

LAW
on prevention and control of HIV/AIDS

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Parliament adopts the present law.

TITLE 1: General Provisions

Article 1: Scope and purpose of the law

- 1) The purpose of the present law is to provide an effective framework of legal relations regarding HIV/AIDS infection aimed at decreasing vulnerability to infection, by stopping the exponential growth of HIV/AIDS and reducing its impact by ensuring with medical, social, psychological care people living with HIV and their family members; by guaranteeing respecting their rights; as well as sustaining prevention and control efforts over this infection.
- 2) The present law has the following objectives:
 - a) promotion of complex policies aimed at uniting the efforts of governmental, non governmental and international institutions, of PLHIV, of private entrepreneurs and individuals, as well as the application of a monitoring and evaluation system of prevention activities in the field of HIV/AIDS;
 - b) application of prevention measures as part of a response system on the epidemic, based on informational activities for population (including groups at risk), directed towards increasing the level of knowledge of problems pertaining to HIV/AIDS;
 - c) exclude discrimination of people affected by the HIV/AIDS epidemic, guarantee respect for human rights in this context;
 - d) development and improvement of programmes pertaining to child protection with the implementation of the educational system based on differentiated programmes, promotion of a healthy lifestyle, including a no-drugs lifestyle, HIV/AIDS prevention measures, as well as informing on problems of protection measures for HIV prevention, by stopping the phenomenon of becoming orphan as a result of AIDS caused death of one parent or both;
 - e) ensure guaranteed access to medical and social care of PLHIV, including treatment, care and support;
 - f) ensure safe conditions for provision of medical care, laboratory diagnosis, prevention of the risk of nosocomial and professional transmission.

Article 2: Legal framework

- (1) The legislation pertaining to the field of HIV/AIDS prevention includes the Constitution, the present law, other normative acts, as well as other international agreements and treaties to which the Republic of Moldova is signatory;
- (2) If the treaty or international agreement to which the Republic of Moldova is signatory establishes norms different than those of the present law, the former shall apply.

Article 3: Definitions

For the purposes of the present law the following definitions shall apply:

- *HIV* – Human Immunodeficiency Virus, which leads to the reduction and destruction of the immune system and provokes AIDS.
- *HIV-positive status* – the presence of HIV markers in the human body, which testify the infection.
- *AIDS (Acquired Immune Deficiency Syndrome)* – disease stage determined by HIV.
- *ARV treatment* - antiretroviral drugs that slow down the replication and, therefore, the spread of the virus within the body.
- *Post Exposure Prophylaxis (PEP)* - short-term antiretroviral treatment to reduce the likelihood of HIV infection after potential exposure, in professional services or through forced sexual intercourse/ in case of a rape.
- *Voluntary counselling and testing (VCT)* – Includes both pre-testing and post-testing counseling, including counselling aiming at forming an informed consent to voluntary testing for HIV markers.
- *Confidentiality* - protecting and upholding the right to privacy of an individual who undergoes HIV testing or is diagnosed to have HIV;
- *Country Coordinating Mechanism of national programmes on prevention and control of HIV/AIDS, sexually transmitted infections and control of TB* – functional intersectoral body which ensures the direction and monitoring of strategies and activities of national programmes on prevention and control of HIV/AIDS, sexually transmitted infections and control of TB and grants of the Global Fund to combat AIDS, TB and Malaria, World Bank;
- *Universal standards of precaution* – rules which foresee mandatory conditions to prevent infection with HIV virus through blood exposure and other biologic liquids for medical assistance and other services;
- *Substitution treatment* – therapy using methadone maintenance treatment;
- *Palliative assistance* – actions which combine a set of measures and treatments aimed at improving the quality of life of people living with HIV/AIDS;
- *Nosocomial infection* – contracting the HIV-virus through interventions and medical instruments.

TITLE II: PREVENTION FRAMEWORK

Article 4: Framework of strategic prevention measures of HIV/AIDS infection

- (1) The framework of HIV/AIDS prevention measures is established based on the provisions of the current law, other normative acts based on the latter, as well as international treaties which Moldova is signatory;
- (2) The HIV/AIDS prevention and control programmes are integrated in the national development plan;
- (3) It is mandatory to promote greater involvement of PLHIV and NGOs from the field in the elaboration and implementation of National plan for prevention and control of HIV/AIDS infection and related programs, among which are training programs oriented towards prevention, treatment and care, legal and social assistance, including employment policies.
- (4) Raising public opinion awareness at national level, through extensive information, education and communication activities, mass media campaigns aimed at promoting safe lifestyles, health-seeking behaviour, non-discrimination, gender equality and compassion;
- (5) Education institutions will be ensured with informational materials regarding HIV transmission and promotion of non discriminatory and tolerant attitude towards PLHIV.

Article 5: Education for HIV/AIDS prevention

- (1) The State is responsible, at national level, for the elaboration and implementation of educational programmes aimed at informing and educating children starting with 12 years old,

teenagers and youth about safe and responsible behaviours.

(2) HIV/AIDS prevention shall be mandatory incorporated in the life-skills based education course included in school, professional schools, university and post-university curricula, during official and less official education activities among institutionalized youth, youth with mental and physical disabilities, members of armed forces.

(3) Training and promotion of activities related to HIV/AIDS safe and responsible behaviour, ensuring with informational materials the children outside educational institutions, is carried out in Youth Centers, Children Centers and other social oriented institutions.

(4) It is compulsory for the Ministries and other central and local administrative authorities to develop and implement activities involving population, mass media resources, associations and other organizations for participation in education and information dissemination programmes about HIV/AIDS as part of medical assistance services, at the workplace and at home.

(5) Education programmes are based on the principle of non discrimination, promotion of tolerance towards PLHIV, respecting and guaranteeing their rights.

Title III PREVENTION AMONG GROUPS AT RISK

Article 6: Family, children, youth and HIV/AIDS infection

- 1) Children benefit of counselling adapted to their special needs. All confidentiality principles active for adults will be respected.
- 2) Children and youth affected by HIV/AIDS shall benefit of equal rights as their peers, benefiting of access to educational and HIV/AIDS prevention programmes, social assistance and legal protection, as well as care and treatment, which they require as a result of their status.
- 3) Children and youth affected by HIV/AIDS from medical, social, education and penitentiary institutions can not be discriminated with regards to their status.
- 4) Children and youth affected by HIV/AIDS, victims of human trafficking or sexual exploitation, are treated accordingly.
- 5) HIV positive women benefit of free contraception methods, including voluntary sterilization based on informed consent subsequent to thorough counselling.

Article 7: HIV/AIDS prevention among injecting drug users

- (1) Ministries and other involved central administrative authorities, decentralized public sanitary services elaborate educational, medical and social programs for injecting drug users, aimed at reducing drug consumption, promoting HIV/AIDS prevention among IDUs and informing about the availability of voluntary confidential substitution treatment.
- (2) Ministries and other involved central administrative authorities, local public administrative authorities, decentralized public sanitary services implement educational, medical and social programs for injecting drug users, covering a large geographic territory with these programs, as well as ensure greater accessibility to prevention materials.
- (3) Harm reduction programs include education, prevention, awareness raising and counselling activities.
- (4) Substitution therapy employing methadone maintenance treatment is to be offered on voluntary and confidential basis to all persons asking for such treatment meeting the established selection criteria.

Article 8: HIV/AIDS prevention among armed forces

The Ministry of Defense, Ministry of Interior, Border Guard Troops Department shall develop and implement efficient HIV/AIDS prevention programmes through promoting safe and responsible behaviours, shall develop minimal knowledge standards and incorporate such awareness and prevention programmes in the regular staff military training.

Article 9: Prevention activities in penitentiary institutions

The Ministry of Justice ensures:

- a) education and training of staff and inmates, with the purpose to develop skills and knowledge on HIV/AIDS prevention, safe and responsible behaviors, pre and post voluntary testing, consent for HIV testing;
- b) harm reduction programs, among which providing bleach and needle exchange supported by free of charge condom distributions in all prisons;
- c) access to free of charge ARV treatment and treatment for opportunistic infections.

Article 10: HIV/AIDS prevention among immigrants, emigrants, refugees and asylum seekers

- (1) Ministries and other involved central administrative authorities, decentralized public sanitary services elaborate and implement prevention programmes aimed at developing minimum skills and knowledge on HIV/AIDS among immigrants, emigrants, refugees and asylum seekers and provide them with informational materials.
- (2) Ministry of Health, in partnership with other ministries and central administrative authorities organize HIV/AIDS prevention activities, provide social and material assistance to immigrants, emigrants, refugees and asylum seekers.
- (3) Immigrants, emigrants, refugees and asylum seekers benefit of ARV and treatment of opportunistic infections according to the legislation in force.

Title IV

VOLUNTARY COUNSELLING AND TESTING

Article 11: Access to testing

- (1) Citizens of the Republic of Moldova, foreign citizens and stateless persons who live or temporarily reside on the territory of the Republic of Moldova shall have the right to a medical test free of charge (anonymously) with the aim to determine as early as possible HIV virus or AIDS epidemic.
- (2) Testing for HIV markers shall be performed according to the standards and rules for testing, developed and approved by the Ministry of Health in accordance with the present law and upon individual request.

Article 12: Counseling and testing centers and laboratories

- (1) Pre and post-test to HIV counseling services are conducted in public or private medical sanitary institutions accredited and empowered accordingly, as well as by health services for youth certified according to law. Counselors shall be competent enough to meet Ministry of Health standards.
- (2) Testing to HIV markers is conducted by public medical sanitary institution's laboratories and by those of Centers of Preventive Medicine of the Ministry of Health accredited accordingly to law.

Article 13: Consent for HIV testing

- (1) All HIV tests shall be done upon written voluntary and informed consent of the individual.
- (2) In case of minors, a written informed consent shall be obtained from his/her legal guardian as well as from the child. In case such a written consent cannot be obtained from the legal guardian of the minor, and the test is considered to be in the most interest to the individual, the test can be performed only with voluntary written consent of the minor.
- (3) The written consent of the mentally incapacitated individual is a precondition for HIV testing.
- (4) For those in the ward of the state, the legal guardian shall bear responsibility for the decision to take HIV test.

Article 14: Confidentiality

- (1) The right to confidentiality is guaranteed in case an individual undergoes HIV testing or is diagnosed to have HIV.

- (2) The result of HIV test shall be confidential and shall be released only to the following:
- a) Person who was tested;
 - b) Parent or legal guardian of a minor who was tested;
 - c) Legal guardian of a person with mental disabilities;
 - d) Head of medical-sanitary institution, where markers to HIV were collected
 - e) Head of public medical-sanitary institution in residential area of the person who have been tested (family doctor);
 - f) Judge that has issued a court order in the conditions described in article 15 below.

(3) People diagnosed as HIV positive should be informed in written form by the medical-sanitary institutions on the need to follow the rules for prevention of HIV/AIDS transmission, as well as on the criminal charges for willingly endangering with contamination or for willingly infecting other persons.

(4) Any person with HIV shall disclose his/her HIV status and health condition to his/her spouse or sexual partner.

(5) Healthcare professionals may notify wife/husband or partner(s) of their patient's HIV status only if they examine circumstances of each individual case, carefully considering medical ethics and patient-doctor confidentiality standpoint, so require, and if the following criteria are met:

- a) the HIV-positive person has received adequate counseling services;
- b) counselling of the HIV-positive person has failed to achieve appropriate behavioral changes, aimed at reducing the danger of HIV transmission;
- c) the HIV-positive person has refused to notify, or give consent to the notification of his/her wife/husband or partner(s);
- d) a real risk of HIV transmission to the partner(s) exists;
- e) the advance notice given to HIV positive person to announce his/her status has expired.

(6) The medical personnel and other people, who have access to information regarding HIV medical tests and results (AIDS disease) due to their job responsibilities, shall keep such information confidential. Disclosure of such information shall be punished by the legislation in force.

Article 15: Prohibition of mandatory HIV testing

(1) Policies calling for mandatory testing as precondition for employment, travel, access to medical services, and admission to education institutions are prohibited, except for the cases set in the legislation in force. All forms of hidden HIV testing are prohibited.

(2) The following cases refer to compulsory HIV testing:

- a. Donations of blood, liquids, tissue and organs;
- b. Upon a court order when a person is charged with the crime of willful transmission of HIV or rape, and when the person responsible for this does not give consent for testing after benefiting of thorough counselling.

Article 16: Sentinel testing

(1) Sentinel surveillance is the testing of HIV on blood specimens drawn and collected for another legitimate purpose in selected populations, such as pregnant women, IDUs, prisoners, commercial sex workers, with the purpose to determine HIV epidemic trends associated with specific risk behaviours or practices.

(2) Before testing, all information which could identify the individual being tested shall be excluded. Public health authorities shall be informed on the number of HIV cases and not on any other information.

Title V CARE AND TREATMENT

Article 17: Medical surveillance

HIV-positive and AIDS affected individuals are subject to medical surveillance.

Article 18: National Protocols for Treatment of PLHIV

(1) National Protocols for Treatment of PLHIV and affected by AIDS are developed and approved by

The Ministry of Health. The National Protocols shall ensure the accessibility of basic hospital and drugs services.

(2) The services shall include:

- a) diagnosis and treatment of HIV/AIDS, opportunistic diseases, sexually transmitted infections, other infections and complications;
- b) laboratory services;
- c) emergency treatment;
- d) psychological assistance;
- e) social assistance;
- f) palliative care.

Article 19: Access to ARV treatment and other forms of treatment

(1) The State shall ensure universal access of all PLHIV to ARV treatment and treatment of opportunistic infections, based on clinical and immunological indications free of charge through the National Programme on Prevention and Control of HIV/AIDS and STIs.

(2) PLHIV and AIDS affected people benefit of primary medical assistance based on the common mandatory insurance services package according to the legislation in force.

Article 20: Palliative care of PLHIV

(1) The Ministry of Health develops standards on palliative care for patients in hospitals and at-home.

(2) Ministry of Health and Ministry of Social Protection, Family and Child coordinate at national level palliative care services.

(3) Doctors inform PLHIV families on palliative care, at request.

Article 21: HIV/AIDS prevention for mother- to- child transmission

(1) All pregnant women shall have access to free voluntary counselling and testing to HIV;

(2) HIV positive women and their children shall have full access to free of charge ARV treatment;

(3) All children born from HIV positive mothers shall be provided with artificial milk formula.

Title VI

PROHIBITION OF DISCRIMINATION

Article 22: Prohibition of discrimination at the workplace

(1) Any form of discrimination based on HIV positive status, at any stage of employment, including hiring, promotion or assignment, both in private or public field, including appointment in public positions, is prohibited.

(2) HIV positive persons already employed by any public or private company shall be entitled to the same employment rights, benefits and opportunities as other employees.

(3) Dismissal from work on the basis of HIV status is prohibited.

(4) A list of jobs and professions which cannot hire HIV-positive individuals shall be approved by the Ministry of Health and Ministry of Social Protection, Family and Child;

(5) Victims of discrimination are entitled to appeal to a court of law for imposing retributions on responsible parties.

(6) Depending on the stage of the infection, PLHIV or people affected by AIDS benefit of free professional orientation or reorientation services, according to legislation.

Article 23: Prohibition of discrimination in educational institutions

1) No educational institution shall refuse admission to any prospective student or discipline; segregate, deny participation to activities, including sport ones, deny benefits or services to; or expel any current student on the basis of his/her HIV positive status.

2) Discrimination of PLHIV relatives or partners is prohibited.

Article 24: Restrictions on Travel and Habitation

1) Entrance into the Republic of Moldova for a period longer than 3 months is permitted only upon submission of a medical certificate with a negative HIV test.

- 2) A person who has not undertaken such a test shall present himself in a period of 10 days from his arrival in the Republic of Moldova to the relevant medical institutions to be tested for HIV. Consequently such procedure shall be performed once a year
- 3) The person in charge, the entrepreneur or an individual person who is hosting the foreign citizen shall be responsible under the law for verifying the possession of a medical certificate for HIV test, and in case the foreign citizen does not have such a certificate, the host shall be responsible for assisting him to access the relevant medical institution in order to perform an HIV test.

Article 25: Prohibition of discrimination in hospitals and health institutions either public, departmental or private

- 1) Each individual shall have equal access to medical services, regardless of perceived or actual HIV status.
- 2) No hospital or other health institution, private, departmental or public, shall deny access to health care services to PLHIV or those perceived or suspected to be HIV-infected, nor charge the said persons higher fees.

Article 26: Prohibition of discrimination in accessing credit, insurance and loan services

All credit, loan or insurance services (health, accident, life etc.) access shall not be denied to a person on the basis of his/her HIV positive status. These people shall not conceal or misrepresent his or her HIV status to the insurance company upon application. Extension and continuation of credit and loan shall likewise not be denied solely on the basis of said health condition.

Article 27: Retributions for violating the rights HIV positive people

Violation of the rights of people living with HIV, on behalf of heads of enterprises with any form of propriety or company type, educational institutions, private, public and departmental sanitary-medical and health institutions, as well as infringement of PLHIV interests shall be punished according to the existing legislation.

TITLE VII

ACCESS TO LEGAL ASSISTANCE FOR PLHIV AND THEIR RESPONSIBILITY

Article 28: Availability of legal support services and confidentiality of legal proceedings

- (a) HIV positive people benefit of free legal assistance upon request for filing suit with respective complaint units or filing suit in front of a court of law. Legal assistance in court is free of charge.
- (b) All court and public administration authorities' sessions involving people infected with HIV shall be secret, at the latter request.

Article 29: The responsibility of HIV positive people

- 1) HIV-positive people shall act responsibly to protect their personal state of health and prevent HIV transmission.
- 2) A person aware of his/her HIV status and knowingly endangering the contamination of another person can be charged with a criminal offence.

Title VIII

PREVENTION OF NOZOCOMIAL INFECTING

Article 30: Ensuring the protection of patients

The heads of private, public and departmental medical and sanitary institutions are required to ensure the adequate conditions to prevent the infection of patients with HIV:

- (a) During laboratory and medical tool examination, including testing for HIV, surgical, gynecological, dental interventions, medical procedures and instruments;

- (b) Through blood transfusion, blood components and eradicators.

Article 31: Ensuring the protection of medical workers

- 1) The Ministry of Health shall develop universal precaution measures for prevention of infection.
- 2) Following universal standards mentioned in point (1) is a mandatory condition for medical assistance services, for other services which involve exposure to blood and other body fluids.
- 3) Training of medical personnel in this field shall be performed by the administration in public medical institutions and by the patron of private institutions.
- 4) Availability of the necessary inventory (disposable syringes, sterilisers, cleaning utensils, gloves) are a precondition for the accreditation and re-accreditation of the respective institutions.

Article 32: Access to post-exposure prophylactic (PEP) kits

Victims of rape and those exposed through occupational exposure to HIV shall have access to free-of-charge post-exposure prophylactic (PEP) kits in all public medical institutions.

Article 35: Liabilities in case of nosocomial infecting

- 1) The citizens of the Republic of Moldova who have been infected as a result of blood transfusions, medical interventions and tools are guaranteed a handicap pension caused by work accident;
- 2) Moral and materials damages shall be compensated to the infected person by the medical institutions where the infection occurred;
- 3) Contraction of the HIV virus by medical personnel as a result of professional activity is considered a professional illness.

Title IX

FINAL AND TRANSITORY PROVISIONS

Article 34.

The Government:

- a) Shall present the Parliament proposals on amending the existing legislation in accordance with the present law;
- b) Shall ensure the revision and abrogation by all ministries and departments of all normative acts, which are not in accordance with the present law;
- c) At the date the current law enters into force, Law nr. 1460-XII as of May 25 1993 regarding the prevention of AIDS is abrogated.

Chisinau, 16 February 2007
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