

«POSITIVE DIALOGUE»

PUBLIC FOUNDATION

Kyrgyzstan

HUMAN RIGHTS COMMITTEE

130th SESSION

REPORT OF THE "POSITIVE DIALOGUE" PUBLIC FOUNDATION

FOR THE FORMATION OF THE LIST OF QUESTIONS RELATED TO THE CONSIDERATION OF THE THIRD PERIODIC REPORT OF KYRGYZSTAN ON THE IMPLEMENTATION OF THE INTERNATIONAL CONVENANT ON CIVIL AND POLITICAL RIGHTS (CCPR/C/KGZ/3)

**Health related discrimination**

(C.8, Concluding Observations, Articles 2 and 26, ICCPR)

1. On 8 May 2020, the Parliament adopted the Amnesty Law in connection with the 75th anniversary of the victory in the Great Patriotic War of 1941-1945 and the 10th anniversary of the people's April revolution of 2010. Article 1 of the Law provides for the release of disabled persons of the first and second disability groups from further serving the sentence. People of the second disability group have to regularly confirm their disability status with the Medical and Social Expert Committee (MSEC). According to Government Decree No.68 dated 31 January 2012, MSEC does not carry out examination of persons serving sentences in places of deprivation of liberty.

2. In practice, this leads to the fact that disabled persons cannot officially confirm their disability status, and, consequently, cannot use the amnesty to be released from further serving their sentences on the equal basis with other persons indicated in Article 1 of the Amnesty Law, and the right to social security.

3. According to Article 5 of the Amnesty Law, the application of the amnesty is restricted for persons suffering from diseases posing a danger to other people (tuberculosis, infectious diseases, and venereal diseases). The amnesty is applied to the mentioned persons only after completion of the treatment course. According to ICD-10, HIV/AIDS is classified as an infectious disease (B-20 - B-24). HIV does not have a strictly defined course of treatment. Antiretroviral therapy is prescribed for the entire life term as a combination of three drugs which maximally suppress the HIV virus and inhibit the progression of the disease.

4. Restrictions on the application of the amnesty for treatable diseases are not effective for HIV because HIV is not treatable and is not transmitted in an unpredictable manner. Such restrictions for the amnesty application cannot be called objective and reasonable.

**QUESTIONS**

1. When is it planned to adopt the framework law “on ensuring equality”?
2. What measures are being taken to eliminate stereotypes about people living with HIV?
3. What legal remedies are available for people living with HIV and people with disabilities serving their sentences in prisons due to the non-application of the 2020 Amnesty Law to them?

**Health care in detention facilities**

(С.17, Articles 2 and 10, ICCPR)

1. In 2018, of the eight leading causes of death in detention facilities, tuberculosis and HIV/AIDS accounted for 78 percent of the total number of deaths, and in 2019 - 59 percent of deaths, and neoplasms accounted for 4 percent and 5.5 percent respectively. By the Decree of the Government of the Kyrgyz Republic dated 29 November 2011, No.745, a list of diseases was approved as the basis for submitting the names of convicts for release from serving their sentences. Neoplasms and tuberculosis are included in this list. AIDS is the last, terminal stage of HIV, leading to inevitable death. Despite this, HIV and AIDS are not included into the Government list. The Decree provides for a clear algorithm of actions to be taken by employees to ensure timely and high-quality diagnosis of diseases. Responsibility is entailed for inadequate examination of convicts. However, deaths from diseases which can be easily diagnosed through routine activities are indicative of problems. The authorities are responsible for the life and health of every person in detention facilities under the control of the state.

2. The Government report lacks any information on the situation with the prison health care, investigation of deaths in detention facilities, including psychiatric hospitals, and the punishment of those responsible.

**Questions:**

1. What legal remedies are provided by the law in relation to the right to humane treatment and respect for their dignity as human beings?
2. What legislative measures are available for an objective and competent investigation of deaths in places of deprivation of liberty?
3. What is the statistics of deaths in places of detention and deprivation of liberty?
4. How many criminal cases have been initiated based on the facts of deaths due to the delay in medical care provision?
5. How many perpetrators have been brought to justice?
6. What mechanism is available to provide health care and psychological assistance to people living with HIV / AIDS in detention facilities?
7. Is it planned to include HIV/AIDS into the list of diseases for early release?