

**Joint Submission**  
**Alternative Follow-up Report**  
**on the Follow-up Concluding Observations**  
**to the Fourth Periodic Report of Kyrgyzstan (60th CEDAW session, February 2015)**  
**February 2018**

**Introduction**

1. This report has been prepared by organisations representing and/or supporting women who use drugs, sex workers, lesbians, bisexual and transgender women, people living with HIV in Kyrgyzstan: **Harm Reduction Network Association, Asteria, Ganessa, Labrs, Podruga, Positive Dialogue, Prosvet, AIDS Foundation East-West in the Kyrgyz Republic, Tais Plus, Tais Plus Two, Ulukman Daryger, Shah-Aiym.**

2. This report reviews the implementation of the priority recommendation **22c**: establish an oversight mechanism allowing the monitoring of violence against women involved in prostitution by the police and stop illegal forced testing, often performed during police raids, for HIV/AIDS and other sexually transmitted diseases of women involved in prostitution.

3. Taking into account the intersecting forms of discrimination, implementation of this recommendation is considered in view of the diverse group of sex workers, including

- LGBT sex workers,
- Women who use drugs involved in sex work and sex workers who use drugs
- Sex workers living with HIV

**Background information**

4. The National Plan to implement Concluding Observations of the CEDAW Committee based on the findings of the 60<sup>th</sup> session (2015) was adopted two years later, 19 April 2017. Only a part of recommendations by CEDAW has been included into the National Plan. Some recommendations covering the groups with intersecting forms of discrimination **have not been included** into the National Plan, including (10a) to ensure that the discriminatory draft law No. 6-11804/14 is not adopted (draft law “on propaganda of homosexuality”) and (10b) to adopt comprehensive anti-discrimination legislation which prohibits discrimination against women on all grounds.

**Status of sex workers in 2015-2017**

5. In 2016, the status of sex workers greatly deteriorated<sup>1</sup> due to the so-called “clean-up”, announced by GUV D (City Police)<sup>2</sup> of Bishkek on 14 June 2016. In Kyrgyzstan, sex work is neither a crime, nor an administrative offence. Meanwhile, Spokesperson of Bishkek GUV D has openly said that sex workers are being punished under **other articles** of the Administrative Code: “Yesterday [14 June 2016] 25 persons were delivered to district stations, these girls would be charged **for minor offence**, also their documents would be checked; if they have no documents, they would be sent to the reception centre. They would be fined under specific articles that envisage **fin es amounting to 5- or 10- or 20-fold** of the minimum wage”<sup>3</sup>.

6. Moreover, GUV D has called upon the residents of Bishkek to raid at night, to take photos of sex workers and to submit these photos to police stations<sup>4</sup>. This call has actually unleashed the pseudopatriotic movements (e.g. Kyrk Choro), leads to lynch law approved by the state.

7. Numerous raids in the framework of “clean-up” are carried out with the participation of mass media. As a result, photos and videos of sex workers are then posted on the internet and on TV. The police don’t demand that the mass media comply with the law.

8. **475** cases in 2016 and **343 cases** of violence and human rights violations by police against sex workers were documented in January to September 2017 in several cities and towns. The overwhelming majority of sex workers have reported that they have been exposed to extortion from police officers, illegal detention, blackmail and pressure, inhuman and degrading treatment.

9. Over 70 per cent of sex workers, whose cases were documented in 2016-2017, reported that after detention they were released for money paid to police officers as a result of extortion. In 2016, the average amount of payment for release was KGS 1,500-2,000 (USD 20-30). By the end of 2017, the proportion of sex workers who were released for money after detention increased up to 91 per cent.

10. Some sex workers detained during raids were delivered to courts and charged under the administrative article “Petty Hooliganism”. This was accompanied by numerous violations: police officers entered non-existent personal data into detention reports if sex workers didn’t have ID cards; police officers involved their freelance police officers as witnesses, eye witnesses, and applicants. Whereas judges turned a blind eye to such violations and convicted sex workers of minor offences. The majority of such cases were initiated at the end of 2016 and in early 2017.

11. The announced clean-up has legalised violence against sex workers from the police. And the discriminatory application of administrative articles (e.g. “Petty Hooliganism”) to sex workers is actually a criminalisation of sex work.

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<sup>1</sup> Amnesty International Annual Report 2016/17. Human Rights. - p. 101 (Rus), p. 226 (Eng). Source: <https://www.amnesty.org/en/latest/research/2017/02/amnesty-international-annual-report-201617/> (available as of 13 February 2018)

<sup>2</sup> Acting head of Chief Directorate of Internal Affairs [GUV D] promises to clean up Bishkek of prostitutes //Kaktusmedia as of 14 June 2016. Source: [https://kaktus.media/doc/340008\\_i\\_o\\_glavy\\_gyvd\\_stolicy\\_poobeshal\\_za\\_nedelu\\_ochistit\\_bishkek\\_ot\\_prostitytok.html](https://kaktus.media/doc/340008_i_o_glavy_gyvd_stolicy_poobeshal_za_nedelu_ochistit_bishkek_ot_prostitytok.html) (available as of 13 February 2018)

<sup>3</sup> Fighting against illegal sex market / NTS / 15.06.16. Video. Source: <https://goo.gl/2UxSe7> (available as of 13 February 2018)

<sup>4</sup> GUV D of Bishkek offers residents to raid against prostitutes //Kaktusmedia as of 16 June 2016. Source: [https://kaktus.media/doc/340165\\_gyvd\\_bishkeka\\_predlagaet\\_jiteliam\\_provodit\\_reydy\\_po\\_borbe\\_s\\_prostitytkami.html](https://kaktus.media/doc/340165_gyvd_bishkeka_predlagaet_jiteliam_provodit_reydy_po_borbe_s_prostitytkami.html) (available as of 13 February 2018)

12. Various groups of men have actively acted in the south of the country; they hit upon sex workers and beat them in public in the presence of eye witnesses. In 2016, a case of attack against sex workers by one of such groups was reported; however, police officers were around, saw everything, but failed to take any actions. Sex workers refused flatly to file a report against the attackers because they were threatened with punishment, including murder. In 2017, one of sex workers decided to file a report and a criminal case was initiated on a rape charge. The accused was a representative of the sports club 'Alysh'. The case never made it to the court because the relatives of the accused started threatening, blackmailing and imposing pressure on the sex worker. Therefore, the sex worker decided not to refer the case to court in fear of consequences, including more violence.

### **Status of sex workers from LGBT community**

13. LGBT community, just like sex workers, is a highly stigmatized group. The draft law No. 6-11804/14 known as the "*gay-propaganda* bill" is still on the agenda of the Parliament; it was adopted in the second reading at the Parliament's session on 24 June 2015<sup>5</sup>.

14. As reported by representatives of LGBT community, police officers use in practice the draft law as a law in force to extort money from LGBT by threatening to disclose their sexual orientation, gender identity or occupation to their family<sup>6</sup>.

15. The most blatant episodes of violence have been committed against transgenders. A trans sex worker has been severely abused by two male clients who have knocked her teeth out, beaten her, put a bag on her head, driven her out of the city, and tried to sink her, and then left the scene. A passer-by has noticed her body and taken her out of water, and the girl has stayed alive. However, the court has sentenced the perpetrators to two years of imprisonment under the Criminal Code of the Kyrgyz Republic for "attempted intentional homicide". The Criminal Code of the Kyrgyz Republic provides for 12 to 15 years of imprisonment for such crimes<sup>7</sup>.

16. International Committee on the Rights of Sex Workers in Europe (ICRSE) draws attention to the fact that in many countries LGBT sex workers encounter much psychological and emotional violence due to their belonging to LGBT and sex work. According to the Trans Murder Monitoring project of Transgender Europe, in 2008 to 2014 over 65 per cent of murdered transgenders whose occupations was known were sex workers<sup>8</sup>.

### **Status of women who use drugs and also involved in sex work and sex workers who use drugs**

17. People who use drugs (PUDs) are also a highly stigmatized group. According to the 2016 study, PUDs encounter the following violations by police officers: 90.5%t have been illegally detained and examined;

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<sup>5</sup> <http://kenesh.kg/ru/draftlaw/122027/show>. Available as of 13 February 2018.

<sup>6</sup> Report by Akyikatchy (Ombudsman) of the Kyrgyz Republic on Observation of Human and Citizen Rights and Liberties in the Kyrgyz Republic in 2016. - p. 83. Source: <http://ombudsman.kg/files/docs/reports/2016/the-report-of-akyykatchy-ombudsman-of-the-kyrgyz-republic-for-2016.pdf> (Available as of 13 February 2018.)

<sup>7</sup> Ibid

<sup>8</sup> Underserved. Overpoliced. Invisibilised. LGBT sex workers do matter. - 2015. - ICRSE. - p.11. Source: <http://www.sexworkeurope.org/underserved-overpoliced-invisibilised-lgbt-sex-workers-do-matter> (Eng), [http://www.sexworkeurope.org/sites/default/files/userfiles/files/ICRSE\\_Briefing%20paper\\_November2016\\_RU\\_print%282%29.pdf](http://www.sexworkeurope.org/sites/default/files/userfiles/files/ICRSE_Briefing%20paper_November2016_RU_print%282%29.pdf) (Rus). Available as of 13 February 2018.

22% have been planted illegal substances, in 53% of cases it has been heroin; 75% have been forced to give false testimony against their environment; 35% have been forced to take the blame upon themselves for crimes they have never committed. This study has covered 800 respondents, including 17 per cent of women<sup>9</sup>.

18. In 2013-2016, the Wings of Hope project was launched in the cities of Bishkek and Osh. The project was focused on identifying the facts of violence, on preventing violence and supporting those affected by violence. The participants of the project were women who use drugs, and since 2016 the project covered few sex workers. In total, 213 people participated in the project, out of which 108 participants reported they had practiced sex work<sup>10</sup>.

19. Of 213 participants, 46% reported violence from a spouse or a partner, 15% reported violence from police. The rate of those seeking help in case of violence is very low: only 8% in 2013, 2% in 2014, and 6% in 2016 of women respondents applied to the police after the acts of violence committed against them, which they evaluated as the most traumatic<sup>11</sup>.

20. Repressive laws and law enforcement practices towards sex workers and people who use drugs cause mutually reinforcing effects of legal prosecution, stigma, and discrimination. Sex workers who use drugs encounter the doubled legal prosecution from the police; complex stigma, social isolation; frequent interventions into their lives and abuses from medical and other staff<sup>12</sup>.

#### **Status of sex workers living with HIV**

21. HIV prevalence among sex workers is on stable level in Kyrgyzstan, and according to the national survey of 2016, it was 2 per cent<sup>13</sup>. This group of sex workers remains very hidden due to number of reasons, among them HIV criminalization also: HIV transmission and threatened of HIV infection is a punishable offense.

22. Generally, people living with HIV in the country face stigma and human rights violations. Women living with HIV often encounter strong censure due to the entrenched stereotypes. Many women do not reveal their status even to the closest people and prefer to quit everything that would be indicative of their HIV status (visits to medical facilities to get antiretroviral therapy, passing various examinations, participation in self-help groups). Women especially reluctant to visit a doctor during pregnancy in fear of censure from medical staff who condemn pregnancy with HIV status<sup>14</sup>.

23. It became known about the fact of disclosure of HIV positive status: in September 2017 Osh City Police applied requested the Osh-based AIDS Centre to find out the HIV status of a female national of Uzbekistan residing in Osh. AIDS Center provided a written statement disclosing the status of the woman. The request by the police was made outside of a criminal case or a court judgment, which

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<sup>9</sup> Evaluation of implementation of the Instruction "On prevention of HIV infection by authorized interior bodies, bodies responsible for drugs control and bodies in the penitentiary bodies of the Kyrgyz Republic interacting with key groups. - AFEW. - 2016.

<sup>10</sup> Wings of Hope: from studies to practice and effective policy. - 2017. – Public Foundation "Global Studies Institute" (GLORI Foundation). - p. 19. Source: <http://glori.kg/ru/svodnyi-otchyot/> (Available as of 13 February 2018)

<sup>11</sup> Ibid. - p. 21

<sup>12</sup> Sex workers who use drugs: ensuring joint approach. - 2016. - NSWP, INPUD, <https://goo.gl/DK7th6> (rus), <https://goo.gl/aVcE9U> (eng)

<sup>13</sup> <http://www.unaids.org/en/regionscountries/countries/kyrgyzstan>

<sup>14</sup> Materials of research "Identification of needs and requirements of women living with HIV in the Kyrgyz Republic", - September 2017. Report on outcomes during preparation.

assumes the illegal nature of the request<sup>15</sup>. During the investigation, AIDS Centre was found to fail to register both the request and the reply in the incoming and outgoing documents register. Upon receipt of information from AIDS Centre, the officer of the City Police forced the woman to leave the country, otherwise he threatened to initiate a criminal case. Also the organization working in HIV prevention in Osh has reported that this case of HIV status disclosure concerned a sex worker.

24. The Global Network of Sex Work Projects (NSWP) pays attention to the complex stigma and discrimination encountered by sex workers living with HIV that touch all spheres of life - restrict or deny access to justice and protection, medical care, cause social isolation and, respectively, increase the risk of violence, restrict the freedom of movement<sup>16</sup>.

### **Legislative amendments that can worsen the status of sex workers and other groups with intersecting forms of discrimination**

25. From 1 January 2019 the new Code of Offenses, which is said to be based on some principles, including humanism, will become effective. The new Code provides fine in equivalent USD 400-880<sup>17</sup> or restriction of liberty from 6 months to 1 year for the article Petty Hooliganism. Currently, this article is being actively used in police reports of detention of sex workers. The article provides for a fine in the amount of KGS 1,500 (slightly over USD 20) or administrative detention up to five days<sup>18</sup>. Taking into account the corrupt practices, when police officers extort money to release sex workers, it can be expected that sex workers would be extorted even bigger sums unlike now.

26. The Code of Offenses and the new Criminal Code to become effective in 2019 contain norms that would actually strengthen the criminalization of people who use drugs. Fines would be increased dozen times. According to the current Code of Administrative Responsibility, the storage of drugs without intention to market them in small sizes (heroin- up to 1 gram) carries administrative fine in equivalent USD 7-30 or administrative arrest for up to five days<sup>19</sup>. From 1 January 2019, the Code of Offenses will be regulating the responsibility for this action, namely Article 123, which provides for punishment in the form of fine in equivalent USD 440-880 with restriction of liberty from 3 to 6 months<sup>20</sup>. A common police practice is to add to the weight of the seized drug until it reaches "large size", i.e. over 1 gram of heroin and over 3 grams of hashish, which falls under the Criminal Code<sup>21</sup>.

### **Measures taken by NGOs to reinstate the rights**

27. The Osh City Parliament in December 2014 issued a decree making the Ministry of the Interior carry out regular raids against sex workers in Osh. In 2016, one of human rights organizations applied to court to challenge the legality of the decree. The defendant, Osh City Parliament, acknowledged the violations of law in the decree and sent a letter of explanation to the Department of the Interior, but the Decree was not annulled.

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<sup>15</sup> [https://24.kg/obschestvo/66130\\_voshe\\_pravoohraniteli\\_vyimogayut\\_uvrachet\\_dannye\\_ovich-infitsirovannyih/](https://24.kg/obschestvo/66130_voshe_pravoohraniteli_vyimogayut_uvrachet_dannye_ovich-infitsirovannyih/)

<sup>16</sup> Stigma and discrimination against sex workers living with HIV. - 2015. - NSWP. Source: <https://goo.gl/q588UX> (Rus), <https://goo.gl/8WB9ey> (Eng)

<sup>17</sup> <http://cbd.minjust.gov.kg/act/view/ru-ru/111529>

<sup>18</sup> <http://minjust.gov.kg/ru/content/315>

<sup>19</sup> Code on Administrative Responsibility of the Kyrgyz Republic. Article 91-2. Source: <http://cbd.minjust.gov.kg/act/view/ru-ru/6> (Available as of 15 February 2018)

<sup>20</sup> Code of Offences of the Kyrgyz Republic. Source: <http://cbd.minjust.gov.kg/act/view/ru-ru/111529> (Available as of 15 February 2018)

<sup>21</sup> Kyrgyzstan to increase drugs penalties by 30 times. - February 2018. Source: <http://www.afew.org/ru/eecaids2018-ru/kyrgyzstan-fines-growth-ru/> (Available as of 15 February 2018)

28. Organizations working with sex workers have repeatedly applied to the Ministry of the Interior in relation to illegal actions committed by the police against sex workers. After the launch of the clean-up in Bishkek in June 2016, the Permanent Representative of the UNDP in the Kyrgyz Republic and Amnesty International have applied to the Ministry of the Interior. A range of meetings with the officials of the Ministry of the Interior has been organized due to such requests. However, the situation has not changed.

29. Since 2014, the country applied the joint instruction<sup>22</sup> created by four agencies - Ministry of the Interior, Ministry of Health, Penitentiary System and Drugs Control Service (the latter has been abolished, its functions have been distributed between the Ministry of the Interior and Ministry of Public Health), which provides for the norms of communication of the police with key groups under HIV programs. This instruction is being introduced and assessed largely by NGOs. Work with police officers in their offices has failed to bring changes to the police actions.

### **Measures taken by the state to improve the status of groups with intersecting forms of discrimination**

30. In December 2017, the Decree of the Ministry of the Interior No.946-p was issued for effective implementation of the new 2017 law on protection against domestic violence and Action Plan on the implementation of CEDAW concluding observations. The Decree specifies that it is intended for the improvement of access of vulnerable groups (female sex workers, and women who use drugs) to various forms of support. However, the introduction of this decree is not supported by any activities.

### **Implementation of recommendation 22c**

31. The Government's Follow-up report specifies that for the establishment of the Oversight Mechanism an interagency working group has been established out of representatives of Prosecutor General Office, Ministry of the Interior, Ministry of Labor and Social Development (MLSD), and Ombudsman, which is currently elaborating the draft Instruction. The National Plan provides for the participation of NGOs in this group work, yet no NGOs have received any invitation to join the group. Therefore, the gender policy department of MLSD<sup>23</sup> was requested by official letter, but no reply was given in due time. The department officer verbally said that the request should have been submitted to the prosecutor's office since MLSD is not authorized to deal with this issue. This message indicates that MLSD has failed to perform its functions on the implementation of the National Plan on introduction of CEDAW recommendations.

32. Also, the Government's Follow-up report specifies that Activity 5.2 "Hold training for police officers on the issue of elimination of all forms of violence against women" is provided for the implementation of recommendation 22c, which has been implemented in the following scope:

In early 2017, based on the joint meeting in the Ministry of the Interior of the Kyrgyz Republic with participation of representatives of UNDP, an agreement was reached on the implementation of the joint project on holding cascade trainings for police officers (covering at least 500 officers) in all regions of the republic on the prevention and responding to gender-based violence against women.

33. According to the National Plan, activity 5.2 should be implemented with participation of NGOs. Information that these trainings have been scheduled was received in early 2018 through the unofficial communication channel. During interaction with training organizers, we have been refused to include a

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<sup>22</sup> <http://afew.kg/upload/userfiles/Inter-institutional%20Instruction.pdf>

<sup>23</sup> This department functions as the Gender Mechanism

trainer representing our as well as a session on violence against all groups with intersecting forms of discrimination, including sex workers, into the training programme. The reason for the refusal was that the Ministry of the Interior had already approved the list of trainers and presentations. Additional negotiations with the Ministry of the Interior failed. Trainers from the Ministry of the Interior having learned about which communities asking for such inclusion into the training programme refused to include them.

### **Conclusions**

34. The status of groups with intersecting forms of discrimination – sex workers, LGBT communities, people who use drugs, people living with HIV – has worsened after the issue of CEDAW recommendations in 2015. Due to the introduction of new codes in 2019, the further aggravation is forecasted since the level of corruption and illegal actions taken by the police remains high.

35. The National Plan to introduce 2015 CEDAW recommendations was approved only in 2017, yet failed to include a series of recommendations, including measures to introduce a complex antidiscrimination legislation.

36. Measures to implement recommendation 22c specified in the report by the Member State are actually not being introduced, and the specified interagency groups function without the participation of NGOs working with sex workers. The gender policy department of MLSL, being a Gender Mechanism, has failed to perform its direct duties.

### **Recommendations: Urge the State party**

37. Take efficient measures to stop violence and illegal law enforcement practices by the police against sex workers and groups with intersecting forms of discrimination.

38. Ensure full and transparent implementation of the National Plan of 2015 CEDAW Recommendations with the participation of NGOs. The transparency of performance includes the publication of relevant materials on implementation of the plan on the MLSL's website.

39. Ensure the performance of Gender Policy Department of MLSL according to the gender mechanism mandate and guarantee the application of the CEDAW Convention towards all women regardless of marital status, migration status, method of earning, sexual orientation and gender identity de jure and de facto.

40. Call on UN agencies supporting the state in the performance of its obligations regarding gender equality to execute their mandate in a transparent way and to ensure the inclusion of groups encountering intersecting forms of discrimination.