



TERMS OF REFERENCE AND SCOPE OF SERVICES for Individual Consultancy – Legal Expert

I. Background information

According to UNAIDS, Kosovo is a low HIV prevalence country with <1% among the general population and <5% among key populations. One hundred and twenty nine (129) HIV and AIDS cases have been registered in National Institute for Public Health of Kosovo,¹ from 1986 till the end of 2019, with 75 AIDS cases and 54 HIV. Based on gender disaggregation 71% are male and 28% female and the most affected group age is 25-34 y (36 %) and 35-44y (31%). Less than 4% are of group age 0-15y. There is no evidence of PLWHA registered before the 1999. Most of them are accounted as lost to follow up, assumed to be dead. The HIV/AIDS/STI Unit within Epidemiology Department of NIPH was established in 2003, when the second generation of HIV surveillance was introduced. There were no cases detected through integrated behavioral and biological surveillance surveys among people who inject drugs (PWID) or female sex workers in 2006, 2011, 2014, or 2018. HIV prevalence is increasing among men who have sex with men (MSM) from 0% (no detected cases) in 2011 to 2.8% in 2018. It is assumed that the HIV figures are not an accurate reflection of the HIV situation in Kosovo. Lowest HIV testing rate in European region (2.7/100.000) and very high rates of case detection in advanced stages of HIV infection suggest that actual burden of HIV infection is largely underestimated. In 2019, out of seven (7) reported 3 were AIDS cases, and two (2) AIDS related deaths. Moreover, the majority of HIV reported cases are male and the fact that MSM are highly stigmatized in Kosovo, can drive the assumptions that transmission mode might be misclassified as heterosexual versus homosexual. The overall goal of the National HIV Action Program is to maintain low prevalence of HIV among the general population and key populations, and improve the quality of life of people affected by HIV/AIDS in Kosovo.

Lack of respect for human rights and the transmission of HIV are interrelated. HIV infection is unparalleled in human history in terms of the stigma and discrimination attached to it, even in places where treatment is widely available. People living with HIV (PLHIV) are often rejected by

¹ National Institute for Public Health, 2019 Annual Report on HIV/AIDS/STI

² Integrated Biological and Behavioral Surveillance Among Key Populations in Kosovo, 2018 <http://kcdf.org/publications/>

their families and communities, and experience discrimination by employers, schools, landlords, and health providers. At the same time, violations of human rights undermine HIV prevention and treatment programs, and can contribute to the transmission of HIV. Fear of discrimination makes many people afraid to test for HIV, to use prevention and to take up treatment. According to the EU progress report for Kosovo for 2014 in relation to human and fundamental rights, Kosovo needs to enhance the efforts in relation to law enforcement and improvement.

The key gaps and challenges with regards to HIV related rights are: non-enabling environment and (social, legislative, behavioural and cultural) barriers to service access include user-friendly services; stigma and discrimination; a legislative framework that restricts access to service users; and challenges with health product supplies. In response to these challenges Kosovo CCM established the Policy Advocacy Group (PAG) to address high-level policy issues affecting access to care. The PAG includes KP members, which will allow their increased involvement in decision-making processes and advocacy. The PAG has developed an Advocacy Plan that focuses on removing service barriers for KPs, as well as on issues of sustainable transition that will enable the continuity of prevention and treatment services for HIV and TB programs. In addition to sensitisation trainings of health workers, law-enforcement and social workers on human rights-related barriers, with the support of HIV GF funded Program in Kosovo an Operational research on HIV related rights (The review of Legal Barriers) conducted in 2016, and in 2019 the Ombudsperson Institution of Kosovo released the Ex-Officio Report Case no. 305/2019 regarding the Treatment of Persons living with HIV and AIDS in Kosovo.

The country's mechanisms for dealing with promotion, protection, enforcement and reporting of the rights need to be streamlined at central and local levels.

Gender inequalities and gender-based violence are common among disadvantaged populations and particularly affect young women and girls residing in rural and suburban areas. Violence also constitutes a significant risk factor for female sex workers(FSW) and LGBTI communities. According to Wildt (2015) more than half of sex workers experience violence, predominantly from clients, who demand particular types of sex, including group sex and sex without condoms. Women do not recourse to law enforcement when they encounter violence due to fear of arrest. This clearly demonstrates the detrimental effect of FSW criminalisation on their access to essential services as well as protection of their human rights. Stigma, prejudices, and discrimination of same-sex relationships have similar implications for MSM and the development of HIV prevention and care interventions for this population. Despite the country's relatively modern legislation the issue of LGBTI continues to be sensitive and is far from accepted social norms.

According to the recently conducted perception survey "Measuring Stigma and Discrimination towards Key Populations for HIV and PLHIV" there is a considerable level of stigma towards these populations among health workers and law-enforcement workers. In a scale from 1 to 4 (1 being the highest level and 4 being the lowest level of stigma) stigma index is 2.92 (2.89 for health workers and 2.98 for law-enforcement workers).

II. General objective of required expertise

This expert mission aims to support the HIV and Tuberculosis (TB) Global Fund funded Programs in relation to legal and human rights issues, by reviewing and analysing cases and issues under consideration based on Kosovo's legislation framework and national and relevant international legal acts, and recommending improvements that will enable better access to essential HIV and TB prevention, treatment and care services for Key Populations (KPs)³, People Living With HIV (PLHIV) and people affected by TB. The legal expert will also be responsible to facilitate the work of Program Advocacy Group and to provide legal advice for key affected and vulnerable populations and persons living with the disease, in need for it.

III. Specific tasks for the expertise

1. Provide legal assistance to clients (members of Key and vulnerable Populations and persons affected by the disease) with intention to improve access to qualitative health and other structural services in the system and advance their position in society, and if needed, represent their cases into legislative institutions;
2. Document cases of human rights violations against key and vulnerable populations and persons affected by HIV/AIDS and TB, to be used for advocacy purposes; Develop an inventory of the most critical human rights challenges facing the HIV and TB program. A written inventory of the priority human rights challenges shall be used in focusing the activities of the legal expert for the HIV and TB programs and the PAG, all of whom are engaged in reducing human rights barriers.
3. Provide technical assistance in trainings on human-rights related issues, organized by GF grant implementers.
4. Provide legal information, referrals, advice and representation related to HIV, including through peer paralegal community systems; Coach, mentor, supervise and monitor paralegals serving at Sub Recipient level.
5. Support CCM's Program Advocacy Group (PAG) by facilitating discussions around human rights and the development of action plan; Contribute and implement activities prescribed in the PAG action plan with Grant Sub Recipients/implementers.

³ In this TOR, Key population is comprised of People who inject drugs (PWID), female sex workers (FSW), and Men who have sex with men (MSM). For TB Program Key populations are comprised of Children and Women, prisoners, family members of people living with TB.

IV. Description of Duties and Responsibilities

The main task of the local legal expert will be to provide legal support to defined Key Populations and persons living with the disease based on their needs and existing legal barriers. As per specific tasks outlined in section III, the expert's specific tasks are:

1. Analyzes information and legislation pertaining to human rights matters directly related to the situation in Kosovo of key and vulnerable populations and persons affected by the disease;
 - Recommends problem-solving options in specific fields where the GF financed programs are focused;
2. Supports the work of PAG by providing technical assistance; provides required information and reports related to human-rights issues in HIV and TB programs, especially on rights of key and vulnerable populations and persons affected by the disease to access needed health, social and legal aid services.
3. Facilitates the meetings of Program Advocacy Group:
 - Provides the TA in development and implementation of PAG action plan;
 - Provides written/oral briefings to the PAG as required;
4. Receives and investigates individual complaints and determines whether it falls within the jurisdiction of Human Rights legal frameworks;
 - Regularly, on monthly basis, meets on-site with grant implementers and their clients, where needed;
 - Prepares documented case files on each individual complaint matter and tracks all cases until the final decision; Make recommendations regarding disposition of cases;
 - Conducts community relations activities with community groups and participates in relevant meetings as a resource person;
5. Facilitate the trainings of grant implementers and other stakeholders on advocacy and human-rights related issues:
 - Provide the technical expertise in development of training modules and suggest topics to be discussed;

- Facilitate as required the trainings on specific human-rights topics and documenting cases of violations of human rights or barriers to access public services, as needed;
 - Follow-up periodically with NGO staff or intern-paralegals to verify the accuracy of reporting the violations.
6. Provide legal information, referrals, advice and representation related to HIV and TB, including through peer paralegal community systems;
 7. Coach, mentor, supervise and monitor paralegals serving at Sub Recipient level:
 - Organize capacity building trainings for paralegals
 - Regular monthly meetings
 - Email exchange
 - On site meetings
 8. Contribute and implement activities prescribed in the work-plan.
 9. Support promotion and advocacy of the International Declaration on the Rights of People Affected by Tuberculosis (2019).
 10. Represent CDF in the events related to communities, gender and human rights issues.
 11. Provide other technical/legal support to CDF, if required.

V. Expected results

In collaboration with the PAG and Integra, PR, SRs and other stakeholders, the local legal expert shall:

- Ensure proper engagement in supporting the work of Program Advocacy Group;
- Report on regular monthly meetings held on-site with grant implementers;
- Prepare and submit regular monthly reports to CDF;
- At the end of the assignment, provide a report on legal cases assisted and proposed solutions of observed legal barriers in order to improve the situation of key human rights barriers and gender inequalities that may impede access to health services;
- Contribute and implement activities prescribed in the PAG work-plan with Sub Recipients.

VI. Personal skills

Communication

- Speaks and writes clearly and effectively;
- Listens to others, correctly interprets messages from others and responds appropriately;
- Asks questions to clarify, and exhibits interest in having two-way communication;
- Tailors language, tone, style and format to match audience;
- Demonstrates openness in sharing information and keeping people informed.

Teamwork

- Works collaboratively with PAG, PAG Secretariat/Integra, PR and SRs to achieve programmatic goals;
- Solicits input by genuinely valuing others' ideas and expertise;
- Is willing to learn from others;
- Places team agenda before personal agenda;
- Supports and acts in accordance with final group decision, even when such decisions may not entirely reflect own position;
- Shares credit for team accomplishments and accepts joint responsibility for team shortcomings.

Planning and organizing

- Develops clear goals that are consistent with agreed terms of reference;
- Identifies priority activities and assignments;
- Adjusts priorities as required;
- Allocates appropriate amount of time and resources for completing work;
- Foresees risks and allows for contingencies when planning;
- Monitors and adjusts plans and actions as necessary;

Accountability

- Takes ownership of all responsibilities and honors commitments;
- Delivers outputs for which one has responsibility within prescribed time, cost and quality standards;
- Operates in compliance with organizational regulations and rules;
- Supports subordinates, provides oversight and takes responsibility for delegated assignments;
- Takes personal responsibility for his/her own shortcomings and those of the work unit, where applicable.
- Maintains strict security and confidentiality of information;
- Is conscientious and efficient in meeting commitments, observing deadlines and achieving results;
- Is motivated by professional rather than personal concerns;

- Shows persistence when faced with difficult problems or challenges;

VII. Required qualifications and technical competencies:

- Advanced University degree in law; Masters or equivalent preferably in law, political sciences, international relations or other disciplines related to human rights.
- A minimum of three years of experience in human rights, law or related area is required.
- Expertise in working with communities.
- Demonstrated professional competence and mastery of subject matter;
- Knowledge of and exposure to a range of human rights issues, including approaches and techniques to address sensitive and complex human rights problems in their political, ethnic, racial, gender, sexual orientation, gender identity and socio-economic dimensions;
- Ability to evaluate and integrate information from a variety of sources and assess impact on the human rights situation in a particular community, including the political environment and legal statutes as they pertain to human rights;
- Basic knowledge on the Global Fund policies and procedures
- Excellent command of oral and written English.

VIII. Place, duration and implementation details

Place: Prishtina, Republic of Kosovo

Office based work: CDF premises, Prishtina, Republic of Kosovo

Contracting: Consultant will be engaged based on the part time / consultancy (service) contracting model with up to 10 working days per month.

Duration of the contract: Six (6) months (till December 31, 2020) with the possibility of extension

IX. Monitoring and Evaluation

Deliverables: Desk review; Inventory; Case reports; Periodic reports.