing in working with women.



**GENERAL STATISTICS**

One case was registered from each client. No repeated calls were recorded. In addition, it is important to note that clients often change phone numbers, so they do not get in touch, hide, which complicates the possibility of keeping cases of violations of their rights and providing assistance by REActors..

**68**

*Clients registered, total*

**68**

*Cases documented, total*

**57**

*Among them qualified as human rights violations*

In 11 cases, the case descriptions do not contain clear signs of human rights violations. In such cases, there are signs of a difficult life situation for the client, or manifestations of negative and possibly stigmatized attitudes on the part of individuals, but there are no signs of human rights violations by representatives of state bodies.



*Details on the approach to defining the concept of "violation of human rights", which is used when documenting cases in the REAct database, can be found in the Introduction to the report.*

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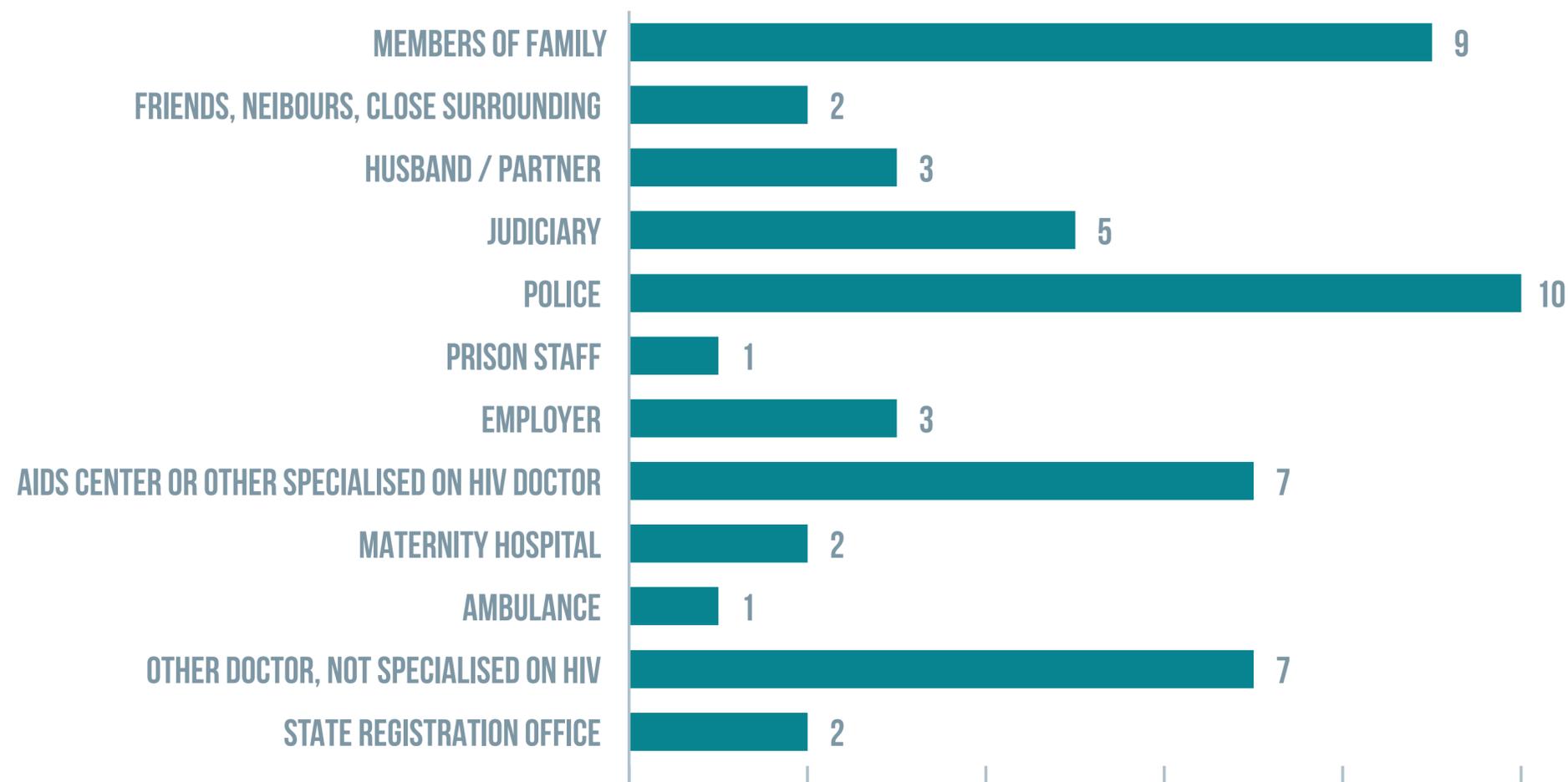
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# PEOPLE LIVING WITH HIV

There have been 51 registered cases where the victim is a person living with HIV. Ten cases were not qualified as violations of human rights, since they reflect complex relationships and family quarrels between a person living with HIV and his/her relatives, including those related to HIV status revealed, but do not constitute a violation of human rights.



*Number of registered cases in the PLWH group with breakdown by perpetrators*



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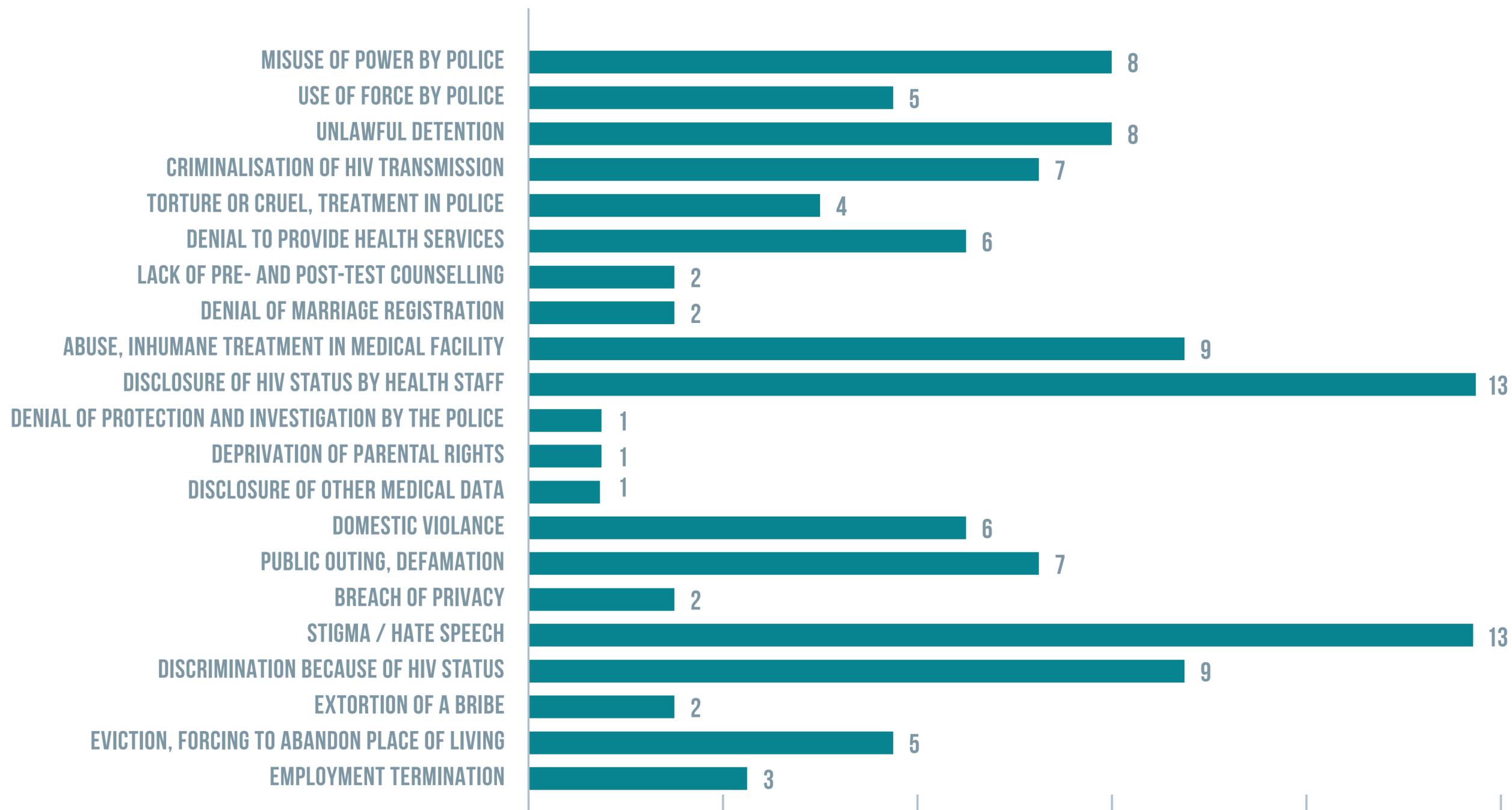
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Types of human rights violations in the key population of PLWH (aggregate table)



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## ANALYSIS OF LEGISLATION

The criminalization of HIV transmission is the main reason for the increased vulnerability of PLHIV to human rights violations. Based on Art. 125 of the Criminal Code of the Republic of Tajikistan, knowingly exposing another person to the danger of contracting the human immunodeficiency virus, as well as infecting another person with the human immunodeficiency virus by a person who knew that he/she had this disease, are criminal offenses. The Administrative Code of the Republic of Tajikistan provides for administrative liability in the form of a fine for evading mandatory medical examination and preventive treatment of HIV infection (Article 119 of the Criminal Code of the Republic of Tajikistan), as well as for concealing the source of HIV infection (Article 120 of the Criminal Code of the Republic of Tajikistan).

In Tajikistan, laws still exist that continue to discriminate against PLHIV and key populations, criminalize and exclude them, which leads to their higher risk of contracting HIV, creating barriers to treatment and life prolongation. Stigma, discrimination, punitive laws,

police violence and lack of access to justice are known to continue to fuel the HIV epidemic.

The legislation of the Republic of Tajikistan in the field of PLHIV rights generally complies with international human rights standards in the context of HIV/AIDS, with the exception of a number of aspects, such as testing, criminalization of key groups and PLHIV, disability issues, and some issues of labor legislation.

Courts do not refer directly to the norms of international legal acts in their judicial decisions. The main problem is law enforcement issues, including mechanisms and financing for the implementation of existing laws.

In accordance with paragraph 7 of part 1 of Art. 163 of the Health Code of the Republic of Tajikistan, people living with HIV are actively involved in setting treatment goals, including the timing and method of treatment, as well as its termination. This means that the treatment is voluntary and also free of charge, since according to par. 5 h. part 1 Art 163 of the Constitutional Law of the Republic of Tajikistan, PLHIV have the right to receive free of charge all types

of qualified and specialized medical care, including medication, in public health facilities.

It is important to note that in the legislation of the Republic of Tajikistan there is a contradiction in the approach to HIV treatment in terms of voluntariness. Art. 163 of the Health Code of the Republic of Tajikistan states that it is voluntary, and in Art. 119 CL RT noted that avoiding mandatory medical examination and preventive treatment of HIV infection and other infectious diseases, regardless of the warning given by the health authorities, entails the imposition of a fine in the amount of ten to twenty indicators for calculations (1 indicator for calculations is 58 somoni). And this contradiction in the legislation can be used against PLHIV if they refuse HIV treatment.

It is necessary to pay attention to the disposition of Part 1 of Art. 125 of the Criminal Code of the Republic of Tajikistan. It provides for the composition not for infecting another person with the human immunodeficiency virus by a person who knew that he had this disease, but for exposing him/her to the danger of HIV infection. This disposition covers almost all PLHIV who have sexual intercourse,

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and thus this provision deprives PLHIV of the right to sexual health, as an element of the right to physical and mental health. However, this disposition does not take into account the informed consent of the other partner. Also, the legislation does not take into account such issues as the use of condoms as a means of safety during sexual intercourse or undetectable viral load, in which HIV is not transmitted according to the latest scientific research, as well as the window period during which HIV

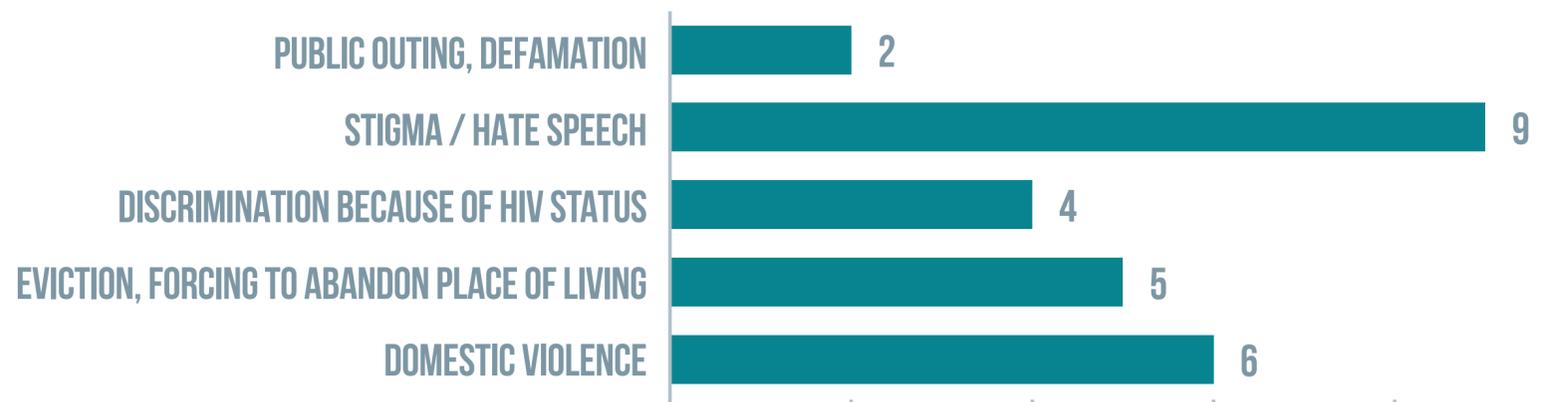
is detected (from 3 to 6 months) ... The legislation does not define the ways of HIV transmission. When a criminal case is initiated under this article, the status of both the suspect and the victim is opened at the same time (the disposition of the article speaks for itself).

Analysis of criminal cases under Part 1 of Art. 125 of the Criminal Code of the Republic of Tajikistan by the NGO “CHR” showed that the defendants’ right to a fair trial is violated during the investigation and in court.

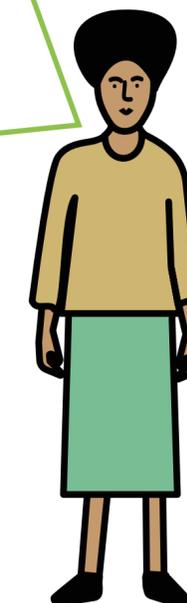
## STIGMA AND VIOLENCE IN THE FAMILY AND THE CLOSE ENVIRONMENT

REAct documented 9 cases of **deep stigma** towards PLHIV from close relatives or cohabitants. In 6 cases, **domestic violence** against a person living with HIV was recorded. Often, these are women

*Types of incidents involving individuals in the PLWH population*



*I have 4 children. I have been married for 18 years, after marriage, when I gave birth to my second child, I was diagnosed with HIV. I don't know where I got infected. For over 10 years now, I have been living with HIV. Husband has negative HIV-status. For more than three years, my husband has been abusing me. He always says: "You cheated on me" or "God punished you." Recently, he said: "All people like you have to be burnt." And like this, every time, on every little thing, there is a scandal and sometimes he beats me.*



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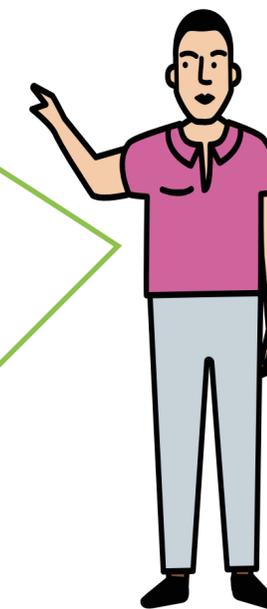
who are unable to protect themselves from aggression from their husbands or relatives. Such violations show the need for wide public awareness of HIV infection and the rights of PLHIV, including conducting information campaigns against stigma.

*Now I do not live with my family, they kicked me out of the house. I was kicked out of the house because of my sister-in-law, my brother's wife. When she found out about my status, she and others started quarrels. I was not allowed to go to anything at all, neither in the kitchen, nor in the bathroom, nor at the common table. Then they refused to give me food. My sister-in-law always yelled at me: "I am sick of you, you, die-slow! Just die soon, I am really sick of you, you're disgusting". Life is an interesting thing that even relatives become strangers. Now I come to a drop-in center of one of the NGOs. I am grateful to them for helping me.*

*During my stay in Russia, my fellow countrymen, with whom shared apartment, learned about my status, and we all worked together in the same construction team. (...) When I went out to dinner, they told me not to sit with them at the same table, since I have AIDS. (...) The next morning they already started to neglect me - do not enter the bath, do not use the toilet, do not sit on a chair, and in general, "move out of this apartment" they said. I collected all my things and went to my distant relatives. When I came to them and wanted to say hello, they forbade me to approach them. (...) So they said: "Sorry, but we do not need a blickey relative, we are afraid of you and your illness." (...) And everyone said that they did not want to know me because of my HIV-status. "You're a blickey man," they said. (...) I had to go home to Tajikistan.*

Often, it is the relatives who **do not accept the HIV status** of their relative, thereby in every possible way prevent a patient from enrollment in care and receiving antiretroviral therapy (ART).

*After she (woman living with HIV) gave birth to a child, I (REActor) went to her home and met with complete aggression from the woman's sisters and mother. They specifically did not allow her to take ART, claiming she was absolutely healthy and feeling well and they forced her to breastfeed her baby. I tried to explain everything to them and to have a conversation about HIV, but they did not listen.*



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In Tajikistan, the National Strategy for Enhancing the Role of Women in the Republic of Tajikistan for 2011-2020, approved by the PPRT No. 269 of May 10, 2010, is in effect. This document covered many areas of women's activities: politics, work, education, health, family, violence, media. In all areas, one of the goals is to achieve gender equality between men and women. For example, the main goal in health care is to improve the quality of life of the female population through improving health in general, and reproductive health in particular. The National Strategy is silent about HIV/AIDS among women and girls. In general, it is indicated that the necessary goal is eradicate violence in its various manifestations in all social spheres, including the family. In paragraph 24 of Chapter 1 ("Analysis of the General Situation and the Tendency of Domestic Violence") of the State Program "On the Prevention of Domestic Violence" for 2014-2023 it was noted that the process of increasing number of cases of HIV infection in society has a negative socio-economic, medical and psychological impact on women.

HIV-infected women are exposed to discrimination, violence and harshness from society (these figures were indicated at the time of the development and approval of the program). One of the objectives of this program is the prevention of infectious diseases and the promotion of a healthy lifestyle among the population. But there are no activities for these tasks, and nothing is indicated on work with discrimination against women and girls with HIV and AIDS patients. Although focus groups have shown that women living with HIV are the most discriminated against in families. Although wives are infected by their husbands, after their death, their in-laws kick women out of their husbands' houses, accuse them of infecting their sons, and beat them. Below there is a similar case.

Despite the adopted Law of the Republic of Tajikistan "On the Prevention of Domestic Violence", violence against women has not decreased. Until now, there is no unified statistical information in Tajikistan on how many women today are subjected to violence in their families. All this is due to the fact that in

Tajikistan domestic violence is not singled out as a separate corpus delicti. According to the Law of the Republic of Tajikistan "On the Prevention of Domestic Violence", a protective order is issued as a warning to a person who has committed domestic violence without any signs of a crime. The protective order mechanism is bureaucratic and ineffective. Until now, no assessment has been made of the effectiveness of this mechanism for protecting victims of domestic violence. But increasing cases of domestic violence both in the media and through appeals to legal receptions, to the Committee on Women and Family Affairs shows that the problem is not being solved.



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## DISCRIMINATION OF PLHIV IN LABOUR AND SOCIAL SPHERE

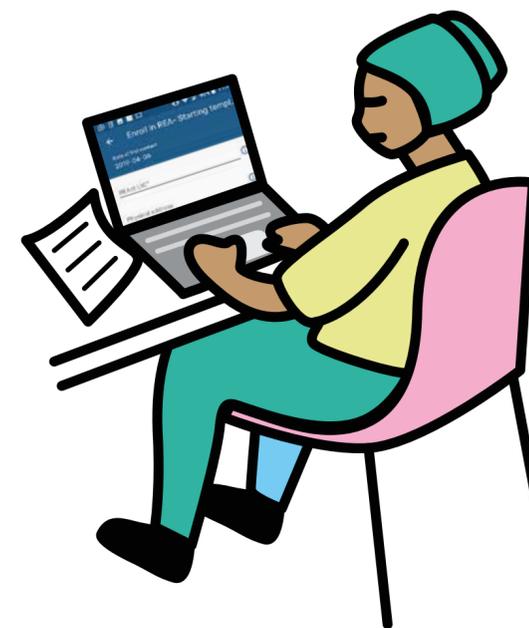
People living with HIV face discrimination in a wide range of relationships, including work and family relationships. Discrimination against people living with HIV occurs despite the explicit prohibition of such discrimination in Art. 165 of the Health Code of the Republic of Tajikistan.

**!** In 2018, the Committee on the Elimination of Discrimination against Women recommended that the Republic of Tajikistan abolish Art. 125 of the Criminal Code of the Republic of Tajikistan, as well as to abolish regulations prohibiting HIV-infected women from obtaining a medical degree, adopting a child or being a legal guardian<sup>1</sup>.

Three cases with the participation of PLHIV were documented, where the perpetrator was a private or public employer. In one case, the disclosure of HIV positive status of a woman working in a medical facility led to termination of her employment. The case documented by REAct shows how destructive stigma is towards PLHIV, even if it concerns PLHIV- health workers.

*Decree of the Government of the Republic of Tajikistan dd April 1, 2008 No. 171 indicates medical workers in the List of specialties and positions in which the use of labor by persons with HIV is not allowed. However, this Decree does not refer to all medical workers, but only to specialists who directly work with blood, as well as to specialists in infectious diseases hospitals and departments where there is a real threat of opportunistic infections (tuberculosis, mycosis, etc.) in HIV-infected workers. In addition, the Decree states that if HIV infection is detected in workers of these specialties, they are subject to transfer to another job, which excludes the risk of HIV transmission to others, or the risk of developing opportunistic infections..*

The new Labor Code of the Republic of Tajikistan, adopted on July 23, 2016, in accordance with the Constitution of the Republic of Tajikistan, defines the foundations of state policy in the field of labor relations, establishes state guarantees of labor rights of citizens and is aimed at ensuring that the legitimate interests of employees, employers and the state are respected. The prohibition of discrimination in labor relations is enshrined in Art. 7 LC of RT. In paragraph 4 of Art. 26 of the Labor Code of the RT, when hiring, a list of documents has been established that must be submitted to the employer, one of which is a document on passing a preliminary medical examination (for persons obliged to undergo such an examination in accordance with the Labor Code and other legislation of the Republic of Tajikistan). The employer does not have the right to demand other documents from the person applying



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<sup>1</sup> Committee on the Elimination of Discrimination against Women. CEDAW / C / TJK / CO / 6. 14 November 2018. Paragraph 40e. Available online:

for work, unless a different procedure is provided for by the legislation of the Republic of Tajikistan – indicated in paragraph 5 of Art. 26 LC RT. Article 165 of the HC RT does not allow dismissal from work, refusal to hire, except for work in the specialty and in positions established by a special list. This list is

established by the Procedure for medical examination in order to detect infection with the human immunodeficiency virus, registration, medical examination of HIV-infected and preventive monitoring of them, approved by PPRT No. 171 of 01.04. 2008 These include healthcare professionals:

- surgeons of all specialties, obstetricians-gynecologists, staff of the blood transfusion service and other specialists directly working with blood;
- staff of infectious diseases hospitals and departments where there is a real threat of opportunistic infections (tuberculosis, mycosis, etc.) among HIV-infected workers. But this document also establishes a list of professions that are subject to compulsory medical examination for the detection of HIV infection upon admission to work and during medical examinations. These include:
  1. Doctors, middle and junior medical personnel of AIDS centers, healthcare institutions, specialized departments and structural units of healthcare facilities engaged in direct examination, diagnosis, treatment, servicing HIV-infected, as well as conducting forensic medical examination and other work with HIV-positive persons, having direct contact with them.
  2. Doctors, middle and junior medical personnel of laboratories that carry out HIV testing of the population and analysis of blood and biological materials obtained from HIV-positive persons.
  3. Medical workers working in healthcare facilities who have direct contact with blood:
    - surgeons of all profiles, nurses;
    - gynecologists, obstetricians;
    - staff of dental, hematology, artificial kidney, blood service institutions, clinical diagnostic and biochemical laboratories.

This Procedure does not affect other specialties and professions..

In 2010, the International Labor Organization adopted the HIV/AIDS Recommendations (200). Also, ILO WHO adopted joint recommendations for health services on HIV/AIDS. The joint ILO-WHO document aims to promote an adequate approach in health services to the HIV/AIDS response, including protecting health workers from the effects of HIV infection in the workplace and creating safe health and decent working conditions for them. At the same time, the effectiveness of the assistance provided should not be reduced, designed to ensure strict observance of the rights and satisfaction of the needs of patients, especially those living with HIV/AIDS..

The joint ILO-WHO recommendation on occupational safety and health draws attention to the fact that building an effective system for occupational health and safety requires the combined efforts of the relevant authorities, employers, workers and their representatives. This system must necessarily be supported by the existence of a health and safe-

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ty program and its implementation. It is also noted that the recognized mechanism of cooperation in this area is the joint commissions on labor protection. Regarding labor safety work, it is recommended that a safe work process that minimizes the risk of transmission of HIV and other bloodborne infections in the workplace be based on standard and uniform precautions, including personal hy-



giene and an infection control program. Employers are obliged to provide all the necessary means and conditions for the prevention of the transmission of HIV infection and other bloodborne infections at the workplace.

LC does not take into account these recommendations. But, despite this, this does not mean that Tajikistan should not comply with labor protection and safety requirements. Tajikistan adopted the ILO Convention on Occupational Safety and Health, 1981 (No. 155) and Convention No. 111 of 1958 on Discrimination in Labor and Occupation, which can also affect labor protection for both PLHIV and those working with them, as well as prevent discrimination against PLHIV in labor relations.

In Art. 4 of the ILO Occupational Safety and Health Convention, 1981 (No. 155), states that each Member, in accordance with national conditions and practices and in consultation with the most representative organizations of employers and workers, develops, implements and periodically reviews a coher-

ent national policy on occupational safety, occupational health and working environment. The purpose of such a policy is to prevent accidents and damage to health arising from, during or associated with work, minimizing, as far as reasonably and practicable, the causes of hazards inherent in the working environment. The problem of regulating compliance with labor protection standards, detecting accidents at the workplace and occupational diseases was also noted in the State Strategy for the Development of the Labor Market until 2020. In particular, as a solution to problems for the future, it indicates the following: “to improve the labor protection system to encourage employers to actively participate in the labor market, it is necessary to develop new approaches in labor protection legislation based on the Interstate standard GOST 12.03.230-2007 and on principles of the ILO Manual on Occupational Safety and Health Management Systems ILO-OSH-2001. In connection with the above, a Concept for a new national OSH system should be developed, including a national OSH program, and

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legislation should be improved based on ILO standards on OSH. In addition, it is necessary to introduce the principles of insurance into the labor protection system and introduce a new type of compulsory social insurance against industrial accidents at the legislative level.

Labor protection and safety in the workplace are regulated by the norms of the Labor Code of the Republic of Tajikistan (chapters 34, 35, 36, 37, 38). According to Part 3 of Art. 333 of the Labor Code of the Republic of Tajikistan at work with especially dangerous working conditions, workers undergo medical examinations before shifts. Employees do not bear the cost of undergoing a medical examination.

With regard to HIV/AIDS, according to the PPRT No. 171 dd 01.04.2008, as amended on 06.08.2014, the above categories of workers are subject to compulsory medical examination for detecting HIV infection upon admission to work and during medical examinations, but it is not indicated, how often are such medical examinations carried out. In cl. 5. Art. 333 of the Labor Code of the Republic of Tajikistan indicates that the list of harmful production factors and works, during the performance of which preliminary and periodic medical examinations of workers are carried out, as well as the procedure and frequency of their conduct, are established by the Government of the Republic of Tajikistan.

In addition to the general norms stipulated in the Labor Code of the Republic of Tajikistan, special norms protecting workers who are at professional risk of contracting HIV infection are enshrined in the Healthcare Code of the Republic of Tajikistan..

*A woman living with HIV was infected by her husband. He died three years ago. She has a child. The child is healthy. Previously she worked as a nurse, but after \*\*\*\* (staff member of the AIDS center) told \*\*\*\* (her coworker) about her disease, she was forced to quit job. Now she works as a volunteer. Now she is thinking about filing a complaint against \*\*\*\* (staff member of the AIDS center), but she is not sure, as the town she lives in is very small and everybody knows each other.*



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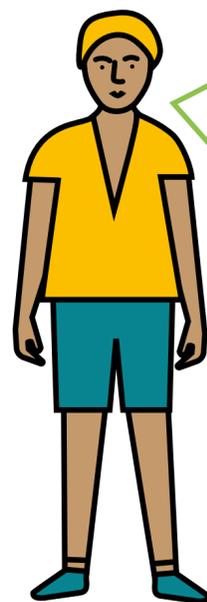
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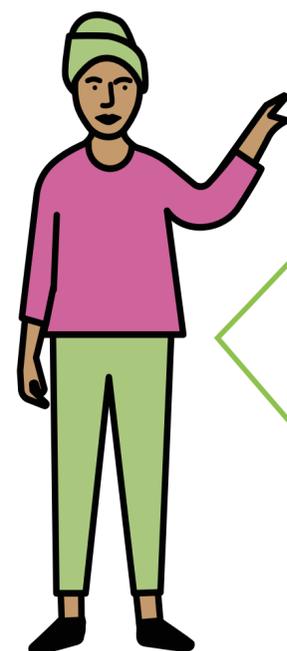
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Article 15 of the Family Code of Tajikistan provides for **compulsory medical examination of persons entering into marriage**. On the basis of this article, citizens of the Republic of Tajikistan, foreign citizens and stateless persons, before marriage, undergo compulsory medical examination free of charge in health-care facilities at the place of residence or permanent residence in accordance with the legislation of the Republic of Tajikistan and are familiarized with the results of compulsory medical examinations of each other. Within the framework of the same article, the same state institutions provide for counseling on a healthy lifestyle, family planning and the effect of disease on the health of the offspring..

This provision is in direct conflict with the requirement to protect health information and creates conditions for discrimination against people living with HIV. REAct recorded two cases, from which it is clear that the provisions of Art. 15 FC in Tajikistan are actively used and negatively affect the rights of people living with HIV.



*A man came from the Russian Federation. He wanted to get married and passed a medical examination for registration of marriage in accordance with Article 15 of the Family Code of the Republic of Tajikistan. He was diagnosed with HIV. The family doctor refused to issue him a certificate for marriage registration. His girlfriend was notified of his health, and she agreed to register the marriage. After that, he turned to the Ministry of Health of the Republic of Tajikistan for assistance in obtaining a certificate from the polyclinic. The Ministry of Health, refusing in writing, recommended that until he is cured of HIV, they will refrain from registering a marriage. The man appealed to the court against the Ministry of Health of the Republic of Tatarstan (...) At the preliminary court session, the side of the Ministry of Health of the Republic of Tatarstan issues a certificate for registration of marriage and the civil case is terminated.*



*The woman is healthy and has no HIV status. Children are healthy. She lives with her husband in a civil marriage. The husband was convicted under another article of the criminal code and is in prison. In order to receive a birth certificate for a child and to see her husband in prison, she needs to register their marriage with the registry office. The husband has HIV status. She applied to the penitentiary institution to register the marriage, but after they had learned about the status of her husband, she was denied. She also applied to the regional registry office, but got another denial. She was notified by her husband about his status and a receipt was written from her at the AIDS Center.*

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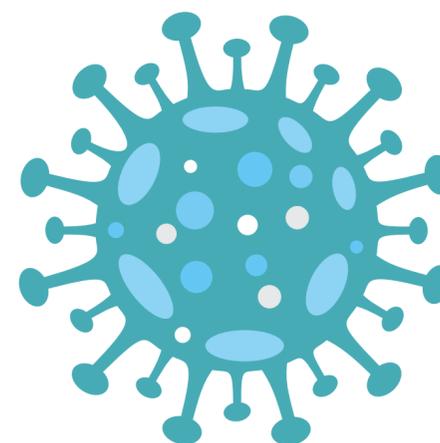
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## INCREASE OF STIGMA DURING COVID-19 PANDEMIC

REAct documented cases **of increased stigma** towards PLHIV **during the pandemic**. Such cases are possibly associated with a lack of awareness of the population about the COVID-19 infection, which may give rise to myths about its connection with HIV infection..

One case was recorded with the participation of **the police**, in which, in addition to the “standard set” (abuse of power, use of force), there is **a new direction of stigma** towards PLHIV, fueled by widespread **myths at the beginning of the pandemic about the relationship between HIV and the new COVID-19 virus**.



*A woman living with HIV was infected by her husband (...). She sells flat bread at a market. Recently, she was called to the regional police department of the \*\*\* region. She is Uzbek and does not know the Tajik language. She was threatened that if she did not tell who she was having sex with, she would be sent to prison for many years. She was beaten on the head, insulted, and mocked at. She was forced to give them her mobile phone and the police officers began to call all her acquaintances and ask if they slept with her, because this woman has HIV, and if they knew about it. They gave her some papers in Tajik and forced her to sign. She did not know what these papers were. (...) And besides, they insulted her and said that **“this Covid virus also came to us because of you.”***



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There was also a case of **aggressive attitude from neighbors** towards PLHIV with symptoms of a cold.

*In mid-June 2020, during a pandemic, I did not feel well for several days, one day my temperature rose. The next day I went to the local doctor, went through an examination and received a prescription. When I returned to the hostel, all the residents of the hostel had already gathered at the front door. And one of the neighbors began to yell at me, forcing me to move out of there. (...) She told other neighbors not to be silent, to kick me out of the hostel. The door at the entrance to the hostel was closed in front of me. This woman began to insult me, she said in a loud voice: **"Not only are you HIV-positive, and you also have a coronavirus, you should not be here and live. Here are the children and I am old, our immunity is weak, and you will infect us."** I have asked so much to open the door for me. They did not open for me, I tried to pull the door, but it did not work. After that, I called the hostel commandant and explained the whole situation. He heard me and arrived after a while. In order to calm down the residents of the hostel, he said that he himself would take me to the local doctor again and so that they would not make noise. After visiting the doctor, he announced to everyone that I did not have a coronavirus, but a common cold. And that they should not make up rumors about me. After all, again, that old lady, neighbor began to bother me. She broke into my room and started waving her arms and yelling at me to get out of there. At first I asked her to leave the room, but she said she would not. I then took her out of the room and bolted the door so that she could no longer enter. Then I called the district doctor and asked her to come and explain everything to all of them, otherwise they do not give me rest. I thank the district doctor, she came and began to explain to them that there was no risk from me. This was the first time I received such an onslaught from my neighbors. And most of all, why did they hurt me for nothing?*



## VIOLATIONS OF RIGHTS BY LAW ENFORCEMENT AGENCIES

REAct recorded 10 cases of direct violation of human rights by law enforcement agencies against PLHIV in connection with the criminalization of HIV transmission.

The reported cases are an example of the consequences of law enforcement taking on HIV prevention issues. The Ministry of Internal Affairs of the Republic of Tajikistan actively uses the Criminal Code against people living with HIV, as one of the tools of the campaign on the fight for morality.

**!** *On November 9, 2018, the UN Committee on the Elimination of Discrimination against Women (CEDOW) issued recommendations to Tajikistan, noting the existence of a number of barriers to access to health care that are leading to the rapid spread of HIV. The Committee highlighted violations of women's rights in connection with the criminalization of HIV and recommended repealing Article 125 of the Criminal Code of the Republic of Tajikistan. Criminalizing HIV increases the vulnerability of people living with HIV to human rights violations. In each case of HIV criminalization, REACT documented several interrelated violations of rights.*

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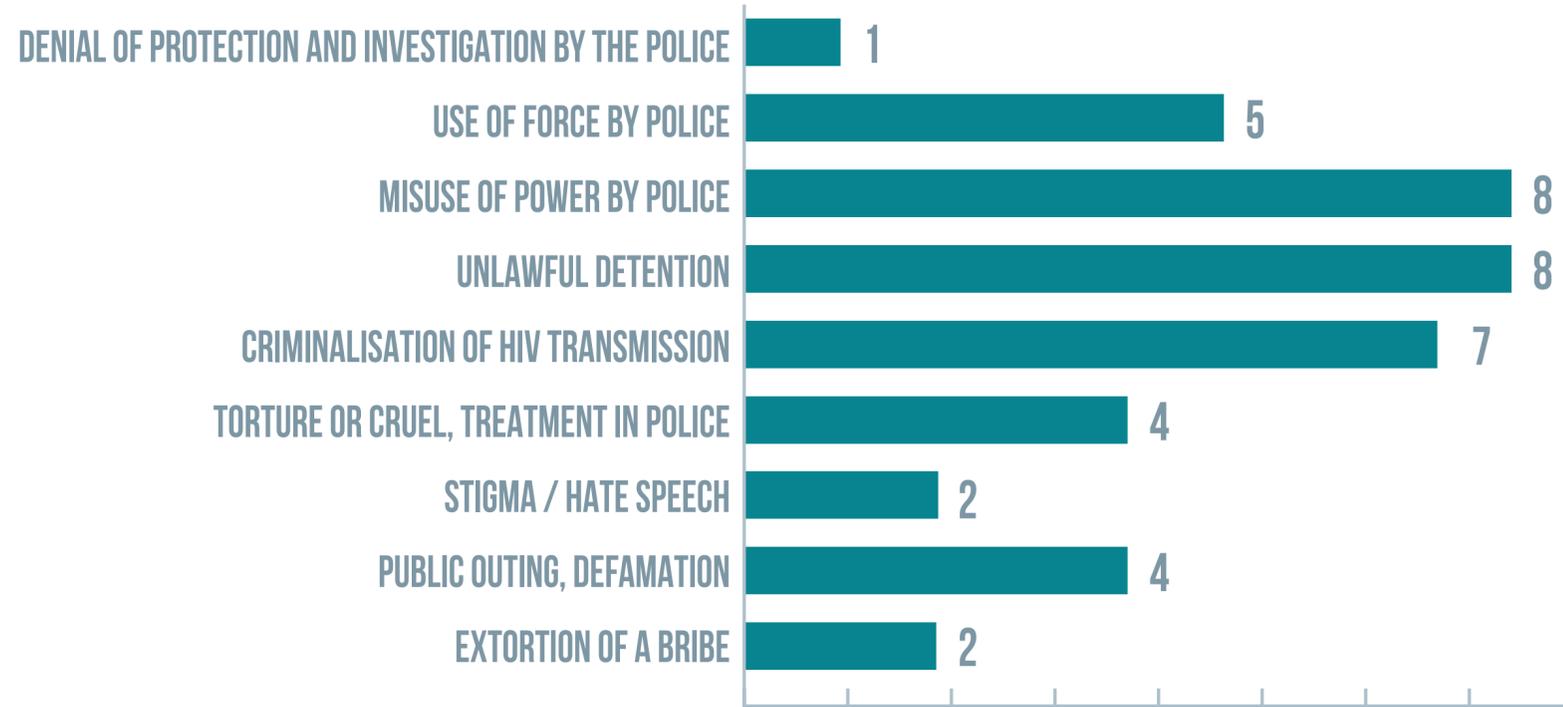
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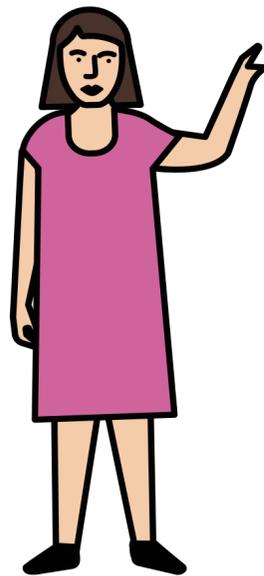
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*Types of violations of PLWH rights by law enforcement staff*



Recorded cases of abuse of power by the police, which reflect the tendency of the police to exploit the vulnerable position of representatives of vulnerable groups against the background of the effect strengthening of several statuses of vulnerable groups – PLHIV, sex worker, people who use drugs.



*In the morning \*\*, \*\*. 2020, when I was on methadone, my roommate called me and started scolding me, like what I had done and why the police were looking for me. I said that I hadn't done anything and I didn't know why the police were looking for me. After the methadone I came home, a couple of hours later four police officers entered my room insolently, without taking off their shoes, and as a criminal, right in front of the neighbors, they took me out. When I started asking what happened and why they behave this way, after all, I didn't do anything, one of them replied: "Shut up and sit in the car in silence, you will find out everything there". When we got into the car, he said: "I warned you that I would get you, so you got caught," I said that he had nothing to claim, since I had not done anything illegal, then he said that he knew where I was and what I did for living (a sex worker), and he wanted me to report to him women who are prostitutes and who have HIV status, I told him that I did not know such women, then he began to threaten me that he would put me in prison for HIV transmission. I told him that I only have one partner and he knows about my status. Then he said that if I did not cooperate with him, he would find a person with HIV status and say that it had been I who had infected him. He told me to think about his offer, otherwise he would do, as he said, and let me go.*

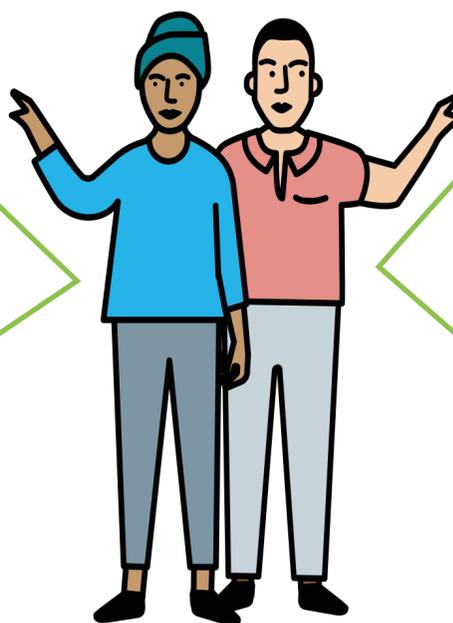
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There have also been recorded cases of the **criminalization of HIV transmission**, when the most likely source of information for the police are medical workers. At the same time, there are no signs of deliberate actions in the actions of PLHIV, which are necessary to initiate a criminal case in connection with infection or putting it at risk of infection.

*My brother is PLHIV since 2019. HIV. He divorced his first wife. At the beginning of \*\*. 2020, he met one woman for further cohabitation. He told her about his HIV status. She agreed and gave a receipt at the AIDS Center that she knew about his status and would not disclose it to anyone. They had an intimate relationship. But three days ago, officers of the district police department of \*\*\*\*\* called my brother and asked why he, knowing about his status, had sex with that woman. The brother was surprised how they could have known that he had HIV, and he had sex with that woman. When the woman was summoned, she told the officers of the Ministry of Internal Affairs that she knew about my brother's status and agreed to marry him. Despite all this, my brother was detained, and a criminal case was opened against him under Article 125 of the Criminal Code of the Republic of Tajikistan.*



Some cases ideally reflect not only the deepest stigma towards PLHIV on the part of health workers and the police, but also the **gross violations of medical ethics**, the cause of which is criminalization. For example, in one of the cases, the lawyer was able to dismiss the case only after the investigator was presented with evidence of an undetectable viral load, as well as evidence of the spouse's knowledge of her husband's HIV status. At the same time, **the source of information for initiating a criminal case was a doctor.**

In one case, one of the manifestations of the criminalization of HIV was recorded, in which criminal prosecution against PLHIV is used more for reasons of revenge on the part of a female partner (victim), and not for health reasons.

*They wanted to charge me under Article 125 Part 1. I myself do not know exactly who filed a claim against me. For four years I lived with one woman, she was my sexual partner. I think everything came from her. That is, the disclosure of the status without my knowledge. She always threatened me that if I left her, she would tell everyone about my status. When the police officers detained me, they kept me for about 4 hours and released me. But they said that at any time they could summon and accuse again under this article.*

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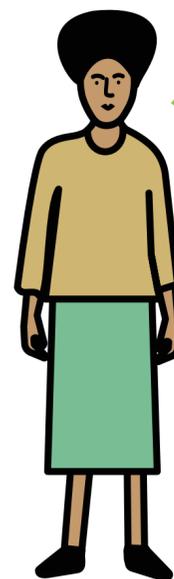
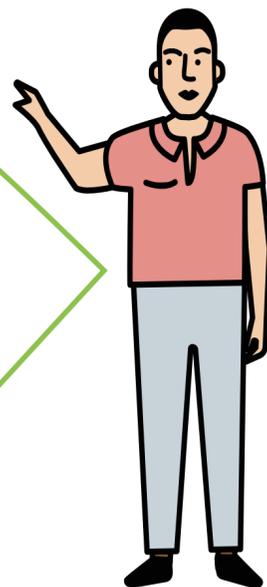
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With regard to PLHIV, cases have been recorded that demonstrate **the most repressive aspects of HIV criminalization.**

*A man living with HIV since \*\*\*\*, found out about his status in prison. His tooth was removed there and after several weeks the doctor came and asked him to get tested for HIV. There was no pre- and post-test counseling. After his release, he met a girl and married in a religious marriage. From his words, he told her about his status. She agreed to marry him. And also, he did not know, was not informed about this disease, and did not consider it serious. As a result, the woman also became infected. But after several years, she has never applied to law enforcement agencies about the infection. The police officers of the Ministry of Internal Affairs found out about his status and began to blackmail his wife that they would put both in for the spread of HIV in prison. They tricked her to take her signature on a blank paper and opened an investigation. The criminal case was initiated on the basis of the report of the police officer of the Ministry of Internal Affairs. The criminal case was initiated under part 2 of article 125 of the Criminal Code of the Republic of Tajikistan for HIV infection - and the punishment is imprisonment from 2 to 5 years. The trial is over, and a 3-year imprisonment was ordered against PLHIV.*



## INHUMANE TREATMENT IN MEDICAL FACILITY

Violations by representatives of the medical system, including AIDS centers, were recorded in 17 cases. In the identified cases, health care workers displayed **stigmatizing attitudes** towards patients with HIV status, or inappropriately performed their duties. Often, the neglect of doctors ended in harm to the patient's health. Lack of awareness of HIV and human rights could be the cause of violations by health workers.

*That day I went to have a general blood test at the local polyclinic. I met an old lady I knew, she was a doctor. I had an appointment card from AIDS center on my hand. She asked what I was doing here, which doctor I would like to see. Then suddenly she took the card from my hands, saying: "What is this?" She saw and understood where the card was issues, looked at me with surprise and contempt from head to toe. She said in a loud voice that I am HIV-positive now. At that moment, several people who were around looked at me so badly. I said to her: "Why are you talking so loudly?" She said: "You have to call the words by their proper names, HIV is called HIV. Why didn't you take care of yourself? There are so many of people like you. Because of people as you, HIV-infected, we still receive separate reprimands. Do you know that it is impossible to live with this for a long time?" I no longer wanted to listen to her prejudices, took my card and ran out of this clinic. I felt so painful in my soul. I am sure that she revealed my status to her doctors she knew. After this incident, now, when I have to be tested, I go early in the morning to be the first. And to the AIDS center I go around 3-4 pm, when there are almost no people, so that I cannot be seen by people who know me.*

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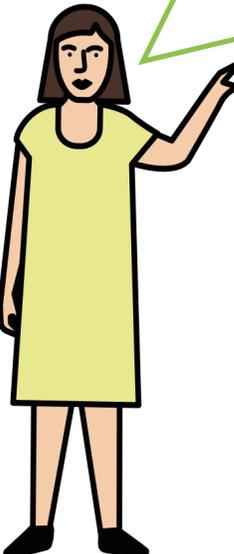
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In some cases, victims are **unwilling to defend their rights** or take additional steps to clarify the causes of violations, which complicates the possibility of fully qualifying the case. Stigma, fear of disclosing HIV status, fear of losing their jobs and loved ones are the reasons why people do not want to take further steps to protect their rights.

There are cases of improved relations with health care workers after the intervention of a social worker.



*During all the necessary diagnostic procedures, the pregnant woman was found to be HIV-positive. But the doctor \*\*\*\* who observed the woman's status did not tell the patient, the woman did not even receive pre- and post-test counseling. The doctor then recommended this woman to give birth by caesarean section. Within 3 months the woman received ARV therapy, and during the therapy the woman noted the negligent attitude of the doctor \*\*\*\* towards her health. During the woman's pregnancy and childbirth, the doctor never visited the maternity ward and did not provide any other assistance - in the form of consultations with doctors or psychological assistance to the patient herself. After giving birth, the woman died, and the child followed her 2 days later. Her husband refused our proposal to apply to the law enforcement agencies for fear of discovery and his status, and the loss of his job.*

*The woman came to the \*\*\* city health center for a scheduled examination and to vaccinate her child. When she saw that the nurse was working without gloves, the woman asked her to put on gloves to protect herself first of all, and the child too. To which the nurse replied that they know their job and that this woman does not meddle in her own business. Then the woman, according to her, was forced to disclose her HIV + status. Having learned about her HIV + status, all the medical staff dramatically changed their attitude towards her and her child. They began to disdain them, the doctor ordered the child's medical record to be separated from other cards.*

*An employee of our organization was at that moment at the Health Center and these doctors began to talk about this woman and her HIV status, not suspecting that she was also a client of our organization. The social worker began talking about the violation of the patient's right to keep confidential information, but the latter did not want to listen to anything. The social worker, having met with the client, gave her advice on not disclosing her HIV status, if there is no direct threat of infection of another person. (...) \*\*.* 2020 The head of the AIDS center and our NGO met with the head of the health center and once again discussed the current situation with the disclosure of HIV status and stigma and discrimination against PLHIV, as well as responsibility under the law. It was also decided to conduct joint efforts of the AIDS Center and NGO "Volunteer" to conduct trainings for the staff of the Health Center.



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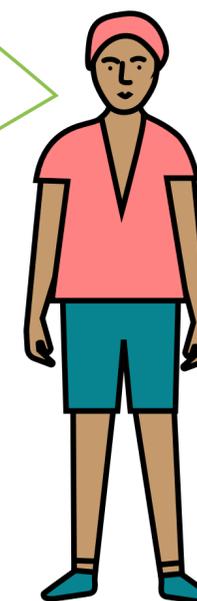
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In one case, the intervention of a social worker allowed not only to resolve the situation, but also to make a decision to conduct training for medical workers by a public organization.

*During the examination, the woman was diagnosed with HIV infection. The patient radically did not accept the confirmed diagnosis and refused further procedures. (...). In accordance with the adopted rules and procedures, the medical institution notified the AIDS Center about the case of HIV infection \*\*\*. In order to register and carry out further procedures for prescribing therapy for the patient, the staff of the center came to the patient's home. It was this visit that became the reason for filing a complaint with the director of the \*\*\* AIDS Center. The patient demanded that the staff of the center be prohibited from coming to her home and accused the staff of the medical facility of disclosing her HIV status.*

*The patient also contacted our organization for consultation. As a result of the meeting with our social worker and the Director of the AIDS Center, there was a softening in her interaction with others and she expressed her willingness to start ART.*



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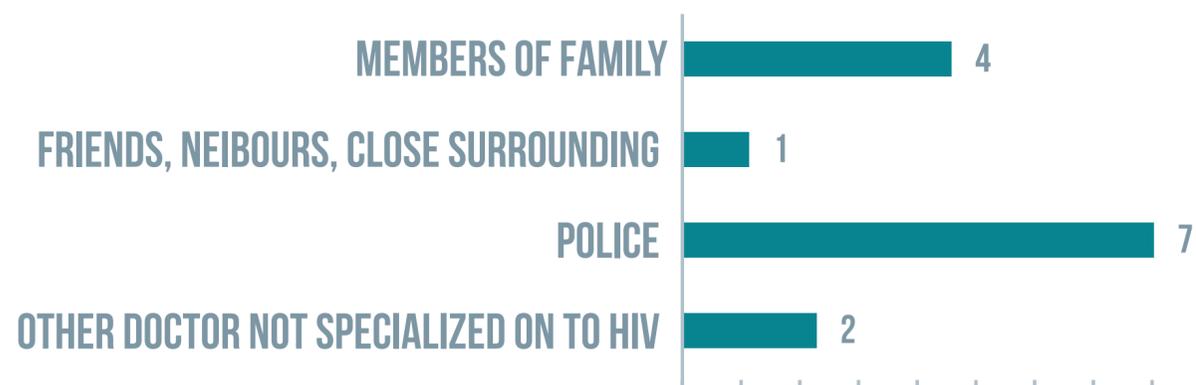
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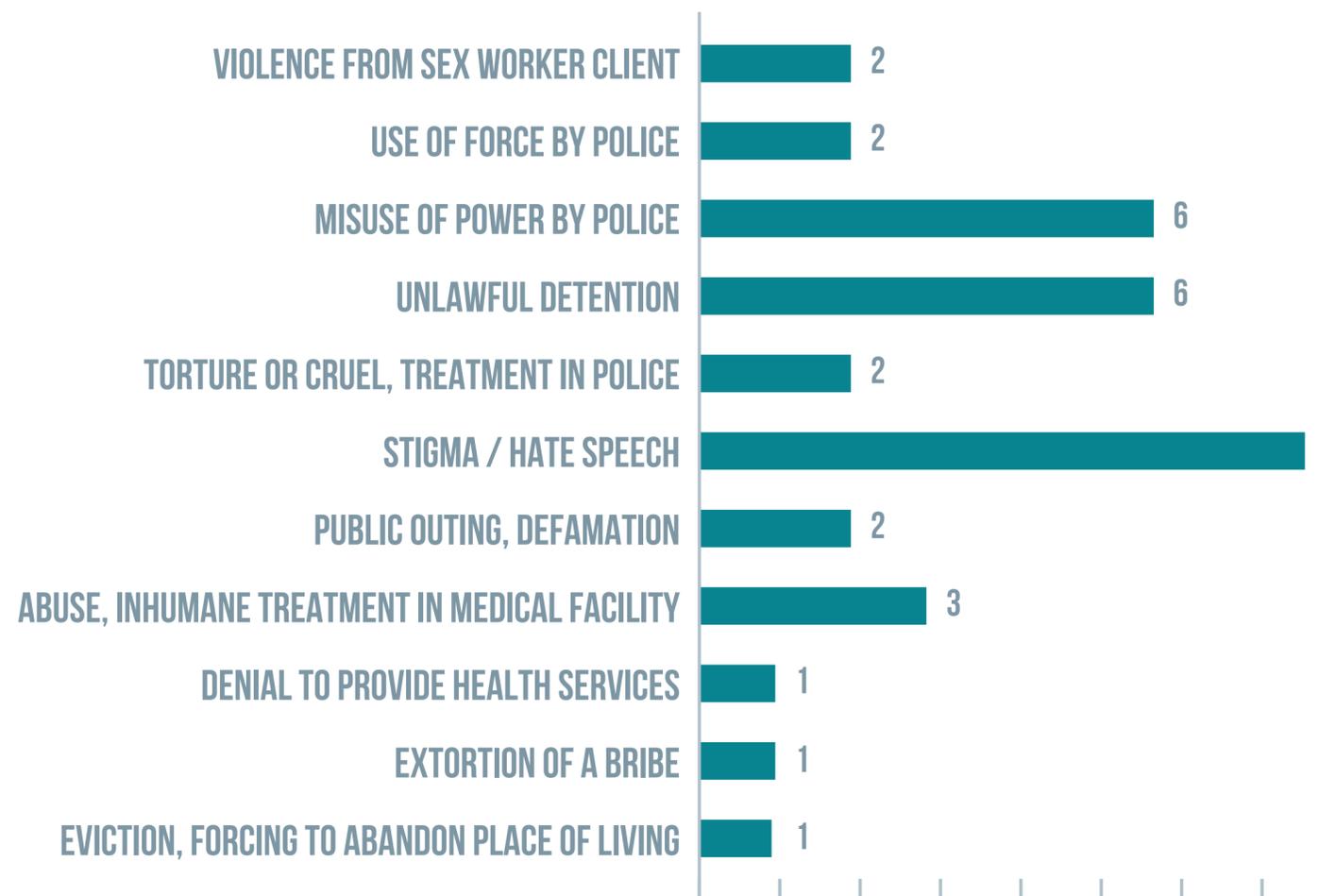
# PEOPLE WHO USE DRUGS

Eighteen cases were recorded, all of them qualified as violations of human rights. Of these, 4 cases were assigned to the PLHIV group, since the victim also represents this key group, and the case concerned the criminalization of HIV transmission or disclosure of HIV status.

*Number of cases of human rights violations of people who use drugs, with breakdown by perpetrators*



*Key types of violations of the rights of people who use drugs (summary table)*



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## ANALYSIS OF LEGISLATION

The Law of the Republic of Tajikistan “On Narcotic Drugs, Psychotropic Substances and Precursors” dated December 10, 1999, No. 873, is the main normative act, which enshrines the strategies of state policy in the field of legal circulation of narcotic drugs, psychotropic substances and precursors, counteraction to their illegal trafficking, prevention of drug addiction and substance abuse, as well as the provision of drug treatment to persons suffering from drug addiction and substance abuse. This Law confirms the adherence of the Republic of Tajikistan to the provisions of the UN international anti-drug conventions (1961, 1971, 1988), which Tajikistan joined in 1995 and 1996. In addition to direct measures to control the circulation of narcotic drugs and psychotropic substances, the Law establishes measures to prevent the illegal consumption of narcotic drugs and psychotropic substances, including the prohibition of the consumption of narcotic drugs and psychotropic substances (Article 15), the

possibility of compulsory medical examination if there are sufficient grounds to believe that a person has committed illegal consumption of narcotic drugs or psychotropic substances (Article 16), dispensary registry (in EECA countries, it is often known as drug registration) after undergoing treatment, as well as the possibility of compulsory treatment (Article 17).<sup>2</sup>

Chapter 26 of the Health Code of the Republic of Tajikistan dd May 30, 2017 No. 1413 regulates the procedure for the provision of medical and social assistance to people who use drugs. In addition to very progressive provisions on the rights of patients, including the right to receive medical care, this chapter enshrines the provisions on compulsory treatment (Article 203), drug treatment (Article 200) and mandatory cooperation of drug treatment institutions with law enforcement agencies (Article 204).<sup>3</sup>

Despite the prohibition on the use of drugs established by the law on drugs, in the Republic of Tajikistan there is no norm on responsibil-

ity for the use of narcotic drugs and psychotropic substances. This rule was abolished in 1998. At the same time, all aspects of the life of people who use drugs are subject to administrative or criminal prohibitions.

The Code of the Republic of Tajikistan on Administrative Offenses provides for administrative liability in the form of a fine for illegal production, manufacture, processing, acquisition, storage, transportation or shipment of narcotic drugs, or psychotropic substances, or their precursors (Article 128 of the Administrative Code of the RT), illegal cultivation of prohibited substances cultivation of narcotic plants (Article 127 of the Administrative Offenses

<sup>2</sup> Law of the Republic of Tajikistan dated December 10, 1999 No. 873 “On narcotic drugs, psychotropic substances and precursors”. Available in Russian, online, website of the National Center for Legislation under the President of the Republic of Tatarstan: <http://ncz.tj/legislation> (Last retrieved 1.09.2020)

<sup>3</sup> Health Code of the Republic of Tajikistan No. 1413 dd May 30, 2017. Available in Russian, online, website of the National Center for Legislation under the President of the Republic of Tajikistan: <http://ncz.tj/legislation> (Last retrieved 1.09.2020)

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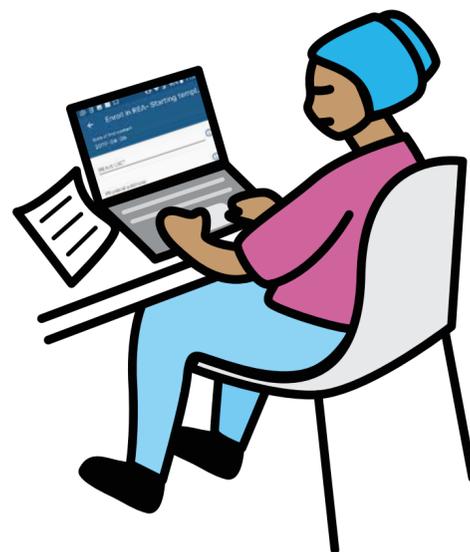
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Code of the Russian Federation), involvement of minors in the use of tobacco products, alcoholic beverages or intoxicating substances (Article 129 of the Administrative Code of the Republic of Tajikistan), promotion of narcotic drugs, psychotropic substances or their precursors (Article 131 of the Administrative Code of the Republic of Tajikistan).<sup>4</sup>

Chapter 22 of the Criminal Code of the Republic of Tajikistan<sup>5</sup> establishes responsibility for the illegal turnover of narcotic drugs or psychotropic substances for the purpose of marketing (Art. 200 of the Criminal Code of the Republic of Tajikistan); illegal handling of narcotic drugs or psychotropic substances (without the purpose of sale) (Article 201 of the Criminal Code of the Republic of Tajikistan), theft of narcotic drugs or psychotropic substances (Article 202 of the Criminal Code of the Republic of Tajikistan); illegal production, manufacture, processing, acquisition, storage, transportation or shipment of precursors (Article 202 (1) of the Criminal Code of the Republic of Tajikistan); theft of precursors (Article 202 (2) of the Criminal Code of the Republic of Tajikistan); involvement in the consumption of narcotic

drugs or psychotropic substances (article 203 of the Criminal Code of the Republic of Tajikistan); illegal cultivation of plants containing narcotic substances prohibited for cultivation (Article 204 of the Criminal Code of the Republic of Tajikistan); organization or maintenance of dens for the consumption of narcotic drugs or psychotropic substances (Article 205 of the Criminal Code of the RT); illegal traffic in potent or poisonous substances for the purpose of marketing (Article 206 of the Criminal Code of the Republic of Tajikistan); violation of the rules for handling narcotic drugs, psychotropic substances or precursors, potent or poisonous substances (Article 206 (1) of the Criminal Code of the Republic of Tajikistan).



The differentiation of administrative and criminal liability for crimes not related to the drug sale is based on the size of narcotic drugs and psychotropic substances. The dimensions are set in Appendix No. 1 to the Criminal Code of the Republic of Tajikistan (List and size of narcotic drugs, psychotropic substances and precursors in illegal trafficking). In comparison with many Eastern European countries (Russia, Ukraine, Belarus), the Republic of Tajikistan has established fairly progressive thresholds for distinguishing between criminal and administrative liability. For example, for heroin, criminal liability is possible if stored more than 0.5 grams, and qualified formulations begin with a size over 10 grams.

<sup>4</sup> Code of the Republic of Tajikistan on Administrative Offenses of December 31, 2008 No. 12. Available in Russian, online, website of the National Center for Legislation under the President of the Republic of Tajikistan: <http://ncz.tj/legislation> (Last retrieved 1.09.2020)

<sup>5</sup> Criminal Code of the Republic of Tajikistan No. 574 of May 21, 1998 Available in Russian, online, website of the National Center for Legislation under the President of the Republic of Tajikistan: <http://ncz.tj/legislation> (Last retrieved 1.09.2020)

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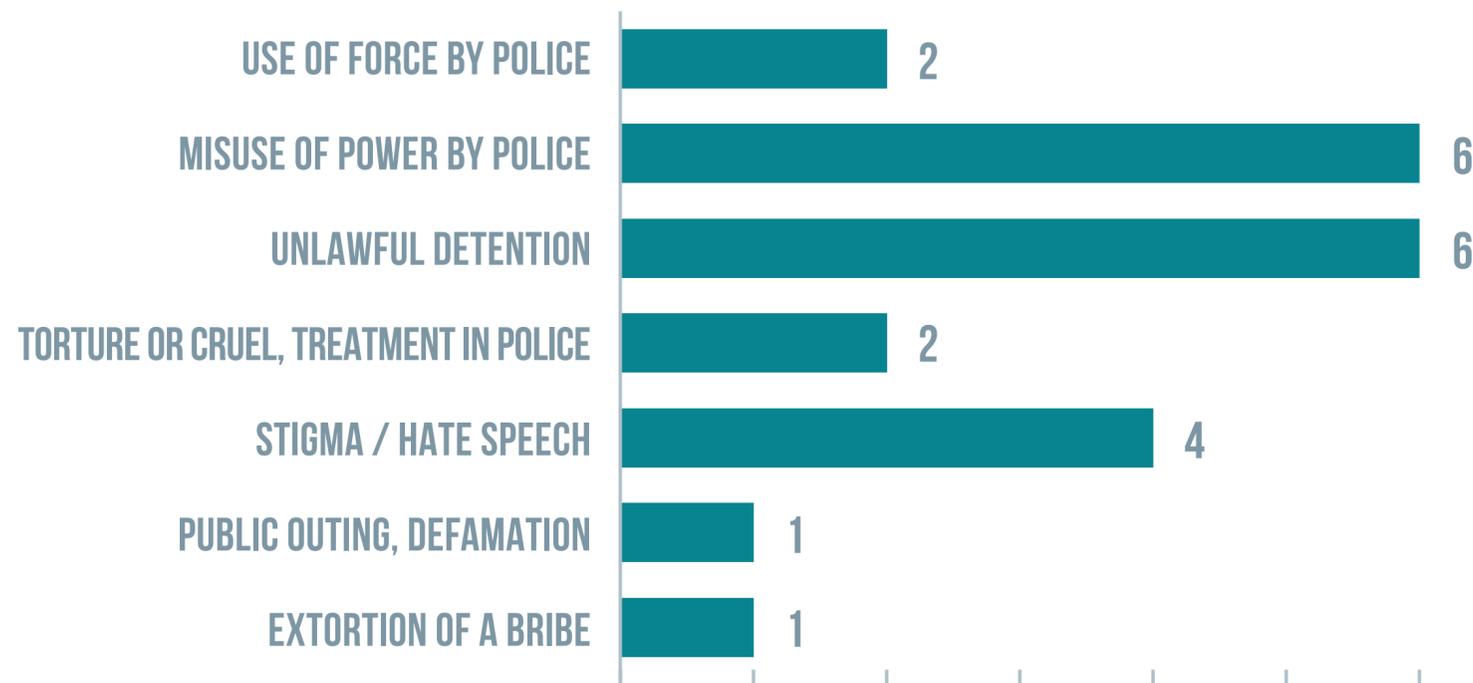
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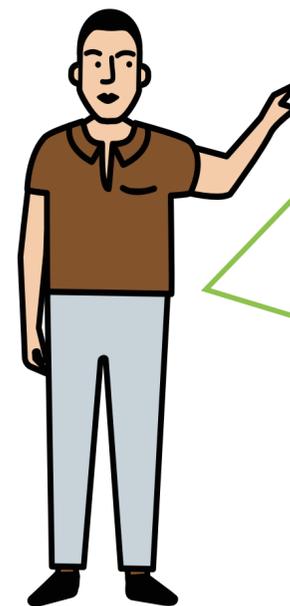
## ARBITRARY DETENTION BY LAW ENFORCEMENT AGENCIES

Types of violations of rights of people who use drugs by law enforcement staff



Human rights violations by the police were recorded in 7 cases. Examples of direct violations among the police are **extortion, arbitrary detention, threats of criminal prosecution**, including against representatives of the most vulnerable groups who turn to the police for help, verbal insults, and the use of physical force.

For people who use drugs, the most common violations are **arbitrary detention and the use of physical force**.



Two years ago, right in front of the OST website, without showing their ID and without explaining why, my brother and I were detained by the police officers. After being held in the city police department for 4-5 hours, discriminated and yelled at in every possible way, we were told that somewhere there was a theft because of this we were detained. They took our fingerprints, and after that they also changed their version to the fact that me and my brother have a beard larger than allowed. Due to the fact that we are drug users, they do this to us: they catch us right in front of the OST website and take us to the police station.

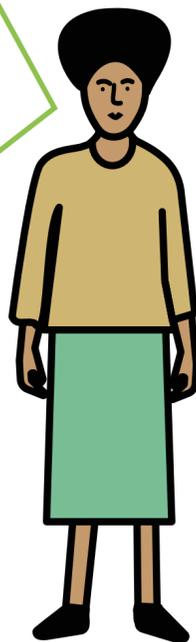
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Representatives of vulnerable groups are subject to arbitrary action by the police due to the expanded powers of the police **to check registration at the place of residence.**

*\*\*.\*. 2020, district inspectors broke into us without any justification. They began without explanation to make the shake-down in the apartment where we were. I was in the apartment together with my husband, our small child, the owner of the apartment and two of our friends. Then they forced everyone to provide their passports, like they have a passport regime. They took the passports of everyone except me. Then they accused the owner of the apartment of illegally renting out the apartment, no matter how long we explained that we were renovating our apartment and temporarily we were living with him, we were visiting, the district inspectors did not take us into account. When they found out that the landlord was in the OST program, and he had a criminal record, they started bullying (they called us different bad names, in every possible way, using swear words). The landlord was fined by 290 somoni. He paid, presented the receipt to the district inspector, then took the passport, but so far no one was returned the passport to.*



## STIGMA AND DOMESTIC VIOLENCE

Five cases of domestic violence and stigmatising attitudes from relatives were registered. Often it happens because of the unfavorable atmosphere in the family that a person finds her/himself on the street and begins to use drugs.

*My mother has been living with one man for a while. We always fought with him, he beat me, kicked me out of the house. Mom was scolded and beaten because I was just her son. I was often left homeless. Dangled through the streets, made friends with some guys, started using drugs. (...) The scandal broke out, he quarreled with my mother and started beating her. When I began to defend her, he attacked me and began to insult and shout out loud: "You are the fucking addict, nobody needs you, who are you at all, you are a just drug addict. I achieved my goal, I wanted you to become a drug addict, and it happened as I wanted and then I wanted to live with your mother. You're outsider, you have to die, you bastard. Junkhead, this time I will make you get killed." Suddenly, unexpectedly from behind, he hit me in the head (...). Then my mother asked me to leave the house, and my stepfather yelled at the top of his voice, (...) The neighbors looked in surprise, because of our scandal everyone went out into the yard. Dishes and a glass flew out of the window from the second floor. It's good that nobody got hit. After that, I rarely come home. I find out when my stepfather is not at home, and then I visit my mother.*



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# SEX WORKERS

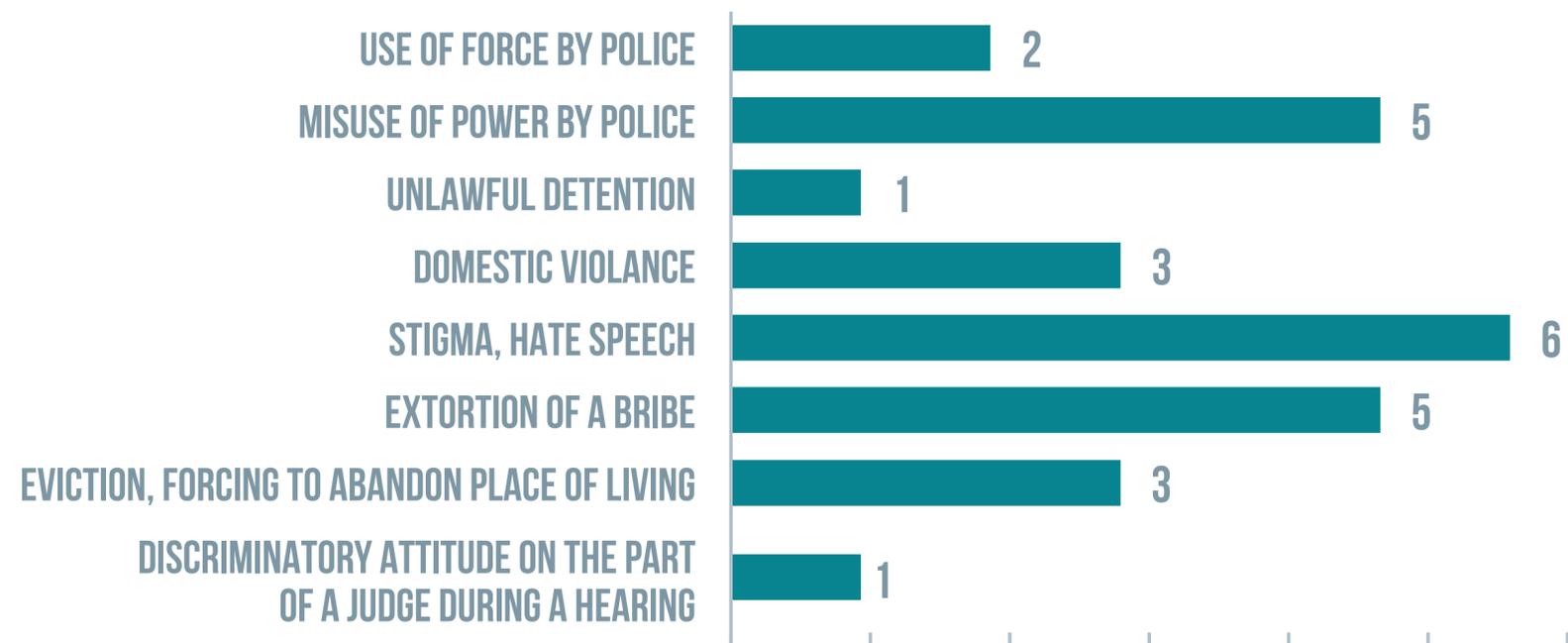
There are 15 registered cases in which the victim is also a sex worker. All cases were qualified as human rights violations. Out of 15 cases, 7 were attributed to statistics for another key group, which is also represented by the client, and to which the type of violation of rights is more related.



Number of cases with breakdown by perpetrator



Types of human rights violations in this group (aggregate table)



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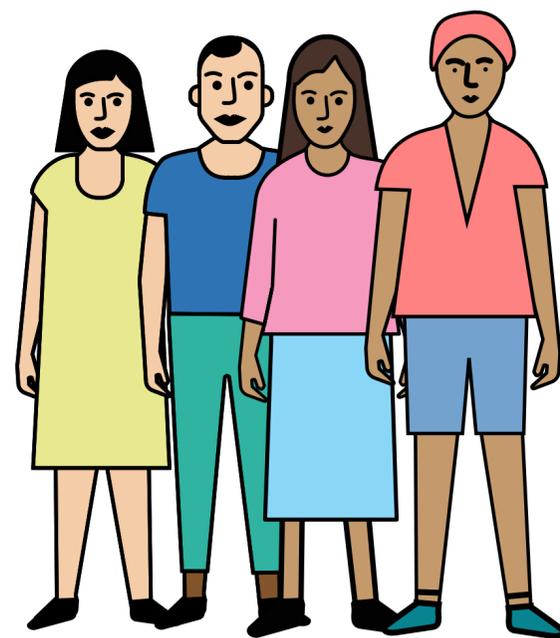
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## ANALYSIS OF NATIONAL LEGISLATION

Sex work is under a direct ban on the basis of Article 130 of the Administrative Code of the Republic of Tajikistan, under the threat of an administrative fine. In addition, sex workers are vulnerable to accusations of involving a minor in committing antisocial acts (Article 16<sup>6</sup> of the Criminal Code of the Republic of Tajikistan), involvement in prostitution (Article 238 of the Criminal Code of the Republic of Tajikistan), organizing or maintaining dens, procuring or pimping (Article 239 of the Criminal Code of the Republic of Tajikistan).

In 2018, the UN Committee on the Elimination of Discrimination against Women raised concerns about reports of discrimination against women involved in sex work, including in access to services provided by nongovernmental organizations that run HIV and sexually transmitted infection prevention programs. It was noted that women are subjected to discrimination, intimidation, harassment, extortion and bribery, forced testing for HIV and sexually transmitted infections, arbitrary detention and physical violence by the police.



<sup>6</sup> Committee on the Elimination of Discrimination against Women. CEDAW / C / TJK / CO / 6. 14 November 2018. paragraph 29. Available online:

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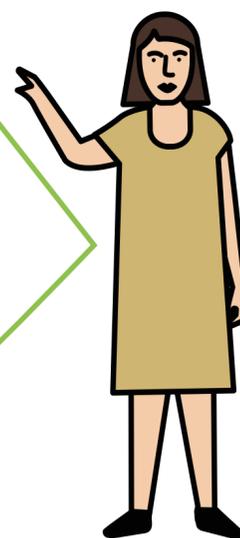
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## VIOLATION OF RIGHTS OF SEX WORKERS BY LAW ENFORCEMENT AGENCIES

Five cases were registered where law enforcement officers were the perpetrators. **Threats, harassment, extortion of money and the use of physical force** are the most common violations against sex workers.

*I agreed to meet with the client at the apartment I rent. The client came, as we agreed, (...) suddenly we heard someone knocking loudly on the door (...). There were two men in civilian clothes, they said that they were from police and that a complaint had been made against me that I had arranged debauchery and a brothel in my apartment. They impudently entered the room and began to look everywhere. To my surprise, the client was not there, as I later found out when he heard that the police had jumped off the balcony and ran away, and I lived on the second floor. When they did not find anyone, they told me to get ready, and that I would go with them to the office, I began to be indignant that they did not have the right to enter so impudently and look at everything, then one of them hit me and began to threaten that people like me have no place in society, I started to quarrel with him, said that I would write a complaint against him to the prosecutor's office for hitting me, then he grabbed me by the throat and began to threaten that I would not achieve anything, and he would do everything to punish me, because there are complaints from neighbors. I cried, then the second officer pulled him away from me. He took me to the kitchen and told me to calm down and that his colleague is very angry and if I do not want problems, it is better to do as he said. Then he suggested that if I do not want to go with them, then I can pay off right now, and they will leave. I said that they had no evidence, then he said that it was no problem to arrange them. I said that I had only 200 soms, which I set aside to pay for the apartment, I gave them away, and they left. Before leaving, the one who hit me threatened me and said that he would still do as he wanted. After they left, I had to change the apartment, as I did not want problems.*



The REAct did not document a single case in which a victim (a sex worker, for example) turned to police officers for protection because of domestic violence or violence from clients. According to information from national experts, the reason for this may be mistrust of the representatives of law enforcement agencies.

Representatives of vulnerable groups often avoid contact with them. Also, representatives of vulnerable groups do not apply to higher authorities or to the court in cases of violations of rights by law enforcement agencies. Threats of such appeals are possible in order to somehow stop the pressure and use of force by the police.

However, as a rule, the case does not reach complaints or even more so to court proceedings..

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# MSM and Transgenders

Only one case from MSM was registered, which may be due to the closed nature of the LGBT community in Tajikistan, including due to the fear of openly asserting their rights. For the first half of the year, not a single LGBT organization took part in the project, but from August 2020 it is planned to involve one in documenting cases.

Representatives of the LGBT community are subject to widespread discrimination based on sexual orientation and gender identity. In 2019, the UN Human Rights Committee expressed concern about this, including in relation to homophobic and transphobic rhetoric of govern-

ment officials, violence and harassment, including arbitrary arrest, detention and extortion by law enforcement officials. Law enforcement agencies conduct special operations “Morality” and “Cleanup” to identify and register representatives of the LGBT community<sup>7</sup>. The Ombudsman and a number of medical professionals expressed disagreement with the Committee’s remarks, referring to the country’s norms of morality and ethics of relations between people.<sup>8</sup>

In the only recorded case, a stigmatised attitude from a judge during a hearing towards MSM was described.

*MSM got to know certain man over the phone. Then they met and spent the night together. All intimate relationships this man recorded on the phone. In the morning, MSM discovered a theft from his home (...). He applied to law enforcement agencies, and a criminal case was initiated under the articles of “theft”, “extortion”. At the trial, MSM was not interviewed as a victim. During the preliminary investigation and trial, the return of material evidence to the victim (personal valuables), as well as an intimate video from the perpetrator’s phone, were not taken into account. (...) The lawyer has drawn up a statement addressed to the chairman of the court on the return of material evidence to the victim, as well as on the destruction of the defaming video.*



<sup>7</sup> Human Rights Committee. Concluding observations on the third periodic report of Tajikistan. CCPR / C / TJK / CO / 3. 08/22/2019. Paragraphs 15.16. Available online: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhstnmplSElbn%2bRnI3Df%2bMS62Ddwef9ujHXzqtW1VP52gDwO3l661HhKqCb3C3u87JwxHDQqTOEcdU72bT9XclGGJkQi3wjXZ87iNRcMV3axZK> Last retrieved 2.09.2020.

<sup>8</sup> Ombudsman: Tajikistan rejected recommendations on the rights of sex minorities. Radio Liberty, Tajikistan. January 31, 2019. Available online: <https://rus.ozodi.org/a/29744170.html> Last accessed September 2, 2020: <https://rus.ozodi.org/a/29744170.html> Last retrieved Sep 2nd 2020.

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# Women

Women from vulnerable groups are subjected to various forms of discrimination, including violence, forced testing for HIV/AIDS and sexually transmitted infections, arbitrary detention and abuse by law enforcement, and the disclosure of confidential information by health care providers . Women who use drugs experience stigma from family members, but at the same time they often cannot seek drug addiction treatment due to fear of deprivation of parental rights, on the basis of Art. 69 of the Family Code of the Republic of Tajikistan . Women involved in sex work are most under pressure from law enforcement,

who organize morale raids. Violations of the rights of women involved in sex work often go unreported because women choose to refrain from disclosing their work. Women living with HIV suffer more from HIV criminalization than men, since the decision to use a condom during sexual intercourse is mainly made by a man, but often HIV infection is diagnosed earlier in women due to pregnancy or marriage on the basis of Art. 15 of the Family Code of the Republic of Tajikistan, which increases the risk of accusing women of immoral behavior and HIV infection of a partner.



9 Committee on the Elimination of Discrimination against Women. CEDAW / C / TJK / CO / 6. 14 November 2018. paragraph 29. Available online: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/TJK/CO/6&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/TJK/CO/6&Lang=En) (Last retrieved on 01.09.2020).

10 Family Code of the Republic of Tajikistan dd November 13, 1998 No. 682. Available online: <http://ncz.tj/legislation> (Last retrieved 2.09.2020).

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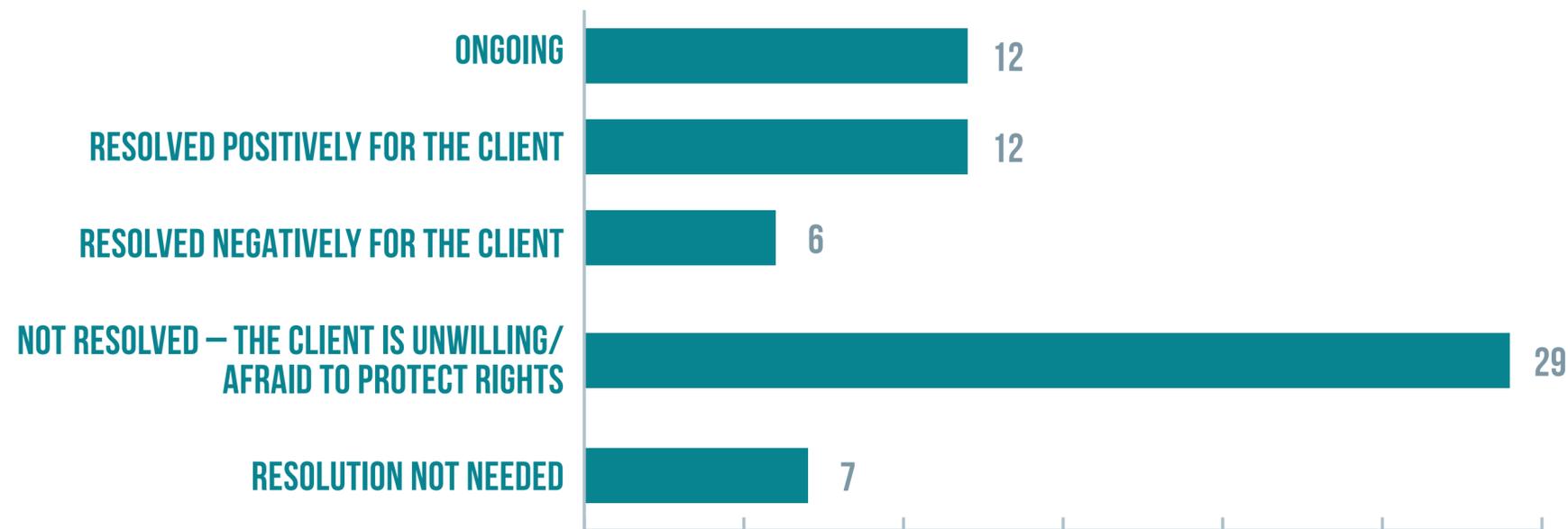
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# RESPONSE TO HUMAN RIGHTS VIOLATIONS

*Resolution status (response to violation, assistance to a victim) of the registered cases*



Based on this information, following the results of six months of REAct's work, it can be concluded that the system for documenting the most systematic and serious human rights violations against representatives of key groups has been successfully launched.

In several cases, REAct has shown signs of building a system of successful response to

cases of human rights violations through mediation and filing complaints with the authorities about perpetrators.

The REActors are representatives of key populations, and previously under the #SoS\_project they received trainings on human rights. Not all of them are lawyers, but they know enough about human rights and their violations.

If a violation is detected, the REActor provides consultations and psychological assistance. In cases when more professional legal assistance is required (for example, drafting a claim, accompanying to state and government agencies, or initiating a criminal case), the client is referred to the "Center for Human Rights". REActors also have a list of public organizations, as well as contacts of Legal Aid Centers that provide free legal aid. If you need representation in a civil case, there is the possibility of participation of a lawyer, as well as a REActor in civil proceedings by power of attorney.

But, unfortunately, not all clients agree to follow through with their cases. This is due to the fact that they are afraid of disclosing their status, pressure from government agencies or condemnation from neighbors and relatives. In addition, many clients claim that they have no more trust to government and law enforcement agencies due to negative experiences with them in the past.

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# CONCLUSIONS

The cases documented in the first six months of REAct work in Tajikistan with signs of violations of the rights of representatives of key groups indicate, first of all, that representatives of PLHIV, SW, PWUD are subjected to the most massive violations of their rights, both by the police and medical workers, and by relatives. The most likely reason for violations are discriminatory laws that place people from key populations under direct criminal prohibitions and give law enforcement and health care providers a broad mandate for abuse. Society also sees criminalization laws as the justification for government-promoted stigma against key populations.

The cases documented by REAct show that the presence of multiple statuses of the vulnerable group can increase the discriminatory effect. Such cases include people with simultaneous status of PLHIV and PWUD/

SW, or increased discrimination in connection with HIV against the background of internal and external migration, usually when migrating to Russia and returning back.

Police officers and medical workers act as rights violators in most cases against representatives of all key groups.

REACT indicates two features of violations in Tajikistan:

- Widespread use of Part 1 of Art. 125 of the Criminal Code of the Republic of Tajikistan on the criminalization of PLHIV
- A clear link between arbitrary police actions and HIV stigma, which is reinforced by PLHIV belonging to other key groups.

At the same time, REAct did not record a single case of violation of the rights of people

who use drugs in connection with criminal prosecutions for crimes related to drug trafficking, including cases of cruel treatment of drug users in the police, cases of procedural violations in drug cases. The most likely reason for the absence of such cases is the loss of contact with clients after being detained by the police and the inaccessibility of clients during their stay in custody.

No cases of violation of rights were recorded in relation to sex workers in connection with their prosecution for sex work. There were no recorded cases of violence or hatred based on sexual orientation and gender identity (SOGI). This may be due to insufficient sensitivity of REAct, insufficient communication with organizations supporting LGBT and SWs. As a result, REAct does not yet provide a complete picture of human rights violations against key groups..

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## STRATEGIC STEPS FOR THE FUTURE FOR REACT

In the near future, REAct work in documenting human rights violations in Tajikistan, as well as in promotion, protection, advocacy and development of a strategic partnership for the protection of human rights, could be developed in the following areas:

- ➔ Raising awareness of representatives of key groups about their rights and the most effective ways to protect them, using examples of successful protection, including successful cases recorded by REAct, so that people understand a) the existence of such cases b) the need to work on such cases c) the opportunity working on such cases by specific means, including informing a wide range of stakeholders in order to ensure that there is a wide network of support for victims and intolerance of such cases on the part of society at large.
- ➔ Increasing the sensitivity of REAct to violations of the rights of key groups through additional trainings for REActors on the most common violations of the rights of representatives of key groups, with a special focus on SOGI, the right to protection from abuse, the right to a fair trial.
- ➔ Development and implementation of short-term and long-term plans for the development of partnerships with human rights defenders, community organizations, the media, other partners, in order to educate the police, doctors, develop social advertising to reduce stigma towards representatives of key groups.
- ➔ Involvement of former or current police officers, medical workers to participate in the planning and implementation of the most effective actions in the above areas.
- ➔ Building communication with the legal profession system for successful work with detained representatives of key groups.
- ➔ Engaging lawyers to work together to raise awareness of the rights and needs of people living with or vulnerable to HIV.
- ➔ Involvement of the Ombudsman's office in the dialogue on the results of REAct work, including individual cases with the consent of clients.

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# RECOMMENDATIONS

## FOR NATIONAL AUTHORITIES ON FULFILLMENT OF THEIR RESPONSIBILITIES IN HUMAN RIGHTS FIELD

- ➔ 1. To implement the recommendation of the UN Committee on the Elimination of Discrimination against Women, decriminalize HIV transmission (art.125 of the Criminal Code) and repeal government decrees of September 25, 2018 and October 1, 2004 prohibiting HIV-infected women from obtaining a medical degree, adopting a child or being legal guardian.<sup>11</sup>
- ➔ 2. To take into account and promote the recommendations of the UN human rights treaty bodies, to improve the situation of key groups, including the recommendations of the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee against Torture, and the Committee on the Elimination of Discrimination against Women. In particular, based on the recommendations given to Tajikistan, it is possible to develop information sessions/booklets/materials for the Ombudsman's office, police, medical workers.
- ➔ 3. To include modules on the rights of key populations in training / retraining / continuing education programs for health workers in the structure of the medical ethics course, as well as in the structure of classes in deontology.
- ➔ 4. To promote dialogue with public health officials on how to improve the effectiveness of the HIV and TB treatment cascade by removing legal barriers to access to diagnosis, treatment and care for key populations.
- ➔ 5. To develop cooperation with major donors and programs on HIV and TB to incorporate REAct in the monitoring and evaluation system of the impact of violations / protection of the rights of key populations on health indicators.
- ➔ 6. To develop cooperation with government agencies to implement the results of REAct work in the process of reforming national legislation and law enforcement practice.

<sup>11</sup> Concluding observations on the sixth periodic report of Tajikistan. CEDAW / C / TJK / CO / 6. 2018. Paragraph 40 (e).

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